

Committee on Technical Barriers to Trade

DECISIONS AND RECOMMENDATIONS ADOPTED BY THE COMMITTEE SINCE 1 JANUARY 1995

Note by the Secretariat

Revision

The present document supersedes all previous G/TBT/1 documents. It reproduces the decisions and recommendations adopted by the Committee concerning its rules of procedure and the interpretation, implementation and administration of the Agreement.

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I. RULES OF PROCEDURE FOR THE MEETINGS OF THE WTO COMMITTEE ON TECHNICAL BARRIERS TO TRADE

At its first meeting on 21 April 1995, the Committee adopted the following Rules of Procedure. In accordance with Article IV: 6 of the WTO Agreement, these Rules are being submitted to the Council for Trade in Goods for approval.

CHAPTER I - Meetings

Rule 1

The Committee on Technical Barriers to Trade (hereinafter the Committee) shall meet as necessary, but not less than once a year.

Rule 2

Meetings of the Committee shall be convened by the Director-General by a notice issued, preferably three weeks, and in any event not less than ten calendar days, prior to the date set for the meeting. In the event that the tenth day falls on a weekend or a holiday, the notice shall be issued no later than the preceding WTO working day. Meetings may be convened with shorter notice for matters of significant importance or urgency at the request of a Member concurred in by the majority of the Members.

CHAPTER II - Agenda

Rule 3

A list of the items proposed for the agenda of the meeting shall be communicated to Members together with the convening notice for the meeting. It shall be open to any Member to suggest items for inclusion in the proposed agenda up to, and not including, the day on which the notice of the meeting is to be issued.

Rule 4

Requests for items to be placed on the agenda of a forthcoming meeting shall be communicated to the Secretariat in writing, together with the accompanying documentation to be issued in connection with that item. Documentation for consideration at a meeting shall be circulated not later than the day on which the notice of the meeting is to be issued.

Rule 5

(Will not apply)

Rule 6

The first item of business at each meeting shall be the consideration and approval of the agenda. Representatives may suggest amendments to the proposed agenda, or additions to the agenda under "Other Business". Representatives shall provide the Chairperson or the Secretariat, and the other Members directly concerned, whenever possible, advance notice of items intended to be raised under "Other Business".

Rule 7

The Committee may amend the agenda or give priority to certain items at any time in the course of the meeting.

CHAPTER III - Representation

Rule 8

Each Member shall be represented by an accredited representative.

Rule 9

Each representative may be accompanied by such alternates and advisers as the representative may require.

CHAPTER IV - Observers

Rule 10

Representatives of States or separate customs territories may attend the meetings as observers on the invitation of the Committee in accordance with the guidelines in Annex 1 to these Rules.

Rule 11

Representatives of international intergovernmental organizations may attend the meetings as observers on the invitation of the Committee in accordance with the guidelines in Annex 2 to these Rules.

CHAPTER V - Officers

Rule 12

The Committee shall elect a Chairperson¹ and may elect a Vice-Chairperson from among the representatives of Members. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting. The Chairperson and Vice-Chairperson shall hold office until the end of the first meeting of the following year.

Rule 13

If the Chairperson is absent from any meeting or part thereof, the Vice-Chairperson shall perform the functions of the Chairperson. If no Vice-Chairperson was elected or if the Vice-Chairperson is not present, the Committee shall elect an interim Chairperson for that meeting or that part of the meeting.

¹The Committee shall apply the relevant guidelines contained in the "Guidelines for Appointment of Officers to WTO Bodies" (WT/L/31 dated 7 February 1995).

Rule 14

If the Chairperson can no longer perform the functions of the office, the Committee shall designate the Vice-Chairperson referred to in Rule 12 or, if no Vice-Chairperson was elected it shall elect an interim Chairperson to perform those functions pending the election of a new Chairperson.

Rule 15

The Chairperson shall normally participate in the proceedings as such and not as the representative of a Member. The Chairperson may, however, at any time request permission to act in either capacity.

CHAPTER VI - Conduct of Business

Rule 16

The Chairperson may consider postponing a meeting in the event that he or she feels that doing so may result in a more representative level of participation by WTO Members.

Rule 17

In addition to exercising the powers conferred elsewhere by these rules, the Chairperson shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, submit questions for decision, announce decisions, rule on points of order and, subject to these rules, have complete control of the proceedings. The Chairperson may also call a speaker to order if the remarks of the speaker are not relevant.

Rule 18

During the discussion of any matter, a representative may raise a point of order. In this case the Chairperson shall immediately state the ruling. If the ruling is challenged, the Chairperson shall immediately submit it for decision and it shall stand unless overruled.

Rule 19

During the discussion of any matter, a representative may move the adjournment of the debate. Any such motion shall have priority. In addition to the proponent of the motion, one representative may be allowed to speak in favour of, and two representatives against, the motion, after which the motion shall be submitted for decision immediately.

