

**ASIAN DEVELOPMENT BANK**

**TAR:PRC 36199**

**TECHNICAL ASSISTANCE**  
(Financed by the Japan Special Fund)

**TO THE**

**PEOPLE'S REPUBLIC OF CHINA**

**FOR**

**ENFORCEMENT OF WORLD TRADE ORGANIZATION RULES  
BY THE JUDICIAL SYSTEM**

**November 2002**

## **CURRENCY EQUIVALENTS**

(as of 30 October 2002)

Currency Unit	–	Yuan (CNY)
CNY1.00	=	\$0.1208
\$1.00	=	CNY8.2771

The exchange rate of the yuan is determined in relation to a weighted basket of currencies of the trading partners of the People's Republic of China. In this report, a rate of \$1.00 = CNY8.30 is issued.

## **ABBREVIATIONS**

ADB	–	Asian Development Bank
GATS	–	General Agreement on Trade in Service
GATT	–	General Agreement on Tariffs and Trade
NJC	–	National Judges College
PRC	–	People's Republic of China
TRIPS	–	Agreement on Trade-Related Aspects of Intellectual Property Rights
SPC	–	Supreme People's Court
TA	–	Technical Assistance
TOR	–	Terms of Reference
WTO	–	World Trade Organization

## **NOTES**

- (i) The fiscal year (FY) of the Government ends on 31 December.
- (ii) In this report, "\$" refers to US dollars.

This report was prepared by Peng Xiaohua, Senior Counsel, Office of the General Counsel
---

## I. INTRODUCTION

1. At the request of the Government of the People's Republic of China (PRC), the Asian Development Bank (ADB) included a proposed technical assistance (TA) for enforcing World Trade Organization (WTO) rules by the judicial system in its 2002 country assistance plan for the PRC. The ADB Fact-Finding Mission visited Beijing from 21 to 28 May 2002 for the proposed TA and reached an understanding with the Supreme People's Court (SPC) and National Judges College (NJC) on the objectives, scope, terms of reference for consultants, cost and financing plan, and implementation arrangements for the TA.<sup>1</sup> The TA framework is attached as Appendix 1.

## II. ISSUES

2. The PRC became a WTO member in December 2001. As a new member, the PRC is committed to adjusting its legal and judicial system to comply with WTO rules and requirements. All core WTO agreements, i.e., General Agreement on Tariffs and Trade (GATT, paragraph 3(b), Article X)<sup>2</sup>, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS, Article 41(4)), and General Agreement on Trade in Services (GATS, Article VI(2)), require its members to establish independent judicial or administrative tribunals and procedures to review the administrative or other tribunals' actions or decisions on disputes related to trade, intellectual property protection, and trade of services and, where justified, to provide remedies to the injured party.

3. To satisfy this WTO requirement, the Government decided that such a review function should be performed through a mechanism to be set up in the PRC court system. The process of review by the courts of the actions and decisions made by the executive or administrative agency is known as judicial review.<sup>3</sup> In the PRC context, decisions or actions of the PRC administrative authorities in connection with WTO rules and their implementation, and investigations in connection with, or decisions made on antidumping, subsidy, and safeguard cases by the State Economics and Trade Commission (SETC) and/or Ministry of Foreign Trade and Economic Cooperation (MOFTEC), would be subject to review by the court in accordance with law. Establishing this process will substantially expand the role of judicial system and strengthen the rule of law.

4. The PRC court system is faced with two major challenges in establishing such a judicial review mechanism. A series of legal and institutional issues will need to be appropriately addressed, and the capacity of the court system in conducting judicial review functions for WTO-related matters will need to be strengthened.

5. The PRC judicial system comprises SPC; 31 high people's courts with one in each province, autonomous region, or municipality directly under the central Government; 346 intermediate people's courts in provinces and municipalities at the level above the prefectures and municipal level cities; 3,135 primary people's courts in counties and county-level cities; and several special people's courts such as military, maritime, and railway transportation courts.

---

<sup>1</sup> The TA first appeared in *ADB Business Opportunities* in September 2002.

<sup>2</sup> The same requirement is repeated in other WTO agreements relating to GATT, such as Article 13 of the Agreement on Implementation of Article VI of GATT, Article 11 of the Agreement on Implementation of Article VII of GATT and Article 23 of the Agreement on Subsidies and Countervailing Measures.

