

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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

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COMMUNICATION FROM THE UNITED STATES

The following communication was received by the secretariat on 11 February 1988, with the request that it be circulated to the Negotiating Group on MTN Agreements and Arrangements.

Draft Proposal on Procedures
for Issuing Product Approval

Definitions and Scope

A. For purposes of this text, the following definitions apply:

A.1. "Approval:" Declaration by a central government body that a set of published mandatory criteria has been fulfilled and therefore that goods are permitted to be used in a specific manner or for a specified purpose.

A.2. "Type approval:" Approval of a certain product or group of products considered by the approval body to be representative of production.

A.3. "Legitimate domestic objective:" An objective whose purpose is to protect health, safety, essential security, the environment, or consumer interests.

B. Taking into account the legitimate domestic objectives of the approval procedures, Parties shall also use the appropriate method for product approval which is least cumbersome for the applicant.

B.1. Appropriate methods for product approval include, but are not limited to: (1) individual inspection; (2) "lot" approval, or approval based on samples; (3) type approval; (4) approval based on third party validation of a manufacturer's declaration of conformity; and (5) approval based solely on the manufacturer's declaration of conformity.

B.2. Barring a legitimate reason for not doing so, the approval body shall rely on a manufacturer's declaration of conformity to facilitate the acceptance of imported products.

Establishment of Procedures

C. Each Party shall ensure that approval procedures are not prepared, adopted, or applied with a view to creating obstacles to international trade. Each Party shall likewise ensure that approval procedures themselves of their application do not have the effect of creating unnecessary obstacles to trade.

C.1. Unnecessary obstacles to trade shall not be deemed to be created if:

C.1.1. The demonstrable purpose of such procedure is to achieve a legitimate domestic objective; and

C.1.2. The procedure does not operate to exclude goods of another Party that meet that legitimate domestic objective.

D. Each Party shall ensure that products from any other Party are approved under procedures that are not more complex and no less expeditious than those used for like products of national origin or for products originating in any other country.

E. Each Party shall, where appropriate, base its approval procedures on relevant international approval schemes.

Access

F. Each Party shall ensure that applicants for product approval from any other Party are able to apply directly to appropriate product approval authorities without going through a separate or other non-affiliated intermediary. Accordingly, they shall be provided access to such authorities on the same legal basis as is provided to suppliers of domestic products.

G. Each Party shall ensure that products from any other Party are accorded access to approval procedures under conditions no less favourable than those accorded like domestic or imported products, whichever conditions are better, in a comparable situation.

H. Each Party shall ensure that compliance with approval procedures is not made mandatory as long as administrative mechanisms for granting approvals have not been made operational.

Transparency

I. Each Party shall ensure that all information and requirements concerning product approval are published or otherwise made available on an equal basis to domestic and foreign suppliers.

J. Each Party shall notify any proposed changes, except for those of an insignificant nature, in their approval procedures to other Parties through

the GATT secretariat, provide a reasonable time for comments on the proposed changes and discuss any comments upon request.

K. Enquiry points shall provide, upon request, copies of the information and requirements referred to in paragraphs (I) and (J).

L. Each Party shall ensure that after the receipt of a completed application (including all test data):

L.1. Approval based on a manufacturer's declaration of conformity (whether with or without third party validation) is granted or denied within thirty calendar days, or

L.2. Approval based on other methods is granted as expeditiously as possible.

M. Upon request, the approval authority shall provide in instances in which the submitted product has been found unacceptable, a clear indication of the requirements of the applicable technical regulations that the product failed to meet and of the parameters of the product that failed to meet the applicable technical regulations. Each Party shall ensure that a review procedure is available for complaints arising from the denial of approval.

N. Each Party shall ensure that any supplier of products from any Party receives timely information, upon request, concerning the progress of the approval procedure for its product and the results of tests, so as to allow corrective measures to be taken.

Administrative mechanisms

O. Each Party shall ensure that applications for approval are examined and, if possible, their examination is completed in the order in which they are submitted to the appropriate authorities.

P. Each Party shall ensure that its appropriate authorities base their approval decisions on the advice of impartial technical experts.

Q. Each Party shall limit the scope of required information to that which is indispensable in order to establish the conformity of the products from any Party to the relevant technical requirements.

R. Each Party shall ensure that if approval of a product is based on type approval procedures, any requirement for inspection or testing of individual products shall be limited to what is reasonable and necessary, which may include spot checks to verify conformity with the approved type.

S. Approval procedures may provide for specific restrictions on approvals (e.g. the type of equipment subject to approval) and approvals with specific limitations (e.g. time limits, specified areas or places of use, etc.).

T. Each Party shall ensure that any fees imposed for approving products from any other Party shall be equitable in relation to any fees chargeable for approving like products of national origin or originating in any other country.

U. Each Party shall ensure that the siting of appropriate authorities' approval facilities and the selection of samples for approval shall not cause unnecessary inconvenience for importers and exporters of products from any other Party.

V. Each Party shall ensure that confidentiality of information about imported products arising from or supplied in connection with obtaining approval shall be respected at least in the same way as for domestic products.