

GENERAL AGREEMENT ON TARIFFS AND TRADE

Multilateral Trade NegotiationsGroup "Non-Tariff Measures"Sub-Group "Technical Barriers to Trade"PROPOSALS ON SPECIAL AND DIFFERENTIAL TREATMENTNote by the Chairman

The proposals on this subject are contained in the document setting out the points before the Sub-Group (MTN/NTM/W/151) and in a document circulated in the name of certain delegations (MTN/NTM/W/149). Other proposals have been made more recently. The number of individual proposals is by now quite large and the documentation at the Sub-Group's disposal has become rather difficult to work with.

It is for this reason that I have, in the present document, brought together the texts and grouped them under a number of headings. Where texts presented by delegations are very similar, I have in some cases suggested a common text. These texts can be identified as they are not attributed to any delegation. It is my hope that the document will be of assistance to delegations in further work on this subject.

I would like to emphasize that the proposals as presented by delegations remain on the table and to recall that some delegations see their proposals as a package. This should be borne in mind in the further discussions on special and differential treatment.

1. Provision of differentiated and more favourable treatment to developing countries adhering to the Code

Adherents shall provide differentiated and more favourable treatment to developing countries adhering to this Code, through the following provisions, as well as through the relevant provisions in other sections of this Code.

2. Particular attention to be given to the provisions of the Code concerning developing countries' rights and obligations

Adherents shall give particular attention to the provisions of this Code concerning developing countries' rights and obligations and shall take into account the special development, financial and trade needs of developing countries in the implementation of the Code both nationally and in the operation of the Code's institutional arrangements.

3. Steps to be taken to avoid creating unnecessary obstacles to exports from developing countries and to facilitate the expansion and diversification of their trade

Adherents shall, in the preparation and application of technical regulations, standards, test methods and certification systems, take account of the special development, financial and trade needs of developing countries, with a view to ensure that such technical regulations, standards, test methods and certification systems do not create unnecessary obstacles to exports from developing countries.

Switzerland
(for insertion
in Preamble)

Recognizing that developing countries may face special problems in complying with the requirements of technical regulations, standards, test methods and certification systems of importing countries and desiring therefore to take this fact fully into account when preparing, introducing and applying technical regulations, standards, test methods and certification systems with a view to ensuring that such technical regulations, standards, test methods and certification systems do not create unnecessary obstacles to exports from developing countries and thus facilitate the expansion and diversification of the trade of developing countries.

4. Special measures to promote and expand exports from developing countries

Brazil
W/151
p. 23/24
para. 3

Adherents agree that one of the main objectives of this Code is to promote the expansion and diversification of the exports from developing countries in order to help increase developing countries' share in world trade. To this end and with a view to ensuring that developing countries would be able to meet the requirements of such regulations, standards, test methods and certification systems, developed adherents shall:

- (a) Accord high priority to the transfer of technology to developing countries, so as to enhance their capability to meet the requirements of technical specifications, standards, test methods and certification systems applied in developed countries.

- (b) Provide developing countries on a systematic and continuing basis with all the information relating to the preparation and application of technical regulations, standards, test methods, certification systems and administrative procedures in developed countries which concern products of export interest to them.
- (c) Give priority attention, in the operation of the Code, to the special problems experienced by developing countries whose exports face barriers in developed countries.

Nordics
W/149
Section
17(c)

Add at the end of the first text under 3 above: "and thus facilitate the expansion and diversification of the trade of developing countries".

5. Active and representative participation in international standardizing bodies and international certification systems of relevant bodies of the developing countries, particularly as concerns products of special interest to them

Adherents /shall use all reasonable means within their power/ /shall adopt all necessary measures/ to ensure that international standardizing bodies and international certification systems are organized and operated in a way which facilitates active and representative participation of relevant bodies in all adherents, taking into account the special problems of developing countries.

Adherents /shall use all reasonable means within their power/ /shall adopt all necessary measures/ to ensure that international standardizing bodies, on request of developing countries, examine the possibility of, and, if practicable, elaborate international standards concerning products of special interest to developing countries.

6. Adoption of international standards by developing countries

Brazil
W/151
p.24
para. 4

Adherents recognize that the particular technological and socio-economic conditions of developing countries justify the adoption of technical regulations, standards and test methods aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Adherents further recognize that developing countries should not be compelled to adopt technical regulations, standards and test methods which are not consistent with their development, financial and trade needs. Adherents undertake to take these principles into account in the implementation of the Code.

Malaysia
W/151
p.3
Section 2(b)

The adoption or adaptation of international standards by an adherent in its technical regulations, shall not exclude the concurrent use of other suitable or acceptable standards by the adherents.

India
W/151
p.2
Section 2(b)

Add "or are inconsistent with their economic development" at the end of the paragraph.

Nordics
W/149
p.2

Page 26, document MTN/NTM/W/151, paragraph 3: replace (v) by the following text:

"The preservation of indigenous technology compatible with the socio-economic conditions of developing countries."

Switzerland

Where technological and socio-economic conditions of developing countries justify it, provisions designed to be applied to indigenous technology and production methods and processes compatible with the development of these countries may be included in technical regulations, standards and test methods.

