

**COMMUNICATION FROM ANGOLA**

The following communication, dated 10 December 2007, is being circulated at the request of the delegation of Angola.

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**PRE-SHIPMENT INSPECTIONS**

**I. INTRODUCTION**

1. The following proposal is being submitted by Angola in response to communication TN/TF/W/108 of 6 June 2006 from the European Communities and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

2. The majority of Members using pre-shipment inspection are least developed country Members, and to the extent that two thirds of those Members are not represented in the WTO, they have taken little or no part in the discussions concerning the aforementioned communication. Angola, as a Member using pre-shipment inspection, would like to make the following comments and points regarding that communication.

**II. DEFINITION OF "PRE-SHIPMENT INSPECTIONS OR THEIR EQUIVALENT"**

3. As used in the above communication, the term "pre-shipment inspections or their equivalent", being broader than the definition of "pre-shipment inspection" in the multilateral Agreement on Pre-shipment Inspection, is ambiguous and subject to different interpretations, and may therefore prove a source of conflict rather than agreement. Consequently, a much more precise definition is necessary before the multilateral Agreement can be amended or Members can undertake any significant commitment in that regard.

**III. ADVANTAGE OF THE EXISTING AGREEMENT ON PRE-SHIPMENT INSPECTION**

4. The WTO multilateral Agreement on Pre-shipment Inspection, which entered into force on 1 January 1995, confers upon exporting and importing Members rights and obligations regarding pre-shipment inspection activities. The current proposal to eliminate such activities will in fact render the current multilateral Agreement ineffective and may entail the unexpected consequence of depriving not only Member countries but also exporters, importers and pre-shipment inspection entities of hard-earned gains (including the transparency requirements and the appeal mechanism) derived from the ongoing application of the Agreement to activities which are, or may subsequently be, defined as pre-shipment inspection activities.

5. The current Agreement appears to function in a satisfactory manner insofar as the WTO has received no complaints from Members in this regard and that Members have expressed no need for the triennial reviews provided for in the Agreement.

#### **IV. SPECIAL AND DIFFERENTIAL TREATMENT, TECHNICAL ASSISTANCE AND CAPACITY-BUILDING**

6. Most programmes relating to pre-shipment inspection include technical assistance and capacity-building as basic components of services. In fact, more than 50 per cent of pre-shipment inspection programmes under way at the time the relevant multilateral Agreement entered into force in 1995 have since been gradually phased out on a voluntary basis. It therefore seems pointless and unwise to ask user Members to undertake new commitments to eliminate pre-shipment inspections without a demonstrated capacity to conduct such tasks or without being assured of firm commitments by exporting Members to provide the necessary technical assistance for them to do so.

7. To the extent that the multilateral Agreement on Pre-shipment Inspection already contains modalities for user Members to receive technical assistance from exporting Members, the aforementioned communication adds nothing new for user Members, while asking them to undertake premature commitments by a general deadline. User Members will be more likely to endorse the introduction of undertakings to eliminate pre-shipment inspections in a practicable manner according to each user Member's individual needs, rather than by a deadline applying to the entire Membership.

8. Since 1980, the Republic of Angola has been implementing activities for the pre-shipment inspection of goods, which over the years has served as an auxiliary instrument for the Central Bank to monitor the use of State funds, to begin with, and later those of Angolan Customs. In conformity with prior legislation, such inspections were mandatory.

9. However, Angola's new legal regime governing pre-shipment inspection, adopted by Decree No. 1/06, of 17 July, introduced considerable changes, and primarily the general rule of exempting from mandatory pre-shipment inspection goods exported for the country, with the exception of those referred to in Annex 1 of the pre-shipment inspection regulations, adopted by Decree No. 41/06, of 17 July, and those as might be specified in the joint Executive Decree of the Ministries of Finance, Agriculture and Rural Development, Health, Trade, Fisheries and Industry.

10. Angolan Customs already have the technical and human resource capacity to carry out reliable and proper verification and control of imported goods. Hence, there is no point in maintaining the mandatory nature of such inspections, since they are restricted to imports constituting a major risk to revenue collection and the protection of public health and the environment.

11. It is important to note that mandatory pre-shipment inspection is established for reasons of public health and environmental protection and is chiefly targeted at medicines, food products, chemicals, tobacco, etc., and at imports constituting a major risk to revenue collection. In the case of voluntary pre-shipment inspections, the entities responsible for the pre-shipment inspection of imported goods must carry out a proper verification of quantity, quality, value, customs classification and assessment of import duties.

#### **V. SPECIFIC PROPOSALS**

12. Members should request a review of the effectiveness of the Agreement on Pre-shipment Inspection pursuant to Article 6 (WTO multilateral Agreement on Trade in Goods, Agreement on Pre-shipment Inspection) in order to identify amendments that need to be made to the provisions of this Agreement, and in particular to the definition of "pre-shipment inspections or their equivalent".

13. Members should also review the effectiveness of the provisions of Article 3.3 (Technical Assistance), which provides for exporting Members to offer technical assistance, if requested, to user Members. In future, such technical assistance could be provided by an exporting Member subject to specific conditions, such as the undertaking of the user Member gradually to phase out pre-shipment inspections by a mutually agreed date.

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