

COMMUNICATION FROM HONG KONG, CHINA AND SWITZERLAND

The following communication, dated 30 June 2006, is being circulated at the request of the Delegations of Hong Kong, China and Switzerland.

**REDUCTION/LIMITATION AND PERIODIC REVIEW
OF FORMALITIES AND DOCUMENTATION REQUIREMENTS**

1. Hong Kong, China submitted a proposal for improving relevant aspects of Article VIII of GATT 1994 in document TN/TF/W/31. Having regard to feedback received from Members, Hong Kong, China and Switzerland in this submission set out a textual proposal aiming to achieve reduction/limitation and periodic review of formalities and documentation requirements.

Textual Proposal

- Members shall minimize the incidence and complexity of import and export formalities and decrease and simplify import and export documentation requirements to ensure that such formalities and requirements are no more administratively burdensome or trade restrictive than necessary¹ to achieve their legitimate objectives and are applied in an efficient manner so as not to constitute unnecessary obstacle to trade.

¹ Determining whether formalities and requirements are more trade restrictive than necessary to fulfil their legitimate objectives involves a process of considering and weighing a number of factors. These factors include:

- (i) the importance of the legitimate objectives to the Member concerned;
- (ii) the extent to which the formalities and requirements contribute to the achievement of the legitimate objectives;
- (iii) the restrictive effect the requirements have on trade;
- (iv) the reasonable availability of alternative formalities and requirements that may achieve the legitimate objectives. In determining whether alternative formalities and requirements are reasonably available, the economic, technical and administrative feasibility of such alternative formalities and requirements would have to be taken into consideration by the Member concerned; and
- (v) the cost including administrative, implementation and compliance costs associated with the formalities and requirements and the benefits derived from them.

After considering the above factors, the formalities and requirements in question would deem to be more trade restrictive than necessary if it is determined that:

- (a) alternative formalities and requirements are reasonably available and significantly less trade restrictive and they can achieve the legitimate objectives to the same or greater extent; or
- (b) the trade restrictiveness of the formalities and requirements being examined is disproportionate to the legitimate objectives; or
- (c) the costs of the formalities and requirements under examination are significantly excessive to their benefits.

- Any such formalities or requirements shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist.
- Each Member shall review its formalities and requirements at reasonable and regular intervals, taking into account relevant new information and business practices, availability and adoption of techniques and technology, international best practices and input from interested parties including the private sector.²
- Special and Differential Treatment, Technical Assistance and Capacity Building

The co-sponsors propose that these issues be taken forward through the development of a horizontal mechanism that would, among others, take account of the needs, priorities, cost concerns 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.

² This self-initiated review shall not affect Members' rights and obligations under paragraph 2 of Article VIII of GATT 1994.