

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MIN/NTM/W/25/Add.1

5 January 1976

Special Distribution

Multilateral Trade Negotiations

Group "Non-Tariff Measures"

Sub-Group "Technical Barriers to Trade"

MEETING AT TECHNICAL LEVEL OF SEPTEMBER/OCTOBER 1975

Note by the Secretariat

Addendum

The Sub-Group "Technical Barriers to Trade" has agreed that at its meeting of January/February 1976 it should examine the points identified at technical level relating to standards and packaging and labelling on the basis of the secretariat note on the meeting (MIN/NTM/W/25) and any other points raised before the meeting (MIN/NTM/W/24, paragraph 11).

This paper sets out additional points communicated to the secretariat by 31 December 1975.

Section 2

Paragraph (a) - (Brazil) We suggest that the alternative text in MIN/NTM/W/25, page 2 for the second sentence be adopted, with the addition of the phrase, "particularly to developing countries."

This suggestion also relates to Sections 4(a), 5(a), 9(a) and 13(c).

(Brazil) We would withdraw the proposal to add "including packaging regulations" after "mandatory standards" in Section 2(a) and other sections of the Code, as well as the corresponding proposal to add a new section on labelling regulations (bottom of page 14 of MIN/NTM/W/25), as it appears that the problems relating to packaging and labelling are already covered in the ECE/ISO definition of "technical specification".

Paragraph (b) - (Uruguay) The concept of "inappropriate parts" requires further clarification, otherwise it is contradictory.

Paragraph (c) - (Uruguay). In order to facilitate attendance by all countries, it would be desirable to establish sub-headquarters to be used on a rotation basis.

Paragraph (d) - (Uruguay). What is the meaning of "specify mandatory standards"?

Paragraph (e) - (Uruguay). The GATT secretariat should circulate to all adherents the communications received from other adherents and from international organizations engaged in similar activities.

Paragraphs (f) and (h) - (Uruguay). The concept of "urgent" should be defined, or alternatively a time-limit should be set for the entry into force of the new regulations.

Paragraph (j) - (Uruguay). Does this refer to standards drawn up by these bodies? If not, it would not be for the regional body to comply in cases outside its competence, but it should use whatever means it has to ensure that adherents comply with paragraphs (a) and (h).

Section 3

- (Brazil). It is suggested that the proposed alternative text in pages 6 and 7 of MTN/NTM/W/25 be adopted, provided that at the end of both sentences in paragraph (a) the phrase "particularly to developing countries" be added, after "international trade" in both cases.

Section 4

Paragraph (b) - (Uruguay). Add that international standards bodies should take the necessary action to establish regional committees in order to facilitate co-operation by all countries.

Paragraph (c) - (Uruguay). The meaning of "inappropriate" should be defined, for otherwise the latter part of this provision could be an element for evading compliance with its stipulations.

Paragraph (d) - (Uruguay). The wording of this provision is not clear.

Paragraphs (f) and (i) - (Uruguay). In addition, the GATT secretariat should be informed that such a standard is being worked on, so that this information may be communicated to all adherents.

- Paragraph (g) - (Uruguay) This should read: " ... for the purpose of meeting an urgent problem of safety and/or health and/or environmental protection ..."
- Paragraph (j) - (Uruguay) " ... regional standards bodies of which they and/or bodies ..."
- Paragraph (k) - (Uruguay) "Adherents and/or bodies within their territories ..."

Section 6

- Paragraph (a) - (Australia) Delete: "whenever possible" and insert: "unless they have good grounds for doubting the reliability of the declarations or assurances in question".
- Paragraph (a) - (iii) - (Australia) Redraft as follows: "where an adherent specifies a particular test the adherent should allow such test to be carried out in the territories of the other adherents or "

Section 9

- Paragraph (d) - (ii) - (Uruguay) Add "and the GATT secretariat shall communicate this to the other adherents".
- Paragraph (e) - (Uruguay) The first alternative is acceptable.

- Section 12 - (Australia) Delete "governmental or" and "other than central government bodies". Comment: Quality assurance systems of local government bodies are dealt with in Section 11.

Section 13

- Paragraph (d) - (i) - (Australia) Insert: "entailed by the adherents" after "obligations".
- Paragraph (f) - (Uruguay) We agree that this paragraph may be retained.
- Paragraphs (g) - (ii) - (Uruguay) The GATT secretariat shall inform all adherents of the communications received.
- Paragraph (h) - (ii) - (Uruguay) The first alternative is acceptable.
- Paragraph (l) - (Uruguay) This paragraph should be retained.

Sections 19 and 21

(Canada) The following text is intended to replace Sections 19 and 21:

"Institutions

"The adherents to this Code shall establish:

"(a) A Committee on Technical Barriers to Trade (hereafter referred to as the Committee) composed of a representative from each of the adherents to this Code. The Committee shall elect its own Chairman and shall meet as necessary but not less than once a year for the purpose of affording adherents the opportunity of consulting on any matter relating to the operation of the Code or the furtherance of its objectives. In the discharge of its duties the Committee may consult with any adherent, contracting party or competent body and may request from any adherent such information as it considers necessary and appropriate.

"(b) A standing Panel (hereafter referred to as the Panel), composed of three (or five) persons qualified in the fields of trade and other matters covered by this Code, and acting in their individual capacities and not representing adherents or any other body. The Panel members shall be appointed by the Director-General of the General Agreement in consultation with the Chairman of the Committee. The Panel shall carry out the responsibilities assigned to it under this Code and such other functions as may be given to it by the Committee. In the discharge of its responsibilities the Panel may consult with any adherent, contracting party or any other competent body and may request from any adherent such information as it considers necessary and appropriate.

