

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/TBT/W/2**

10 March 1995

(95-0533)

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## **Committee on Technical Barriers to Trade**

### DRAFT UPDATING OF THE DECISIONS AND RECOMMENDATIONS TAKEN BY THE TOKYO ROUND COMMITTEE ON TECHNICAL BARRIERS TO TRADE REGARDING PROCEDURES FOR NOTIFICATION AND INFORMATION EXCHANGE

#### Note by the Secretariat

The Tokyo Round Committee on Technical Barriers to Trade (TBT) adopted, over a number of years, decisions and recommendations on implementation of the provisions of the Tokyo Round TBT Agreement relating to procedures for notification and information exchange. Those decisions and recommendations have been compiled in items A, C and E of document TBT/16/Rev.7.

At its meeting of 28 October 1994, the Tokyo Round TBT Committee endorsed the Chairman's recommendations regarding notification procedures during the period between entry into force of the WTO TBT Agreement and the first meeting of the WTO TBT Committee (TBT/M/47). Those recommendations were transmitted to the Sub-Committee on Institutional, Procedural and Legal Matters (PC/IPL/10/Rev.1) and were later approved by the Preparatory Committee (PC/R). Pending the first meeting of the WTO TBT Committee, the Secretariat was instructed to undertake the work which was necessary to implement them.

Item (iii) of the recommendations states that:

"Notifications made under the obligations of the WTO Agreement on Technical Barriers to Trade should, from the date of entry into force of the Agreement for the Members concerned:

- be made using a new notification form;
- be submitted to the WTO Secretariat.

WTO Members shall follow the recommendations and guidelines relating to notification procedures contained in TBT/16/Rev.7."

This Note has been prepared by the Secretariat with a view to facilitating discussion in the WTO TBT Committee of procedures for notification and information exchange. In this Note, the Secretariat has updated the relevant decisions and recommendations contained in TBT/16/Rev.7 to reflect the provisions of the WTO TBT Agreement. The exercise has been undertaken in part in a purely mechanical way (e.g., to reflect differences between the Tokyo Round and the WTO TBT Agreements in the numbering of Articles and paragraphs), but an attempt has also been made to indicate how new and additional obligations regarding notification and information exchange that have been included in the WTO TBT Agreement might be incorporated into the procedures if WTO Members feel there is a need to do so (e.g., obligations relating to local governments, standardizing bodies and on conformity assessment).

DRAFT

A. 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 should submit the relevant information in the form of written statements. The Committee agreed on the following decision concerning the contents of these statements.

Decision:

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;
  - (d) the name and address of the agency with which to get in touch if consultations are to be requested under Article 14;
  - (e) 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
  - (f) 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.

## C. NOTIFICATION 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.\*

#### Recommendation:

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.

#### Decisions:

| <u>Item</u>                       | <u>Description</u>   |
|-----------------------------------|--|
| (i) 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;<br>if applicable, name of local government involved (Articles 3.2 and 7.2)   |
| (ii) Agency responsible           | Body elaborating a proposal for or promulgating a technical regulation or procedures for assessment of conformity.   |
| (iii) Notified under              | Relevant provision of the Agreement:<br>Article 2.9.2: proposed technical regulation by central government body,<br>Article 2.10.1: adopted technical regulation by central government body,<br>Article 3.2: proposed and adopted technical regulation by local government (on the level directly below that of the central government,<br>Article 5.6.2: proposed procedures for assessment of conformity by central government body,<br>Article 5.7.1: adopted procedures for assessment of conformity by central government body,<br>Article 7.2: proposed and adopted procedures for |

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\* Where 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".

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|  | <p>assessment of conformity 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>             |
| (iv) 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>  |
| (v) Title and number of pages of the notified document | <p>Title of the proposed or adopted technical regulation or procedures for assessment of conformity. Number of pages in the notified document.</p>   |
| (vi) 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 description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.</p>   |
| (vii) Objective and rationale                          | <p>For instance: health, safety, national security, ... etc.</p>   |
| (viii) Relevant documents                              | <p>(1) Publication where notice appears, including date and reference number;</p> <p>(2) Proposal and basic document (with specific reference number or other identification) to which proposal refers;</p> <p>(3) Publication in which proposal will appear when adopted;</p> <p>(4) Whenever practicable, give reference to relevant international standard. If it is necessary to charge for documents supplied, this fact should be indicated.</p> |
| (ix) 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</p>  |

proposed or decided to enter into force, taking into consideration the provisions of Article 2.12.

(x) 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 sixty days. A Member may, if necessary, however, indicate in its notification that it will proceed to implement the proposed measure after forty-five days if no comments or requests for extension of the time limit have been received from other Members within that time. Any Member which is able to provide a time limit beyond sixty days is encouraged to do so.

(xi) Texts available from

If available from national enquiry point, put a cross in the box provided. If available from another body, give its address, telex and telefax number. Such indications should not in any way discharge the relevant enquiry point of its responsibilities under the provisions of Article 10 of the Agreement.

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:

- of one technical regulation or procedure for assessment of conformity only, or of various technical regulations or procedures for assessment of conformity in combination,
- in a specific product, group of products or products in general, and
- 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;
- (c) Members shall indicate under point 11 of the WTO TBT notification form the exact address 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;
- (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.

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 sixty days. A Member may, if necessary, however, indicate in its notification that it will proceed to implement the proposed measure after forty-five days if no comments or requests for extension of the time limit have been received from other Members within that time. Any Member which is able to provide a time limit beyond sixty days is encouraged to do so.

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

- (1) acknowledge the receipt of such comments,
- (2) 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
- (3) 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.



# WORLD TRADE ORGANIZATION

RESTRICTED  
**G/TBT/Notif.95.**  
1995

(95-0000)

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## Committee on Technical Barriers to Trade

### NOTIFICATION

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

|     |   |
|-----|---|
| 1.  | Member to Agreement notifying:<br>If applicable, name of local government involved (Articles 3.2 and 7.2):                                    |
| 2.  | Agency responsible:   |
| 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 and number of pages of the notified document:   |
| 6.  | Description of content:   |
| 7.  | Objective and rationale:  |
| 8.  | Relevant documents:   |
| 9.  | Proposed date of adoption and entry into force:   |
| 10. | Final date for comments:  |
| 11. | Texts available from: National enquiry point [ ] or address and telefax number of other body:   |

E. 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 the Committee took the following action.

Decision:

Regular meetings of persons responsible for information exchange including persons responsible for enquiry points 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.

Recommendation:

- (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 and address 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.

### Annex

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.
- (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.