

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TBT/17

17 August 1983

Special Distribution

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Committee on Technical Barriers to Trade

## FOURTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT

### Basic Document by the Secretariat

At its meeting on 17-18 May 1983, the Committee discussed the preparations for the fourth annual review, as called for in Article 15.8 of the Agreement, on the basis of a proposal by the delegation of Nordic countries contained in document TBT/W/58 (TBT/M/13, paragraph 29). Pursuant to this discussion the secretariat has prepared the documentation for the review in the following way:

- (a) Additional information on new developments in the period from 30 October 1982 to 1 August 1983 is included under the relevant headings of the review.
- (b) Information covered by previous reviews is contained in document TBT/10 and Supplements 1 and 2, to which detailed references are made under each heading.
- (c) Data on review items relating to consultation points, panelists and information is circulated in separate documents referred to under these headings.

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1. COMPOSITION OF THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE

Chairman: Mr. K. Bergholm (Finland) from March 1982

Vice-Chairman: Mr. D. Bondad (Philippines) from March 1982

Signatories

Argentina <sup>1</sup>	Korea, Rep. of
Austria	Luxembourg
Belgium	Netherlands
Brazil	New Zealand
Canada	Norway
Chile	Pakistan
Czechoslovakia	Philippines
Denmark	Romania
Egypt <sup>1</sup>	Rwanda <sup>1</sup>
European Economic Community	Singapore
Finland	Spain
France	Sweden
Germany, Federal Republic of	Switzerland
Greece	Tunisia
Hungary	United Kingdom
India	Hong Kong
Ireland	United States
Italy	Yugoslavia
Japan	

Observers<sup>2</sup>

1. Governments:

Australia	Israel	Portugal
Bangladesh	Ivory Coast	Senegal
Bulgaria	Malaysia	Sri Lanka
Colombia	Malta	Tanzania
Cuba	Mexico	Thailand
Ecuador	Nicaragua	Trinidad and Tobago
Gabon	Nigeria	Turkey
Ghana	Peru	Zaire
Indonesia	Poland	

2. International Organizations

IMF, UNCTAD, ISO, IEC, FAO/WHO Codex Alimentarius Commission, I.O.E.

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<sup>1</sup> Signed (acceptance pending)

<sup>2</sup> For procedures relating to the participation of observers, see TBT/M/2, paragraphs 4 and 5 and Annex.

## 2. IMPLEMENTATION AND ADMINISTRATION

### 2.1 GENERAL

Information on legislative, regulatory and administrative action taken to implement the provisions of the Agreement and content of the relevant laws, regulations, administrative orders, etc. are included in document TBT/10, pages 4-43; TBT/10/Suppl.1, page 2 and TBT/10/Suppl.2, page 1. Developments since 30 October 1982 under this review item are stated below.

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#### Argentina

##### General:

The list of national legislation relevant to the implementation of the Agreement is updated as follows:

- Argentine Food Code - Law No. 18,284 - implementing Decree No. 2126.
- Sealing of wines for free internal transit - Resolution 13/79.
- Requirements regarding origin and composition of wines - Resolution 495/79.
- Advance designation of analysis number for foreign exporters - Resolution 527/79.
- Imports of weights and measures - Decree No. 5,409/32.
- The Argentine Decimal Metric System - Law No. 19,511/72 and its implementing decrees and resolution.

##### Agriculture:

- Imports of vegetables and plants - Law No. 4,084/00 and its implementing decrees, resolutions and provisions.
- Marketing of tobacco - Decree No. 12,507/44
- Animal Health Policy - Laws Nos. 3,959/00 and 17,160/67. Their implementing decrees, resolutions and provisions.<sup>1</sup>

##### Industry and Trade:

- Imports of artificial Portland cement - Decrees Nos. 10,044/64 and 7,937/68.
- Legislation on narcotics and psychotropic substances - Laws Nos. 17,818/08 and 10,303/71.
- Identification of goods - Law No. 19,982/72.
- Standards for certain materials imported by the State for its agencies and enterprises - Decrees Nos. 5,720/72, 2,181/78 and Resolution 764/80.

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<sup>1</sup>The decrees, resolutions and provisions which restrict imports of live animals refer to specific diseases. Their period of validity will depend on whether or not the disease spreads in the country of origin, in accordance with Article XX(b) of the General Agreement.

