

## **IMPROVEMENTS OF GATT ARTICLE VIII**

### Communication from Japan

The following communication, dated 18 July 2002, has been received from the Permanent Mission of Japan.

#### **I. INTRODUCTION**

At the Doha Ministerial Conference held in November 2001, the Council for Trade in Goods (CTG) was mandated to "review and as appropriate, clarify and improve relevant aspects of Articles V, VIII, and X of the GATT 1994"<sup>1</sup>. The CTG thereafter set the meeting schedule for the pertinent work to be done<sup>2</sup>, amongst which discussions on Article VIII are to be held at the forthcoming CTG meeting on 22 and 23 July 2002.

This paper is thus a contribution from Japan for the purpose of discussion on GATT Article VIII, aiming at recalling the benefits of trade facilitation, as well as those gained from taking trade facilitation under the WTO norms, for all stakeholders, both from the private and public sectors. It then addresses considerations for capacity building and related issues.

As this paper endeavours to illustrate some of the examples of these points, it merely focuses on Article VIII 1(c) and does not cover any other elements of the Article. Thus it shall not be deemed as an exhaustive compilation of all the issues relating to Article VIII about which Japan may like to raise comments in the future WTO work and possible negotiations.

#### **II. BENEFITS OF SIMPLIFICATION OF TRADE PROCEDURES**

##### **1. Benefits of simplification of trade procedures: trade and investment promotion**

Article VIII 1(c) of the GATT 1994 provides that the Members "recognize the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements."

Such simplification of trade procedures declines, without doubt, the cost burden borne by trade operators. The UNCTAD has estimated that trade facilitation measures could reduce trade transaction costs by one-quarter, i.e. by saving approximately 2-3 per cent of the total value of world trade<sup>3</sup>. Such a rationalization will lead to the further promotion of cross-border trade and investment, resulting in faster economic growth and development.

---

<sup>1</sup> Paragraph 27 of the Ministerial Declaration (WT/MIN(01)/DEC/1), adopted at the WTO Fourth Ministerial Conference, held in Doha, Qatar, on 14 November 2001.

<sup>2</sup> Section V of the Minutes of CTG Meeting on 22 and 27 March 2002 (G/C/M/59).

<sup>3</sup> Paragraph 8 of the Columbus Ministerial Declaration on Trade Efficiency, adopted at the United Nations International Symposium on Trade Efficiency, held in Ohio, U.S., in October 1994.

There is one thing that is noteworthy of being addressed. Reports, including that of the OECD<sup>4</sup>, have indicated that by "not-facilitated" trade procedures, enterprises in developing countries and small and medium-sized enterprises (SMEs) suffer more significantly than larger enterprises in developed countries, due to the fact that transaction costs per employee of the former are much higher than that of the latter. This leads to the conclusion that the simplification of trade procedures will bring about larger benefits to enterprises of developing countries and SMEs.

## **2. Benefits of simplification of trade procedures: better controls**

All trade procedures are introduced because they are required by law or regulation, in order to pursue legitimate policy objectives, such as, but not limited to, collection of revenues, and protection of human life, etc., which are no less important than economic growth. It should be emphasized that the WTO work on the simplification of trade procedures shall not be designed or implemented in a manner that will preclude the government from pursuing its legitimate policy objectives. Yet, at the same time, it is important that trade procedures shall not be more trade restrictive than necessary in order to fulfill such policy objectives.

Some Members may be concerned with this apparently conflicting relationship between simplification and the level of controls. Yet, this might not be the case. It is noteworthy to recall the discussions held at the WTO Symposium on Trade Facilitation (9-10 March 1998)<sup>5</sup>, as well as individual national reports on trade facilitation experience submitted to the CTG meetings during the analytical work in 2000 and in 2001<sup>6</sup>. Anecdotal evidence has shown that an increase in public sector efficiency through the simplification of trade procedures might enable governments to shift redundant resources from resource-sufficient activities (such as document format verification) to more labour-intensive activities (such as physical inspection). The fruit of such efforts might result in an increase in the amount of duty collected, or more efficient goods' controls.

## **3. Benefits from taking the simplification of trade procedures under the WTO norms**

It might be correct to argue that the benefits from simplifying trade procedures, such as those addressed above, are well recognized by Members. However, since the current GATT Article VIII 1(c) simply "recognizes the need for" such simplification of trade procedures and does not provide any mandatory requirements in this field, the fruits of simplifying trade procedures have not yet been fully realized.

To this end, the provision needs to be made operational. The further WTO work on this issue, including setting rules as appropriate, will create an essential guide and benchmark for Members to improve their laws and the implementation process related to trade procedures. This would help countries to integrate themselves into the world trading system and would contribute to the further development of world trade.

## **III. MEASURES THAT WOULD CONTRIBUTE TO IMPROVING GATT ARTICLE VIII**

When considering the above points, the following measures might contribute to simplifying trade procedures:

---

<sup>4</sup> For details of discussions, please refer to Section D of the OECD paper "Business Benefits of Trade Facilitation" (TD/TC/WP(2001)21/FINAL), dated 10 April 2002.

<sup>5</sup> The WTO Secretariat's report "WTO Trade Facilitation Symposium – Report by the Secretariat" (G/C/W/115). The symposium was held in March 1998.

<sup>6</sup> The WTO Secretariat's paper (G/C/W/393) presents a good indicative list of such national reports.

- Adoption of internationally-accepted standards and instruments, if any, as a basis for setting up and implementing trade procedures;
- A reasonable selection of goods to be investigated/examined, based on the appropriate risk assessment methods;
- Cooperation and coordination among different authorities in charge of border controls at entry and exit point, e.g., introduction of "single window" through which a trader can submit, once and for all, the required data to a single agency for various official purposes;
- Providing the opportunity for the users of the trade procedures, including private sectors, to bring forward their views and comments to the agency in question;
- Adoption of advanced control techniques, such as deferred payment, post-clearance audit, and release of goods before import permission (with an adequate security, if required);
- Promoting the automation of official border procedures for imports and exports, including customs procedures; use of internationally accepted standards.

#### **IV. CERTAIN POINTS TO BE CONSIDERED**

For some countries that lack adequate capacity, appropriate technical cooperation is an effective tool for introducing and implementing trade facilitation measures smoothly. To this end, when considering efficient resource allocation, the expertise and work of specialized international organizations, such as the WCO, shall be fully taken into account.

In order to make technical cooperation programmes more effective, it is important to create targeting goals for technical cooperation. Japan believes that the best process for achieving such goals would be through constructive WTO negotiations.

---