

COMMUNICATION FROM JAPAN, KOREA, MONGOLIA, AND SWITZERLAND

The following communication, dated 2 June 2006, is being circulated at the request of the Delegations of Japan, Korea, Mongolia, and Switzerland.

PROPOSALS ON PRE-ARRIVAL PROCESSING

1. The following textual proposal is submitted by Japan, Korea, Mongolia, and Switzerland for consideration by the Negotiating Group. It is closely based on the proposals on publication and availability of information made in the joint communication TN/TF/W/98 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. Please note that the textual proposal of the S&D provisions in this paper is merely preliminary and that this paper lacks the TA&CB provisions. We recognize the need to have an intensive discussion to reach a consensus on how to specifically elaborate the S&D treatment and TA&CB based on communications from Members such as TN/TF/W/81, TN/TF/W/82 and TN/TF/W/95 once the Negotiating Group comes up with a certain level of obligations clarified or improved through the negotiations.

Textual proposals

A. PRE-ARRIVAL PROCESSING

1. Pre-arrival Processing

Members shall maintain or introduce pre-arrival processing, which is defined as administrative procedures of customs and other relevant border agencies to accept and examine import documentation and other required information upon the submission by traders prior to the arrival of goods, in order to further expedite the clearance of goods where appropriate. In cases where it is decided that no further examination is required, goods should be cleared immediately upon arrival.

2. International Standards and Practices

Members shall draw on relevant international standards and practices¹ as a basis for pre-arrival processing.

3. Reservations

Nothing in these provisions shall affect the right of Members to conduct examinations where necessary or to maintain appropriate border control with the use of risk management.

4. Special and Differential Treatment

[Developing-country Members shall not be required to apply these provisions for a period of [] years from the date of application. [Members or a newly established body] shall, upon duly motivated request by a developing-country Member, accord extensions of this period.

Least-developed country Members shall not be required to apply these provisions until their acquisition of the necessary capacity to implement such provisions.]

¹ International standards and practices include, Standard 3.25 of the Revised Kyoto Convention, WCO Guidelines for the immediate release of consignments by Customs.