

**IMPROVING THE OPERATION OF THE TBT AGREEMENT'S NOTIFICATION  
PROVISIONS: PROPOSALS FOR CONSIDERATION BY  
THE COMMITTEE**

Submission by the United States

1. Articles 2.9 and 5.6 of the Agreement on Technical Barriers to Trade require Members to notify proposed technical regulations and conformity assessment procedures if they are not in accordance with the technical content of relevant international standards, guides and recommendations, and if the technical regulation or conformity assessment procedure may have a significant effect on trade of other Members. Under Article 10, Members must ensure that an Enquiry Point exists which is responsible for the provision of answers to all reasonable questions from interested Members; and, designate a single central government authority responsible for notifications.

**I. FACTORS LIMITING THE EFFECTIVE IMPLEMENTATION OF ARTICLES 2.9,  
5.6 AND 10**

2. Several Members have noted areas where the transparency provisions of the Agreement have not yet been fully implemented. Variations in the quality and content of the information submitted by Members in their notification document and delays in responding to requests for documentation are recurrent problems limiting the effective implementation of the transparency provisions.

- *Members should be urged to review the operation of their notification authorities and Enquiry Points, reminded to be mindful of the Committee's Recommendations and Decisions concerning notification procedures (G/TBT/1/Rev.5), and encouraged to make every effort to ensure that those procedures are being implemented as efficiently as possible.*

3. There also have been lengthy discussions of relevance to this Committee regarding the operation of the Enquiry Point and notification requirements in the Committee on Sanitary and Phytosanitary Measures (SPS Committee). Several countries, including the United States, have made suggestions regarding specific actions that could be taken to improve the functioning of the Enquiry Point and notification authorities. Relevant items that have been discussed in the SPS Committee which the United States believes warrants discussion in this Committee include:

- Increasing the capacity of least-developed countries (LDC) and new Members to establish enquiry points and national notification authorities;
- supporting efforts to enhance the electronic transmission of notified full text between Members;
- facilitating broader access to translations of proposals and government comments on proposals made by one Member to another; and
- increasing overall transparency by further derestricting Committee documents.

## **II. CAPACITY BUILDING FOR LEAST DEVELOPED COUNTRIES**

4. All Members have an interest in the smooth and efficient operation of the Agreement's notification procedures. Members benefit from being aware of all relevant scientific and technical information, related processing technology or intended end uses of products relating to proposed measures, and the legitimate objectives to avoid potential trade problems. In addition, the communications established between Members' notification authorities and Enquiry Points may allow Members to more efficiently communicate with interested parties within their territories and to identify and adapt to new technical regulations in their principal export markets. Members, particularly developing countries, will benefit from technical cooperation which improves the efficiency of the Agreement's notification procedures.

## **III. ELECTRONIC TRANSMISSION OF DOCUMENTS REDUCES ADMINISTRATIVE BURDENS, IMPROVES TIMELINESS AND FACILITATES RULE-MAKING**

5. WTO Members are interested in having a notification system that facilitates the development of standards, technical regulations and conformity assessment procedures that reflect a consideration of the best available scientific and technical information, related processing technology or intended end uses of products. The rapid development of modern telecommunications and information technologies provides tremendous new opportunities to advance these goals, including speeding the transmission of documents between governments and improving the readability of these documents over fax equivalents. Ideally, Members' Enquiry Points will have access to computers, publication software, Internet access, an established Web site and the capacity to transmit notifications and text electronically.

- *In order to extract the benefits of such technological advances, it might be useful to survey Enquiry Points to determine what steps need to be taken to facilitate the electronic transmission of documents between Members. Such a survey could, among other things, facilitate efforts to better target technical assistance and training. Even without a survey, the simple addition of e-mail addresses to the list of Enquiry Points would greatly facilitate electronic transmission of documents.*

Currently 25 Members' TBT Enquiry Points include an e-mail address (G/TBT/ENQ/12 dated 20 August 1998).

6. The United States responds to hundreds of requests for the relevant texts of proposed technical regulations reported through the notification process - U.S. industry requests the text of proposed foreign regulations and WTO Members, the text of proposed U.S. regulations. The U.S. TBT Enquiry Point normally responds to these requests via fax or express postal service. The U.S. Enquiry Point can provide the text either as an e-mail attachment or refer requesters to the government Internet website containing the *Federal Register*. Where the capacity exists, the electronic transmission of documents facilitates the timely distribution of notified texts to interested governmental and non-governmental parties.

## **IV. IMPROVING TRANSPARENCY THROUGH THE DERESTRICTION OF DOCUMENTS**

7. Greater transparency in the work of the Committee would help to build public confidence in the WTO process. To this end, a continued effort should be made to further derestrict appropriate committee documents on a timely basis so Member governments can more actively involve industry and consumer groups in facilitating implementation of the TBT Agreement.

8. On 18 July 1996, the General Council adopted the "Procedures for the Circulation and Derestriction of WTO Documents" (WT/L/160/Rev.1). Paragraph 1 of these procedures provide that documents shall generally be circulated as unrestricted. Paragraph 1 also provides for certain exceptions, listed in the Annex, and include minutes of Committee meetings to the general preference of circulating documents as derestricted. Paragraph 2 of these procedures provides that "the body under the auspices of which the document was originally circulated" may derestrict such document at any time.

- *The TBT Committee could exercise its authority under the "Procedures for Circulation and Derestriction of WTO Documents" and immediately derestrict the minutes of the Committee, including the Annual reviews, once approved.*
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