<sup>3</sup> Judicial review may also mean review by a higher level court of the decisions made by a lower level court. This TA, however, will focus on the review by judicial system of the administrative decisions or actions.

6. In dealing with the cases, the PRC court system takes the second instance decision as the final one. The jurisdiction of hearing and deciding the first and the second instance cases by the different levels of people's courts are determined according to the applicable procedural law and SPC's decisions. If a litigant does not accept the judgments or decisions made by the local people's courts or special people's courts in the first instance, the litigant has the right to appeal to the next higher level people's courts. In criminal cases, the procuratorates (e.g., public prosecutors or district attorneys) may file protests to the next higher level people's courts if they would not accept the judgments and decisions made in the first instance.

7. The trial of cases by courts follow either of the three procedural laws, i.e., Criminal Procedure Law, Civil Procedure Law, or Administrative Litigation Procedure Law. The substantive law applied in trials by PRC courts are mainly domestic law, including laws adopted to give effect to the international treaties. In principle, when the domestic law conflicts with international treaties acceded to by the PRC, the provisions of international treaties should apply (Article 142 of General Principles of Civil Code and Article 238 of Civil Procedure Law). This implies that in the absence of domestic laws, the provisions of international treaties may be applied directly in the PRC courts.

8. In addition to such litigation procedures, there is a judicial supervision procedure. Under this procedure, where manifest errors are found in the judgments or decisions, the presidents of the various levels of the people's courts have the authority to order the judging courts under their leadership to retry the cases for which judgments or decisions have taken legal effect; SPC has the authority to order various levels of the people's courts to retry such cases; the Supreme People's Procuratorates and various levels of people's procuratorates may request the courts to retry such cases; and the concerned litigants or their close relatives may apply or petition for retrial of such cases.

9. The PRC has made many adjustments in its legislative, administrative, and judicial system to satisfy WTO requirements. To ensure that the WTO's nondiscrimination principle is met in the judicial process, SPC issued an order that took effect on 1 March 2002 to elevate the jurisdiction over commercial cases from the primary courts to the higher level of courts. The order specifies that only the high courts, intermediate courts in municipalities at the provincial level, intermediate courts in provincial and autonomous regions' capital cities and special economic zones, and certain courts in economically more developed cities would have the jurisdiction to hear and decide commercial cases involving foreigners. This step was taken to help ensure the impartiality of the courts and maintain higher professional standards of the judicial system in foreign-related commercial cases.

10. In response to the WTO requirement of setting up an independent adjudication body to hear and decide administrative decisions or actions, in August 2002, SPC issued the Regulation on Trial of Administrative Cases Involving International Trade. The regulation provides that the following cases will be tried by the courts at the intermediate level or above. In accordance with the Administrative Litigation Procedure Law, the courts are accorded jurisdiction over administrative cases involving (i) international trade of goods, (ii) international trade of services, (iii) international trade related intellectual property protection, and (iv) other international trade. The regulation also provides, in accordance with normal judicial review principles, that trial by the courts will focus on (i) the authenticity and accuracy of evidence, (ii) correct application of laws and regulations, (iii) violation of legal procedure, (iv) exceeding the delegated authority, (v) abuse of authority or power, (vi) fairness of administrative penalty, and (vii) nonperformance or delay of performance of legally designated functions. While the regulation provides that the applicable law should be domestic law, it also emphasizes that in a conflict between two

interpretations of a provision in domestic law, the interpretation consistent with the international treaties should prevail.

11. Introducing judicial review into the PRC court system raises a series of issues relating to jurisdiction, procedural law, applicable law, and relationship between judicial and administrative branches. For example, (i) Should an international trade court be established for WTO-rule-related cases or should these cases be handled by the existing courts? (ii) Should there be one or a limited number of courts at an appropriate level to hear and decide these cases or will all of the courts at this level be given the jurisdiction for such cases? (iii) Should the first instance decision in the judicial review process be the final decision or should there be a chance of submission to an appellate court and which would be this appellate court? (iv) What would be the applicable procedural law? (v) To what extent should the court limit its role to deciding on the application of law or may it make determination about the facts? (vi) Should the substantive law applied by the courts be the domestic law only or should it include international treaties in respect to WTO rules? (vii) How should decisions be implemented? (viii) Who should make judgments on cases involving foreign policy matters, and the relationship between the judicial and administrative branches on these matters?

