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**General Council**

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**PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE**

Proposals Regarding the Agreement on Trade-Related Investment Measures  
in terms of Paragraph 9(a)(i) of the Geneva Ministerial Declaration

*Communication from India*

The following communication, dated 7 June 1999, has been received from the Permanent Mission of India.

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**Issues**

1. Measures taken by governments to impose conditions to encourage and direct investment according to certain national priorities are considered as "trade-related investment measures – TRIMs". The Agreement on TRIMs prohibits five types of such measures as they are considered to be inconsistent with GATT rules on "national treatment" and the rules against use of "quantitative restrictions". Important among these are "domestic content" and "export performance" requirements. The developing countries have a transitional period of five years, that is up to 1.1.2000, to eliminate TRIMs covered by the Agreement, provided they have notified them to WTO when the Agreement became operational.

2. However, the domestic content is an extremely useful and necessary tool from the point of view of developing countries. Such a requirement is often necessary for (i) encouraging domestic economic activities in raw material and intermediate input sectors; (ii) up-gradation of input production; (iii) prevention of wastage of foreign exchange in the import of raw material and intermediate inputs; (iv) ensuring linkages of FDI with domestic economic activities; (v) encouraging indigenization in case of FDI; and (vi) acting in several other ways as an important instrument in the development process. Similarly developing countries also find export performance requirements to be useful and necessary from the point of view of balanced economic growth and national development.

3. In the light of the above, there is therefore a need to review these provisions in the Agreement, as they come in the way of accelerating economic growth in developing countries and deny these countries the means to maintain balance-of-payments stability. In particular, the transition period mentioned in Article 5 paragraph 2 needs to be extended and developing countries be provided another opportunity to notify existing TRIMs measures.

**Proposals**

4. The Agreement poses problems both with respect to the limited transition period available for removing TRIMs and the denial of freedom to countries to channelize investments in such a manner that fulfils their developmental needs. There is therefore a need to review provisions in the

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Agreement relating to local-content requirements as the existing provisions come in the way of accelerating the industrialization process in developing countries and deny these countries the means to maintain balance-of-payments stability. With a view to ensuring that these instruments may be maintained by developing countries till such time that their developmental needs demand, the transition period mentioned in Article 5 paragraph 2 needs to be extended.

5. Article 5:3, which recognizes the importance of taking account of the development, financial and trade needs of developing countries while dealing with trade related investment measures, has remained inoperative and ineffectual. The provisions of this Article must therefore be suitably amended and made mandatory.

6. The TRIMs Agreement should be modified to provide developing countries another opportunity to notify existing TRIMs measures which they would be then allowed to maintain till the end of the revised transition period.

7. Developing countries should be exempted from the disciplines on the application of domestic-content requirement by providing for an enabling provision in Article 2 or Article 4 to this effect.

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