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MATTERS ARISING

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A letter dated 18 June 2008 from the Permanent Mission of Switzerland to the World Trade Organization, the European Free Trade Association and the United Nations Economic Commission for Europe to the Director of the Trade and Timber Division

We would like to request you to include the discussion paper that Switzerland presented at the session of the UNECE Executive Committee on 6 May 2008 into the list of official documents for the plenary session of UN/CEFACT.

State Secretariat on Economy
Head of Delegation of Switzerland
(signed) Jörg De Bernardi

Annex

Discussion paper on UN/CEFACT presented by Switzerland at the session of the UNECE Executive Committee on 6 May 2008

1. I would like to thank the Secretariat for the excellent paper submitted to the ExCom today. We have been waiting for such a paper for quite a long time. It explains in a simple and precise manner that nature of the CEFACT as well as its functioning. It is an excellent introduction to CEFACT for anyone interested in the work of the UNECE in the field of trade facilitation and electronic commerce.

2. Moreover, the report asks a number of questions about the present challenges faced by UN/CEFACT. By responding to these questions today Member States will be able to further the debate on the role of CEFACT. However, for me, the paper does not address all the questions, and in particular it does not address the issue of CEFACT's governance and strategy.

3. Therefore, I would like to propose three issues for discussion: i) the participation of Member States in the policy and strategic orientations of CEFACT; ii) the resources issue; and iii) the governance structure.

a) On the first point: in order to allow UN Member States to play an active role in the CEFACT, it is important that they have an opportunity to participate in the crafting of the CEFACT trade facilitation strategy and that they have the possibility to pronounce themselves on this strategy on a regular basis, at least once a year at the annual plenary meeting. This is not done just by putting this point on the agenda, but by preparing (aggregating) the information in a manner that allows a discussion on the issue (e.g. through the Secretariat preparing a paper on strategic options). Initiating the discussion on strategy is the more important as trade facilitation gains new political momentum in the Member States through the WTO negotiations. Amongst many other strategic questions there is at least the question of "which role for (or how to bring in) UN-CEFACT instruments in the implementation of a future WTO Trade Facilitation Agreement". The implementation of TF-obligations under the WTO framework will be a unique opportunity to bring in UN-CEFACT standards (especially regarding data) and business processes.

Recommendation 1: Every two years member States discuss the policy orientation that UN-CEFACT shall take. Once a year Members discuss the strategy to support this policy orientation. To this end, the Secretariat prepares a paper on strategic options to be discussed by Member States.

b) On the second point: In our opinion the resource problem has not only to be tackled from the point of view of possible additional sources. Unfortunately, we believe that the resource problem will remain also in the future (hopefully not in such a dramatic manner). Therefore, it has to be tackled from the point of view of resource allocation. Even if the Secretariat may know where to focus the resources on, we are not totally convinced that all member States have a clear idea on this. This matter cannot be left solely to the Secretariat as it influences directly the achievement of the objectives set by

the organisation and hence by its Member States. One important question in this regard is to decide (and this is a strategic decision that needs to be taken by the Member States), down to which level UN-CEFACT should extend its standard setting activities (e.g. Members could decide that they wish that CEFACT "controls" everything and produces an open source software for all relevant buyer-seller processes or Members could decide that they do not want to go that far and stop at defining terms and language conventions through its Core Components Library, the rest being left to be developed by the private sector (or in coordination between the private sector and the business associations). When considering the resource allocation it is also important to secure sufficient resources for the maintenance of the existing standards.

Recommendation 2: Once a year the Secretariat presents the resource situation to the Membership. Based on the strategic orientation and the maintenance need of existing standards the resource situation is screened and action taken as appropriate.

Every time the work programmes of the groups are defined or modified, Member States discuss the standard-setting activities of UN-CEFACT. In particular they discuss down to which level they wish to carry out the standard setting activities by UN-CEFACT and what part of the development should be left to the private sector.

c) On the third point: the third issue is directly linked to the previous two. My delegation had expressed the view that despite the high appreciation of CEFACT's work, we had the impression that CEFACT's work was too much driven by technical groups and less by the strategic orientation of this entity. Instead of having solely a bottom-up approach, the top-down approach needs to be strengthened. In order to do that one function should be added to the CEFACT structure. This function would be to set criteria, guidelines and specifications for the development of standards and to certify these standards by a « UN » label. Such a function could be fulfilled by an additional group, which would be hierarchically above the technical groups (a sort of « monitoring group ») or by the plenary itself, in which Member States take an active part, or simply by its bureau.

In this model, the requests for new norms made by the technical groups would be submitted to the « monitoring group » or the Plenary, which would make sure: (i) that the requested standard would correspond to a dominating need and policy orientations decided upon by Member States, (ii) that the resources to develop the standard are available, and (iii) that the « UN » label may be granted, thus giving the technical groups the green light to proceed with the development of the standard. The technical groups in turn would be tasked with developing the standards and marketing them.

Thus, we would have a model, in which the so-called « monitoring group » would identify the demand for new standards and the technical groups would produce theses standards. This would give Member States a better overview of the work of CEFACT, which is not the case today and raises a number of real issues, notably with regard to intellectual property rights.

Recommendation 3: Add to the CEFACT structure a group that would be hierarchically above the technical groups and the function of which would be to (i) monitor the demand for new standards, (ii) check application of criteria and availability of resources, and (iii) grant the standard to be developed the « UN » label.

4. To conclude, I would like to recall that while it is important that CEFACT is not missing the technology train and continues to be an attractive up-to-date standard-setting body, it is also important not to lose sight of its other constituencies. It should not solely be left to the business associations and to the private sector experts to define the kind of activities and priorities that CEFACT shall undertake. Member States need to lead in this debate (while of course listening to the needs of the private sector). This is why this discussion on the strategic orientation needs to take place

5. Therefore I suggest that Secretariat takes into account the three recommendations I made today and on this basis comes back to ExCom with a revised paper on possible options for improving the functioning of CEFACT in respect of strategy, resources and governance structure.
