

COMMUNICATION FROM TURKEY AND GEORGIA

Revision

The following communication, dated 10 March 2008, is being circulated at the request of the Delegations of Turkey and Georgia.

**PROPOSAL ON A FREE AND TRANSPARENT TRANSIT REGIME IN
ROAD TRANSPORTATION**

I. EXPLANATION OF THE PROPOSAL

1. Turkey and Georgia submits this revision taking into account the discussions on Freedom of Transit as well as on the proposal TN/TF/W/146 in particular in the Negotiation Group. In this sense, the revision aims at ensuring freedom and transparency in transit through the clarification that restrictions to transit are not possible unless they are clearly justified under the general exceptions counted in GATT Article XX.

2. According to paragraph 3 of Article V, unless there is a failure to comply with relevant customs laws, traffic in transit shall not be subject to unnecessary delays or restrictions. The Article also states that transit traffic charges should be commensurate with administrative expenses entailed with transit or cost of services rendered and such traffic shall be exempt from customs duties and all transit duties or charges imposed.

3. Road transport, which is the principal mode of freight transport as far as transit is concerned, is widely subject to quotas and permits as well as excessive fees and charges which often generate limitations in transit traffic.

4. Problems about transit traffic are often addressed through bilateral agreements. However, bilateral arrangements alone do not bring an effective solution to the problem. Most transit movements involve several countries thus a series of agreements are required. Therefore, in line with the spirit of the Article V, a multilateral approach is needed to discipline the international transit regime.

5. The current GATT provisions already mandate freedom of transit and restrictions are allowed only in exceptional cases and under specific circumstances. However, since the current text is not detailed enough and terms for transit are often determined by bilateral agreements, this essential principle has been significantly undermined.

6. Within this perspective, the proposals in the text are prepared in order to achieve two main goals: To prevent arbitrary restrictions in transit and to ensure transparency in transit regimes.
7. For the first issue, we stipulate that a prospective text ensures that the only legitimate exceptions to the freedom of transit are the ones laid down by Articles XX and XXI.
8. For the second one, we envisage a multilateral notification mechanism for the transit regimes details of which can be discussed.

Textual Proposal

II. ROAD TRANSIT REGIME

1. In order to ensure freedom of transit, a member shall not seek, take or maintain any restrictive measure in transit.
 2. Members may only take necessary measures to fulfil a legitimate objective stemming from the general exceptions laid down in GATT Articles XX and XXI. Members shall ensure that any such measure shall not be more restrictive than necessary and shall be applied in a transparent manner.
 3. The restrictive measure shall not be maintained if the circumstances or objectives giving rise to its adoption no longer exist or if the changed circumstances or objectives can be addressed in a less restrictive manner.
 4. Members taken such measure shall notify other members [*through the relevant WTO body-Trade Facilitation Committee*] on the objective and the necessity of the restrictive measure.
 5. Members taking the restrictive measure, upon request of the parties that are affected, [*through the relevant WTO body-Trade Facilitation Committee*], shall provide all pertinent information which shall include the evidence that the measure is the least restrictive way of achieving the objective.
 6. Charges for transit shall be commensurate with the cost of the services rendered and be equally applied irrespective of the country of origin, destination or the nationality of the vehicle. All charges and fees applied in transit regime shall be notified to [*the relevant WTO body-Trade Facilitation Committee*].
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