

GENERAL AGREEMENT ON

RESTRICTED

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24 February 1988

TARIFFS AND TRADE

Special Distribution

Committee on Technical Barriers to Trade

DECISIONS AND RECOMMENDATIONS ADOPTED BY
THE COMMITTEE SINCE 1 JANUARY 1980

Revision

The present document reproduces the decisions and recommendations adopted by the Committee concerning the interpretation, implementation and administration of the Agreement.

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A. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Background and purpose:

Article 15.7 of the Agreement provides that each party shall inform the Committee of measures in existence or taken to ensure the implementation and administration of the Agreement. In response to this provision of the Agreement Parties submit the relevant information in the form of written statements. The Committee agreed on the following decision concerning the contents of these statements.

Decision:

1. The statement should cover the legislative, regulatory and administrative action taken as a result of the negotiation of the Agreement or currently in existence to ensure that the provisions of the Agreement are applied. If the Agreement itself has been incorporated into domestic law, the statement should indicate how this has been done. In other cases, the statement should describe the content of the relevant laws, regulations, administrative orders, etc. All necessary references should also be provided.

2. In addition, the statement should specify:

- (a) the names of the publications used to announce that work is proceeding on draft technical regulations or standards and rules of certification systems and those in which the texts of technical regulations and standards or rules of certification systems are published (Articles 2.5.1, 2.7, 3.1, 4.1, 7.3.1, 7.5, 8.1 and 9.2);
- (b) the expected length of time allowed for presentation of comments in writing on technical regulations, standards or rules of certification systems (Articles 2.5.4, 2.5.5, 2.6.3, 7.3.4 and 7.4.3);
- (c) the name and address of the enquiry point(s) foreseen in Article 10 of the Agreement with an indication as to whether it is/they are fully operational;
- (d) the name and address of the agency with which to get in touch if consultations are to be requested under Article 14;
- (e) the name and address of any other agencies that have specific functions under the Agreement, and
- (f) measures and arrangements to ensure that national authorities preparing new technical regulations or certification systems, or substantial amendments to existing ones, provide early information on their proposals in order to enable the Party in question to fulfil its obligations on notifications under Article 2.5, 2.6, 7.3 and 7.4 of the Agreement.

B. PROJECTED AGENDA

Circulation:

Background and purpose:

In order to facilitate rationalization of its work, the Committee agreed on the following procedures for the circulation of projected agendas.

Decision:

- (a) An annotated and updated list of outstanding items will be circulated with the draft agenda for each meeting. Delegations wishing any of the items contained in such a list, or any other items, to be included in the agenda of coming meetings will be invited to communicate their suggestions to the Chairman of the Committee.
- (b) Any suggestions on items in the projected agenda will be circulated in draft form to all signatories before issuing the projected agenda. The final projected agenda will reflect comments by signatories on these suggestions.

C. NOTIFICATION PROCEDURES

1. Format and Guidelines:

Background and purpose:

The procedures for notification under the Agreement have been kept under constant review by the Committee. In order to ensure a uniform and efficient operation of these procedures the Committee agreed on the following format and guidelines.

Decisions:

<u>Item</u>	<u>Description</u>
(i) Party to the Agreement notifying	Government, including the competent authorities of the European Economic Community, which has acceded to the Agreement and which is making the notification.
(ii) Agency responsible	Body elaborating a proposal for or promulgating a technical regulation or certification system.
(iii) Notified under	Relevant provision of the Agreement: Article 2.5.2: proposed technical regulation by central government body, Article 2.6.1: adopted technical regulation by central government body, Article 7.3.2: proposed certification system by central government body, Article 7.4.1: adopted certification system by central government body, Other Articles under which notification can arise in cases of urgency set out in those Articles are: Article 3.1: adopted technical regulation by local government body, Article 4.1: adopted technical regulation by non-governmental body, Article 8.1: adopted certification system by local government or non-governmental body, Article 9.2: adopted certification system by international or regional organization.

* Where boxes appear under items 3 and 11 of the format, notifiers are requested to check the relevant box or to indicate relevant information under "other".

