

# WORLD TRADE ORGANIZATION

RESTRICTED

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General Council

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## PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

### The Agreement on Trade-Related Investment Measures (TRIMs)

*Communication from Brazil*

The following communication, dated 20 July 1999, has been received from the Permanent Mission of Brazil.

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#### **Background**

1. The WTO Agreement on Trade-Related Investment Measures (TRIMs Agreement) established equal disciplines, rights and obligations for all Members. Except for a few transitional provisions, there are no actual clauses for special and differential treatment, which would allow developing countries to address specific needs regarding economic, financial or social policies.
2. The disciplines of the TRIMs Agreement disregard obvious structural inequalities among Members, which could not have been overcome within the five-year transition period. Solutions to those problems would require, for the most part, long-lasting policies and adequate financing for their execution.
3. However, the implementation of development policies is usually constrained by lack of official funds, either from domestic or foreign sources. Investments from the private sector could cover those shortcomings, but they have proved to be, for the most part, highly volatile and closely linked to the fortuitous circumstances of the international financial markets.
4. Apart from the fundamental need of developing countries to attract investments in order to maintain adequate economic growth and to improve social conditions, other important fiscal and monetary factors come into play. The high volatility of international capital flows, for example, aggravates balance-of-payment difficulties inherent to the early stages of productive investments, when expenditures with imports largely outstrip export revenues. Liberalizing undertakings, such as those expected to ensue from a multilateral round of negotiations, usually set off an investment cycle that requires special care in sensitive areas such as employment relocation, currency stability, and fiscal equilibrium.
5. All these elements make clear that developing countries must have some flexibility when making use of trade-related investment measures. Developing countries should be allowed some latitude in devising policies that may attenuate the negative effects of investment cycles, create a hospitable environment for foreign and domestic investors, and promote social and economic development, also addressing the situation of impoverished regions. Thus, it would be fair and

imperative to review the concepts that led to the acceptance of horizontal and uniform TRIMs disciplines without due consideration to the needs and singularities of developing countries.

6. Brazil therefore submits the following proposal to the General Council and reserves its right to complement it with other proposals or to further specify its particulars.

**Proposal**

7. Specific provisions shall be included in the TRIMs Agreement to provide developing countries the necessary flexibility to implement development policies (intended to address, among others, social, regional, economic, and technological concerns) that may help reduce the disparities they face *vis-à-vis* developed countries.

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