

GENERAL AGREEMENT ON

RESTRICTED

TARIFFS AND TRADE

TBT/W/127/Rev.1
21 February 1990

Special Distribution

Committee on Technical Barriers to Trade

Original: English

PRODUCT APPROVAL PROCEDURES

Proposal by the United States

Revision

Introduction

The delegation of the United States submitted for consideration a draft proposal, "Procedures for Issuing Product Approval" (TBT/W/107), subsequently revised in TBT/W/127. In the light of further discussion of that proposal, the proposal has been revised for further consideration. (Revised paragraphs have been noted by (*), with the changes underlined).

Proposed amended language for "Preamble" (paragraph 5):

"Desiring however to ensure that technical regulations and standards, including packaging, marking and labelling requirements, methods for certifying conformity with technical regulations and standards, and product approval procedures do not create unnecessary obstacles to international trade;"

Proposed amendment to Agreement as new Article 9:

PRODUCT APPROVAL PROCEDURES

Article 9

9.1 Parties shall ensure that product approval procedures are not prepared, adopted or applied with a view to creating obstacles to international trade. They shall likewise ensure that neither product approval procedures themselves nor their application have the effect of creating unnecessary obstacles to international trade.

9.2 Unnecessary obstacles to trade shall not be deemed to be created if the demonstrable purpose of such procedure is necessary for reasons of inter alia national security; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological problems, and the procedure does not operate to exclude goods of another Party that meet those legitimate objectives.

9.3 Parties shall, to the extent possible, base their approval procedures on existing international certification schemes.

9.4 Parties shall ensure that products originating in the territories of other Parties are accorded access to product approval procedures under conditions no less favourable than those accorded to like products of national origin or originating in any other country, in a comparable situation. They shall likewise ensure that such products are approved under procedures that are no more complex and no less expeditious than those for like products of national origin or originating in any other country. To this end they shall apply the following provisions:

9.4.1 product approvals shall be undertaken and completed without undue delay in a no less favourable order for imported products as for like domestic products;

9.4.2 any requirements for approval of individual specimens of a product shall be limited to what is reasonable and necessary;

9.4.3 any fees imposed for approval of imported products shall be equitable in relation to any fees chargeable for approval of like domestic products;

*9.4.4 information for the approval of imported products shall be requested only to the extent necessary for establishing the product's conformity to the relevant technical requirements or associated systems requirements, and the fees thereof;

9.4.5 timely information concerning the progress of the approval shall be made available to the exporter or importer or their agents, if requested, including an indication of the requirements of the applicable technical regulations that the product failed to meet and of the parameters of the product that failed to meet the applicable technical regulations, so that corrective action may be taken if necessary;

9.4.6 approval authorities shall make their approval decisions on the basis of sound technical evidence;

9.4.7 the siting of product approval facilities and the selection of samples for approval shall not be such as to cause unnecessary inconvenience for importers, exporters or their agents;

9.4.8 the confidentiality of information about imported products arising from or supplied in connection with obtaining product approval shall be respected in the same way as for domestic products.

*9.5 Parties shall ensure that an appeals procedure is available for complaints arising from the denial of approval.

9.6 Parties shall ensure that compliance with approval procedures is not made mandatory until administrative mechanisms for granting approvals have been made operational.

*9.7 Parties shall ensure, whenever possible, that their central government bodies accept testing and inspection results, certification or approvals issued by relevant bodies, or rely on declaration of conformity by producers, in the territories of other Parties, even when the testing, inspection, or conformity assurance methods used for product approval differ from their own, provided they are satisfied that the methods employed in the territory of the exporting Party provide a sufficient means of evaluating whether the criteria have been fulfilled. It is recognized that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding regarding the methods and procedures employed in the territory of the exporting Party, in particular in the case of perishable products or of other products which are liable to deteriorate in transit.

*(New)9.8 Parties shall ensure that their testing, inspection, certification and approval methods and administrative procedures are such as to permit, as far as practicable, the implementation of the provisions in Article 9, paragraph 7.

9.9 Parties shall ensure that all requirements concerning product approval procedures are published or otherwise made available in such a manner as to enable, without discrimination, interested parties in other Parties to become acquainted with them.

9.10 Whenever a proposed change in product approval procedures may have a significant effect on trade of other Parties, Parties shall notify the proposed changes to other Parties through the GATT secretariat; allow, without discrimination, a reasonable time for other Parties to make comments in writing; discuss these comments upon request, and take these written comments and the results of these discussions into account.

9.11 Where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party which necessitate a change in product approval procedures, that Party may omit such of the steps enumerated in Article 9, paragraph 9 as it finds necessary provided that the Party, upon adoption of the approval procedure, notifies immediately other Parties through the GATT secretariat; allows, without discrimination, other Parties to make comments in writing; discusses these comments upon request, and takes these written comments and the results of these discussions into account.

9.12 Enquiry points shall provide, upon request, copies of the requirements referred to in Article 9, paragraphs 9, 10, and 11.

*(New) 9.13 Except in those urgent circumstances referred to in Article 9, paragraph 11, Parties shall allow a reasonable interval between the publication of requirements concerning product approval and their entry into force in order to allow time for producers in exporting countries, and particularly in developing countries, to adapt their products or methods of production to the requirements of the importing country.

Proposed addition to Article 10 (as new Article 10.1.4):

"10.1.4 any requirements concerning product approval procedures, or proposed approval procedures;"

*Proposed addition to Article 12:

*12.4: "Parties recognize that, although international standards may exist, in their particular technological and socio-economic conditions, developing countries adopt certain technical regulations or standards including testing and inspection methods, and product approval procedures, aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Parties therefore recognize that developing countries should not be expected to use international standards as a basis for their technical regulations or standards, including testing and inspection methods, or product approval, which are not appropriate to their development, financial and trade needs.

Proposed addition to Annex 1 (as new definition "4"):

4. "Approval"

"Declaration by a central government body that a set of published mandatory criteria has been fulfilled and therefore that goods are permitted to be used in a specific manner or for a specified purpose."