### Brazil

A Coordination Committee composed of the representatives of the National Institute of Metrology, Standardization and Industrial Quality (INMETRO), the Brazilian Association of Technical Regulations (ABTN) and of various ministries is established. The Committee's activities include analysing, assessing and evaluating draft standards per se, and technical regulations and certification systems with a view to preventing technical barriers to trade; coordinating and following up the work done on technical barriers to trade; and advising on the operation of the Agreement on Technical Barriers to Trade and more specifically on the provisions of Article 12 relating to special and differential treatment for developing countries.

### Czechoslovakia

The Federal Ministry of Foreign Trade has been assigned the responsibility of co-ordinating the implementation of the Agreement.

The text of the Agreement has been published in the Official Gazette of the Federal Ministry of Foreign Trade. Federal ministries and national agencies have been informed of their obligations under the Agreement. In addition, internal administrative instructions on respective provisions of the Agreement will be issued.

The enquiry point is established in the Czechoslovak Institute for Standardization and Quality in Bratislava, which is a branch of the Federal Office for Standards and Measurements.

### India

The administrative process necessary to effect amendments to the Indian Standards Institution (ISI) Certification Marks Act, pursuant to the terms of the Understanding on India's acceptance of the Agreement (TBT/M/12, Annex), has been initiated after India signed the Agreement in February 1983.

The Indian Standards Institution has been designated as the enquiry point in India and it will soon be in a position to answer all enquiries by other signatories.

### Japan

The Omnibus Law amending parts of sixteen related laws concerning standards and certification systems has been enacted by the Diet on 18 May 1983. Following a review carried out of Japan's standards and certification systems the Ministerial Conference for Economic Measures has adopted on 26 March 1983 a comprehensive set of policies and specific measures which aims at ensuring, in terms of legal systems, non-discrimination between nationals and non-nationals in certification procedures, conformity with international standards, transparency of the

procedures, acceptance of foreign test data and simplification and speeding-up of certification procedures. The purpose of these measures is to proceed further with the opening of the Japanese market and to promote the objectives of the Agreement on Technical Barriers to Trade.

#### Philippines

Implementation of the Agreement is the joint responsibility of the National GATT secretariat of the Tariff Commission and of the Product Standards Agency (PSA). Standards Administrative Order 20-23, dated 22 April 1982, modified the PSA Philippine Standard (PS) Certification Mark Licensing System to include products for which there are no established Philippine Standards as yet. Since 1 August 1982, international standards or foreign standards acceptable to PSA are used as bases for the assessment of requests for the licence to use the PS Certification Mark. Previously, only products which conformed with established Philippine standards were eligible for a license to use the PS Certification Mark. The text of the Agreement on Technical Barriers to Trade is published in the Official Quarterly Gazette of the Product Standards Agency.

#### Tunisia

Law No. 82-66 of 6 August 1982 on Standardization and Quality assigns all standardization matters and general supervision of its implementation to the Minister of National Economy, provides for the creation of the National Standardization and Industrial Property Institute, and deals with approval of standards, application of approved standards and conditions governing the use of the national mark signifying conformity to standards.

#### United States

In addition to the United States Trade Representative, the Departments of Commerce and Agriculture are responsible for United States implementation of the Agreement. The offices within these Departments are as follows:

Office of Product Standards Policy  
Room B154, Building 225  
National Bureau of Standards  
U.S. Department of Commerce  
Washington, D.C. 20234

Office of Multilateral Affairs  
U.S. Department of Commerce  
International Trade Administration  
Herbert C. Hoover Building, Room 3517  
Washington, D.C. 20230

Technical Office, Room 5530  
International Trade Policy  
Foreign Agricultural Service  
U.S. Department of Agriculture  
Washington, D.C. 20250

The United States continues to work towards more complete implementation and better administration of the Agreement on Technical Barriers to Trade. To help state and local government and private standardizing and certifying bodies coordinate their activities towards the prevention of obstacles to the foreign commerce of the United States, the International Trade Administration of the United States Department of Commerce has issued voluntary guidelines (announced in a notice published in the United States Federal register, Vol. 47, No. 235) to assist state and local governments and private sector bodies which desire to conform their procedures, whenever possible, to the Technical Barriers to Trade Agreement aim of encouraging the use of standards, testing and certification systems for the promotion rather than the limitation of trade expansion.