12. The second big challenge for the PRC court system is that the judges are not fully equipped with professional knowledge about WTO and its rules. The judges have been trained mainly in domestic laws and the laws applied by them in most cases are domestic laws. Upon entry into WTO, the PRC has amended a larger number of existing legislation and adopted a number of new laws to comply with WTO requirements.<sup>4</sup> The issue of application of domestic law or international treaties when they are in conflict would further complicate the trial process. There is an urgent need to train the senior judges (i.e., the presidents and vice presidents of the intermediate courts or above) who will sit in the courts with jurisdiction to carry out judicial review of the WTO-rule-related cases.

13. In the long-term, the PRC court system needs to develop its own capacity to train senior judges in this area. NJC is directly under SPC and provides legal training for senior judges. The mainstream curricula of NJC focus on traditional domestic legal areas, such as criminal, civil, administrative and procedural laws. NJC has been providing training in foreign-related economic laws, but with emphasis on the domestic laws in connection with foreign trade and investment. NJC has not had a systemic curriculum on WTO and its rules or the domestic legislation adopted in compliance with WTO rules. Its faculty is not able to provide a comprehensive training suitable for senior judges on WTO rules.

### **III. THE TECHNICAL ASSISTANCE**

#### **A. Purpose and Output**

14. The TA will help the PRC's judicial system meet WTO requirements in independent reviews of decisions made and/or actions taken by the administrative authorities pertinent to enforcement of WTO rules in the PRC.

---

<sup>4</sup> Including adoption of regulations on import and export of goods, antidumping, subsidies and countervailing duties and safeguards in December 2001 when the PRC's WTO membership took effect. The PRC received assistance during their preparation and finalization under ADB funded technical assistance for WTO Membership and Foreign Trade Law Reform (TA 3762-PRC, approved for \$700,000 in June 2001).

15. The TA will assist SPC and NJC to (i) develop the capacity of the judicial system to review decisions or actions of administrative authorities on cases relating to WTO rules, by equipping senior judges with knowledge of WTO rules and relevant domestic laws and supporting long-term training capacity of NJC in this area; and (ii) improve the judicial review mechanism by studying international experience.

## **B. Methodology and Key Activities**

16. The capacity strengthening will be carried out through training courses for the senior judges who will hear and decide the WTO-related cases and by strengthening NJC's institutional capacity in conducting and/or organizing training in the WTO areas. Under the senior judges training program supported by the TA, several batches of senior judges will be trained in WTO rules and related domestic laws and regulations. The training program will help the PRC court system respond promptly to enforce WTO obligations.

17. The TA will help NJC develop its capacity in teaching and researching on WTO rules and enable it to carry out similar training in future by (i) developing and transferring the training curricula to NJC, (ii) collecting and compiling research materials, (iii) providing a limited amount of equipment, (iv) providing training to NJC faculty and other experts, and (v) involving NJC's faculty members and out-sourced domestic experts in the conduct of training courses with the international consultants.

18. The assistance for establishing the judicial review function in the PRC judicial system will be provided through research on aspect of the judicial review by SPC judges or officials and NJC faculty members at a foreign research or educational institution, a workshop identifying and discussing the issues relating to the judicial review, a comparative study of the judicial review systems in other major WTO member countries, and an international symposium on judicial review.

## **C. Cost and Financing**

19. The total cost of the TA is \$533,000 equivalent, including \$321,000 in foreign currency cost and \$212,000 equivalent in the local currency cost. ADB will provide \$400,000 on a grant basis from the Japan Special Fund, funded by the Government of Japan, to finance the total foreign currency cost and \$79,000 equivalent of the local currency cost. The funds provided by ADB will finance the international and domestic consulting services; resource persons and distinguished speakers; part of the costs related to training, workshops, and the international symposium; equipment; external study; materials for comparative study; and other administrative and office requirements. The Government's contribution of \$133,000 equivalent will cover the costs of counterpart staff; office accommodation for international and domestic consultants; accommodation and per diem of trainees, local communications and transportation; interpretation and translation; venue for, organization of, and administration of training courses, workshops, and the international symposium; and general administration. The detailed costs and financing are shown in Appendix 2.