- (iv) Products covered CCCN (chapter or heading and number) where applicable. National tariff heading if different from CCCN. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
- (v) Title Title of the proposed or adopted technical regulation or certification system.
- (vi) Description of content An abstract of the proposed or adopted technical regulation or rules of certification system clearly indicating its content. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.
- (vii) Objective and rationale For instance: health, safety, national security, ... etc.
- (viii) Relevant documents (1) Publication where notice appears, including date and reference number;
(2) Proposal and basic document (with specific reference number or other identification) to which proposal refers;
(3) Publication in which proposal will appear when adopted;
(4) Whenever practicable, give reference to relevant international standard. If it is necessary to charge for documents supplied, this fact should be indicated.
- (ix) Proposed dates of adoption and entry into force The date when the technical regulation or certification system is expected to be adopted, and the date from which the requirements in the technical regulation or certification system are proposed or decided to enter into force, taking into consideration the provisions of Article 2.8.
- (x) Final date for comments The date by which Parties may submit comments in accordance with Articles 2.5.4, 2.6.3, 7.3.4 and 7.4.3

of the Agreement. The Committee has recommended a normal time limit for comments on notifications of sixty days. A Party may, if necessary, however, indicate in its notification that it will proceed to implement the proposed measure after forty-five days if no comments or requests for extension of the time limit have been received from other Parties within that time. Any Party which is able to provide a time limit beyond sixty days is encouraged to do so.

(xi) Texts available from

If available from national enquiry point, put a cross in the box provided. If available from another body, give its address and telex number.

2. Timing of Notifications:

Background:

The Committee dealt with this aspect of notification procedures in the following way:

Recommendation:

When implementing the provisions of Articles 2.5.2 and 7.3.2, a notification should be made when a draft with the complete text of a proposed technical regulation or rules for a proposed certification system is available and when amendments can still be introduced and taken into account.

3. Application of Article 2.5 (Preambular Part):

Background and purpose:

With a view to ensuring a consistent approach to the selection of proposed technical regulations to be notified, the Committee established the following criteria.

Recommendation:

For the purposes of Article 2.5 the concept of "significant effect on trade of other Parties" may refer to the effect on trade:

- of one technical regulation only or of various technical regulations in combination,

- in a specific product, group of products or products in general, and
- between two or more Parties (countries).

When assessing the significance of the effect on trade of technical regulations, the Party concerned should take into consideration such elements as the value or other importance of imports in respect of the importing and/or exporting Parties concerned, whether from other Parties individually or collectively, the potential growth of such imports, and difficulties for producers in other Parties to comply with the proposed technical regulations. The concept of a significant effect on trade of other Parties should include both import-enhancing and import-reducing effects on the trade of other Parties, as long as such effects are significant.

4. Translation of documents relating to notifications and address of body supplying the documents:

Background and purpose:

In order to avoid difficulties that can arise from the fact that the documentation relevant to technical regulations, standards and rules of certification systems is not available in one of the GATT working languages and that a body other than the enquiry point may be responsible for such documentation, the Committee agreed on the following procedures:

Recommendation:

When a Party seeks a copy of a document relating to a notification which does not exist in that Party's GATT working language, it will be advised, on request, by the notifying Party of other Parties that have requested, as of that date, a copy of the document. The Party seeking a copy of a document relating to a notification may then contact such other Parties in order to determine whether the latter are prepared to share, on mutually agreed terms, any translation that they have or will be making into relevant GATT working language(s).

Decisions:

- (a) When a translation of a relevant document exists or is planned, this fact shall be indicated on the GATT notification form next to the title of the document. If only a translated summary exists, the fact that such a summary is available shall be similarly indicated;
- (b) Upon receipt of a request for documents, any translated summaries that exist in the language of the requestor or, as the case may be, in a GATT working language, shall be automatically sent with the original of the documents requested;

- (c) Parties shall indicate under point 11 of the GATT notification form the exact address of the body responsible for supplying the relevant documents if that body is not the enquiry point.

5. Processing of requests for documentation:

Background:

The Committee addressed the problems of supplying and obtaining requested documentation on notified technical regulations and rules of certification systems as follows:

Recommendations:

- (a) requests for documentation should contain all the elements permitting the identification of the documents and in particular, the GATT notification number (TBT/Notif. ...) to which the requests refer. The same information should appear on the documents supplied in response to such requests;
- (b) any request for documentation should be processed if possible within five working days. If a delay in supplying the documentation requested is foreseen, this should be acknowledged to the requestor.

6. Length of time allowed for comments

Background:

The Committee set the following time limits for presentation of comments on notified technical regulations and rules of certification systems.

Recommendation:

The normal time limit for comments on notifications should be sixty days. A Party may, if necessary, however, indicate in its notification that it will proceed to implement the proposed measure after forty-five days if no comments or requests for extension of the time limit have been received from other Parties within that time. Any Party which is able to provide a time limit beyond sixty days is encouraged to do so.

