GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Technical Barriers to Trade

SECOND THREE-YEAR REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT

Statement by the Delegation of the European Economic Community

There is, in the Community's view, a need to correct the present imbalance in obligations under the TBT Agreement between, on the one hand, Parties in which administration (including responsibility for the establishment of technical regulations) is highly centralised and, on the other hand, Parties in which the central government has only limited responsibilities in the standards area.

In addition, the activity of private standards organisations is becoming increasingly important, as a number of governments are reducing their direct involvement in the formulation of technical regulations. It therefore seems appropriate to ensure that Parties effectively carry out their responsibility to ensure similar levels of transparency and non-discrimination in the private and public sector. In the past, it has been difficult for Parties to assess how well other Parties are fulfilling these obligations.

Consequently, after preliminary discussion within the Community, the Community delegation would like to submit two ideas aimed at improving the present functioning of the Agreement with respect to non-central government bodies for consideration by the Committee in the second three-year review of the Agreement, namely:

(1) the possible extension to local government bodies of all major obligations under the Agreement; and

(2) the establishment of a "code of good practice" for non-governmental standardising bodies.

I. Extension to local government bodies of major obligations under the Agreement

The Community's idea is that local government bodies might be bound by all major obligations under the Agreement, particularly those of notification (through the Parties) of proposed technical regulations or certification systems from which they are currently exempted. This would involve removing the clauses exempting such bodies from notification in Articles 3 and 8 of the Agreement.

The activity of local government bodies in the establishment of technical regulations or certification systems is insufficiently transparent because of the absence of any notification process under the Agreement. Parties have to rely on the "best efforts" of central governments, in accordance with Articles 3 and 8, to protect their interests, and tend to learn about
the creation of technical barriers to trade by local authorities after the event. A procedure by which local draft technical regulations which significantly depart from international standards, or previously notified national technical regulations, were systematically notified through the Party concerned to other Parties would increase the pressure upon local government bodies to take account of existing standards when formulating their regulations.

II. Code of good practice for non-governmental standardising bodies

In order to make the obligations already laid down in Articles 4, 6 and 8 of the Agreement more concrete, and to provide some yardstick by which the performance of both Parties and private bodies could be measured, Parties could be obliged to take all reasonable measures to persuade private bodies to adhere to a voluntary code of good practice. This Code (to be drafted by the Committee) might include existing obligations of transparency, non-discrimination, etc, imposed on such bodies under the Agreement, although perhaps in a more detailed or practical form.

It might also be considered useful to provide for an extension of obligations under this voluntary code to include the notification of draft standards to the GATT through the Party in question.

Parties might also notify to the GATT the names of the private organisations adhering to the code, thereby providing a "register" by means of which the persuasiveness of governments in advocating the principles of the Agreement could be measured.