## **D. Implementation Arrangements**

20. Services of international (6 person-months) and domestic (5 person-months) consultants will be required for the training. The consultants should have experience in preparing curricula and conducting training for judges, senior government officials, and lawyers in the following areas: (i) general background about GATT and WTO, including, among others, their history,

structure, major agreements, major rounds of global trade negotiations and results, manner and approach of trade negotiations, and dispute settlement mechanisms; (ii) rules of GATT, with particular attention to the rules on nontariff barriers, such as customs valuation, rules of origin, and technical barriers; (iii) WTO agreements and domestic law on antidumping, subsidy and countervailing duties, and safeguard measures; (iv) Agreement on Trade-Related Aspects of Intellectual Property Rights rules and international and domestic law on protection of intellectual property rights; (v) status of global negotiations under General Agreement on Trade in Service and the PRC's WTO entry commitments to opening the domestic service sectors; and (vi) experience of foreign countries' courts in carrying out judicial review functions. The outline terms of reference for the consultants are attached as Appendix 3. A firm of international consultants will be engaged by ADB in accordance with ADB's Guidelines on Use of Consultants. The international consultants will associate with the domestic consultants to be engaged through arrangements satisfactory to ADB. The detailed curricula package, duration of one training session, and how many training sessions to be provided will be finalized during the inception mission. Therefore, the training consultants will be engaged using quality- and cost-based selection method. As the methodology and terms of reference are straightforward and clear, the training consultants will be selected on the basis of the simplified technical proposal procedure. The individual domestic consultants (2 person-months) will carry out a comparative study on judicial review system and will be engaged separately in accordance with ADB's Guidelines on Use of Consultants and other arrangements satisfactory to ADB for the engagement of domestic consultants. International and domestic speakers will be invited to make presentations at the symposium on the experience of judicial review. The equipment to be provided for organizing of training courses and producing training materials will be procured by NJC in accordance with ADB's Guidelines for Procurement. An advance payment facility will be provided for the external study, equipment purchase, training, workshops, and international symposium.

21. SPC will be the Executing Agency for the TA. A vice president of SPC will have overall responsibility for TA implementation. A leading group will be set up in SPC, headed by a project director who should be a senior official from the Foreign Affairs Bureau of SPC. NJC will be the Implementing Agency. A project office will be set up in NJC, led by a vice president of NJC. SPC should coordinate with other relevant Government agencies in implementing the TA, particularly with State Economics and Trade Commission, Ministry of Foreign Trade and Economic Cooperation, Customs General Administration, Administration of Inspection of Goods, Office of Legislative Affairs of the State Council, and Legislative Affairs Commission of the National People's Congress.

22. The implementation of the TA is expected to commence in March 2003 and be completed in June 2004. Within 3 months of the commencement of TA implementation, the consultants are expected to finalize the curriculum of training. Then the consultants will deliver several training sessions for the senior judges selected by SPC and NJC and NJC faculty members. At the conclusion of the training, the consultants will prepare, together with NJC, a brief assessment of the training results and submit the results to ADB and NJC.

#### **IV. THE PRESIDENT'S DECISION**

23. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance, on a grant basis, to the Government of the People's Republic of China in an amount not exceeding the equivalent of \$400,000 for the purpose of the Enforcement of World Trade Organization Rules by the Judicial System, and hereby reports such action to the Board.

### TECHNICAL ASSISTANCE FRAMEWORK

Design Summary	Performance Indicators/Targets	Monitoring Mechanisms	Assumptions and Risks
<b>Goal</b> Assist in compliance with World Trade Organization (WTO) requirements and strengthening rule of law.			
<b>Purpose</b> Improve judicial review function in connection with WTO-rules-related cases.	Development of professional capability in trial of WTO-rules-related cases and development of judicial review system and function.	Technical Assistance (TA) review missions and TA completion report.	Issues relating to judicial review are carefully studied and appropriately handled and right group of senior judges have been selected for training and are well trained.
<b>Outputs</b> (i) Senior judges trained in WTO rules.  (ii) National Judges College (NJC) strengthened in delivering future training on WTO rules.  (iii) Issues relating to judicial review being studied and foreign experiences being exchanged.	Improved performance of the senior judges in judicial review of the WTO-rules-related cases.  The capability of NJC to conduct all or part of the core courses on WTO rules will be strengthened.  Research on issues associated with development judicial review system have been conducted and the system has been improved.	Assessment of the results of training with assistance of consultants.  Assessment with assistance of consultants of the improvement of NJC's capacity to provide all or part of the training on WTO rules.  TA review and discussion with Supreme People's Court (SPC) and NJC.	Suitably qualified consultants are available and selected for training.  The consultants succeed in transferring the necessary knowledge to NJC faculty and NJC faculty endeavors to improve capacity to organize and provide such training.  Failure to identify important issues and carry out in-depth study; less-than-satisfactory exchange of foreign experience.
<b>Activities</b> (i) Training courses for senior judges.	Number of senior judges who have trained and improved knowledge of these judges on WTO and its rules.	Consultants' reports.	