7. Handling of comments on notifications

Background and Purpose

In order to improve the handling of comments on proposed technical regulations and rules of certification systems submitted under Articles 2.5.4, 2.6.3, 7.3.4 and 7.4.3 of the Agreement, the Committee agreed on the following procedures.

Recommendations:

- (a) each Party should notify the GATT secretariat of the authority or agency (e.g. its enquiry point) which it has designated to be in charge for handling of comments received, and
- (b) a Party receiving comments through the designated body should without further request
 - (1) acknowledge the receipt of such comments,
 - (2) explain within a reasonable time to any Party from which it has received comments, how it will proceed in order to take these comments into account and, where appropriate, provide additional relevant information on the proposed technical regulations or rules of certification systems concerned, and
 - (3) provide to any Party from which it has received comments, a copy of the corresponding technical regulations or rules of certification systems as adopted or information that no corresponding technical regulations or rules of certification system will be adopted for the time being.

D. LIST OF PRODUCTS COVERED BY THE NOTIFICATIONS

Background and Purpose:

With the purpose of clarifying what categories of products of importance in international trade are subject to notified technical regulations or certification systems, a list of such products covering the notifications made in 1980 to 1984 and including indications on where relevant international standardization work is taking place or will take place, is drawn up in document TBT/W/68/Rev.1.

Recommendation:

Parties should circulate the list of products covered by the notifications, contained in document TBT/W/68/Rev.1 to their national standardizing bodies inviting them to take it into account in the work of international standardizing bodies in which they participate.

E. PROCEDURES FOR INFORMATION EXCHANGE

1. Regular meetings:

Background and purpose:

In order to give Parties the opportunity to discuss the activities and problems relating to information exchange the Committee took the following action.

Decision:

Regular meetings of persons responsible for information exchange including persons responsible for enquiry points will be held on a biennial basis. Representatives of interested observers will be invited to participate in such meetings. The meetings will deal only with technical issues, leaving any policy matters for consideration by the Committee itself.

2. Booklets on enquiry points:

Background and purpose:

In order to improve publicity concerning the rôle of enquiry points in answering queries from Parties as provided in Articles 10.1 and 10.2 of the Agreement the Committee took the following action.

Recommendation:

- (a) The issuing of brochures on enquiry points would be of value.
- (b) All booklets issued by Parties should contain the elements and, as far as possible, follow the layout below:
 - (i) Objective, name and address of GATT enquiry point(s).

Objective:

Refer to the provisions of Articles 10.1 and 10.7 of the Agreement on Technical Barriers to Trade.

Date established, and name of responsible officer.

Who can use the enquiry point(s):

Refer to the provisions of Articles 10.1, 10.2, 2.5.3, 2.6.2 and 8.1 (in relation to 7.3.3 and 7.4.2) of the Agreement.

- (ii) Information available from enquiry point(s).

Documentation:

Refer to the provisions of Articles 2.5.3, 2.6.2, 2.9, 2.10, 3.1, 4.1, 7.3.3, 7.4.2, 8.1, 9.2 and 10.3, 10.5.1, 10.5.2.

Documentation that can be obtained from the enquiry point(s).

Procedures for handling documentation on proposed or adopted domestic regulations and standards and certification systems.

Notifications: content, format, comment period:

Refer to the provisions of Articles 2.5.2, 2.6.1, 2.9, 2.10, 7.3.2, 7.4.1 and 3.1, 4.1, 8.1, 9.2 of the Agreement and to the decisions of the Committee on Technical Barriers to Trade regarding format and comment period.

Procedures for handling notifications issued by other signatories of the Agreement, for issuing notifications from domestic sources, and for handling comments on notifications received or issued.

Publication:

Refer to the provisions of Articles 2.5.1, 2.7, 2.9, 2.10, 7.3.1, 7.5 and 3.1, 4.1, 8.1, 9.2 and 10.1.4.

Procedures for ensuring compliance with these provisions of the Agreement, including any publications by the enquiry point(s).

(iii) Facilities offered (including charges, if any).

Data bank (content and form of documents, e.g. paper, microfilm, computer, etc.).

Access to data (retrieval system: manual, tape, on-line; software used).

Languages used.

Translation, if any.

Annex

Brief description of the Agreement: objectives, date of entry into force, date joined, status in domestic law.

List of signatories of the Agreement.

List of enquiry points of other signatories.

