

COMMUNICATION FROM CHINA

The following communication, dated 14 April 2003, has been received from the Permanent Mission of the People's Republic of China.

TRANSPARENCY

1. Transparency is one of the basic principles of the World Trade Organization system and is of great importance to a possible multilateral framework on investment (MFI) if negotiations are to be launched on it. Investment relationship involves the three operators of the host country, the home country and the foreign investor. The establishment of an open and transparent environment in the host country will help reduce investment risks and enhance predictability and stability for investment and thereby build up and enhance confidence for the investor. To ensure transparency on the part of the government of the home country and the investor with regard to their investment in the host country will facilitate the latter, particularly the developing host country, in realizing its development policies and objectives. China therefore supports that a section on transparency is included in any possible MFI within the WTO.

2. On the part of the host country government, transparency should include the publication of policies, laws and regulations with regard to areas such as the establishment and operations of enterprises, taxation and competition in the field of FDI, the obligations of corresponding notifications and the establishment of inquiry points. On the part of the home country government, transparency should include publication, notification of and the establishment of inquiry points on its policies, laws and regulations with regard to areas such as outward investment sectors, scales, destinations and transfer of technologies. On the part of the investor, transparency should include the raising of resources, sale and purchase of products and services, transfer of payments as well as the business relations and allocation of resources and profits, particularly between the parent company and subsidiaries and among the subsidiaries. Transparency should not include procedures relating to domestic legislation, judicature, arbitration and administration of the host countries.

3. Any MFI to be negotiated and concluded should follow the examples of GATT and GATS and should not require Members, by making use of transparency as an excuse, to provide confidential information relating to state security or any other information, the disclosure of which would have negative impact on the protection of the public interests. Information of this kind should therefore not be subject to provisions on transparency and should be excluded from publication and notification obligations.

4. In formulating and implementing the transparency provisions of a MFI, account should be taken of the disparities of levels of development among different categories of Members, particularly

the special difficulties of the developing Members in fulfilling their obligations on transparency. Taking into account this factor and in order to ensure effective implementation of the principle of transparency, China holds that special and differential treatment should be accorded to the developing Members.

5. In accordance with the mandate as contained in Paragraph 21 of the Doha Ministerial Declaration and to increase the capabilities of the developing Members in implementing provisions on transparency, the developed Members have the obligations and should commit themselves to provide corresponding technical and capacity-building assistance to the developing Members. Assistance in this regard should be aimed at the real needs of the developing Members and importance should be attached to its practicability and effectiveness. In carrying out the technical and capacity-building assistance activities, including the provision of necessary infrastructure and the development of human resources, concrete plans and programmes should be formulated and translated into reality in combination with the different circumstances and the specific demands of different Members.

6. China will continue to work together with other Members in further clarifying the concept of transparency, its scope and connotations with the context of a possible MFI.