Rule 20

A representative may at any time move the closure of the debate. In addition to the proponent of the motion, not more than one representative may be granted permission to speak in favour of the motion and not more than two representatives may be granted permission to speak against the motion, after which the motion shall be submitted for decision immediately.

Rule 21

During the course of the debate, the Chairperson may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Chairperson may, however, accord the right of

reply to any representative if a speech delivered after the list has been declared closed makes this desirable.

Rule 22

The Chairperson, with the consent of the meeting, may limit the time allowed to each speaker.

Rule 23

Representatives shall endeavour, to the extent that a situation permits, to keep their oral statements brief. Representatives wishing to develop their position on a particular matter in fuller detail may circulate a written statement for distribution to Members, the summary of which, at the representative's request, may be reflected in the records of the Committee.

Rule 24

In order to expedite the conduct of business, the Chairperson may invite representatives that wish to express their support for a given proposal to show their hands, in order to be duly recorded in the records of the Committee as supporting statements; thus, only representatives with dissenting views or wishing to make explicit points or proposals would actually be invited to make a statement. This procedure shall only be applied in order to avoid undue repetition of points already made, and will not preclude any representative who so wishes from taking the floor.

Rule 25

Representatives should avoid unduly long debates under "Other Business". Discussions on substantive issues under "Other Business" shall be avoided, and the Committee shall limit itself to taking note of the announcement by the sponsoring delegation, as well as any reactions to such an announcement by other delegations directly concerned.

Rule 26

While the Committee is not expected to take action in respect of an item introduced as "Other Business", nothing shall prevent the Committee, if it so decides, to take action in respect of any such item at a particular meeting, or in respect of any item for which documentation was not circulated at least ten calendar days in advance.

Rule 27

Representatives should make every effort to avoid the repetition of a full debate at each meeting on any issue that has already been fully debated in the past and on which there appears to have been no change in Members' positions already on record.

Rule 28

Proposals and amendments to proposals shall normally be introduced in writing and circulated to all representatives not later than twelve hours before the commencement of the meeting at which they are to be discussed.

Rule 29

If two or more proposals are moved relating to the same question, the meeting shall first decide on the most far-reaching proposal and then on the next most far-reaching proposal and so on.

Rule 30

When an amendment is moved to a proposal, the amendment shall be submitted for decision first and, if it is adopted, the amended proposal shall then be submitted for decision.

Rule 31

When two or more amendments are moved to a proposal, the meeting shall decide first on the amendment farthest removed in substance from the original proposal, then, if necessary, on the amendment next farthest removed, and so on until all the amendments have been submitted for decision.

Rule 32

Parts of a proposal may be decided on separately if a representative requests that the proposal be divided.

CHAPTER VII - Decision-Making

Rule 33

Where a decision cannot be arrived at by consensus, the matter at issue shall be referred to the Council for Trade in Goods.

Rule 34

(Will not apply)

CHAPTER VIII - Languages

Rule 35

English, French and Spanish shall be the working languages.

CHAPTER IX - Records

Rule 36

Records of the discussions of the Committee shall be in the form of minutes.²

CHAPTER X - Publicity of Meetings

Rule 37

The meetings of the Committee shall ordinarily be held in private. It may be decided that a particular meeting or meetings should be held in public.

²The customary practice under the GATT 1947, whereby representatives may, upon their request, verify those portions of the draft records containing their statements, prior to the issuance of such records, shall be continued.

Rule 38

After a private meeting has been held, the Chairperson may issue a communiqué to the Press.

CHAPTER XI - Revision

Rule 39

The Committee may decide at any time to revise these rules or any part of them.

ANNEX 1

Guidelines for Observer Status for Governments in the WTO

1. The purpose of observer status in the General Council and its subsidiary bodies is to allow a government to better acquaint itself with the WTO and its activities, and to prepare and initiate negotiations for accession to the WTO Agreement.
2. Observer governments shall have access to the main WTO document series. They may also request technical assistance from the Secretariat in relation to the operation of the WTO system in general, as well as to negotiations on accession to the WTO Agreement.
3. Representatives of governments accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to make proposals, unless a government is specifically invited to do so, nor to participate in decision-making.

ANNEX 2

Guidelines for Observer Status for International Intergovernmental Organizations in the WTO³