3. Enquiries which the enquiry points should be prepared to answer:

Background and purpose:

With a view to encouraging a uniform application of Articles 10.1 and 10.2 of the Agreement the Committee took the following action.

Recommendation:

- (a) (i) An enquiry should be considered "reasonable" when it is limited to a specific product, or group of products, but not when it goes beyond that and refers to an entire business branch or field of regulations or standards.
- (ii) When an enquiry refers to a composite product, it is desirable that the parts or components, for which information is sought, are defined to the extent possible. When a request is made concerning the use of a product it is desirable that the use is related to a specific field.
- (b) The Enquiry Point(s) of a Party should be prepared to answer enquiries regarding the membership and participation of that party, or of relevant bodies within its territory, in international and regional standardizing bodies and certification systems as well as in bilateral arrangements, with respect to a specific product or group of products. They should likewise be prepared to provide reasonable information on the provisions of such systems and arrangement.

4. Handling of requests

Background and purpose:

The purpose is to improve the handling of requests from other Parties received under Article 10.1 and 10.2.

Recommendation:

An enquiry point should, without further request, acknowledge the receipt of the enquiry.

F. TESTING, INSPECTION AND TYPE APPROVAL

Use of ISO/IEC Guides:

Background and purpose:

In its discussion of furthering the objectives of Article 5 of the Agreement, the Committee considered the following Guides of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) as providing an important contribution to the establishment of mutual confidence in testing and inspection activities between Parties:

ISO/IEC Guide 25-1982 - "General Requirements for the Technical Competence of Testing Laboratories";

ISO/IEC Guide 38-1983 - "General Requirements for the Acceptance of Testing Laboratories";

ISO/IEC Guide 39-1983 - "General Requirements for the Acceptance of Inspection Bodies";

ISO/IEC Guide 43-1984 - "Development and Operation of Laboratory Proficiency Testing";

ISO/IEC Guide 45-1985 - "Guidelines for the Presentation of Test Results".

Accordingly, the Committee adopted the recommendations stated below:

Recommendations:

(a) Any testing and inspection activity developed within the territories of Parties should be based on the principles and rules presented in the ISO/IEC Guides 25, 38, 39, 43 and 45.

(b) Parties should provide information on national measures taken to promote the implementation of the principles and rules in ISO/IEC Guides 25, 38, 39, 43 and 45 as a basis for testing and inspection activities in their territories.

G. TECHNICAL ASSISTANCE

Procedures for exchange of information:

Background and purpose:

In considering the ways in which the provisions of Article 11 could be given operational significance, the Committee agreed to exchange information on technical assistance as follows:

Decision:

Specific needs for technical assistance as well as information that may be provided by potential donor countries on their technical assistance programmes may be communicated to Parties through the secretariat. In agreement with requesting countries or potential donor countries, as the case may be, the information concerning specific needs and technical assistance programmes would be circulated by the secretariat to all signatories on an informal basis. Whilst information would be multilateralized in this manner, technical assistance would continue to be provided on a bilateral basis. The secretariat would reflect the information circulated under this procedure in the documentation prepared for annual reviews of the implementation and operation of the Agreement if the Parties concerned so agree.

Technical assistance would remain as an item of the agenda of the Committee on a permanent basis and would be included on the agenda of a regular meeting of the Committee when so requested by a signatory in accordance with the agreed procedures.

H. APPLICABILITY OF THE AGREEMENT TO PROCESSES AND PRODUCTION METHODS (PPMs)

Information:

Background and purpose:

The question of the applicability of the Agreement to processes and production methods was discussed at the fifth, sixth and seventh meetings of the Committee. No consensus was reached. However, in order to allow exchange of information on this subject the Committee agreed to the procedures stated below.

Decision:

Delegations may make submissions to the Committee relating to PPMs that might create unnecessary obstacles to trade, which will be circulated to the Committee but not consolidated into a single document in the form of an inventory. Delegations should also be free to submit any relevant working documents and case studies of how the Agreements' coverage of PPMs could lead to the elimination of trade barriers. The secretariat will follow normal practice in circulating any documents submitted by Parties on the subject.

I. REGIONAL STANDARDS-RELATED ACTIVITIES

Address by representatives:

Background and purpose:

The Agreement contains a number of provisions on regional standardizing bodies and certification systems. In order to keep abreast of the activities of such bodies and systems, the Committee decided as follows.

