

MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND

RESTRICTED  
MTN.GNG/NG8/W/13  
2 October 1987  
Special Distribution

Group of Negotiations on Goods (GATT)  
Negotiating Group on MTN  
Agreements and Arrangements

Original: English

SUBJECTS RELATED TO THE URUGUAY ROUND IN THE AREA OF  
TECHNICAL BARRIERS TO TRADE

The following communication, dated 30 September 1987, has been received from the Chairman of the Committee on Technical Barriers to Trade with the request that it be circulated to members of the Group.

At its meeting on 22 June 1987, the Committee on Technical Barriers to Trade took note of the Negotiating Plan for MTN Agreements and Arrangements (MTN.GNG/5, page 14) and agreed to prepare a list of items that might be addressed in discussions on the further improvement, clarification or expansion, as appropriate, of the Agreement on Technical Barriers to Trade (TBT/M/25, paragraph 17).

The list which is non-exhaustive reflects the issues that individual Parties to the Agreement wish to be discussed and examined in the negotiating process. Under each item, individual Parties have also explained their motives for raising the issue. The compilation of this list is without prejudice to the appropriateness of including any of the issues contained therein or any other issues in the negotiations.

Items suggested by individual Parties for discussion and examination

A. Items relating to the further improvement of the Agreement

I. CODE OF GOOD PRACTICE FOR NON-GOVERNMENTAL STANDARDIZING BODIES

European Economic Community<sup>1</sup>

In order to make the obligations already laid down in Articles 4, 6 and 8 of the Agreement more concrete, and to provide some yardstick by which the performance of both Parties and private bodies could be measured, Parties might be obliged to take all reasonable measures to persuade private bodies to adhere to a voluntary code of good practice. This Code

<sup>1</sup>Also suggested in MTN.GNG/NG8/W/8.

(to be drafted by the Committee) might include existing obligations of transparency, non-discrimination, etc., imposed on such bodies under the Agreement, perhaps in a more detailed or practical form.

Parties might notify to the GATT the names of the private organizations adhering to the Code, thereby providing a "register" by means of which the persuasiveness of governments in advocating the principles of the Agreement could be measured.

## II. VOLUNTARY DRAFT STANDARDS AND THEIR STATUS

India<sup>1</sup>

Many parties are not notifying voluntary draft standards although these are national standards. In some cases, even though these are not national standards, their wide adoption by the local industry gives them a status similar to that of national standards. Article 2.5.2 requires notification only of technical regulations. Considering that many voluntary standards can hinder trade because of their wide adoption, it is essential that voluntary standards covering products of trade significance are also notified.

## III. INFORMATION ON VOLUNTARY STANDARDS BEING MADE MANDATORY BY LEGISLATION

India<sup>1</sup>

In some cases, voluntary standards are made mandatory as they are referred to in legislation. This information should be also notified to other Parties. In many cases, statutory orders under different pieces of legislation make standards mandatory. This information should be notified as this changes the status of the voluntary standards.

## IV. ESTABLISHING A METHOD OF ENSURING COMPATIBILITY OF STANDARDS ISSUED BY RECOGNIZED NATIONAL BODIES AND OTHER STANDARDIZATION BODIES WITHIN PARTIES

India<sup>1</sup>

This is being suggested with a view to help in operating the GATT Standards Code provisions as far as local standards bodies are concerned. In many cases, the country has more than one body formulating standards and it becomes difficult to get information about standards being formulated by the different bodies in the country. Therefore, there should be a national system within the country so that the national body can be made responsible for providing information and ensuring compatibility of standards issued by other recognized bodies within the country.

---

<sup>1</sup>Also suggested in MTN.GNG/NG8/W/9.

V. TRANSPARENCY ON BILATERAL STANDARDS-RELATED AGREEMENTS

United States<sup>1</sup>

The operation of the Agreement would be improved through the negotiation and implementation of a requirement that the Parties notify other Signatories of any bilateral agreements reached through formal and informal discussions.

VI. TRANSPARENCY ON REGIONAL STANDARDS ACTIVITIES

United States<sup>1</sup>

The operation of the Agreement would be improved through the negotiation of a requirement that the Parties to the Agreement ensure that regional standardization bodies of which they are members adopt effective provisions on transparency.

VII. LANGUAGES FOR EXCHANGE OF DOCUMENTS

India

Parties should supply documents covered by TBT notifications in one of the GATT/ISO languages.

