

WORK AHEAD UP TO THE CANCUN MINISTERIAL

Communication from the Republic of Korea

The following communication, dated 30 January 2003, has been received from the Permanent Mission of the Republic of Korea with the request that it be distributed to all Members.

Korea has put forward its specific ideas on transparency in government procurement in the preparatory process leading up to the Seattle Ministerial (WT/WGTGP/W/27). It was mainly on what should be addressed in establishing multilateral rules on transparency in government procurement. The following focuses more on how to deal with this issue in accordance with the specific mandate given at Doha.

A. ASSESSMENT OF CURRENT SITUATION

Significant work had been done during the process up to the Seattle Ministerial. A number of substantive ideas were tabled and discussed. The Working Group on Transparency in Government Procurement (WGTGP) had identified key elements to be included in the multilateral rules as well as related issues, and conducted in-depth discussions thereupon.

The WGTGP reviewed all the specific issues through another full round of discussions last year. However, there still seem to be gaps among Members mainly on the following issues:

- Where we stand: Are we engaged in pre-negotiations? Or are we just exchanging information and/or conducting a series of educational sessions?
- What would be the outcome of all our discussions: Are we aiming at a set of multilateral rules to be subject to DSU? Or a political commitment and/or best-endeavour sort of soft law?
- What would be the elements to be included in the final outcome of this series of negotiations. What would be the core rules to ensure transparency in government procurement?

Korea is of the view that Doha Ministerial Declaration offers a straightforward answer to the first question. Paragraph 26 of the Doha Declaration states that "we agree that negotiations will take place after the Fifth Session of the Ministerial Conference[...]" ./. Thus, it is clear that we should start

the negotiations after the Cancun Ministerial. Accordingly, the process up the Cancun Ministerial will be characterized as a preparation for negotiation.

Korea also believes that the multilateral rules on TGP should be legally binding and subject to the DSU. Otherwise, it would be difficult to ensure effective implementation of the rules, substantially diminishing the benefits of such rules.

At the same time, Korea also believes that the legitimate concerns of the countries should be addressed without compromising the core elements of the rules on TGP.

B. THE WAY FORWARD

Taking into account the current situation, Korea is of the view that more focused and practical work should be done, as the deadline for establishing modalities for negotiations quickly approaches. The following work should be the core business of the Working Group in the next six months:

- Identify the core elements to be negotiated after the Cancun Ministerial. They do not have to be exhaustive and detailed down to the negotiating text.
- Identify issues of particular concerns to developing countries, based on the core elements as above. Developing countries are urged to come forward with specific inputs.
- Explore ways to address those specific concerns.

With a view to facilitating the Members' deliberations, Korea would like to provide the following starters:

- The core elements to be included:
 - Scope and definition.
 - Non-discrimination.
 - Measures to ensure transparency through publication of procurement-related measures (*inter alia* laws and regulations and including setting up focal points for enquiry), publication of procurement opportunities (invitations, tender documentation and technical qualifications, etc.).
 - Measures to ensure transparency in the procedures for award decision(including review of qualification, time-limits).
 - Transparent domestic review process.
 - Exceptions.
 - Dispute settlement and consultations.
 - Special and differential treatment for developing countries.
 - Technical assistance.
- Ways to address concerns of developing countries:
 - Transitional period (e.g. temporary suspension of the application of the DSU).
 - A set of flexibilities for developing countries and their phase-out.
 - Programmed technical assistance.

Korea reserves its rights to amend or add more specific ideas and would like to ask the Members to provide constructive comments on the ideas above.