Decision:

Representatives of regional standardizing and certifying bodies may be invited to address the Committee on their procedures and how they relate to those embodied in the Agreement, on the basis of agreed lists of questions.

J. AVOIDANCE OF DUPLICATION

Avoidance of duplication with FAO/WHO Codex Alimentarius Commission:

Background and purpose:

Article 13.3 of the Agreement provides that unnecessary duplication should be avoided between the work under the Agreement and that of governments in other technical bodies, e.g. the Joint FAO/WHO Codex Alimentarius Commission. The Committee examined this problem and agreed to the following arrangements for avoidance of duplication with the FAO/WHO Codex Alimentarius Commission.

Decision:

- (a) The Committee on Technical Barriers to Trade will invite Codex Alimentarius to transmit copies of notifications which they receive from governments which are also signatories to the GATT Agreement for circulation to signatories. As foreseen in Article 10.4, the GATT secretariat will provide Codex Alimentarius with copies of notifications made to it which relate to products of interest to Codex Alimentarius.
- (b) The secretariats of Codex Alimentarius and GATT will be invited to participate in meetings of the other organization as observers in discussions on items of interest to them in accordance with the procedures adopted for the participation of observers.
- (c) Any signatory which believes that problems of duplication may exist between the work under the Agreement on Technical Barriers to Trade and the Codex Alimentarius Commission can raise this matter in the Committee.

K. ACCESSION OF NON-CONTRACTING PARTIES

Procedures:

Background and purpose:

The provisions for accession of non-contracting parties are stated in Article 15.3 of the Agreement. Pursuant to a statement accepted on this subject by the Trade Negotiations Committee at its meeting of April 1979 (MTN/P/5), paragraphs 2, 4, and 9) various Committees and Councils established under MTN Agreements and Arrangements raised this issue at the initial stages of their work. Accordingly, the Committee on Technical Barriers to Trade adopted the following procedures.

Decision:

- (a) Any non-contracting party which wishes to negotiate for accession to the Agreement under Article 15.3 will indicate this fact in a letter addressed to the Chairman of the Committee, a copy of which will also be sent to the GATT secretariat.
- (b) Negotiations for the accession of such governments will be conducted on a case-by-case basis, and
- (c) Documents TBT/W/4 and TBT/W/6 can be taken into account in any such negotiations.

L. PARTICIPATION OF OBSERVERS

Procedures:

Background and purpose:

Pursuant to the entry into force of the Agreement the Committee discussed participation of observers to the proceedings of the Committee in the light of the procedures agreed to in other Committees and Councils established under the MTN Agreements and Arrangements. In this connection, the Committee adopted the following procedures.

Decisions:

(a) Contracting parties:

Representatives of contracting parties which are not signatories may follow the proceedings of the Committee in an observer capacity.

(b) Non-contracting parties:

Representatives of non-signatory countries not contracting parties, which participated in the multilateral trade negotiations and which are interested in following the proceedings of the Committee in an observer capacity, should communicate a request to the Director-General of the GATT indicating their desire to do so. The Committee shall decide on each request.

(c) International organizations:

The Committee may invite, as appropriate, international organizations to follow particular issues of the Committee in an observer capacity. In addition, requests from international organizations to follow particular issues within the Committee in an observer capacity shall be considered on a case-by-case, meeting-by-meeting basis by the Committee.

Procedurally, if the Chairman of the Committee receives a request for observer status, he shall consult with signatories to the Agreement to determine if there is objection to issuing an invitation to the requesting international organization. This consultation will take place before the draft agenda for the next meeting has been issued in final form. The informally circulated draft agenda sent to signatories shall include a list of those international organizations which have requested observer status for that meeting.

(d) General:

Observers may participate in the discussions but decisions shall be taken only by signatories.

The Committee may deliberate on confidential matters in special restricted sessions.

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

Committee on Technical Barriers to Trade

NOTIFICATION

The following notification is being circulated in accordance with Article 10.4.

1. Party to Agreement notifying:
2. Agency responsible:
3. Notified under Article 2.5.2 <input type="checkbox"/> , 2.6.1 <input type="checkbox"/> , 7.3.2 <input type="checkbox"/> , 7.4.1 <input type="checkbox"/> , Other:
4. Products covered (CCCN where applicable, otherwise national tariff heading):
5. Title:
6. Description of content:
7. Objective and rationale:
8. Relevant documents:
9. Proposed dates of adoption and entry into force:
10. Final date for comments:
11. Texts available from: National enquiry point <input type="checkbox"/> or address of other body: