

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Technical Barriers to Trade

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HANDLING OF COMMENTS ON NOTIFICATIONS

Proposal by the Delegation of the European Economic Community

Article 2, paragraph 5.4 of the GATT Agreement on Technical Barriers to Trade provides that Parties shall in regard to technical regulations "allow, without discrimination, reasonable time for other Parties to make comments in writing, discuss these comments upon request, and take these written comments and results of these discussions into account".

The Committee on Technical Barriers to Trade has already made recommendations on the time which Parties should allow for comments.

Comments are often not acknowledged by the notifying Party, however, and the Party which has made comments is unaware of whether they have been taken into account until publication of the technical regulation in its final form. In the absence of any reply from the notifying Party to comments, no proper basis exists for the discussion between Parties foreseen in Article 2.5.4 of the Agreement.

In the Community's view, Parties to the Agreement are bound to facilitate discussion of proposed technical measures, as well as the submission of comments upon them. The notification and comment procedure would operate more effectively as the starting point for a dialogue between interested Parties if Parties were to reply to comments received from other Parties.

The procedures for replying to comments will, of course, vary from Party to Party according to administrative practice. Some Parties may wish to confer the responsibility for replies on their enquiry points, others on the government agency responsible for the proposed regulation, others on a co-ordinating government agency such as the one which normally receives representations made under Article 14 of the Agreement. Whatever procedure is chosen, however, each Party should clearly indicate to the other Parties where the responsibility for replies to comments lies.

The Community therefore proposes that the Committee on Technical Barriers to Trade recommend that, in order to improve the handling of comments on proposed technical regulations notified under the Agreement:

1. a Party explain within a reasonable time to any Party from which it has received comments its position in respect of those comments, and
2. each Party notify the GATT secretariat of the authority or agency which it has designated as responsible for ensuring that comments receive a reply.