

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Proposal on Trade-Related Aspects of Intellectual Property

Communication from Japan

The following communication, dated 6 July 1999, has been received from the Permanent Mission of Japan.

Proposal

1. Effective and appropriate protection of intellectual property rights is important for promotion of liberalization and facilitation of trade and investment. The TRIPS Agreement, as concluded in the Uruguay Round, is a major breakthrough as the first instrument which stipulates minimum standard of protection of intellectual property rights. First and foremost, every Member should ensure the full implementation of the TRIPS Agreement and effective operation of the domestic legislation. In addition, in the next round of negotiations to be launched next year, some improvements in the TRIPS Agreement are required in line with new technological development and social needs. Especially, in order to achieve further economic development of Member countries including developing countries, Members should discuss harmonization of intellectual property right system and appropriate measures against counterfeiting. It is also beneficial to consider the possibility to incorporate new treaties or conventions concluded in other fora achieving higher level of protection of intellectual property rights into the TRIPS Agreement in a timely manner.

Background

2. The TRIPS Agreement, as concluded in the Uruguay Round, is a major breakthrough as the first instrument which stipulates minimum standard of protection of intellectual property rights, recognizing the importance of effective and adequate intellectual property protection for promotion of liberalization and facilitation of trade and investment.

3. Japan envisages, from its own experience, that adequate protection of intellectual property rights is fundamental for economic growth, and it is material that all Members share the recognition that adequate protection of intellectual property rights would bring enough benefits to every Member country. In this context, the full implementation of the TRIPS Agreement and effective operation of the domestic systems is of importance.

4. It has been recognized that different intellectual property rights protection systems in different countries are impediments to international trade against the development of trade and investment among Member countries from the Uruguay Round negotiation at that time. However, differences in fundamental rules for protection of intellectual property rights still exist, which remain as obstacles

for trade and investment. In this context, in the next round of trade negotiations, further international harmonization of intellectual property rights protection systems should be examined, such as the introduction of the first-to-file system and the introduction of an early publication system of filed patent application. This will lead to the swift acquisition of rights and the enforcement of rights.

5. Since counterfeit goods problems still bring serious distortions to legitimate international trade, effective measures should be taken against pirated goods. At the same time, Members in whose territories pirated goods are affluent should realize that such counterfeit activity is detrimental to their own trade circumstances, such as degraded value of their products.

6. Furthermore, taking into account the nature of the TRIPS Agreement, that is, a minimum standard of intellectual property protection, we should not discuss the TRIPS Agreement with a view to reducing the current level of protection of intellectual property rights. To the contrary, the TRIPS Agreement should be improved properly in line with new technological development and social needs. For example, the TRIPS Agreement should deal with higher protection of intellectual property rights which has been achieved in other treaties or conventions in other fora appropriately.