7. Technical assistance to developing countries to ensure that the preparation and application of technical regulations, standards, test methods and certification systems aid them in their efforts to expand and diversify exports

Adherents shall, in accordance with the provisions of Section 17, provide technical assistance to developing countries to ensure that the preparation and application of technical regulations, standards, test methods and certification systems do not create obstacles to the expansion and diversification of exports from developing countries.

Replace throughout the section the words "should consider requests for technical assistance" by: "shall grant them technical assistance on mutually agreed terms and conditions".

Switzerland

Adherents shall, if requested, advise and grant technical assistance to developing countries as laid down in Section 17, on mutually agreed terms and conditions. In determining the terms and conditions of the technical assistance due account shall be given to the stage of development of the requesting country. If terms and conditions cannot be mutually agreed on, the developing country may pursue the question according to the consultation and dispute settlement procedure of Section 21.¹

Mexico
W/151
p.15
Section 20(d)

It shall be an important responsibility of the Committee to secure promptly, and to harmonize, the technical co-operation referred to in Section 17. To that end, whenever a developing country makes a request for technical assistance, the Committee shall arrange for the technical co-operation of the appropriate international bodies and shall harmonize it with the similar co-operation to be provided by the developed countries adhering to the Code.

8. A fund to be established with the view to provide financial and technical assistance to developing countries

ASEAN
countries
W/151,
p.13,
Section 17

For the purposes of enabling developing countries to meet the provisions of this Code there shall be established a fund with the view, inter alia, to providing financial and technical assistance to developing countries for:

- (a) appropriate technology and skills to be transmitted to industries in developing countries on fair and reasonable terms to meet internationally accepted technical regulations and standards;
- (b) establishing standardization and quality assurance systems and bodies on a national, sub-regional or regional basis, including the training of adequate personnel to effectively implement the systems so established;
- (c) any other measure deemed necessary by developing countries for their effective participations under this Code.

¹The wording of this sentence would be reviewed in the light of the procedures finally adopted in the area of consultation and dispute settlement.

9. Flexibility of obligations of developing countries under the Code

Brazil
W/151,
p.23,
para. 2

It is recognized that developing countries face special problems, including institutional and infrastructure problems, in the field of preparation and application of technical regulations, standards, test methods and certification systems. It is further recognized that the special development and trade needs of developing countries, as well as their stage of technological development, may hinder their ability to discharge fully their obligations under this Code. Adherents, therefore, shall take this fact fully into account when considering any matter arising from the implementation of this Code by developing countries with a view to ensuring that they derive net benefits from this Code.

Switzerland
(For insertion
in Preamble)

Recognizing that developing countries may encounter special problems, including institutional and infra-structural ones, in the field of preparation and application of technical regulations, standards, test methods and certification systems and desiring to assist them in their endeavours to overcome such problems.

Mexico
W/151,
p. 10,
Sections 7,
8, 11, 12,
13(b) and (h),
15, 16(b), (c)

Replace the phrase "adherents shall use all reasonable means within their power to ensure that ..." by the following "... developing adherents shall use all reasonable means within their power to ensure, and developed adherents will ensure, that ...".

Nordics
W/149
Section 19(c)

With a view to ensuring that developing countries are able to comply with the Code, the Committee is enabled to grant upon request specified, time-limited exceptions in whole or in part from obligations under the Code. When considering such requests the Committee shall take into account the special problems, including institutional and infrastructural problems, in the field of preparation and application of technical regulations, standards, test methods and certification systems and the special development and trade needs of the developing country, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under the Code.

10. Institutional provisions

Switzerland

The Committee shall examine periodically the special and differential treatment as laid down in this Code, granted to developing countries, on national and international levels.

Switzerland

The adherents to this Code shall establish a group of experts for technical and legal assistance to developing countries with respect to the consultation and dispute settlement procedures.

Mexico

W/151

p. 15

Section 20(c)

In carrying out its mandate, the Committee shall ensure that, in all matters dealt with in this Code, developing countries receive the treatment described below in terms of practical and effective application:

1. The treatment provided for in Part IV of the General Agreement, and especially the principles and objectives of Article XXXVI thereof;
2. Additional benefits for their exports by adopting special measures in their favour and giving priority attention to products or areas of interest to them;
3. Differential measures in ways which will provide special and more favourable treatment for them;
4. Special attention to the particular situation and problems of the least developed among the developing countries.

Mexico

W/151

p. 16

The tasks of the Committee shall include the analysis and study of the technical barriers to trade listed in the GATT inventory of non-tariff measures, beginning with those affecting the trade of developing countries.

Mexico

W/151

p. 17

During consultations, developed countries shall bear in mind the special difficulties experienced by developing countries in formulating and implementing standards and technical regulations and methods of ensuring conformity with those standards and technical regulations, and in their desire to assist developing countries with their efforts in this direction, developed countries shall take account of the special needs of the former in regard to financing, trade and development.

Mexico
W/151
p. 15

Panels should be composed of five members and, when problems relating to developing countries are dealt with "each panel shall include two members who are experts specialized in problems of developing countries and capable of providing the special support needed by those countries; in such cases, the opinion of the two experts mentioned in the preceding paragraph shall have preference".