

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NTM/W/144

13 March 1978

Special Distribution

---

## Multilateral Trade Negotiations

### Group "Non-Tariff Measures"

#### Sub-Group "Technical Barriers to Trade"

## OUTLINE REGARDING INSTITUTIONS, CONSULTATIONS, DISPUTE SETTLEMENT AND SURVEILLANCE IN CODE FOR PREVENTING TECHNICAL BARRIERS TO TRADE

This paper sets out points on which there is agreement in the Sub-Group. It is a working paper designed to facilitate the development of an operative text which would flesh out the outline and, in particular, deal with the modalities of application.

### I. Principles

- A. Working on hypothesis of binding Code, going beyond existing GATT obligations.
- B. Dispute settlement procedure (including sanctions) should be as self-contained as possible within the ambit of the Code.
- C. Working on hypothesis procedures based on the traditional GATT mechanisms as operated under Articles XXII and XXIII, adapted as necessary to the circumstances of the Code.

### II. Institutions

- A. A Committee comprised of the Code adherents to meet at least once a year, or upon request by an adherent.
- B. Panels of Experts.

### III. Enforcement (dispute settlement)

- A. Adherents shall hold consultations with other adherents upon request, regarding any matter affecting the operation of the Code.

./.

- B. Notification by adherents of any matters relevant to compliance with Code's obligations.
- C. If consultations do not produce mutually satisfactory solutions, upon request, a multilateral review shall be held of the facts of the matter.
- D. If no satisfactory solution is reached in the multilateral review within a reasonable time, upon request a panel /may/ /shall/ be appointed through the use of expeditious procedures.
  - 1. Establishment of guidelines for timely completion of the panel's work.
  - 2. Establishment of effective and flexible procedures for panels; third parties to have opportunity to be heard; availability of submissions to parties in the dispute.
  - 3. The panel shall report to the Committee. Its findings and, where appropriate, recommendations should be made within a reasonable period of time. Where no mutually acceptable solution has been found, the Committee shall act upon the report as appropriate. Its aim shall be the positive resolution of the problem at the highest possible level of trade liberalization. Sanctions would only be envisaged in the last resort.
  - 4. When disputes arise concerning the obligations under the Code, the adherents shall exhaust the dispute settlement procedures under the Code. Any subsequent action would have to be examined in the light of the precise legal relationship between the Code and the GATT.

#### IV. Surveillance

There should be a regular review by the Committee based on adequate factual material of the operation of the Code and of developments which affect rights and obligations under the Code, and of actions taken in the light of findings/recommendations under "Enforcement". Possibility for Committee to request information and consult with any source.