1. The purpose of observer status for international intergovernmental organizations (hereinafter referred to as "organizations") in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them.
2. Requests for observer status shall accordingly be considered from organizations which have competence and a direct interest in trade policy matters, or which, pursuant to paragraph V:1 of the WTO Agreement, have responsibilities related to those of the WTO.
3. Requests for observer status shall be made in writing to the WTO body in which such status is sought, and shall indicate the nature of the work of the organization and the reasons for its interest in being accorded such status.
4. Requests for observer status shall be considered on a case-by-case basis by each WTO body to which such a request is addressed, taking into account such factors as the nature of work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization has been associated in the past with the work of the CONTRACTING PARTIES to GATT 1947.
5. In addition to organizations that request, and are granted, observer status, other organizations may attend meetings of the Ministerial Conference, the General Council or subsidiary bodies on the specific invitation of the Ministerial Conference, the General Council or the subsidiary body concerned, as the case may be. Invitations may also be extended, as appropriate and on a case-by-case basis, to specific organizations to follow particular issues within a body in an observer capacity.
6. Organizations with which the WTO has entered into a formal arrangement for cooperation and consultation shall be accorded observer status in such bodies as may be determined by that arrangement.
7. Organizations accorded observer status in a particular WTO body shall not automatically be accorded such status in other WTO bodies.
8. Representatives of organizations accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to circulate papers or to make proposals, unless an organization is specifically invited to do so, nor to participate in decision-making.
9. Observer organizations shall receive copies of the main WTO documents series and of other documents series relating to the work of the subsidiary bodies which they attend as observers. They may receive such additional documents as may be specified by the terms of any formal arrangements for cooperation between them and the WTO.
10. If for any one-year period after the date of the grant of observer status, there has been no attendance by the observer organization, such status shall cease.

³These guidelines shall apply also to other organizations referred to by name in the WTO Agreement.

II. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Background and purpose

Article 15.2 of the Agreement provides that each Member shall inform the Committee of measures in existence or taken to ensure the implementation and administration of the Agreement. In response to this provision of the Agreement Members shall submit the relevant information in the form of written statements. The Committee agreed on the following decision concerning the contents of these statements.

Decisions

1. The statement should cover the legislative, regulatory and administrative action taken as a result of the negotiation of the Agreement or currently in existence to ensure that the provisions of the Agreement are applied. If the Agreement itself has been incorporated into domestic law, the statement should indicate how this has been done. In other cases, the statement should describe the content of the relevant laws, regulations, administrative orders, etc. All necessary references should also be provided.

2. In addition, the statement should specify

- (a) The names of the publications used to announce that work is proceeding on draft technical regulations or standards and procedures for assessment of conformity and those in which the texts of technical regulations and standards or procedures for assessment of conformity are published under Articles 2.9.1, 2.11; 3.1 (in relation to 2.9.1 and 2.11); 5.6.1, 5.8; 7.1, 8.1 and 9.2 (in relation to 5.6.1 and 5.8); and paragraphs J, L and O of Annex 3 of the Agreement;
- (b) the expected length of time allowed for presentation of comments in writing on technical regulations, standards or procedures for assessment of conformity under Articles 2.9.4 and 2.10.3; 3.1 (in relation to 2.9.4 and 2.10.3); 5.6.4 and 5.7.3; 7.1, 8.1 and 9.2 (in relation to 5.6.4 and 5.7.3); and paragraph L of Annex 3 of the Agreement;
- (c) the name and address of the enquiry point(s) foreseen in Articles 10.1 and 10.3 of the Agreement with an indication as to whether it is/they are fully operational; if for legal or administrative reasons more than one enquiry point is established, complete and unambiguous information on the scope of responsibilities of each of them;
- (d) the name and address of any other agencies that have specific functions under the Agreement, including those foreseen in Articles 10.10 and 10.11 of the Agreement; and
- (e) measures and arrangements to ensure that national and sub-national authorities preparing new technical regulations or procedures for assessment of conformity, or substantial amendments to existing ones, provide early information on their proposals in order to enable the Member in question to fulfil its obligations on notifications under Articles 2.9, 2.10, 3.2, 5.6, 5.7 and 7.2 of the Agreement.

III. NOTIFICATION PROCEDURES FOR DRAFT TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES

1. Format and Guidelines

Background and purpose

The procedures for notification under the Agreement have been kept under constant review by the Committee. In order to ensure a uniform and efficient operation of these procedures the Committee agreed on the following format and guidelines.⁴

Recommendation

- (a) Information contained in the notification form should be as complete as possible and no section should be left blank. Where necessary, "not known" or "not stated" should be indicated.
- (b) Notifications may be transmitted by electronic mail to the WTO Central Registry of Notifications (CRN): crn@wto.org

Decisions

Item	Description
1. Member to Agreement notifying	Government, including the competent authorities of the European Communities, which has acceded to the Agreement and which is making the notification; if applicable, name of local government involved (Articles 3.2 and 7.2).
2. Agency responsible	Body elaborating a proposal for or promulgating a technical regulation or procedures for assessment of conformity. The authority or agency designated to handle comments regarding the specific notification shall be indicated if different from above.
3. Notified under	Relevant provision of the Agreement: Article 2.9.2: proposed technical regulation by central government body, Article 2.10.1: technical regulation adopted for urgent problems by central government body, Article 3.2: proposed technical regulation or technical regulation adopted for urgent problems by local government (on the level directly below that of the central government), Article 5.6.2: proposed procedures for assessment of conformity by central government body, Article 5.7.1: conformity assessment procedure adopted for urgent problems by central government body,

⁴Where boxes appear under items 3 and 11 of the format, notifiers are requested to check the relevant box or to indicate relevant information under "other".

Item	Description
3. Notified under (cont'd)	<p>Article 7.2: proposed procedure for assessment of conformity or conformity assessment procedure adopted for urgent problems by local government (on the level directly below that of the central government).</p> <p>Other Articles under which notification can arise in cases of urgency set out in those Articles are:</p> <p>Article 8.1: adopted procedures for assessment of conformity by non-governmental body,</p> <p>Article 9.2: adopted procedures for assessment of conformity by international or regional organization.</p>
4. Products covered	<p>HS or CCCN (chapter or heading and number) where applicable. National tariff heading if different from HS or CCCN. ICS numbers may be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.</p>
5. Title and number of pages	<p>Title of the proposed or adopted technical regulation or procedure for the assessment of conformity that is notified. Number of pages in the notified document. The language(s) in which notified documents are available. If a translation of the document is planned, this should be indicated. If a translated summary is available, this too should be indicated.</p>
6. Description of content	<p>An abstract of the proposed or adopted technical regulation or procedures for assessment of conformity clearly indicating its content. A clear comprehensible description stating the main features of the proposed or adopted technical regulation or procedures for assessment of conformity is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.</p>
7. Objective and rationale, including the nature of urgent problems where applicable	<p>For instance: health, safety, national security, ... etc.</p>
8. Relevant documents	<p>(1) Publication where notice appears, including date and reference number; (2) Proposal and basic document (with specific reference number or other identification) to which proposal refers; (3) Publication in which proposal will appear when adopted; (4) Whenever practicable, give reference to relevant international standard. If it is necessary to charge for documents supplied, this fact should be indicated.</p>
9. Proposed dates of adoption and entry into force	<p>The date when the technical regulation or procedures for assessment of conformity is expected to be adopted, and the date from which the requirements in the technical regulation or procedures for assessment of conformity are proposed or decided to enter into force, taking into consideration the provisions of Article 2.12.</p>

Item	Description
10. Final date for comments	The date by which Members may submit comments in accordance with Articles 2.9.4, 2.10.3, 3.1 (in relation to 2.9.4 and 2.10.3), 5.6.4, 5.7.3 and 7.1 (in relation to 5.6.4 and 5.7.3) of the Agreement. A specific date should be indicated. The Committee has recommended a normal time limit for comments on notifications of 60 days. Any Member which is able to provide a time limit beyond 60 days is encouraged to do so. Members are encouraged to advise of any extension to the final date for comments.
11. Texts available from	If available from national enquiry point, put a cross in the box provided. If available from another body, give its address, e-mail, telex and telefax number. If available in a web-site, provide the web-site address. Such indications should not in any way discharge the relevant enquiry point of its responsibilities under the provisions of Article 10 of the Agreement.

WORLD TRADE ORGANIZATION

G/TBT/N/

(00-0000)

Committee on Technical Barriers to Trade

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6.

1. Member to Agreement notifying: If applicable, name of local government involved (Articles 3.2 and 7.2):
2. Agency responsible: Name and address (including telephone and fax numbers, e-mail and web-site addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:
3. Notified under Article 2.9.2 [], 2.10.1 [], 5.6.2 [], 5.7.1 [], other:
4. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):
5. Title, number of pages and language(s) of the notified document:
6. Description of content:
7. Objective and rationale, including the nature of urgent problems where applicable:
8. Relevant documents:
9. Proposed date of adoption: Proposed date of entry into force:
10. Final date for comments:
11. Texts available from: National enquiry point [] or address, telephone and fax numbers, e-mail and web-site addresses, if available of the other body:

2. Timing of notifications

Background

The Committee dealt with this aspect of notification procedures in the following way:

Recommendation

When implementing the provisions of Articles 2.9.2, 3.2 (in relation to Article 2.9.2), 5.6.2 and 7.2 (in relation to Article 5.6.2), a notification should be made when a draft with the complete text of a proposed technical regulation or procedures for assessment of conformity is available and when amendments can still be introduced and taken into account.

3. Application of articles 2.9 And 5.6 (Preambular part)

Background and purpose

With a view to ensuring a consistent approach to the selection of proposed technical regulations and procedures for assessment of conformity to be notified, the Committee established the following criteria.

Recommendation

For the purposes of Articles 2.9 and 5.6, the concept of "significant effect on trade of other Members" may refer to the effect on trade:

- (a) Of one technical regulation or procedure for assessment of conformity only, or of various technical regulations or procedures for assessment of conformity in combination;
- (b) in a specific product, group of products or products in general; and
- (c) between two or more Members.

When assessing the significance of the effect on trade of technical regulations, the Member concerned should take into consideration such elements as the value or other importance of imports in respect of the importing and/or exporting Members concerned, whether from other Members individually or collectively, the potential growth of such imports, and difficulties for producers in other Members to comply with the proposed technical regulations. The concept of a significant effect on trade of other Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.