<b>Design Summary</b>	<b>Performance Indicators/Targets</b>	<b>Monitoring Mechanisms</b>	<b>Assumptions and Risks</b>
<p>(ii) Supports including training the NJC faculty to help NJC develop its capacity for providing such training.</p> <p>(iii) External study, comparative study, and exchange with foreign judicial systems and experts on judicial review to be undertaken.</p>	<p>NJC has been equipped with the necessary curriculum and equipment, and faculty's capacity in providing future training on WTO rules enhanced.</p> <p>Important issues on judicial review have been identified and studied and foreign experience has been acquired.</p>	<p>TA review and completion report.</p> <p>Report of external study, report of comparative study, and proceedings of workshop and symposium.</p>	
<p><b>Inputs</b> Consulting services through training; equipment; support to research on judicial review; funding foreign resource persons; and financing of workshops and symposium.</p>			

**COST ESTIMATES AND FINANCING PLAN**  
(\$'000)

Item	Foreign Exchange	Local Currency	Total Cost
<b>A. Asian Development Bank Financing <sup>a</sup></b>			
1. Consultants			
a. Remuneration and Per Diem			
i. International Consultants	95	0	95
ii. Domestic Consultants	0	28	28
iii. Honorarium and Perdiem for International and Domestic Resource Persons	11	7	18
b. International and Local Travel	144	2	146
2. Equipment <sup>b</sup>	25	0	25
3. Workshops, Seminars, International Symposiums and Training Materials	0	27	27
4. Consultancy Contract Negotiations	0	5	5
5. External Study	16	0	16
6. Comparative Study	2	2	4
7. Contingency	28	8	36
<b>Subtotal (A)</b>	<b>321</b>	<b>79</b>	<b>400</b>
<b>B. Government Financing</b>			
1. Counterpart Staff	0	72	72
2. Office Accommodation	0	14	14
3. Local Transportation	0	3	3
4. Local Communication	0	1	1
5. Interpretation and Translation	0	15	15
6. Seminar and Symposium			
a. Venue	0	20	20
b. Organization and administration	0	4	4
7. Administration	0	4	4
<b>Subtotal (B)</b>	<b>0</b>	<b>133</b>	<b>133</b>
<b>Total</b>	<b>321</b>	<b>212</b>	<b>533</b>

<sup>a</sup> Funded by Japan Special Fund.

<sup>b</sup> Includes photocopy machine, scanner, multi-media projector, laptop and desktop computers and software.  
Source: Asian Development Bank estimate.

## **TERMS OF REFERENCE: TRAINING COMPONENT**

### **A. Qualifications of Training Consultants**

#### **1. International Training Consultants**

1. The international consultants should be legal experts specialized in international trade law and have experience in preparing curricula and conducting training for judges, senior government officials, and lawyers in the following areas: (i) general background about World Trade Organization (WTO), including its history, structure, major agreements, major rounds of global trade negotiations, and results, manner and approach of trade negotiations and dispute settle mechanism; (ii) rules of the General Agreement on Tariffs and Trade (GATT), with particular attention to the rules on nontariff barriers, such as customs valuation, rules of origin, technical standards, and others; (iii) WTO agreements and domestic law on antidumping, subsidies, and countervailing duties and safeguard measures; (iv) the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) rules and international and domestic law on protection of intellectual property rights; (v) status of global negotiations under the General Agreement on Trade in Service (GATS) and the People's Republic of China's (PRC's) WTO entry commitments to opening the domestic service sectors; and (vi) experience of foreign countries' courts in judicial review.

2. Particular emphasis will be put on the qualifications and experience of the individual international consultants proposed for each training areas.

#### **2. Domestic Training Consultants**

3. The domestic consultants will provide services as trainers for the training courses under the Technical Assistance (TA). They should be experts in the areas covered under the TA. Preferably, they should have been involved in the past, and will be in the future, in training judges through National Judges College (NJC) training courses.

### **B. Implementation of Training**

#### **1. Training Courses**

4. Several training sessions for senior judges and one for NJC faculty members will be conducted . Each training session for senior judges will last about 2 weeks. The international consultants will conduct training with the domestic trainers. Special lectures may be arranged during the training session given by international and domestic speakers. The training sessions will be conducted at NJC's campus.

