

**COMMUNICATION FROM HONG KONG, CHINA, JAPAN,
KOREA, MONGOLIA AND SWITZERLAND**

Revision

The following communication, dated 1 October 2007, is being circulated at the request of the Delegations of Hong Kong, China, Japan, Korea, Mongolia and Switzerland.

PROPOSAL ON PRIOR PUBLICATION AND CONSULTATION

1. The following textual proposal is submitted by Hong Kong, China, Japan, Korea, Mongolia, and Switzerland for consideration by the Negotiating Group. It is closely based on the proposals on prior publication and consultation made in the joint communication TN/TF/W/102 of 10 May 2006 and takes account of the discussion and other submissions on this issue in the Negotiating Group.

2. We acknowledge that some provisions require transitional implementation by developing-country Members because of their lack of capacity to meet the obligations. However, several core elements such as publication of trade-related law and regulations in accordance with Article X of GATT 1994 should be implemented by all the Members immediately upon the entry into force of the Trade Facilitation Agreement because of the basic nature of such provisions and the fact that the new agreement does not add any new obligations to the current system of GATT 1994. Similarly, we believe that national treatment, most-favoured-nation treatment, general and security exceptions provided for in Articles I, III, XX, and XXI of GATT 1994 should apply to all the Members immediately even if those concepts are not stipulated in the new agreement. The following is an example of text which explicitly incorporates Articles XX and XXI of GATT 1994 into the new agreement:

With regard to general and security exceptions, the provisions of Articles XX and XXI of GATT 1994 shall apply.

3. The co-sponsors propose that S&D treatment and TA & CB be taken forward through the development of a horizontal mechanism that would take account of the needs, priorities, and implementation capacities of developing and least-developed Members in relation to commitments. A number of relevant submissions on these issues have been made to the Negotiating Group on Trade Facilitation from Members such as TN/TF/W/81, TN/TF/W/82, TN/TF/W/95, TN/TF/W/137, TN/TF/W/142 and TN/TF/W/147.

Textual Proposals

A. PRIOR PUBLICATION AND CONSULTATION

1. Prior Consultation

Except in urgent circumstances and other limited exceptions which are made public, Members shall afford, within the competence of their respective government, appropriate opportunities to interested parties within their territories to comment on proposed introduction or amendment of trade-related laws, regulations and administrative rulings of general application. Members shall provide information of their policy objectives pursued and allow reasonable period for interested parties to submit comments.

2. Prior Publication

Except in urgent circumstances and other limited exceptions which are made public, Members shall ensure, within the competence of their respective government, that a reasonable interval is provided between the publication of new or amended laws, regulations and administrative rulings of general application, or their drafts or summaries, and their entry into force in such a manner as to allow traders to become acquainted with and well prepared for the compliance with them.

3. Regular Consultation

Members shall hold regular consultations between border agencies and traders within their territories.
