

COMMUNICATION FROM INDIA

The following communication, dated 29 June 2006, is being circulated at the request of the Delegation of India.

PROPOSAL ON GATT ARTICLE X

I. INTRODUCTION

1. In paper TN/TF/W/78, India had presented certain proposals for improvement and clarification of GATT Article X. The present submission presents India's textual suggestions for those proposals. The modalities set out in Annex D place special emphasis on the identification of needs and priorities of developing countries as an integral part of the trade facilitation negotiations. It is against this background that the current proposals are made.

II. IMPORT ALERT/RAPID ALERT

2. Import alert/rapid alert is a border control mechanism adopted by some countries as well as customs unions to monitor and ensure the quality of imported food product. This is operated by issuing a notification to all member states of a customs union/or to all ports of a country, as well as to the exporter, in case of detection of contaminated imports or import of products not meeting the required standards. As a result of such alert, a predetermined number of subsequent export consignments of the same exporter are subject to hundred per cent inspection at the border of that country/every port of a customs union.

3. The following disciplines shall apply to a system of import alert/rapid alert:

- In order to ensure that the application of a system of import/rapid alert does not by itself create a barrier to trade, it shall be imposed across a customs union only if based on uniform standards and applied uniformly by all of its member states.
- A notification against a country/exporter under a system of import/rapid alert restricting or prohibiting imports shall be issued only after it has been established on the basis of positive evidence that imports from the country/exporter concerned have not fulfilled the prescribed objective standards.
- A notification issued under a system of import/rapid alert restricting or prohibiting imports shall not be maintained if circumstances giving rise to it no longer exist, or if changed circumstances can be addressed in a less trade restrictive manner. Circumstances giving rise to import/rapid alert would be deemed to no longer exist if [six] successive consignments imported from the country/exporter concerned, after the issuance of import/rapid alert fulfilled the prescribed objective standards.

- Announcement of termination of an import/rapid alert shall be made through a public notice to be issued no later than [15 days] after a decision has been taken to terminate the import/rapid alert.
- The speed and standard of publicity of de-notification of such alert shall equal the level applied at its issuance.

III. DETENTION

- In case imported goods are detained for inspection by customs or any other authority of a Member country, information regarding such detention shall be provided to the importer or his authorized agent promptly.

IV. TEST PROCEDURES

- In case of the first test of a sample having shown an adverse finding, each Member conducting such a test shall grant the concerned importer or the exporter or their authorized agent the right to a second confirmatory test.
- A clear procedure shall be laid down for such a confirmatory test including a validated test method.
- A list of accredited laboratories shall be published where confirmatory tests can be carried out.
- For a customs union, the results of a confirmatory test carried out in one member state of a customs union shall be valid for and be accepted in all other member states of the customs union.

V. APPEAL MECHANISM

- There shall be a mechanism for redress of adverse findings of inspection authorities, in particular for inspection decision relating to food items, at the import points of a customs union.
- In order to ensure quick and uniform appellate decisions, appeals against findings of inspection authorities at the level of a member state of a customs union shall be heard and decided at the customs union level.
- Such appellate decisions shall be binding on the inspection authorities of all member states of a customs union.

VI. TECHNICAL ASSISTANCE

4. Some proposals would require establishing new procedures or an institutional system to improve transparency. Some of these requirements can be met in tandem with implementation of other proposals. We are open to a discussion on needs of Technical Assistance and Capacity Building.
