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Committee on Technical Barriers to Trade

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**COLOMBIA – PROPOSED MODIFICATIONS TO RESOLUTIONS 910/2008  
AND 2604/2009 ON POLLUTANT EMISSIONS FROM  
HEAVY VEHICLES WITH DIESEL ENGINES  
(G/TBT/N/COL/185 AND G/TBT/N/COL/186)**

STATEMENT BY MEXICO TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE  
6-7 MARCH 2013

The following communication, dated 20 March 2013, is being circulated at the request of the delegation of Mexico.

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1.1. Mexico wishes once again to express a Trade Concern in relation to notifications G/TBT/N/COL/185 and G/TBT/N/COL/186, circulated by the Secretariat of the World Trade Organization (WTO) on 4 December 2012, concerning the Republic of Colombia's proposed modifications to Resolutions 910 of 2008 and 2604 of 2009 on pollutant emissions from heavy vehicles with diesel engines.

1.2. It is important that I commence my statement by mentioning that Mexico shares Colombia's objective of improving fuel quality and helping to reduce atmospheric pollution, however, we have a number of comments and questions regarding the aforementioned proposed modifications.

1.3. Since 2011, the Mexican Government, through the Ministry of the Economy, has expressed to several officials of the Colombian Government its concern at the significant effects which the measures may have on trade in the products covered by the proposed modifications and their likely inconsistency with Colombia's obligations under the TBT Agreement.

1.4. As regards the Specific Concern that Mexico is expressing today, I should like to explain the reasons for which we consider that these proposed modifications are inconsistent with the TBT Agreement.

1.5. Mexico considers that the draft measures are contrary to Article 2.2 of the TBT Agreement inasmuch as by prohibiting use of EPA technology and by not taking into account all available scientific and technical information to justify such a prohibition, they are more trade-restrictive than necessary. In this respect, the Colombian Government is only taking into account partial information in order to justify the legitimate right to impose this measure.

1.6. The draft regulations refer to economic costs or probabilities and do not establish any cause/effect relationship based on clear scientific evidence regarding the impact on human health of emissions from vehicles using EPA technology. There is no mention anywhere of evidence that could justify any refusal to use EPA technology or the reasons for which its use will be banned from 2015 onwards. There is no comparison either of the reasons for which EURO technology is more suitable for achieving the Colombian Government's intended objective.

1.7. The Mexican Government requests Colombia to provide the scientific information available that specifies the direct relationship between the emissions of various contaminating sources (mobile or fixed), the various contaminants (particulate matter, hydrocarbons and nitrogen monoxide), *inter alia*, which are harmful to Colombians' health.

1.8. Moreover, in the EPA regulations, the mandatory requirement for On-Board Diagnostics Systems controlling nitrogen monoxide (Nox) is based on EPA 10, which specifies 15 ppm (parts per million) of sulphur for diesel. We have information that the Colombian Government is about to produce and supply diesel of 50 ppm of sulphur. Likewise, in EURO IV technology, the OBD requirements are voluntary and not mandatory until EURO V. We find that making this measure mandatory is inconsistent as it will not lead to compliance with EPA technology and even make it difficult to comply with EURO technology.

1.9. We therefore request the Colombian Government to eliminate the OBD requirements on control of nitrogen monoxide (Nox) for EPA 04 and EURO IV and, if absolutely necessary and there are valid scientific grounds, request that the requirement henceforth be based on EPA 10 (2013) and EURO V.

1.10. According to the Colombian Association of Automotive Vehicles ANDEMOS, in 2011 there were 466,946 vehicles registered, of which 160,508 (34%) were "unregulated" trucks or trucks dating back to before 2000. This is why Mexico asks Colombia to conduct a comprehensive analysis of the impact on contaminant reduction to be obtained by applying the new regulations to vehicles currently operating and not only to new vehicles.

1.11. Mexico is also concerned that there have already been cases of regulations that have not been notified to the WTO, in violation of Article 2.9.2 of the TBT Agreement, for example Resolution 2604 of 24 December 2009 or Resolution 1304 of the Bogota District Environment Authority. This resolution ignores the higher standards by raising emission requirements for diesel engines to EURO V and EPA 10 in Bogota without indicating the quality specifications for fuel required by these technologies, the conformity assessment procedures or the equivalent standards. Consequently, neither Mexico nor the other WTO Members were able to exercise their right to make comments, to have these taken into consideration by the Colombian Government and to be able to discuss them with the Colombian authorities.

1.12. The Mexican Government has not been able to identify which conformity assessment procedures will apply in order to prove compliance with the draft measures once they have entered into force. In this respect, the TBT Agreement clearly determines that conformity assessment procedures shall be subject to the principles of transparency. The Mexican Government therefore requests Colombia to state clearly the procedure to be followed for this conformity assessment, once the draft measures have been modified to take into account Mexico's comments, and that the Accreditation Certificate from the engine's country of origin be allowed, whether that of the United States Environmental Protection Agency (EPA) or that of the European Union (EURO).

1.13. Colombia makes assemblers, importers, manufacturers and dealers responsible for the functioning of their products as far as fuel quality is concerned. This is a governmental responsibility and should not be transferred to the private sector.

1.14. Mexico is the foremost exporter of heavy vehicles with EPA technology to Colombia and its trade relations would be seriously affected. Over the past two years, it exported an annual average of 12,000 Mexican heavy vehicles with EPA environmental technology to Colombia, equivalent to an average of US\$1 billion each year, over 20% of the total value of Mexico's exports to Colombia.

1.15. In the light of the arguments put forward, the Mexican Government respectfully requests the Colombian authorities:

- a. To study the comments made by the Mexican Government since 2011, to convene meetings between the technical authorities in order to discuss these comments and to take into account both the comments and the outcome of the discussions when drawing up the definitive measures to be implemented by Colombia.
- b. To submit the scientific and technical elements to justify the decision solely to allow EURO technology and to eliminate EPA technology for the purposes of compliance with the legitimate objectives set by Colombia.

- c. To maintain EPA 04 environmental technology equally with EURO IV technology as both operate with 50 ppm for diesel that will be available in Colombia.
  - d. If this is not taken into account, we would request that a longer period be granted for adopting the aforementioned technologies, at least two years, so that they can be imposed for 2017 and later models.
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