4. Translation of documents relating to notifications and address of body supplying the documents

Background and purpose

In order to avoid difficulties that can arise from the fact that the documentation relevant to technical regulations, standards and procedures for assessment of conformity is not available in one of the WTO working languages and that a body other than the enquiry point may be responsible for such documentation, the Committee agreed on the following procedures:

Recommendation

When a Member seeks a copy of a document relating to a notification which does not exist in that Member's WTO working language, it will be advised, on request, by the notifying Member of other Members that have requested, as of that date, a copy of the document. The Member seeking a copy of a document relating to a notification may then contact such other Members in order to determine whether the latter are prepared to share, on mutually agreed terms, any translation that they have or will be making into relevant WTO working language(s).

Decisions:

- (a) When a translation of a relevant document exists or is planned, this fact shall be indicated on the WTO TBT notification form next to the title of the document. If only a translated summary exists, the fact that such a summary is available shall be similarly indicated;
- (b) upon receipt of a request for documents, any translated summaries that exist in the language of the requester or, as the case may be, in a WTO working language, shall be automatically sent with the original of the documents requested; and
- (c) Members shall indicate under point 11 of the WTO TBT notification form the exact address, where available, e-mail address, telephone and fax numbers of the body responsible for supplying the relevant documents if that body is not the enquiry point.

5. Processing of requests for documentation

Background

The Committee addressed the problems of supplying and obtaining requested documentation on notified technical regulations and procedures for assessment of conformity as follows:

Recommendations:

- (a) Requests for documentation should contain all the elements permitting the identification of the documents and in particular, the WTO TBT notification number (G/TBT/Notif. ...) to which the requests refer. The same information should appear on the documents supplied in response to such requests; and
- (b) any request for documentation should be processed if possible within five working days. If a delay in supplying the documentation requested is foreseen, this should be acknowledged to the requester, along with an estimate of when the documents can be provided; and
- (c) E-mail requests for documentation should include name, organization, address, telephone and fax numbers, and e-mail address in the request; and
- (d) Electronic delivery of documentation is encouraged and requests should indicate whether an electronic version or hard copy is desired.

6. Length of time allowed for comments

Background

The Committee set the following time limits for presentation of comments on notified technical regulations and procedures for assessment of conformity.

Recommendation

The normal time limit for comments on notifications should be 60 days. Any Member which is able to provide a time limit beyond 60 days, such as 90 days, is encouraged to do so and should indicate this in the notification.

7. Handling of comments on notifications

Background and Purpose

In order to improve the handling of comments on proposed technical regulations and procedures for assessment of conformity submitted under Articles 2.9.4, 2.10.3, 3.1 (in relation to 2.9.4 and 2.10.3), 5.6.4, 5.7.3 and 7.1 (in relation to 5.6.4 and 5.7.3) of the Agreement, the Committee agreed on the following procedures.

Recommendations:

- (a) Each Member should notify the WTO secretariat of the authority or agency (e.g. its enquiry point) which it has designated to be in charge for handling of comments received; and
- (b) a Member receiving comments through the designated body should without further request
 - (i) acknowledge the receipt of such comments,
 - (ii) explain within a reasonable time to any Member from which it has received comments, how it will proceed in order to take these comments into account and, where appropriate, provide additional relevant information on the proposed technical regulations or procedures for assessment of conformity concerned, and
 - (iii) provide to any Member from which it has received comments, a copy of the corresponding technical regulations or procedures for assessment of conformity as adopted or information that no corresponding technical regulations or procedures for assessment of conformity will be adopted for the time being.

8. Monthly Listing of Notifications Issued

Background and purpose

With a view to provide a brief indication of the notifications issued, the Committee agreed on the following procedure.

Decision

The Secretariat is requested to prepare a monthly table of notifications issued, indicating the notification numbers, notifying Members, Articles notified under, products covered, objectives and final dates for comments.

9. Enhancement of Electronic Transmission of Information

Background and purpose

Enhancement of Internet usage can facilitate access to and exchange of information by Members. This would also facilitate and provide the maximum time possible for receiving notifications, obtaining and translating of relevant documents, and the presentation of comments. With a view to facilitate the access to information by Members, as well as to strengthen the notification process, including the time needed for the publication and circulation of notification by the Secretariat, the Committee agreed on the following action.

Decision

Whenever possible Members should file notifications by downloading, filling out and returning the complete form by e-mail to the Secretariat. The Committee will continue to explore ways to shorten the time for the submission, publication and circulation of notifications, as well as to examine the steps that would be needed to facilitate the electronic transmission of information among Members to complement the hard copy information exchange.

10. Decision Relating to Notifications

Labelling Requirements

Background and purpose

With the purpose of clarifying the coverage of the Agreement with respect to labelling requirements, the Committee on Technical Barriers to Trade took the following decision.

Decision

In conformity with Article 2.9 of the Agreement, Members are obliged to notify all mandatory labelling requirements that are not based substantially on a relevant international standard and that may have a significant effect on the trade of other Members. That obligation is not dependent upon the kind of information which is provided on the label, whether it is in the nature of a technical specification or not.

