

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MIN/NTM/W/176

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Multilateral Trade Negotiations

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Group "Non-Tariff Measures"

Sub-Group "Technical Barriers to Trade"

DRAFT CODE OF CONDUCT FOR PREVENTING TECHNICAL BARRIERS TO TRADE

Proposed Redrafting of Sections 5 to 15

Note by the Secretariat

The following redraft of Sections 5 to 15 of the Draft Code represents an attempt by certain delegations to deal with drafting problems in the present text contained in MIN/NTM/W/150, e.g. internal inconsistencies resulting from successive changes introduced in the text.

Some substantive issues remain to be solved in this area. This text does not prejudice the position of any delegation with regard to these issues.

CONFORMITY WITH TECHNICAL REGULATIONS AND STANDARDS

5. Determination by central government bodies of conformity with technical regulations or standards.

(a) Adherents shall ensure that in cases where a positive assurance is required that imported products conform with technical regulations or standards, central government bodies shall, whenever possible,

(i) rely upon self-certification by producers in the territories of other adherents, or

(ii) accept test results, certificates or marks of conformity issued by relevant bodies in the territories of other adherents,

even when the test methods differ from their own, provided they are satisfied that those methods provide a sufficient means of determining conformity with the relevant technical regulations or standards.

(b) Adherents shall ensure that test methods and administrative procedures used by central government bodies are such as to permit so far as practicable the implementation of the provisions in paragraph (a) of this Section.

(c) To the extent that the provisions of paragraph (a) of this Section are not implemented, adherents shall ensure that the following provisions are applied to products originating in the territories of other adherents:

(i) imported products shall be accepted for testing under conditions no less favourable than those accorded to similar products of national origin or originating in any other country;

(ii) the test methods and administrative procedures for imported products shall be no more complex and no less expeditious than the corresponding methods and procedures, in a comparable situation for similar products of national origin or originating in any other country;

(iii) any fees imposed for testing imported products shall be equitable in relation to any fees chargeable for testing similar products of national origin or originating in any other country;

(iv) the results of tests shall be made available to the exporter or importer or their agents, if requested, so that corrective action may be taken if necessary;

(v) the siting of testing facilities and the selection of samples for testing shall not be such as to cause unnecessary inconvenience for importers, exporters or their agents;

(vi) the confidentiality of information about imported products arising from or supplied in connection with such tests shall be respected in the same way as for domestic products.

(d) Nothing in this section shall prevent adherents from carrying out reasonable spot checks within their territories.

6. Determination by local government bodies and non-governmental bodies of conformity with technical regulations or standards.

Adherents shall use all reasonable means within their power to ensure that local government bodies and non-governmental bodies within their territories comply with the provisions of Section 5.

CERTIFICATION SYSTEMS

7. Certification systems operated by central government bodies

With respect to their central government bodies:

(a) Adherents shall ensure that certification systems are not formulated or applied with a view to creating obstacles to international trade. They shall likewise ensure that neither such certification systems themselves nor their application have the effect of creating unnecessary obstacles to international trade.

(b) Adherents shall ensure that certification systems are formulated and applied so as to grant access for suppliers of similar products originating in the territories of other adherents at the same time and under conditions no less favourable than those accorded to suppliers of similar products of national origin or originating in any other country.

(c) Adherents shall:

(i) publish a notice in an official publication at an early appropriate stage that they propose to introduce a certification system,

(ii) notify the GATT Secretariat of the products to be covered, including a brief description of the objective of the proposed system,

(iii) upon request provide to other adherents particulars or copies of the proposed rules of the system,

(iv) allow reasonable time for other adherents to make comments in writing, discuss these comments upon request and take them into account.

However, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for an adherent, that adherent may omit such of the steps enumerated in this paragraph as it finds necessary provided that the adherent shall:

(i) publish immediately a notice in an official publication that it has introduced the particular certification system, the likely duration of its application, the products covered with a brief indication of the objective and the rationale of the system including the nature of the urgent problems,

(ii) upon request, provide other adherents with copies of the rules of the system,

(iii) allow other adherents to present their comments in writing, discuss these comments upon request and take the written comments and the results of any such discussion into account.

(d) Adherents shall ensure that all rules of certification systems are published.

8. Certification systems operated by local government and non-governmental bodies

(a) Adherents shall use all reasonable means within their power to ensure that local government and non-governmental bodies within their territories when operating certification systems comply with the provisions of Section 7.

(b) Adherents shall ensure that their central government bodies rely on certification systems operated by local government or non-governmental bodies only to the extent that these bodies and systems comply with the relevant provisions of Section 7.

9. International and regional certification systems

(a) Where a positive assurance, other than by the supplier, of conformity with a technical regulation or standard is required, adherents shall, wherever practicable, formulate and become members of, or participate in international certification systems.

(b) Adherents shall use all reasonable means within their power to ensure that international and regional certification systems and bodies, in which relevant bodies within their territories are members or participants comply with the provisions of Section 7.