

COMMUNICATION FROM CHINA

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

SCOPE AND DEFINITION

1. During the discussions in this Working Group's meetings held last year, China expressed its preliminary views on various issues for clarification within the context of Paragraph 22 of the Doha Ministerial Declaration. In addition to the detailed views on the issue related to the investors' and home governments' obligations as contained in the paper jointly submitted by several other developing Members and China on 18 November 2002 (WT/WGTI/W/152), China would like to further elaborate its views and positions on some other issues as its contributions to the work of the Working Group. These views and positions, along with those it already expressed at the previous meetings, will form the basis of China's stand for possible discussions that may take place in the future on the modalities of negotiations for any possible multilateral framework on investment (MFI).

2. In formulating its positions, China bears in mind the following basic spirit and principles as laid down in the Ministerial Declaration: Any MFI to be developed in the future "should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment."

3. Judging from China's experience with reform, opening-up and absorbing foreign investment in the past two decades, foreign direct investment (FDI) has on the whole played a positive role in China's economic development. To further open up and improve its environment of investment is the principal aspect of China's foreign investment policy. China is of the view that FDI should be provided with rational and effective protection. Scope and definition in the context of a possible multilateral framework on investment should facilitate developing Members to attract FDI effectively and avoid financial risks.

4. Definition of investment within the context of a MFI should be strictly in line with the spirit of the Doha Ministerial Declaration, with a view to securing transparent, stable and predictable conditions for long term cross-border investment. Investment to be defined for such a framework should help trade promotion and the economic development of the host countries, particularly the

developing countries. It should also facilitate striking a balance of interests between the home and host countries.

5. Forms and structure of international capital flows have been under continuous transformation. Within the overall conception of cross-border investment, foreign portfolio investment (FPI) has been progressively on expansion in proportion in recent years and has also contributed, to some extent, to the world economic growth and development. It must be recognized, however, that FPI embodies much more complicated economic elements and activities than FDI and that there are large gaps among Members in the maturity of and capacities of supervision over and regulation of their respective capital markets. FPI, particularly the short-term capital flows of a speculative nature, imposes substantial potential threats and risks to the national economies for those Members with less mature capital markets and less effective supervision and regulation capacities. Many regional financial crises in history, including those happened in late 1990s, have proved this conclusion. For this reason, it is obviously inappropriate to incorporate FPI in the definition of investment for a MFI given the fact that conditions are yet to be matured in many Members, particularly many developing Members, at present and in the foreseeable future. It is China's belief that definition in a MFI to be possibly negotiated within the WTO should be limited to FDI, while FPI, including capital flows of a speculative nature, and debt as well as loans should be excluded.

6. Last but not least, the Working Group on the Relationship between Trade and Investment should continue its study and clarifications on how to deal in an appropriate manner the issue of scope and definition in the existing bilateral and regional investment arrangements and their relationship with that in a possible future MFI within the WTO. Further detailed discussions and clarifications on all relevant elements relating to the issue of definition for such a framework *per se* are also necessary.
