

COMMUNICATION BY EL SALVADOR, GUATEMALA AND HONDURAS

The following communication, dated 27 May 2010, is circulated at the request of the Delegations of El Salvador, Guatemala and Honduras.

**PROPOSAL ON LEGAL LANGUAGE FOR SPECIAL AND
DIFFERENTIAL TREATMENT**

1. Definitions that could be included in the Chapter related to Special and Differential Treatment and Technical Assistance and Capacity Building of the future Agreement on Trade Facilitation (hereinafter referred to as "the Agreement").

1.1 Category A – Provisions or sub-parts of provisions that a developing country and a LDC Member shall implement upon entry into force of the Agreement, including¹ all provisions or sub-parts of provisions that a developing country and a LDC Member already implements.

1.2 Category B – Provisions or sub-parts of provisions included in the schedule by a developing country and a LDC that require a transitional period of time to implement which shall be specified in the notification. A Developing Country Member or LDC may include under Category B, the provisions and sub-parts of provisions for which a technical assistance agreement with a donor has been concluded and is being carried out.

1.3 Category C – Provisions or sub-parts of provisions included in the schedule by a developing country and a LDC that require technical assistance and capacity building to be implemented in a transitional period of time which shall be specified in the notification.

1.4 Developing countries and LDC's shall determine, in an individual basis, the provisions or sub-parts of provisions to be included in the schedule under Category A, B and C.²

2. Substantive Provisions related to the submission of schedules for Category A, B and C

Notification of provisions (or sub-parts of provisions) under Category A

¹ The inclusion of provisions or sub-parts of provisions that a Developing Country and LDC Member currently implements deserves further discussion in the cross-cutting issues debate.

² This paragraph could be included under the heading for general provisions.

2.1 Developing Country Members shall notify to the WTO the provisions or sub-parts of provisions under Category A at the time of the signature of the Agreement. This notification will form an integral part of the Trade Facilitation Agreement.

2.2 LDCs shall notify to the WTO the provisions or sub-parts of provisions under Category A no later than [at entry into force of the Agreement] [or] [at "X" time after entry into force of the Agreement].

Notification of provisions (or sub-parts of provisions) under Category B

2.3 At the entry into force of the Agreement, Developing Country Members and LDCs³ shall submit the schedule for provisions or sub-parts of provisions under Category B. The schedule shall include the provisions or sub-parts of provisions, the provisional period of time for implementation and the implementing national agency.

2.4 [X] Months after the submission of schedules for Category B, Developing Country Members and LDCs⁴ shall notify the definitive specific period of time for the implementation of each provision or sub-parts of provisions under Category B.

Notification of provisions (or sub-parts of provisions) under Category C

2.5 At the entry into force of the Agreement, Developing Country Members and LDCs⁵ shall submit the schedule for implementing provisions or sub-parts of provisions under Category C.

2.6 [X] Months after the entry into force, Developing Country Members and LDCs shall submit the implementation plan for provisions under Category C. The implementation plan shall include:

- (i) The provisions or sub-parts of provisions under Category C;
- (ii) The definitive specific period for implementation; in cases where the assistance by a donor has not yet been agreed for some provisions or sub-parts of provisions the implementation plan shall include, as a minimum, the provisional period for implementation
- (iii) The implementing agency, and
- (iv) The donor, if any⁶.

2.7 For the provisions or sub-parts of provisions that at the time of the submission of the implementation plan as referred in paragraph 2.6 did not include the donor, Members shall update the implementation plan with information regarding the donor committed to assist in the implementation of a provision or sub-part of provision and the definitive period for implementation.

2.8 The TF Committee shall review periodically the implementation plans for Category C in order to monitor and resolve any difficulties or delays in obtaining TA/CB.

³ Additional flexibility for LDCs may be required.

⁴ Additional flexibility for LDCs may be required.

⁵ Additional flexibility for LDCs may be required.

⁶ This notification shall include the donors that, at the date of submission of the implementation plan, have agreed to provide the necessary assistance to help with the implementation of a provision or sub-part of a provision. The notification shall include information where a donor has not been identified for provisions or sub-parts of provisions.

3. Grace Period for the Application of the Understanding on Rules and Procedures Governing the Settlement of Disputes⁷

3.1 Regarding Category A provisions or sub-parts of provisions, a Member shall not initiate a procedure pursuant to Articles XXII and XXIII of GATT 1994 and the Understanding on Rules and Procedures Governing the Settlement of Disputes against a Developing Country Member or a LDC for provisions or sub-parts of provisions under Category A for a period of "X" after entry into force of the Agreement.

4. Use of the "Early Warning Mechanism" [o Extension for the Implementation Period of Provisions under Categories B and C]

4.1 A Developing Country Member or LDC may request an additional period of time to implement a provision or sub-parts of provisions contained in the schedule for category B and C as referred to in paragraphs 2.4 and 2.7, respectively.

4.2 The request for an additional period of time as referred in paragraph 4.1, shall be submitted to the Trade Facilitation Committee x months before the implementation date listed for such provision or sub-parts of provisions and shall include the specific period of time to extend the transitional period of implementation. The first extension shall be granted automatically, when not exceeding "x" months.

4.3 Subsequent requests⁸ for an additional period of time to implement a provision or sub-parts of a provision shall be reviewed by the Trade Facilitation Committee.

5. Information on Implementation of Provisions listed under Category B and C

5.1 Upon the end of the implementation period of a provision or sub-part of a provision, a Developing Country Member or LDC shall report to the Trade Facilitation Committee that the provisions or sub-parts of provisions have been implemented.

6. Delivery of Technical Assistance and Capacity Building to Developing Countries and LDC's

6.1 The Trade Facilitation Committee shall provide a forum to discuss TA/CB including, inter alia, issues related to requests and offers of TA/CB to or by donors and/or international organizations, discussion on any problems regarding implementation of provisions or sub-parts of provisions; review of progress in the delivery of TA/CB including any difficulties or delays that a Developing or Least-developed Members are experiencing in obtaining technical assistance and capacity building, delivery of TA/CB by donors and international organizations.

6.2 Developed country Members shall submit to the Trade Facilitation Committee a notification containing the following information:

- a. Contact points for aid providers and aid agencies related to trade facilitation;
- b. The necessary channels and mechanisms to request assistance;

6.3 The information referred to in paragraph 6.2 shall be updated when necessary.

⁷ For the moment, draft language is proposed for the grace period related to Category A provisions.

⁸ Subject to future discussions proponents are still reflecting the need to further clarify the conditions applicable to the presentation of subsequent requests for extension for category B provisions or sub-parts of provisions.

6.4 Developed Country Members shall submit, once a year, to the Trade Facilitation Committee a notification on technical and financial assistance and capacity building provided to Developing Country Members and LDC's in relation to the Trade Facilitation Agreement.

6.5 International Organizations may submit information as referred to in paragraph 6.4.