In addition, the Office of the United States Trade Representative has published regulations (in the United States Federal Register, Vol. 47, No. 215) specifying the procedures to be followed when a foreign country has a grievance with the United States Government due to an alleged violation of the Agreement on Technical Barriers to Trade. The procedures implement Section 422 of the United States Trade Agreements Act of 1979 and instruct the United States Trade Representative to receive representations alleging violations of the Agreement due to standards activities in the United States. No entity other than a signatory, or a foreign country that is not a 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 signatory, the United States Trade Representative is directed to take appropriate steps to achieve a mutually satisfactory solution with the concerned parties.

## 2.2 CONSULTATION POINTS

Up-to-date information is contained in document TBT/W/62.

## 2.3 PANELISTS

Up-to-date information is contained in document TBT/W/25/Rev.8.

### 3. NOTIFICATION

#### 3.1 GENERAL

Information on notification procedures, total number of notifications made, distribution of notifications under the relevant Articles of the Agreement, categories of products covered by the notifications, objective and rationale of proposed or adopted technical regulations, standards and rules of certification systems notified and reference to international standards in notification are contained in TBT/10, pages 54-58. Developments relating to these points since 30 October 1982 are indicated below.

At its thirteenth meeting, the Committee recommended that 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.

From 1 January 1980 to 1 August 1983, 781 notifications have been made by 22 signatories and by the United Kingdom on behalf of Hong Kong. The total number of notifications made by each is as follows:

<u>Signatory</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u> (up to 1 August)	<u>Total</u>
Austria	1	7	8	1	17
Canada	15	15	20	17	67
Denmark	1	2	1	2	6
EEC	10	22	8	6	46
Finland	3	18	17	10	48
France	-	13	10	2	25
Germany, Fed. Rep.	-	5	1	2	8
Hungary	-	3	7	-	10
Ireland	4	-	-	4	3
Italy	-	1	1	1	3
Japan	21	31	47	61	160
Netherlands	-	3	10	-	13
New Zealand	6	11	-	1	18
Norway	5	8	5	2	20
Philippines	-	-	2	20	22
Romania	-	4	6	-	10
Singapore	-	3	1	-	4
Spain	-	24	-	-	24
Sweden	11	25	22	7	65
Switzerland	4	4	2	1	11
United Kingdom	2	5	6	8	21
Hong Kong	-	-	2	1	3
United States	47	91	25	9	172
<b>Total</b>	<u>130</u>	<u>295</u>	<u>201</u>	<u>155</u>	<u>781</u>

The distribution of notifications under the relevant Articles of the Agreement is as follows:

	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>Total</u>
Article 2.5.2	101	227	151	86	565
Article 2.6.1	13	26	13	10	62
Article 7.3.2	11	15	33	57	116
Article 7.4.1	5	-	3	1	9
Article 2.5.2 and 7.3.2	-	4	1	-	5
Article 3.1	-	-	-	1	1
Article 4.1	-	23	-	-	23

Four notifications in 1983 (up to 1 August) indicated that the technical regulations and rules of certification systems were based on relevant international standards.

### 3.2 COMMENT PERIOD

At its thirteenth meeting, the Committee recommended that 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.

Information on expected length of time to be 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) is included in TBT/10, pages 58-62; TBT/10/Suppl.1, page 3. Further information supplied by signatories is contained below.

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#### Pakistan

The Pakistan Standards Institute (PSI) has not yet issued any notification for seeking comments since Pakistan has become a member to the Agreement. However, the provision of the Agreement or recommendation by the Committee on comment period will be followed by the Pakistan Standards Institute.

#### United States

The United States Government generally allows the public sixty days to comment on proposed regulations. As a practice, however, most Federal Agencies remain flexible and will allow up to ninety days for comment if so requested. The United States has proposed amending the Agreement to extend the minimum comment period allowed by all signatories to ninety days. United States' Federal Agencies and Departments are prepared to implement this proposal should it be adopted by the Committee.

