

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Technical Barriers to Trade

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Supplement

The statement received from the delegation of the United States in accordance with Article 15.7 of the Agreement was circulated in TBT/1/Add.1. The copy of Title IV of the Trade Agreements Act of 1979 (Public Law 96-39) and of the United States Administration's Statement of Administrative Action, which sets forth a detailed plan by the United States Executive Branch for implementing Title IV were included in TBT/1/Add.1/Suppl.1. The texts of a 10 November 1980 Federal Register notice concerning the establishment of a "Technical Office" in the Department of Commerce and a 15 December 1980 Federal Register notice concerning the establishment of a "Technical Office" in the Department of Agriculture were made available in TBT/1/Add.1/Suppl.2.

The following statement, received from the delegation of the United States, describes in further detail, most recent activities by the Federal Government, State and local governments and private bodies relating to the implementation and administration of the Agreement.

Federal Activities

The Departments of Commerce and Agriculture have established "Technical Offices" to perform specific functions to implement the Standards Code and Title IV of the Trade Act of 1979. The Department of Commerce announced their initiation of a Technical Office in the November 10, 1980, Federal Register, and the Department of Agriculture published a notice in Federal Register regarding their Technical Office on December 15, 1980.

One of the most important functions of the Technical Offices is to disseminate information on foreign proposed standards and certification systems to U.S. federal, state and local agencies, and the private sector. The Technical Offices will also encourage better U.S. representation in international standardizing activities.

The major regional standardizing bodies in which the U.S. Government participates are the standards activities of the OECD and the UNECE. The Department of Commerce is presently compiling a list of all international and regional standardizing and certifying bodies in which the United States participates. Information on U.S. participation in international and regional standards organizations has never been culled together into one source before the initiation of Technical Offices to implement the Standards Code. The Technical Offices in Commerce and Agriculture will, therefore, help to keep U.S. government agencies and U.S. private standards organizations informed and aware of international standards development.

The Office of the U.S. Trade Representative is presently preparing a regulation under Section 422 of Title IV of the Trade Agreements Act of 1979, that will specify the procedures that should be used when a foreign country complains to the U.S. Government about an alleged violation of the standards code. In this regard, the U.S. Trade Representative, under Subtitle C, Section 421-424 of Title IV of the Trade Act of 1979, is to receive representations alleging that a standards-related activity in the United States is violating the obligations of the United States under the Code. No entity other than a Code signatory, or a foreign country that is not a Code signatory but is found to extend equivalent rights and privileges to the United States, may make such a representation. After receiving a complaint from a Code signatory, the U.S. Trade Representative is directed to take appropriate steps to achieve a mutually satisfactory solution with the concerned parties.

The U.S. inquiry point in the National Bureau of Standards has been regularly notifying the GATT Secretariat of U.S. proposed mandatory regulations. We are keeping track of the length of comment periods allowed by individual Federal agencies, and have noted that most federal agencies provide for an average comment period of 60 days. We are aware, however, that one or two particular agencies have often had comment periods of less than 60 days. U.S. federal agencies, however, are allowed to use less than 60 day comment periods when there are legitimate reasons for doing so.

State and Local Government and Private Activities

The United States has been extremely open in providing information on its implementation and administration of the standards code. For example, although the code only requires us to bring our actions vis-a-vis state and local governments and the private sector to the attention of the Committee, we have gone beyond this requirement. In this regard, I note that Section 403 in Title IV of the Trade Agreements Act of 1979 states that "The President shall take such reasonable measures as may be available to promote the observance by State agencies and private persons..." of the procedures and provisions of the Trade Act of 1979. This language corresponds to the language in the Code itself which states that "Parties shall take such reasonable measures as may be available to them to ensure that local government and non-governmental bodies within their territories comply with the provisions of..." the Code.

Additionally, Section 403 states that "It is the sense of the Congress that no State agency and no private person should engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States." As the U.S. Senate Finance Committee notes on page 154 of its official report on the Trade Agreements Act,

"Under the Agreement, the United States has undertaken an obligation to take all reasonable measures available to it to ensure compliance by its non-central governmental bodies. The committee expects good faith efforts to be made to fulfill this obligation.

"The committee is cognizant of the fact that the Agreement does not exempt the trade restrictive standards-related activities of non-central governmental bodies although such bodies are not bound directly. In the event that such a non-Federal standard, test method, or certification system is found by the Committee on Technical Barriers to Trade to be an unnecessary obstacle to trade in violation of the Agreement, there is existing legal authority under its power to regulate interstate and foreign commerce to obtain a modification if the Executive decides to seek a change. Therefore, no additional authority is needed or created in Title IV to enable the Federal Government to fulfill its agreement obligations with respect to non-central governmental bodies."

The Federal Government has already taken measures to encourage the compliance of state agencies and private persons. For example, the Office of the U.S. Trade Representative, in Washington, has circulated a letter to the Governors of the fifty states, signed by the U.S. Trade Representative, informing the state Governors of the obligations of the Standards Code. The Department of Agriculture, also, is directly cooperating with state departments of agriculture. The Department of Commerce has published a pamphlet summarizing the provisions of the Standards Code and the relevant portions of the Trade Act of 1979 and is distributing this pamphlet as widely as possible to state agencies and private organizations. The Department of Commerce also sponsored a "Conference on International Standardization Issues" which was attended by representatives from dozens of U.S. private standards and certification bodies. Furthermore, the Departments of Commerce and Agriculture are presently drafting a set of Voluntary Guidelines for state agencies and private persons on procedures that might be used in developing and promulgating standards that will comply with the provisions of the Standards Code.

The major U.S. private standards-setting organizations use completely open procedures; in this regard, they normally allow 60 days for comments. All fifty states give the public notice of their proposed regulations and allow for comments. The length of comment periods, however, do vary greatly from state to state. The Voluntary Guidelines will recommend that state government comment periods be at least 45 days.

U.S. private certification bodies, such as Underwriters Laboratories, use mailing lists to inform the public of proposed changes in regulations or proposed certification systems. These mailing lists are completely open; any interested party can request to be placed on them. Comments are always solicited and the average comment period is 60 days.

U.S. Inquiry Point

The U.S. inquiry point, in the National Bureau of Standards, maintains a reference collection which includes over 240,000 standards, specifications, test methods, codes and recommended practices. This reference material includes standards issued by U.S. Government agencies, state governments, U.S. private organizations and associations and foreign national and international standardizing bodies. The inquiry point will develop the capability to respond to all requests for U.S. federal and state regulations, and for U.S. private standards and specifications.

When foreign requests for copies of U.S. proposed mandatory regulations were first received by the inquiry point, they were answered in 7-10 working days. Procedures have since been accelerated and the inquiry point is now responding to foreign requests for copies of U.S. proposed regulations in 1-2 working days.