

**TRADE FACILITATION: IMPROVEMENT OF GATT ARTICLE X**

*Communication from Japan*

The following communication, dated 17 May 2002, has been received from the Permanent Mission of Japan.

**I. INTRODUCTION**

Transparency, predictability and uniformity are the principle elements that are stipulated in GATT Article X. Further improvement of these elements would lead to the facilitation of trade and investment, and thus economic development.

The merits that could be gained through the improvement of these elements would bring about economic benefits to both developing and developed countries, exporting and importing alike, the private sector and the government, SMEs and large corporations.

Based on each Member's national experiences regarding trade facilitation, which was shared among all during the course of work undertaken in the Council for Trade in Goods under the mandate of the Singapore Ministerial Declaration, the cost required by governments for making improvement in this field is less than the benefits that could be gained by trade players, including governments. Moreover, if this improvement can be achieved globally under the auspices of the WTO, this benefit can be increased further.

At the Doha Ministerial Conference held in November 2001, the Council for Trade in Goods was mandated to "review and as appropriate, clarify and improve relevant aspects of Articles V, VIII, and X of the GATT 1994". Thus, when considering the merits of improving the above three elements of Article X (i.e. transparency, predictability and uniformity) at a global level, the following measures would be appropriate.

**II. MEASURES THAT WOULD CONTRIBUTE TO IMPROVE GATT ARTICLE X**

*1. Identification of elements that should be provided in laws and regulations*

For traders, having laws and regulations without provisions of required trade-related procedures could create difficulties in predicting the necessary formalities when moving cargo across borders. Although the current Article X does require Members to promptly publish trade-related laws, regulations, judicial decisions and administrative rulings, it does not actually provide rules on which elements are to be provided therein. By pursuing discussions on the identification and the provisions of Article X, this would lead to more effective transparency and predictability for traders.

Furthermore, from the viewpoint of securing an appropriate administration of trade policies, providing trade-related procedures in laws and regulations, and then publicizing them to the relevant government offices, would enable a government to administer effective trade policies.

*2. Identification of the means to publicize the laws and regulations*

When exporting and importing cargo, a trader first needs to know his own country's, as well as its destination country's, laws, regulations and procedures. However, when access to such laws and regulations is difficult, this creates an enormous workload for traders, especially the SMEs that have limited research abilities and those traders in countries without sufficient means of accessing information.

Although the current Article X does already require the publication of laws and regulations, by setting rules on the practical ways for publicizing laws and regulations, this would further strengthen Article X and would lead to improving transparency and predictability for traders.

*3. Formulation and publication of administrative guidelines*

Though securing a uniform administration of laws and regulations, it would then be necessary to formulate and publish administrative guidelines. Without such administrative guidelines, the administration of laws and regulations would depend upon the arbitrary implementation of individual officials, thus hindering the uniform, impartial and reasonable administration of laws and regulations as required in Article X. Furthermore, such administrative guidelines would be beneficial for governments in order to secure an appropriate administration of their laws and regulations.

*4. Establishment of inquiry points and an advance ruling system*

In order to ease accessibility to trade-related information for the private sector, the establishment of inquiry points and, where appropriate, the development of an advance ruling system would contribute to improving transparency and predictability.

*5. Establishment of appeal procedures*

In order to make appeal procedures effective, as stipulated in Article X, the establishment of a system, as well as the formulation of laws and regulations, which would make the system workable is necessary.

### **III. POINTS TO BE CONSIDERED**

1. For developing countries, appropriate technical assistance would be helpful for the purpose of implementing the measures mentioned above. As mentioned in the Doha Ministerial Declaration, technical assistance is important. Thus, consideration must be given to developing countries, especially the LDCs, which would enable them to reap the benefits of an open, rules-based multilateral trading system.

2. There are certain international organizations which have the expertise in the area of trade facilitation, for example, the WCO in the field of customs procedures. Any existing work done by such international organizations should be taken into account in order to ensure technical assistance in this area and to avoid any unnecessary duplication from the viewpoint of work efficiency.

---