3.2.1 LENGTH OF TIME ACTUALLY ALLOWED FOR  
PRESENTATION OF COMMENTS

The comment period has varied from a minimum of three calendar days after the date of issue of the notification by the secretariat to a maximum of eight months. Signatories have allowed an average of forty-four calendar days in 1980, forty-six calendar days in 1981, forty-three calendar days in 1982, and forty-nine calendar days in 1983 for comments.

In 1980, the comment period had lapsed for seven notifications when the notification was issued and twenty-five notifications did not indicate a comment period. In 1981 the comment period had lapsed for twelve notifications and twenty notifications did not indicate a comment period. In 1982 the comment period had lapsed for one notification and seventeen notifications did not indicate a comment period. In 1983 (up to 1 August) the comment period had lapsed for one notification and the number of notifications that did not indicate a comment period was twenty-five.

The Committee has recommended six weeks (up to 18 May 1983) and sixty days (as from 19 May 1983) as a suggested minimum length of time to be allowed for the presentation of comments. The respect of the comment period of six weeks or sixty days by each signatory is indicated in the table on the following pages.



Observation of Recommended Comment Period by Signatories<sup>1</sup>

Signatory	1983							
	Up to 18 May 1983				As from 19 May 1983			
	Total	Less than 6 weeks	6 weeks or more	Not Specified	Total	Less than sixty days	Sixty days or more	Not specified
Austria	-				1			1
Canada	8	4	4		9	6	1	2
Denmark	2			2	-			
EEC	3	1		2	3	1	2	
Finland	7	5	2		3	3		
France	2	2			-			
Germany, Fed. Rep.	1		1		1		1	
Hungary	-				-			
Ireland	4	3		1	-			
Italy	-				1		1	
Japan	37	6	14	17	24	17	7	
Netherlands	-				-			
New Zealand	1	1			-			
Norway	1		1		1	1		
Philippines	14	5	9		6		6	
Romania	-				-			
Singapore	-				-			
Spain	-				-			
Sweden	3		3		4	3	1	
Switzerland	1	1			-			
United Kingdom	7	7			1	1		
Hong Kong	1		1		-			
United States	5	4	1		4	3	1	
Total	<u>97</u>	<u>39</u>	<u>36</u>	<u>22</u>	<u>58</u>	<u>35</u>	<u>20</u>	<u>3</u>

<sup>1</sup> Recommended period of six weeks from 1 January 1980 to 18 May 1983 and sixty days as from 19 May 1983.

#### 4. TECHNICAL ASSISTANCE AND SPECIAL AND DIFFERENTIAL TREATMENT

Information on technical assistance reported by individual signatories is contained in TBT/10, pages 64-69, TBT/10/Suppl.1, page 4 and TBT/10/Suppl.2, page 1. Further information received since 30 October 1982 is reproduced below.

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##### Pakistan

The Pakistan Standards Institution (PSI) assists developing countries in the setting up of standardization institutes of their own as well as helping them to set up a Certification Marks System in their countries.

Training programmes can also be organized either by enabling experts from developing countries to make studies about standardization and Certification Marks System at PSI, Karachi or by holding seminars in developing countries.

#### 5. DISPUTE SETTLEMENT

Information relating to this review item is contained in TBT/10, page 70. Further developments since 30 October 1982 are as follows:

Following consultations held in the course of 1982 under Article 14.1 and 14.2 of the Agreement concerning the conditions of access to a certification system maintained by one Party, the Party initiating the consultations presented a request for investigation of the matter by the Committee under Article 14.4. This request was subsequently withdrawn.

## 6. ACCEPTANCE, ACCESSION AND RESERVATIONS

Information on accession and reservations is contained in TBT/10, page 71. Developments since 30 October 1982 relating to acceptance of the Agreement are stated below.

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### 6.1 ACCEPTANCE

Upon India's acceptance of the Agreement, the Committee adopted the following Understanding:

"The signatories agree to grant the Government of India an exception, in pursuance of the provisions of Article 12.8 of the Agreement, for a period of two years from the obligations of Article 7.2. The Committee shall review the operation of the exception of AGMARK with a view to determining if it has created trade problems for other signatories. If no such problems exist, the exception shall be renewed.

The signatories agree that the misuse of certification marks by foreign suppliers is a matter of common concern and that they should examine in the Committee the development of co-operation to prevent such misuse.

