

**COMMUNICATION FROM JAPAN**

Movement of Natural Persons

Supplement

The following communication has been received from the delegation of Japan with the request that it be circulated to the Members of the Council for Trade in Services.

Japan is submitting this paper as a supplement to its previous proposal regarding the negotiations on trade in services (S/CSS/W/42, 22 December 2000), in order to elaborate on its position concerning the temporary movement of service suppliers.

**I. OBJECTIVES**

1. Considering that the coverage under Mode 4 of each Member's commitments seems less comprehensive than that under other Modes, every effort to reduce trade barriers in the area of Mode 4 would have great significance in the liberalisation process for trade in services in general. We expect that valuable effects can be achieved if the WTO Members make horizontal commitments for reducing the limitations on intra-corporate transferees, leaving aside certain relevant requirements. Due to the globalisation of economic activities and to the technological developments, demands for services supplied by highly skilled professionals with special technology or knowledge are increasing. Accepting the temporary stay of these highly-skilled professionals from foreign countries will contribute to the vitalisation and globalisation of a host country's economy. Referring to the additional benefits gained by developing countries due to technology transfers, we would like to stress that such foreign service providers will contribute in the long run to the enhancement of the international competitiveness in the host country.

2. We would like to point out that Mode 4 covers the temporary entry of service suppliers, and therefore does not have any influence on a Member's long-term immigration policy and control, enabling it to refuse entry of unacceptable persons, such as criminals or patients infected by a contagious disease. We imagine that some WTO Members tend to feel that any discussion on liberalisation in Mode 4 will ultimately challenge their long-term immigration policy, due to the lack of a clear and common understanding on the basic framework. In this regard, we should note that the GATS does not apply to measures affecting those natural persons seeking access to the employment market of a Member, nor does it apply to measures regarding citizenship, residence or employment on a permanent basis, as stipulated in the Annex on the Movement of Natural Persons Supplying Services under the GATS.

3. On the other hand, Japan would like to emphasise that the liberalisation process of the temporary movement of service suppliers should bring about benefits to both exporting and importing countries, which is a “win-win” situation, not only for developed countries, but also for developing countries. Bearing in mind the current development of the globalisation process, Japan expects the following issues to be addressed in order to promote the temporary entry of service suppliers.

## **II. EXPECTATIONS FROM THE NEGOTIATIONS**

### Intra-corporate Transferees

4. We expect that significant trade promotion effects can be achieved through efforts by the WTO Members in order to make horizontal commitments with regard to intra-corporate transferees, particularly because they relate to the liberalization in Mode 3. As pointed out in paragraph 14 of Japan's negotiating proposal (S/CSS/W/42), it is desirable to reduce the restrictions on the movement of senior management personnel having a high level of expertise, directly related to the supply of services. Sectoral commitments could be also examined in a case where a horizontal commitment is difficult to make.

### Transparency

5. The expectations of the Japanese industry regarding the movement of natural persons would be to enhance transparency and to simplify and facilitate more rapid immigration procedures. It is important to make publicly available the relevant laws and regulations on immigration procedures, work permits and the status of residence for service suppliers. In particular, information on the immigration procedures and requirements to acquire a work permit or the status of residence should be transparent. It is also important to simplify and facilitate immigration procedures while remaining compatible with the national immigration policy.

### Economic Needs Test (ENT)

6. Members should endeavour to eliminate the limitations on the number of service suppliers by using the requirements of an ENT, stipulated in Article XVI of the GATS as limitations on market access. As the first step to reach this goal, it is important to clearly identify the criteria for the ENT for the sake of transparency, even if an ENT is maintained.

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