IV. PROCEDURES FOR INFORMATION EXCHANGE

1. Regular Meetings

Background and purpose

In order to give Members the opportunity to discuss the activities and problems relating to information exchange and to review periodically how well notification procedures work, the Committee took the following action.

Decision

Regular meetings of persons responsible for information exchange, including persons responsible for enquiry points and notifications, will be held on a biennial basis. Representatives of interested observers will be invited to participate in such meetings. The meetings will deal only with technical issues, leaving any policy matters for consideration by the Committee itself.

2. Booklets on Enquiry Points

Background and purpose

In order to improve publicity concerning the role of enquiry points in answering queries from Members as provided in Articles 10.1 and 10.3 of the Agreement the Committee took the following action.

Recommendations:

- (a) The issuing of brochures on enquiry points would be of value.
- (b) All booklets issued by Members should contain the elements and, as far as possible, follow the layout below:
 - (i) Objective, name, address, telephone number, fax number, and e-mail and Internet addresses, if available, of WTO TBT enquiry point(s).

Objective:

Refer to the provisions of Articles 10.1, 10.2 and 10.3 of the Agreement on Technical Barriers to Trade.

Date established, and name of responsible officer.

Who can use the enquiry point(s):

Refer to the provisions of Articles 2.9.3 and 2.10.2; 3.1 (in relation to 2.9.3 and 2.10.2); 5.6.3 and 5.7.2; 7.1, 8.1 and 9.2 (in relation to 5.6.3 and 5.7.2); 10.1 and 10.3; paragraphs M and P of Annex 3 of the Agreement.

(ii) Information available from enquiry point(s).

Documentation:

Refer to the provisions of Articles 2.9.3 and 2.10.2; 3.1 (in relation to 2.9.3 and 2.10.2); 5.6.3 and 5.7.2; 7.1, 8.1 and 9.2 (in relation to 5.6.3 and 5.7.2); 10.4, 10.8.1 and 10.8.2; paragraphs M and P of Annex 3 of the Agreement

Documentation that can be obtained from the enquiry point(s):

Procedures for handling documentation on proposed or adopted domestic regulations and standards and procedures for assessment of conformity

Notifications: content, format, comment period:

Refer to the provisions of Articles 2.9.2, 2.10.1, 3.2, 5.6.2, 5.7.1, 7.2, 8.1, 9.2 and paragraphs C and J of Annex 3 of the Agreement, and to the decisions of the Committee on Technical Barriers to Trade regarding format and comment period.

Procedures for handling notifications issued by other Members of the Agreement, for issuing notifications from domestic sources, and for handling comments on notifications received or issued.

Publication:

Refer to the provisions of Articles 2.9.1 and 2.11; 3.1(in relation to 2.9.1 and 2.11); 5.6.1 and 5.8; 7.1, 8.1 and 9.2 (in relation to 5.6.1 and 5.8); 10.1.5; and paragraphs J, L and O of Annex 3 of the Agreement

Procedures for ensuring compliance with these provisions of the Agreement, including any publications by the enquiry point(s).

(iii) Facilities offered (including charges, if any).

Data bank (content and form of documents, e.g. paper, microfilm, computer, etc.).

Access to data (retrieval system: manual, tape, on-line; software used).

Languages used.

Translation, if any.

Brief description of the Agreement: objectives, date of entry into force, date joined, status in domestic law.

List of Members of the Agreement.

List of enquiry points of other Members.

3. Enquiries which the Enquiry Points should be Prepared to Answer

Background and purpose

With a view to encouraging a uniform application of Articles 10.1 and 10.3 of the Agreement the Committee took the following action.

Recommendation:

- (a) (i) An enquiry should be considered "reasonable" when it is limited to a specific product, or group of products, but not when it goes beyond that and refers to an entire business branch or field of regulations, or procedures for assessment of conformity; and
- (ii) when an enquiry refers to a composite product, it is desirable that the parts or components, for which information is sought, are defined to the extent possible. When a request is made concerning the use of a product it is desirable that the use is related to a specific field.
- (b) The Enquiry Point(s) of a Member should be prepared to answer enquiries regarding the membership and participation of that Member, or of relevant bodies within its territory, in international and regional standardizing bodies and conformity assessment systems as well as in bilateral arrangements, with respect to a specific product or group of products. They should likewise be prepared to provide reasonable information on the provisions of such systems and arrangement.

4. Handling of Requests

Background and purpose

The purpose is to improve the handling of requests from other Members received under Article 10.1 and 10.3.

Recommendation

An enquiry point should, without further request, acknowledge the receipt of the enquiry.

5. List of Enquiry Points Prepared by Secretariat

The e-mail addresses of enquiry points should be provided, where available, in order to be included in document G/TBT/ENQ/--.

