

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/3B/12
17 May 1974

Special Distribution

Multilateral Trade Negotiations

GROUP 3(b) - PACKAGING AND LABELLING

Note by the Secretariat on Meeting of May 1974

1. The Group met on 7 and 8 May 1974. Its task was to clarify the problems which packaging and labelling requirements create for international trade and to examine what other organizations were doing in this area and, as a next step, to consider the extent to which these problems were covered by the proposed GATT instrument for preventing technical barriers to trade (the Code, COM.IND/W/108 and Corr.1) or whether a separate instrument should be drawn up to deal with these problems (MTN/3B/7, paragraph 18).
2. There was a difference of opinion as to whether problems relating to marks of origin were covered by these terms of reference. The Group agreed that this matter should be reverted to in an appropriate forum.

Clarification of the problems

3. Some delegations suggested that different problems arose in the field of labelling on the one hand and packaging on the other and that these might therefore be discussed separately. One delegation suggested that there was some overlapping.
4. With regard to labelling it was pointed out that in some cases labelling was mandatory as such; in other cases it was not mandatory to label products but if labels were used they had to conform to certain requirements (conditional labelling); in yet other cases labelling was not subject to regulations (voluntary labelling). There were two types of mandatory requirements; in the first it was mandatory to show certain information and in the second it was mandatory to present information in a certain way.
5. Some delegations said that conditional labelling requirements were in many cases less onerous than mandatory requirements. Some delegations said that problems might arise in certain cases because, while in theory it might be voluntary to use a label, in practice it was mandatory to do so to overcome consumer resistance or meet consumer tastes.

6. Some delegations emphasized that the motivations behind these requirements could be very different. Some delegations said that if labelling was required the motive was to exercise control of some sort. Some delegations said that in some cases the motivation was consumer information while in others it was consumer protection (health and safety). Some delegations pointed out that in some cases labelling requirements facilitated trade. Some delegations said that in some other cases the unspoken or unconscious motivation could be to restrict trade. Many delegations pointed out however that in practice it would be difficult to identify motivations; it was the trade effect of labelling requirements that was important in the present context and the Group should concentrate on these. Some delegations said that differences in labelling requirements, both regarding the information required and the way in which it was presented, could create obstacles to trade. Some delegations said that problems might arise because different requirements were applied, in clear violation of Article III, to imported and domestically produced goods but that the more usual case was one in which barriers to trade were created even though imports were subject to the same requirements as domestically produced goods so that even though national treatment was granted the purpose of Article III:4 was defeated.

7. The Group noted that a number of specific trade problems were contained in Part 3 of the Inventory of Non-Tariff Measures (MTN/3B/3) and some delegations quoted additional examples. Some delegations said that potential problems were likely to be more important than those contained in the Inventory since the present trend towards more, rather than fewer requirements was likely to continue.

8. Some delegations from developing countries said that labelling rules created more acute problems for their countries than for others; it was more difficult for them both to find out what the rules were and to follow them. Some delegations from developing countries expressed particular concern about the trade obstructive effects of complicated regulations. Some delegations from developing countries pointed to difficulties created by the diversity of requirements in different export markets. Some delegations from developing countries said that it was difficult for them to follow certain requirements because the technology on which their export products were based was different from that used in importing countries and no allowance for this was made in the regulations.

9. With regard to packaging, some delegations pointed out that there were different types of requirement in this area. These dealt with the material to be used with a view to its effect on the contents and the range of package sizes permitted. These might both have implications for international trade.

10. Some delegations said that there were also requirements relating to the standard of fill; these could take the form either of average requirements or minimum requirements.

11. Some delegations from developing countries mentioned the problem of the additional cost of certain kinds of packaging and pointed to the need to take into account the incidence of this on the export earnings of developing countries.

Work of other organizations

12. Some delegations pointed out that a number of organizations were already working on the subject of packaging and labelling provisions. These included the Economic Commission for Europe, the Council of Europe, the FAO/WHO Codex Alimentarius Commission, the Organisation for European Co-operation and Development, the International Standards Organization, the European Packaging Federation and the International Labelling Centre. The secretariat was requested to prepare a note on what other organizations were doing in this field, including inter alia the composition of these organizations, the status of their work, the results obtained and the extent to which these had actually been applied, distinguishing between the work of governmental and non-governmental organizations and, to the extent possible, the relevance of the work to international trade.

Approach to be adopted

13. Some delegations put forward a number of ideas as to how the problems in this area might be solved.

14. Some delegations said that Article III already laid down the principle that the same packaging and labelling requirements were to be applied to both domestic and imported products. Some delegations suggested that rules were required to ensure that the national treatment requirement of Article III was administered in such a way as to eliminate unjustifiable obstacles to international trade. Some delegations said that the Group should decide whether the present provisions of Article III were adequate, or whether these provisions should be interpreted in more detail, or whether it would be necessary to go beyond this. Some delegations suggested that the guiding principles and procedures incorporated in the Code could be applied mutatis mutandis to problems of packaging and labelling.

15. It was pointed out that the international harmonization of packaging and labelling requirements was indispensable, in particular in the light of the point made in paragraph 7 of this note. Some delegations said that although this was desirable it would be difficult to achieve in the short term.

16. Some delegations suggested that in the solution a distinction might be drawn between goods sold to the consumer at the retail level and other goods. Some delegations suggested that in particular the labelling of each piece should normally be discouraged in the latter case.

17. Some delegations suggested that there was a need for procedures for prior consultations on mandatory packaging and labelling requirements.

18. The question was raised as to whether it would be useful to draw up an inventory of references to national practices, provisions and legislation in the field of packaging and labelling, setting out a summary description of products or areas covered by the provision, whether the provision conforms to international standards, where these exist, or to provisions of other countries and the services which are responsible for the drawing up and administration of the provision.

19. Some delegations from developing countries said that any solution should provide for:

- (a) the simplification, harmonization and flexibility of enforcement of packaging and labelling requirements,
- (b) closer co-operation among governments and international organizations in this area,
- (c) wide publicity for these regulations, and
- (d) technical assistance for developing countries.

20. The Group noted that it was called on to consider the extent to which problems in the field of packaging and labelling were covered by the Code.

21. Some delegations said that in their opinion the proposed code fully covered the problems, including those raised by developing countries in paragraphs 8, 9, 11 and 19, and that no separate instrument was required. Some delegations suggested that the proposed code should be taken up and finalized at an appropriate stage of the negotiations.

22. One delegation said that some of the problems of labelling and most of the problems of packaging would be dealt with by the implementation of the proposed code.

23. Some delegations said that it would be helpful to have examples of the types of problems which delegations considered would not be covered by the Code and specific examples.

24. Some delegations said that it was premature to examine the extent to which problems were covered by the Code, as long as one didn't know the problems to be solved. These delegations said that once the problems had been identified it

would be a matter of seeing not only if they were covered by the Code but also whether one wanted to apply the same sort of discipline as those foreseen in the Code to the problems of packaging and labelling. Some delegations said that it was premature to examine the extent to which problems were covered by the Code before information was available on the work of other international organizations in this field.

Next meeting

25. The Group agreed to hold a further meeting on 18 and 19 June 1974.