

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NTM/W/86

25 February 1977

Special Distribution

Multilateral Trade Negotiations

Original: English

Group "Non-Tariff Measures"

Sub-Group "Technical Barriers to Trade"

DEFINITIONS

Note by Mr. K. Bergholm (Finland)

At the meeting of the Sub-Group in November 1976 the Sub-Group requested Mr. K. Bergholm (Finland) to continue his work on definitions and in particular to prepare a further paper on the terms which need to be defined for the purposes of the Draft Code and on the differences between the Hypothesis B definitions and the ISO/ECE definitions (MTN/NTM/25, paragraph 6). The following paper has been received from Mr. K. Bergholm.

An outline for a new solution

1. After careful consideration and study of the problems related to definitions for the Draft Code I have come to the conclusion that the best way is to base the presentation of the definitions partly on Hypothesis A and partly on Hypothesis B. On one hand it is obvious that creating an own set of definitions for standardization and certification by GATT in conflict with those prepared by ECE and ISO can only lead to confusion and misunderstandings. The task to prepare general definitions for standardization and certification lies on ISO (and ECE) and not on GATT. But on the other hand it is equally obvious that some of the definitions prepared by ECE and ISO for general application do not meet the specific needs of the Draft Code. To solve this problem by adding footnotes to the ECE/ISO definitions has turned out to be cumbersome, and it is hard to avoid all ambiguities by this method.
2. Thus my proposal is that in the Code general terms for standardization and certification shall normally have the meaning given to them by the definitions adopted by the ECE and the ISO taking into account - according to the Vienna Convention on the interpretation of treaties - their context and in the light of the object and the purpose of the Code. To meet the specific needs of the Code, however, those terms shall be defined which are essential for the coverage of the Code or for the obligations of the adherents and where the meaning of the term is not unambiguous.

Elements of the solution

3. According to these principles I have prepared new draft texts for Section I as well as for Annex 1 of the Draft Code also indicating the differences between the definitions for the specific purposes of the Code and the corresponding ECE/ISO definitions when such exist.
4. Annex 1 includes thirteen terms and their definitions. Six of these terms appear in the ECE/ISO list of General Terms and their Definitions for Standardization and Certification but in only four cases the definitions are different.
5. All definitions of Annex 1 have been revised in order to avoid any remaining ambiguities and to harmonize the wordings in different definitions. Two new terms and their definitions have been prepared; international body or system and regional body or system. This was made to avoid the repetitious definitions in previous drafts. All amendments made are editorial in nature; they do not affect the coverage of the Code or the obligations of the adherents.
6. The order of the terms has also been revised in order to get a more logic system of building blocks.
7. In MTN/NTM/W/49 page 40 the definitions of certification body in Hypothesis A and B are presented as identical. This was based on the assumption that ECE and ISO would amend their definition. Unfortunately this has not been the case. The wording adopted by ECE and ISO is "An impartial body, governmental or non-governmental, possessing the necessary competence and reliability to operate a certification system, and in which the interests of the parties concerned with the functioning of the system are represented."

APPENDIX 1

Hereby agree as follows:

1. TERMS AND DEFINITIONS

1. General terms for standardization and certification shall normally have the meaning given to them by the definitions adopted by the United Nations Economic Commission for Europe and by the International Organization for Standardization taking into account their context and in light of the object and purpose of the Code.

However for the specific purposes of the Code the definitions given in Annex 1 apply.

APPENDIX 2

Annex 1

TERMS AND THEIR DEFINITIONS FOR THE SPECIFIC PURPOSES OF THE CODE

1. Technical specification

A specification contained in a document which lays down characteristics of a product such as levels of quality, performance, safety or dimensions. It may include, or deal exclusively with terminology, symbols, testing and test methods, packaging, marking or labelling requirements as they apply to a product.

Note: The Code deals only with technical specifications relating to products. Thus the wording of the corresponding ECE/ISO definition is amended in order to exclude services and codes of practice.

2. Technical regulation

A technical specification, including the associated administrative provisions, with which compliance has been made mandatory by a regulation.

Note: The wording differs from the corresponding ECE/ISO definition because the latter is based on the definition of regulation which is not defined in this Code. Furthermore the ECE/ISO definition contains a normative element which is included in the operative provisions of the Code.

3. Standard

A technical specification approved by a recognized body for continued application and with which compliance has not been made mandatory by a regulation.

Note: The corresponding ECE/ISO definition contains several normative elements which are not included in the above definition. For the purposes of the Code other documents than technical specifications are excluded. On the other hand also technical specifications which are not based on consensus are covered by the Code.

4. Certification system

A system having its own rules of procedure and management, for carrying out conformity certification.

5. International body or system

A body or system whose membership is open to the relevant bodies of all adherents of the Code.

6. Regional body or system

A body or system whose membership is open to the relevant bodies of only some of the adherents.

7. Central government body

Central government, its ministries and departments or any body subject to the control of the central government in respect of the activity in question. In the case of the European Economic Community the provisions governing central government bodies would apply.

Note: If the EEC were to sign the Code, the word "would" and the square brackets would disappear.

8. Local government body

Government body which is not subject to the control of the central government in respect of the activity in question, such as:

- (i) the authorities of States, Provinces, Lander, Cantons, etc. in the case of a federal or decentralized system, and
- (ii) local government authorities.

9. Regulatory body

A governmental or non-governmental body which has legal power to enforce a technical regulation. This may or may not be the same body which prepared or adopted the technical regulation.

10. Standardizing body

A governmental or non-governmental body, one of whose recognized activities is in the field of standardization.

11. Certification body

A governmental or non-governmental body, independent of the producer or supplier, which operates a certification system.

Note: The corresponding ECE/ISO definition contains some normative elements which are not included in the above definition.

12. Membership in a certification system

An adherent or a relevant body of an adherent has the same rights and obligations as any of the other adherents, or their relevant bodies under the rules of the system, including the rights of participation in, and management of the system, and of formulating or amending its rules.

13. Participation in a certification system

An adherent or a relevant body of an adherent has:

(i) the same rights to furnish evidence of conformity of products with particular technical regulations or standards and have it accepted, as members of the system, and

(ii) the same obligations to accept such evidence itself as members of the system.