"Notification

"Each adherent shall report annually to the Committee on developments relating to the operation of this Code or the furtherance of its objectives, including developments relating to its own policies and practices. Any adherent wishing to raise before the Committee any particular matter shall notify it in writing at least thirty days before the convening of the meeting.

"Enforcement

"(a) If any adherent considers that any benefit accruing to it, directly or indirectly, under this Code is being nullified or impaired or that the achievement of any objective of the Code is being impeded by another adherent or adherents it

may, with a view to reaching a satisfactory solution of the matter, make written representations to the other adherent or adherents which it considers to be concerned. Each adherent shall afford sympathetic consideration to and shall afford opportunity for prompt consultation regarding such representations as may be made by another adherent.

"(b) In any consultation between any developed and developing country, the provisions respecting technical assistance contained in Section 17 of this Code and the particular difficulties that developing countries may encounter in complying with the operative provisions of this Code shall be taken into account.

"(c) If no mutually satisfactory solution has been reached between the adherents concerned within sixty days from the time that the representations referred to in paragraph (a) of this Section were made, the Committee shall, at the request of any of the adherents concerned, consider the matter with a view to facilitating a reasonable and mutually satisfactory solution.

"(d) If no mutually satisfactory solution has been reached by the Committee within sixty days from the time the matter was referred to it, the Chairman shall, at the request of any of the adherents concerned, direct the Panel to: (i) promptly investigate the matter; and (ii) make a statement concerning the facts of the matter and such appropriate recommendations to the adherents concerned as the facts warrant, based on the provisions and objectives of the Code.

"(e) In the course of its investigation of a matter referred to it in paragraph (d) above, the Panel may request from any adherent concerned such information as it considers necessary and appropriate. The adherent concerned shall give full consideration to such a request.

"(f) If the Panel finds that the matter referred to it results in the impairment or nullification of any direct or indirect benefit which accrues or could be reasonably anticipated to accrue under the Code, it shall recommend to the adherent or adherents concerned that the measure giving rise to such impairment or nullification be eliminated or modified to the extent necessary.

"(g) If these recommendations are not implemented within sixty days (or, in special circumstances, if this is not feasible and the adherents concerned mutually agree, or as the Panel may prescribe, within such further period of limited duration) the Panel shall, as soon as possible:

"(i) recommend to the Committee that an adherent or adherents be authorized to suspend the application, to any other adherent or adherents, of such obligations under this Code as may be appropriate in the circumstances; and/or

"(ii) recommend to the CONTRACTING PARTIES, in accordance with the provisions of Article XXIII:2, that an adherent or adherents be authorized to suspend to any other adherent or adherents, such concessions or other obligations under the General Agreement as may be appropriate in the circumstances.

Any recommendation under (i) or (ii) above shall aim at maintaining the balance of rights and obligations at the highest possible level.

"(h) The Panel shall report its recommendations and the results of its actions to the Committee as soon as possible.

Definitions

- (Uruguay). We agree in principle with Hypothesis A which we consider clearer with a view to implementation.
- (Brazil). The competent Brazilian authorities would favour the following (numbers correspond to those in the annex to MTN/NTM/W/25):
 - 1. Regulation: hypothesis B, with the addition of the words "and published";
 - 2. Technical specification: hypothesis A, provided that the last sentence in the definition ("a technical specification may also take the form of a code of practice") become a separate note to the definition;
 - 3. Standard: hypothesis A, with the last sentence reading as follows: "...and approved by a qualified system or body recognized on the national, regional or international level";
 - 3(a) Voluntary standard: hypothesis B;
 - 4. Technical regulation: both hypothesis are acceptable, as well as the additional note on page 22;

- 5. Harmonized standards: hypothesis A and ECE note;
- 6. Mandatory standards: this definition is not relevant to the Code, since the introduction of the concept of "technical regulation";
- 7, 8, 9 and 10: also not relevant to the Code;
- 11. National standards system or body: it is suggested that the term "system" be added; therefore, the definition in hypothesis A (page 24) would read: "A nationally recognized system or body whose principal function at the national level by virtue of its statutes or the law of the country, is the preparation of national standards and/or approval of standards prepared by other bodies. In the case of a national standards system, the national standards system will designate the national standards body eligible to be the national member of the corresponding international and regional standards organization".
- 12. International standards organization: hypothesis A and additional note;
- 13. Regional standards organization: hypothesis B;
- 14. Standardizing body: hypothesis A and additional note;
- 15. International standardizing body: hypothesis A and additional note;
- 16. Regional standardizing body: hypothesis A and additional note;
- 17. National standard: we suggest the following: "a standard adopted by a national standards system or body";
- 18. International standard: hypothesis B;
- 19. Regional standard: hypothesis A;
- 20. Conformity with standards or technical specification: hypothesis A, without the additional note;

- 21. Administrative procedures for determining conformity: hypothesis A, without the additional note;
- 22. Certificate of conformity: hypothesis A, without the additional note;
- 23. Mark of conformity: we suggest the following: " A mark or a symbol that, through repetitive usage, attests that a product or a service is in conformity with prescribed standards or technical specification";
- 24. Conformity certification: hypothesis A, without the additional note;
- 25. Certification system: hypothesis A;
- 26. National certification system: hypothesis A;
- 27. International certification system: hypothesis A and the additional note;
- 28. Regional certification system: hypothesis A and the additional note;
- we would also favour adoption of the definitions of "certification body" and "self-certification" in page 39, "in fine" of document MTN/NTM/W/5.