

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Multilateral Trade Negotiations

GROUP 3(b) - REPORT TO THE TRADE NEGOTIATIONS COMMITTEE

Draft Section on Task 12

Task 12: Beginning of the work relating to packaging and labelling (general aspects)

1. The Group held two meetings at technical level on this subject - on 7 and 8 May and on 18 and 19 June 1974. Details of the discussion at the first meeting will be found in MTN/3B/12. Documentary notes by the secretariat were circulated as COM.IND/W/114, COM.TD/W/191, and MTN/3E/W/11.

2. There was a difference of opinion as to whether problems relating to marks of origin were covered by the Group's mandate. The Group agreed that this matter should be reverted to in an appropriate forum.

A. Clarification of the problems

3. The Group surveyed the different types of requirements that existed in the field of packaging and labelling and the motivations behind these.

4. It was generally agreed that the following classification of packaging and labelling requirements was helpful:

- (a) regulations directly related to product standards, e.g. requirements that beer must contain a certain percentage of alcohol and that this must be shown on the label;
- (b) product standards for the packaging itself, e.g. wrapping paper for butter;

- (c) requirements relating to design or the information to be shown, e.g. can sizes or requirements that corrosive, inflammable or toxic products bear a warning sign on their containers;
- (d) standards of fill, which could take the form either of average requirements or minimum requirements.

There was general agreement that a further category - customs and import regulations which related only to imported products - would be more suitably dealt with under Part 2 of the Inventory of Non-Tariff Measures, Customs and Administrative Entry Procedures.

5. It was pointed out that in some cases labelling was mandatory as such; in other cases it was not mandatory to label products, but if labels were used they had to conform to certain requirements (conditional labelling); in yet other cases labelling was not subject to regulations (voluntary labelling). There were two types of mandatory requirements; in the first it was mandatory to show certain information and in the second it was mandatory to present information in a certain way. Some delegations said that conditional labelling requirements were in many cases less onerous than mandatory requirements. Some delegations said that problems might arise in certain cases because, while in theory it might be voluntary to use a label, in practice it was mandatory to do so to overcome consumer resistance or meet consumer tastes. It was pointed out that there were different types of requirement in the area of packaging. These dealt with the material to be used with a view to its effect on the contents and the range of package sizes permitted. These might both have implications for international trade.

6. There was a wide measure of agreement that problems in the field of packaging and labelling were similar in many ways to those in the field of standards in general. It was suggested, however, that requirements created somewhat different problems in the field of packaging on the one hand, and labelling on the other, and that the former were the more important ones from a trading point of view.

7. Many delegations said that problems might arise because different requirements were applied, in clear violation of Article III, to imported and domestically produced goods, but that the more usual case was one in which barriers to trade were created even though imports were subject to the same requirements as domestically produced goods so that, even though national treatment was granted, the purpose of Article III:4 was defeated. There was also a wide measure of agreement that disparities between the requirements of different countries would create obstacles to trade. The sudden introduction of new requirements could cause shipments to be refused at the border.

8. The Group examined the particular problems which developing countries faced in this area. Some delegations from developing countries said that packaging and labelling requirements created more acute problems for their countries than for others, since it was more difficult for them to both find out what the rules were and to follow them. Some delegations from developing countries mentioned the problem of the additional cost of certain kinds of packaging, and pointed to the need to take into account the incidence of this on the export earnings of developing countries.

9. The Group noted that a number of specific trade problems were contained in Part 3 of the Inventory of Non-Tariff Measures (MTN/3B/3) and some delegations

quoted additional examples. The view was widely held, however, that potential problems were likely to be more important than those contained in the Inventory, since the present trend towards more requirements was likely to continue.

B. Work of other organizations

10. The Group examined the work of other organizations in this area with the help of a secretariat note on this subject (MTN/3B/17). They noted that such work had led to the international harmonization of requirements in some areas.

C. Approach to be adopted

11. There was a wide measure of agreement in the Group that packaging and labelling requirements should be harmonized internationally, that the appropriate international organizations should be used for this purpose, and that the GATT should do what it could to encourage this work. There was also a wide measure of agreement that when governments were considering the adoption of new packaging and labelling requirements they should give publicity to this and engage in prior consultations. Other suggestions which received varying measures of support were that an inventory of national requirements should be drawn up at an appropriate time, that the GATT secretariat should be notified of changes in requirements and that a grace period should be allowed before new requirements were introduced, except where urgent reasons of safety, health, etc. made this impossible.

12. Delegations from developing countries stressed that any solution should provide for:

- (a) the simplification, harmonization and flexibility of enforcement of packaging and labelling requirements;

- (b) closer co-operation among governments and international organizations in this area;
- (c) wide publicity for these regulations; and
- (d) technical assistance for developing countries.

13. There was wide agreement that the proposed GATT instrument for preventing technical barriers to trade (the Code, COM.IND/W/108 and Corr.1) already contained provisions of this sort. One view expressed was that the intention of the Code was to cover problems in the field of packaging and labelling and that, by and large, it did cover the problems which had been identified. It was acknowledged, however, that the Code might not deal with every problem in this field, and suggested that delegations which considered that certain problems were not covered should give details of these. This would permit a checklist of outstanding problems to be drawn up which would be useful when the Code was taken up again at an appropriate stage of the negotiations. Some examples were quoted of problems that might not be covered by the Code. Another view was that a number of possible approaches could be adopted in the negotiations, but that at this stage it was premature to make a choice between various options, since this would mean entering into the negotiations proper.