#### **2. Inception Mission**

5. The international consultants should be led by a team leader. At the beginning of the TA implementation, the team leader of the international consultants will visit NJC and will discuss with Asian Development Bank (ADB) and NJC the (i) specific areas of WTO to be covered by the training courses, (ii) specific needs of the trainees who are the senior judges and faculty members of NJC, (iii) form and method of course delivery and discussions, (iv) duration of each training session, (v) division of responsibilities and cooperation between the international

consultants and NJC faculty members and local trainers, (vi) tentative timing of each training session, and (vii) organizational and logistic aspects for each training session.

### **3. Training Curricula Preparation**

6. Based on the discussions of the inception mission, the international consultants will prepare the courses on specific topics in the general areas described in paragraph 1 and agreed with NJC. The training curricula should be composed of two parts, i.e., legal materials and text. Where possible, the training curricula should also list main reference materials that have been used in preparing the training curricula. The training curricula preparation should be completed within 3 months of the conclusion of the inception mission.

7. The training curricula should have systemic and comprehensive coverage for the major issues under the selected topics, provide a general conceptual framework, introduce the analytical methodology, and demonstrate the working of the relevant WTO rules in actual cases. Particular attention should be paid to the need of the trainees (the senior judges). Where possible, lectures may be included in the course design and delivered by speakers specially invited based on the recommendation of ADB, Supreme People's Court (SPC), NJC or the consultants.

8. The prepared training curricula should be submitted to NJC one month before the start of each training session.

### **4. Conduct of Training Courses**

9. For each topic covered, the international consultants will provide an internationally recognized expert to deliver the course in Beijing. Several training sessions will be provided for the senior judges in a 10-month period. The courses in each session should cover all selected areas.

10. In each session, each course is to be delivered in 2 days, with 3 hours allocated in each morning for presentation, and 2 in each afternoon for discussion.

### **5. Strengthening the NJC Faculty**

11. A session tailored for NJC faculty members and local trainees will be conducted after the first training session for senior judges. The session for faculty will be small in scale and will not be open to other participants. The details of the session will be determined based on the discussions among ADB, NJC, and the international consultants at the inception mission. The results of the first training session will be assessed during this training session and the curriculum and format and manner of training may be revised for future training sessions.

12. At the future training sessions, the consultants should propose and make necessary arrangements to involve NJC faculty in assisting or conducting training sessions or the discussions during the session.

### **6. Teaching and Reference Materials**

13. The international consultants should recommend to NJC the relevant teaching and reference materials in the areas covered under the training courses. If requested, the

international consultants should purchase such materials or publications for NJC. The expenses incurred for these materials and publications will be reimbursed with the TA funds.

## **7. Reports**

14. At the conclusion of the inception mission, the consultants should provide to ADB and NJC a working plan based on the discussions of the inception mission, outlining the schedule for training preparation and delivery activities, a plan to transfer knowledge to NJC faculty in the selected areas on WTO rules, and schedule for preparing and submitting reports.

15. At the conclusion of the training session for NJC faculty members and based on the assessment of the results of the first training session, the consultants will prepare a brief report listing the action to be taken to improve the effects of the training sessions and discussing the request for cooperation of Supreme People's Court (SPC) and NJC.

16. At the conclusion of all training activities, the consultants should prepare a final report summarizing the training activities, with particular focus on (i) the number of senior judges who have received the training; (ii) effectiveness of the training in passing on knowledge; (iii) improvement of capability of NJC faculty and domestic trainees in delivering the training in future and what can be done to further improve their capacity; and (iv) what NJC needs to do in further developing its capacity with its limited resources and making improvements in providing similar training.

## **C. Comparative Study**

### **1. Qualifications of Domestic Consultants**

17. Domestic consultants to be engaged for the comparative study should be the experts in the legal and judicial system, comparative law study, and/or foreign trade law. They should be fluent in English and able to research using English-language-based publications and materials.

### **2. Tasks**

18. The domestic consultants for comparative study on judicial review systems should compile relevant materials from the library and obtained under the TA and summarize the materials. Based on the summary, they will show the differences in theory and practice of the judicial review system and function in major jurisdictions. Particular attention should be paid to the analysis of the differences between the countries that have a civil law tradition and those with a case law tradition, and between the countries that have the judicial review integrated in their general court system and those that have the function performed in special court (international trade or administrative).