

# 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

##### Revision

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

1. The Group took up this task at its March meeting and held two further meetings at technical level on 7-8 May and on 18-19 June 1974. Details of these discussions will be found in the Notes by the Secretariat, MTN/3B/7, paragraph 18 and 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 referred to the Trade Negotiations Committee.

##### A. Clarification of the problems

3. 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 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.

4. It was pointed out that there were different types of requirement in the area of packaging. These dealt on the one hand with the material to be used with a view to its effect proper, and/or its effect on the contents and, on the other hand with

the range of package sizes permitted. These might both have implications for international trade.

5. 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) performance standards for the packaging and labelling itself, e.g. wrapping paper for butter, and water-resistant label;
- (c) requirements relating to design or the manner in which information be shown, e.g. can sizes or requirements that a specific sign be used on corrosive, inflammable or toxic products or their containers, or specific material be used for labels;
- (d) standards of fill, which could take the form either of average requirements or minimum requirements.

6. There was consensus in the Group that different problems arose in the field of packaging on the one hand, and labelling on the other hand. Many delegations pointed out that the former were the more important ones from a trading point of view. The view was widely held 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. However many delegations stressed that the problems in the field of packaging and labelling were similar in many ways to those in the field of standards.

7. Many delegations said that problems often 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.

8. There was also a wide measure of agreement that disparities between the requirements of different countries could create obstacles to trade. Also the sudden introduction of new requirements could cause shipments to be refused at the border.

9. 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 labelling, and pointed to the need to take into account the incidence of this on the export earnings of developing countries.

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 was going on in many fields and had already led to the international harmonization of requirements in some areas and underlined that this work and harmonization should be supported and continued.

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 support 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 take account of the comments of affected parties. Other suggestions which received varying measures of support were that the GATT secretariat should be notified of changes in requirements, that there was a need for procedures for prior consultations on mandatory packaging and labelling requirements, that a grace period should be allowed before new requirements were introduced, except where urgent reasons of safety, health, etc. made this impossible, and that in the solution a distinction might be drawn between goods sold to the consumer and other goods. The question was also raised as to whether it would be useful to draw up an inventory of references to national practices, provisions and legislation in the field of packaging and labelling, setting out a summary description of products or areas covered by the provision, whether the provision conforms to international standards, where these exist, or to provisions of other countries and the services which are responsible for the drawing up and administration of the provision.

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;
- (d) technical assistance for developing countries; and
- (e) the need for not raising the cost of exports from developing countries due to excessive requirements in the field of packaging and labelling.

13. Many delegations said that the proposed GATT instrument for preventing technical barriers to trade (the Code, COM.IND/W/108 and Corr.1) already contained provisions to deal with most of the issues raised in paragraphs 11 and 12. In fact, several delegations stressed that the intention of the Code was to cover the field of packaging and labelling and that, by and large, it did cover the problems which had been identified. It was questioned, however, whether the Code dealt with every problem in this field, and it was 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. It was further suggested that small appropriate amendments to the present Code might solve the problems in this field. For other delegations, it would be premature to decide at the present stage among a number of possible approaches that could be adopted in the course of the negotiations. For these delegations, a number of substantive provisions in the draft Code could be applicable to the solution of problems that have been identified, in particular to those concerning the application of internationally harmonized rules, the publication of new provisions, dissemination of information, institution of a period of grace before new provisions enter into force, consultation in case of difficulty.

Some of these delegations considered that the establishment of an arbitration body would also be useful. In addition, those delegations considered that it might be appropriate to solve individually any specific problems that were identified (e.g. by product group).