

MULTILATERAL TRADE  
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Regulations and Barriers

HARMONIZATION AND TRANSPARENCY

Note by the Nordic Delegations

This note has been prepared to offer a basis for further discussions by the Working Group on points one and three of its programme of work.

The proposed provisions have been presented in the form of a separate code text. This has been done in order to illustrate the substance of the provisions, and does not prejudice our position as to the most appropriate form of the provisions.

In drafting the following text the relevant provisions in the GATT Agreement on Technical Barriers to Trade have been used as basis. The figures in the margin refer to the corresponding paragraphs in that Agreement. The provisions have, however, in several cases been further developed in order to take into account the specific requirements in the sanitary and phytosanitary field.

The provisions on harmonization have been amended in this revised proposal taking into account ideas presented in the Communication from the Cairns Group (MTN.GNG/NG5/W/112) as well as comments received on the original proposal.

1. Harmonization of sanitary and phytosanitary regulations and measures

- (2.2) A. Where sanitary or phytosanitary regulations are required and relevant international standards or recommendations exist or their completion is imminent, Parties shall use them as a basis for the sanitary and phytosanitary regulations except where such international standards or recommendations are inappropriate for the Parties concerned, for inter alia such reasons as national security requirements; the prevention of deceptive practices; enhanced protection of human, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; specific dietary habits; the spread of specific diseases or pests.

- (2.2) B. In case Parties are not using relevant international standards and recommendations as a basis for their sanitary and phytosanitary regulations they shall, upon request by another Party, explain the reasons therefor.
- (2.3) C. With a view to harmonizing sanitary and phytosanitary regulations on as wide a basis as possible, Parties shall play a full part within the limits of their resources in the preparation by appropriate international organizations of international standards and recommendations for purposes for which they either have adopted, or expect to adopt, sanitary or phytosanitary regulations.
- (Cairns) Such harmonization shall cover, as appropriate, requirements on products, processes, production methods and quarantine treatments; packaging and labelling; methods for diagnosis, testing, inspection, certification; statistical methods, sampling procedures; methodologies for risk assessment.
- (Cairns) D. With a view to further international (inter-regional) harmonization, Parties shall whenever practicable harmonize their sanitary and phytosanitary regulations on a regional basis according to principles set out in Articles A, B and C above.
- (3, 4) E. Parties shall take such reasonable measures as may be available to them to ensure that local government bodies and non-governmental bodies within their territories as well as relevant regional bodies of which they are members comply with the provisions of Articles A, B and D. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such bodies to act in a manner inconsistent with any of the provisions in Articles A, B and D.

## 2. Transparency

### 2.1 Publication of regulations

- (2.7) F. Parties shall ensure that all sanitary and phytosanitary regulations which have been adopted are published promptly in such a manner as to enable interested parties to become acquainted with them.
- (2.8) G. Except in urgent circumstances, Parties shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting countries, and particularly in developing countries, to adapt their products and methods of production to the requirements of the importing country.

## 2.2 Enquiry points

- (10.1) H. Each Party shall ensure that one enquiry point exists which is able to answer all reasonable questions from interested parties in other Parties as well as to provide the relevant documents regarding any sanitary and phytosanitary regulations adopted or proposed within its territory.
- (10.3) I. Parties shall ensure that where copies of documents are requested by interested parties in other Parties, they are supplied at the same price (if any) as to the nationals of the Party concerned.

## 2.3 Notification procedures

- (2.5) J. Whenever a relevant international standard or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of relevant international standards or recommendations, and if the regulation may have a significant effect on trade of other Parties, Parties shall:
- (a) publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties to become acquainted with it, that they propose to introduce a particular regulation;
  - (b) notify other Parties through the GATT secretariat of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early appropriate stage, when a draft with the complete text of a proposed regulation is made available domestically, and when amendments can still be introduced and comments taken into account;
  - (c) provide upon request to other Parties copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from relevant international standards or recommendations;
  - (d) allow reasonable time for other Parties to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.
- (2.6) K. However, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party may omit such of the steps enumerated in Article J as it finds necessary provided that the Party:

- (a) notify immediately other Parties through the GATT secretariat of the particular regulation, the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problems;
  - (b) provide upon request to other Parties copies of the regulation;
  - (c) allow other Parties to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.
- (10.6) L. Notifications to the GATT secretariat shall be in English, French or Spanish.
- (10.4) M. The GATT secretariat shall promptly circulate copies of the notifications to all Parties and interested international organizations and draw the attention of developing country Parties to any notifications relating to products of particular interest to them.
- (10.7) N. Parties shall designate one single central government authority that is responsible for the implementation on the national level of the provisions concerning notification procedures according to Articles J, K and L.

#### 2.4 General reservations

- O. Nothing in this Agreement shall be construed as requiring:
- (10.5) (a) the provisions of copies of drafts or the publications of tests other than in the language of the Party; or
- (b) Parties to furnish any information, the disclosure of which they consider contrary to their essential security interests.

#### 2.5 Second level obligations

- (3, 4) P. Parties shall take such reasonable measures as may be available to them to ensure that local government bodies and non-governmental bodies within their territories as well as relevant regional bodies of which they are members comply with the provisions of Articles F, G, H, I, J, K and L. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such bodies to act in a manner inconsistent with any of the provisions in Articles F, G, H, I, J, K and L.

2.6 Consultations

- (14.1) Q. Each Party shall afford sympathetic consideration to, and adequate opportunity for, prompt consultation regarding representations made by other Parties with respect to any matter affecting the operation of this Agreement.
- (14.2) R. If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the attainment of any objective of this Agreement is being impeded, by another Party and Parties, and that its trade interests are significantly affected, the Party may make written representations or proposals to the other Party or Parties which it considers to be concerned. Any party shall give sympathetic consideration to the representations of proposals made to it, with a view to reaching a satisfactory resolution of the matter.