V. TECHNICAL ASSISTANCE

Background and purpose

In considering the ways in which the provisions of Article 11 could be given operational significance, the Committee agreed to exchange information on technical assistance as follows:

Decision

Specific needs for technical assistance, as well as information that may be provided by potential donor Members on their technical assistance programmes, may be communicated to Members through the Secretariat. Members will take into account the provisions of Article 11.8 of the TBT Agreement when considering requests for technical assistance from the least-developed country Members. In agreement with requesting Members or potential donor Members, as the case may be, the information concerning specific needs and technical assistance programmes would be circulated by the Secretariat to all Members on an informal basis. Whilst information would be multilateralized in this manner, technical assistance would continue to be provided on a bilateral basis. The Secretariat would reflect the information circulated under this procedure in the documentation prepared for annual reviews of the implementation and operation of the Agreement if the Members concerned so agree.

Technical assistance would remain as an item of the agenda of the Committee on a permanent basis and would be included on the agenda of a regular meeting of the Committee when so requested by a Member in accordance with the agreed procedures.

VI. REGIONAL STANDARDS-RELATED ACTIVITIES

Background and purpose

The Agreement contains a number of provisions on regional standardizing bodies and systems for conformity assessment. In order to keep abreast of the activities of such bodies and systems, the Committee decided as follows.

Decision

Representatives of regional standardizing bodies and systems for conformity assessment may be invited to address the Committee on their procedures and how they relate to those embodied in the Agreement, on the basis of agreed lists of questions.

VII. NOTIFICATION FORMAT UNDER ARTICLE 10.7

**AGREEMENT REACHED BY A MEMBER WITH ANOTHER COUNTRY OR COUNTRIES
ON ISSUES RELATED TO TECHNICAL REGULATIONS, STANDARDS
OR CONFORMITY ASSESSMENT PROCEDURES**

Notification

Under Article 10.7 of the Agreement "Whenever a Member has reached an agreement with any other country or countries on issues related to technical regulations, standards or conformity assessment procedures which may have a significant effect on trade, at least one Member party to the agreement shall notify other Members through the Secretariat of the products to be covered by the agreement and include a brief description of the agreement." The following notification under Article 10.7 has been received.

1. Member notifying:
2. Title of the bilateral or plurilateral Agreement:
3. Parties to the Agreement:
4. Date of entry into force of the Agreement:
5. Products covered (HS or CCCN where applicable, otherwise national tariff heading):
6. Subject matter covered by the Agreement (technical regulations, standards or conformity assessment procedures):
7. Brief description of the Agreement:
8. Further information available from:

VIII. NOTIFICATION PROCEDURE UNDER THE CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS

1. Paragraph J

Decision

The communication of the work programmes of standardizing bodies via the Internet would be another possibility to fulfil paragraph J obligations on transparency. Hard copies of such work programmes would, nevertheless, always be made available on request in accordance with paragraph P of the Code of Code of Good Practice.

IX. DECISION OF THE COMMITTEE ON PRINCIPLES FOR THE DEVELOPMENT OF INTERNATIONAL STANDARDS, GUIDES AND RECOMMENDATIONS WITH RELATION TO ARTICLES 2, 5 AND ANNEX 3 OF THE AGREEMENT

Background and purpose

At the Second Triennial Review of the Agreement, the Committee noted that in order for international standards to make a maximum contribution to the achievement of the trade facilitating objectives of the Agreement, it was important that all Members had the opportunity to participate in the elaboration and adoption of international standards. Adverse trade effects might arise from standards emanating from international bodies as defined in the Agreement which had no procedures for soliciting input from a wide range of interests. Bodies operating with open, impartial and transparent procedures, that afforded an opportunity for consensus among all interested parties in the territories of at least all Members, were seen as more likely to develop standards which were effective and relevant on a global basis and would thereby contribute to the goal of the Agreement to prevent unnecessary obstacles to trade. In order to improve the quality of international standards and to ensure the effective application of the Agreement, the Committee agreed that there was a need to develop principles concerning transparency, openness, impartiality and consensus, relevance and effectiveness, coherence and developing country interests that would clarify and strengthen the concept of international standards under the Agreement and contribute to the advancement of its objectives. In this regard, the Committee adopted a decision containing a set of principles it considered important for international standards development. These principles were seen as equally relevant to the preparation of international standards, guides and recommendations for conformity assessment procedures. The dissemination of such principles by Members and standardizing bodies in their territories would encourage the various international bodies to clarify and strengthen their rules and procedures on standards development, thus further contributing to the advancement of the objectives of the Agreement.

Decision

1. The following principles and procedures should be observed, when international standards, guides and recommendations (as mentioned under Articles 2, 5 and Annex 3 of the TBT Agreement for the preparation of mandatory technical regulations, conformity assessment procedures and voluntary standards) are elaborated, to ensure transparency, openness, impartiality and consensus, effectiveness and relevance, coherence, and to address the concerns of developing countries.

2. The same principles should also be observed when technical work or a part of the international standard development is delegated under agreements or contracts by international standardizing bodies to other relevant organizations, including regional bodies.

A. TRANSPARENCY

3. All essential information regarding current work programmes, as well as on proposals for standards, guides and recommendations under consideration and on the final results should be made easily accessible to at least all interested parties in the territories of at least all WTO Members. Procedures should be established so that adequate time and opportunities are provided for written comments. The information on these procedures should be effectively disseminated.