B. Items relating to the further clarification of the Agreement

I. PROCESSES AND PRODUCTION METHODS

United States<sup>1</sup>

Notwithstanding several years of the Agreement's operation there is still no clear consensus on the Agreement's coverage of processes and production methods in the same way as standards that describe a product's characteristics. The Agreement's coverage would be significantly clarified through the negotiation of a consensus interpretation on this point.

---

<sup>1</sup>Also suggested in MTN.GNG/NG8/W/1.

II. RE-EXAMINATION OF THE PROVISIONS OF THE AGREEMENT IN THE LIGHT OF  
THE RECOMMENDATIONS AND DECISIONS ADOPTED BY THE COMMITTEE

European Economic Community

As examples of the action to be taken under this heading, the Community would propose that provisions be laid down in the Agreement concerning the following points which have been mentioned in Committee recommendations:

1. Information on requirements for product approval procedures

Information required for compulsory product approval should be limited to what is essential in order to judge the conformity of a product to technical regulations, and should not include other commercially-sensitive information.

2. Right to information during product approval procedures

Parties which have applied for product approval should be informed, on request, of the progress of their application.

Nordic Countries

The Committee has adopted a number of recommendations and decisions regarding the application of the Agreement. Some of these are of great value for the interpretation of certain Articles of the Agreement. The incorporation of a selection of the said recommendations and decisions into the Agreement would clarify and improve it and would to a certain extent expand the obligations of Parties. Among issues for consideration in this connection, the following would be mentioned: timing of notifications; time period for comments; testing; enquiries which the enquiry points should be prepared to answer.

C. Items relating to the further expansion of the Agreement

I. TESTING, INSPECTION AND TYPE APPROVAL

United States<sup>1</sup>

Article 5.2 of the Agreement encourages Signatories to enter into arrangements for the mutual acceptance of test data. The operation of the Agreement would be greatly improved and expanded through the negotiation of arrangements on the acceptance of foreign-generated test data for particular products on a mutually-agreed basis. Reliance on "type approval", as opposed to case-by-case inspection is a natural element of such an arrangement.

---

<sup>1</sup>Also suggested in MTN.GNG/NG8/W/1.

## II. TRANSPARENCY OF THE OPERATION OF CERTIFICATION SYSTEMS

Japan<sup>1</sup>

The existing Agreement addresses the issue of transparency basically in terms of notification/comments of rules of certification systems. But it is also necessary to ensure the operational part of transparency in order to prevent the system from becoming an undue obstacle to international trade. The existing Agreement is not adequate in this respect and needs to be strengthened.

For example, it is appropriate for signatories to officially announce the standard processing period to complete all the certification procedures managed by the central government bodies, and in case the agency in charge cannot deal with the application within this period, it is appropriate to put the agency under obligation to inform the applicants of the situation together with the reason for delay.

## III. TRANSPARENCY IN THE DRAFTING PROCESS OF STANDARDS, TECHNICAL REGULATIONS AND RULES OF CERTIFICATION SYSTEMS

Japan<sup>1</sup>

The existing Agreement stipulates that the technical regulations and certification systems be notified to the GATT secretariat after completing their drafting, and that thereafter the Parties are to be given time to make comments in this regard. When standards or certification systems which have significant effect upon international trade are drafted or revised, however, it is desirable to allow representatives of foreign interest to have the opportunity to participate in the drafting process or to state their opinion during the process. It is appropriate to strengthen the Agreement to secure such opportunities as much as possible and to ensure that such opportunities are secured for representatives of foreign interests in a non-discriminatory and most-favoured-nation treatment basis.

## IV. EXTENSION OF MAJOR OBLIGATIONS UNDER THE AGREEMENT TO LOCAL GOVERNMENT BODIES

European Economic Community<sup>2</sup>

Local government bodies might be bound by all major obligations under the Agreement, particularly those of notification (through the Parties) of proposed technical regulations or certification systems from which they are currently exempted. This would involve removing the clauses exempting such bodies from notification in Articles 3 and 8 of the Agreement.

The activity of local government bodies in the establishment of technical regulations or certification systems is insufficiently

---

<sup>1</sup> Also suggested in MTN.GNG/NG8/W/6.

<sup>2</sup> Also suggested in MTN.GNG/NG8/W/8.

transparent because of the absence of any notification process under the Agreement. Parties have to rely on the "best efforts" of central governments, in accordance with Articles 3 and 8, to protect their interests, and tend to learn about the creation of technical barriers to trade by local authorities after the event. A procedure by which local draft technical regulations which significantly depart from international standards, or previously notified national technical regulations, were systematically notified though the Party concerned to other Parties would increase the pressure on local government bodies to take account of existing standards when formulating their regulations.