The Government of India understands that when implementing the provisions of Article 5.2 the reliance upon self-certification might in some cases be conditional upon third-party surveillance."

At its twelfth meeting held on 10 February 1983, the Committee agreed to grant the Government of India an exception, in pursuance of the provisions of Article 12.8 of the Agreement, for a period of two years from the obligations of Article 7.2 in accordance with the terms of the Understanding. The Committee further decided that it would review the operation of the exception of AGMARK with a view to determining if it had created trade problems for other signatories. If no such problems existed, the exception would be renewed.

Pursuant to the Understanding, the Chairman, on behalf of the Committee, declared that the signatories agreed that the misuse of certification marks by foreign suppliers was a matter of common concern, and that they should examine in the Committee the development of co-operation to prevent such misuse.

The Committee further noted that the two-year exception under Article 12.8 would run from the day that the Agreement became effective for India, and that the review of the exception concerning AGMARK would take place not later than the end of the two-year period so defined.

The representative of India stated that his delegation was willing to consult with any member of the Committee if it was felt that AGMARK had any adverse effect on its export interests. He understood that the exception granted by the Committee would be renewed subject to the review to be conducted before the end of the two-year period.

The representative of India further stated that the Government of India understood that when implementing the provisions of Article 5.2, the reliance upon self-certification might in some cases be conditional upon third-party surveillance. The Committee noted the statement by the representative of India without dissent.

7. THE USE OF INTERNATIONAL STANDARDS; PARTICIPATION  
IN REGIONAL STANDARDIZATION BODIES OR INTERNATIONAL AND  
REGIONAL CERTIFICATION SYSTEMS

Information on the use of international standards, participation in regional standardizing bodies or international and regional certification systems by signatories is contained in document TBT/10, pages 72-79, TBT/10/Suppl.1, pages 4-5 and TBT/10/Suppl.2, page 2. Further developments since 30 October 1982 under this review item are stated below.

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Pakistan

The Pakistan Standards Institution (PSI) is a member of the International Standardization Organization (ISO) and has been participating in international standardization activities for a long time.

During the preparation or in modifying Pakistan standards, PSI takes into account the relevant international standards for adoption or uses them as a basis for the preparation of Pakistan standards.

PSI is also participating in the regional standardization activities of ESCAP and RCD.

United States

The National Bureau of Standards issued a new publication entitled a "Directory of International and Regional Organizations Conducting Standards Related Activities" (NBS Special Publication 649, April 1983). The completion of this publication marks the first comprehensive listing of 272 international and regional organizations which conduct standardization, certification, laboratory accreditation or other standards related activities. The United States is a participant in some, but not all of these organizations. The volume describes each organization's ongoing standards and certification activities, as well as the national affiliations of their memberships and the names and addresses of United States participants. Copies of this publication may be obtained from the U.S. Enquiry Point.

## 8. TRANSPARENCY

### 8.1 PUBLICATION

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, are indicated in TBT/10, pages 80-89 and TBT/10/Suppl.1, page 6. Additional information supplied by signatories since 30 October 1982 under this review item is reproduced below.

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#### India

The existing facilities of the Indian Standards Institution (ISI) Library includes information on all national standards and steps are being taken to computerize this data. The ISI publishes yearly a Handbook of Indian Standards supplemented by Standards Monthly Additions which also contains information on the proposed draft Indian standards.

#### Pakistan

The Pakistan Standards Institute (PSI) generally publishes the name of compulsory Pakistan standards or their amendments in the Official Gazette periodically.

Apart from the Official Gazette as a source of publication of standards, PSI maintains a documentation centre which arranges the publication of Pakistan standards.

PSI is also trying to restart the publication of a bulletin providing information on the various standards published internally as well as international standards originated either by organizations or by countries.

Any standardization body desiring information either on standardization activities of PSI or on Certification Marks may apply to PSI.

### 8.2 INFORMATION

Up-to-date information is contained in document TBT/W/31/Rev.3.

## 9. TESTING PROCEDURES AND ACCEPTANCE OF TEST RESULTS

Information available under this review item is contained in document TBT/10, pages 106-110 and TBT/10/Suppl.2, pages 2-3.