4. In providing the essential information, the transparency procedures should, at a minimum, include:

- The publication of a notice at an early appropriate stage, in such a manner as to enable interested parties to become acquainted with it, that the international standardizing body proposes to develop a particular standard;

- the notification or other communication through established mechanisms to members of the international standardizing body, providing a brief description of the scope of the draft standard, including its objective and rationale. Such communications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;
- upon request, the prompt provision to members of the international standardizing body of the text of the draft standard;
- the provision of an adequate period of time for interested parties in the territory of at least all members of the international standardizing body to make comments in writing and take these written comments into account in the further consideration of the standard;
- the prompt publication of a standard upon adoption; and
- to publish periodically a work programme containing information on the standards currently being prepared and adopted.

5. It is recognized that the publication and communication of notices, notifications, draft standards, comments, adopted standards or work programmes electronically, via the Internet, where feasible, can provide a useful means of ensuring the timely provision of information. At the same time, it is also recognized that the requisite technical means may not be available in some cases, particularly with regard to developing countries. Accordingly, it is important that procedures are in place to enable hard copies of such documents to be made available upon request.

B. OPENNESS

6. Membership of an international standardizing body should be open on a non-discriminatory basis to relevant bodies of at least all WTO Members. This would include openness without discrimination with respect to the participation at the policy development level and at every stage of standards development, such as the:

- Proposal and acceptance of new work items;
- technical discussion on proposals;
- submission of comments on drafts in order that they can be taken into account;
- reviewing existing standards;
- voting and adoption of standards; and
- dissemination of the adopted standards.

7. Any interested member of the international standardizing body, including especially developing country members, with an interest in a specific standardization activity should be provided with meaningful opportunities to participate at all stages of standard development. It is noted that with respect to standardizing bodies within the territory of a WTO Member that have accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards by Standardizing Bodies (Annex 3 of the TBT Agreement) participation in a particular international standardization activity takes place, wherever possible, through one delegation representing all standardizing bodies in the territory that have adopted, or expected to adopt, standards for the subject-matter to which the

international standardization activity relates. This is illustrative of the importance of participation in the international standardizing process accommodating all relevant interests.

C. IMPARTIALITY AND CONSENSUS

8. All relevant bodies of WTO Members should be provided with meaningful opportunities to contribute to the elaboration of an international standard so that the standard development process will not give privilege to, or favour the interests of, a particular supplier/s, country/ies or region/s. Consensus procedures should be established that seek to take into account the views of all parties concerned and to reconcile any conflicting arguments.

9. Impartiality should be accorded throughout all the standards development process with respect to, among other things:

- Access to participation in work;
- submission of comments on drafts;
- consideration of views expressed and comments made;
- decision-making through consensus;
- obtaining of information and documents;
- dissemination of the international standard;
- fees charged for documents;
- right to transpose the international standard into a regional or national standard; and
- revision of the international standard.

D. EFFECTIVENESS AND RELEVANCE

10. In order to serve the interests of the WTO membership in facilitating international trade and preventing unnecessary trade barriers, international standards need to be relevant and to effectively respond to regulatory and market needs, as well as scientific and technological developments in various countries. They should not distort the global market, have adverse effects on fair competition, or stifle innovation and technological development. In addition, they should not give preference to the characteristics or requirements of specific countries or regions when different needs or interests exist in other countries or regions. Whenever possible, international standards should be performance based rather than based on design or descriptive characteristics.

11. Accordingly, it is important that international standardizing bodies:

- Take account of relevant regulatory or market needs, as feasible and appropriate, as well as scientific and technological developments in the elaboration of standards;
- put in place procedures aimed at identifying and reviewing standards that have become obsolete, inappropriate or ineffective for various reasons; and
- put in place procedures aimed at improving communication with the World Trade Organization.

E. COHERENCE

12. In order to avoid the development of conflicting international standards, it is important that international standardizing bodies avoid duplication of, or overlap with, the work of other international standardizing bodies. In this respect, cooperation and coordination with other relevant international bodies is essential.

F. DEVELOPMENT DIMENSION

13. Constraints on developing countries, in particular, to effectively participate in standards development, should be taken into consideration in the standards development process. Tangible ways of facilitating developing countries' participation in international standards development should be sought. The impartiality and openness of any international standardization process requires that developing countries are not excluded *de facto* from the process. With respect to improving participation by developing countries, it may be appropriate to use technical assistance, in line with Article 11 of the TBT Agreement. Provisions for capacity building and technical assistance within international standardizing bodies are important in this context.

X. UNDERSTANDING OF "REASONABLE INTERVAL" UNDER ARTICLE 2.12

Background

At its meeting of 15 March 2002, the Committee took note of the Ministerial Decision (made at the Ministerial Conference of 14 November 2001) regarding the implementation of Article 2.12 of the Agreement.

Decision

Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.
