

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TBT/W/3

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Special Distribution

Committee on Technical
Barriers to Trade

AVOIDANCE OF DUPLICATION

Note by the Secretariat

1. Article 13.3 of the Agreement on Technical Barriers to Trade reads as follows: "It is understood that unnecessary duplication should be avoided between the work under this Agreement and that of governments in other technical bodies, e.g. Codex Alimentarius. The Committee shall examine this problem with a view to minimizing such duplication". The secretariat has prepared this background paper at the suggestion of the Chairman in order to assist the Committee when it considers this matter at its meeting of April 1980.
2. It is the understanding of the secretariat that the main question in the mind of the drafters of this provision was whether there might be unnecessary duplication between notification requirements under the Agreement and under the Codex Alimentarius. This note deals with this matter. The secretariat intends to circulate a further paper summarizing relevant activities of other inter-governmental bodies in the standards area for the information of delegations.
3. It may be recalled that the drafters of the Agreement made a conscious attempt to avoid duplication with other bodies such as Codex Alimentarius, in that the Agreement leaves to such other bodies the job of drawing up international standards (Article 2.2) and invites Parties to play a full part in their preparation (Articles 2.3, 12.5). In line with this approach, Articles 2.5 and 2.6 of the Agreement only require notification of technical regulations and standards whose technical content is not substantially the same as that of a relevant international standard. On the other hand, in the framework of Codex Alimentarius, notifications from member governments are only required once an international standard has been drawn up, these notifications taking the form of a statement of acceptance or non-acceptance of the standard. This reduces the possibility of duplication.
4. However, there are three forms of acceptance of Codex standards:
 - (a) full acceptance,
 - (b) target acceptance, and
 - (c) acceptance with specified deviations.¹

¹The forms of acceptance for Codex maximum limits for pesticide residues are somewhat different, the main difference being that, as these lay down a maximum level, there can be no question of acceptance with specified deviations.

The first of these terms is self-explanatory. Target acceptance means that the government indicates intention to accept the standard after a stated number of years and will, meanwhile, not hinder within its territorial jurisdiction the distribution of any sound products conforming with the standard by any legal or administrative provisions relating to the health of the consumer or to other food standard matters, except for considerations of human, plant or animal health which are not specifically dealt with in the standard. Acceptance with specified deviations means that the country concerned gives acceptance with the exception of such deviations as are specified in detail in its declaration of acceptance. The reasons for the deviations must also be stated.

5. At the moment, therefore, a government may in certain cases be required to make notifications both to Codex Alimentarius and GATT, e.g. if it accepts a Codex Alimentarius standard with specified deviations and intends to adopt a technical regulation which embodies these. The Committee may wish to discuss whether this constitutes unnecessary duplication.

6. While there is no obligation to do so, a government not accepting a Codex Alimentarius standard is also requested to indicate (a) whether products conforming to the standard may be distributed freely within its territorial jurisdiction, (b) in what ways its present or proposed requirements differ from the standard and, if possible, the reasons for these differences. Very few such notifications are, in fact, made to Codex Alimentarius.

7. It is suggested that the following arrangements might be made in order to avoid unnecessary duplication between Codex Alimentarius and GATT.

1. Signatories to the Agreement on Technical Barriers to Trade would not be expected to notify the GATT of regulations which they propose to introduce if such regulations would permit importation of products conforming to a Codex Alimentarius standard or to a Codex Alimentarius standard as modified by such deviations as have already been notified to Codex Alimentarius.
2. The Committee on Technical Barriers to Trade would invite Codex Alimentarius to transmit without delay copies of notifications which they receive from governments which are also signatories of the GATT Agreement for circulation to signatories. As foreseen in Article 10:4, the Committee would offer to provide Codex Alimentarius with copies of notifications made to it which relate to products of interest to Codex Alimentarius.

3. The secretariats of Codex Alimentarius and GATT would be invited to participate in meetings of the other organization as observers in discussions on items of interest to them.
4. The adoption of these procedures would not affect the rights of Parties under the GATT Agreement, e.g. to comment on proposed regulations and have their comments taken into account.