

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Technical Barriers to Trade

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NATIONAL EXPERIENCES ON ENQUIRY POINTS

Contribution from the United States

1. In the United States, four U.S. Government agencies have been given specific responsibilities to ensure smooth implementation of the Agreement on Technical Barriers to Trade (TBT Agreement). The Office of the U.S. Trade Representative (USTR) has the lead role in the development of trade policy. It represents the United States at meetings of the WTO TBT Committee and has overall responsibility for monitoring foreign compliance with the Agreement and in coordinating with other agencies and the private sector its domestic implementation. The Department of Commerce is responsible for the operation of the TBT enquiry point, and maintains a technical office to assist with non-agricultural technical trade issues. The Department of Agriculture maintains a technical office to assist with technical trade issues concerning agricultural products and maintains the enquiry point under the SPS Agreement. The Department of State and embassies abroad assist with the collection and dissemination of information as well as diplomatic policy.

2. The Department of Commerce assigned to the National Institute of Standards and Technology (NIST) Office of Standards Services several responsibilities in the areas of standards information and technical assistance.

I. STANDARDS INFORMATION PROGRAMME - NATIONAL CENTER FOR STANDARDS AND CERTIFICATION INFORMATION

3. The Standards Information Programme of NIST's Office Standards Services is responsible for providing standards-related information to U.S. and foreign organizations as well as standards-related assistance to U.S. industry. The main programme areas are the National Center for Standards and Certification Information (NCSCI) (which serves the U.S. WTO TBT Enquiry Point as required under Article 10) and technical assistance for non-agricultural standards-related issues.

4. Established in 1965 as the Standards Information Service, the National Center for Standards and Certification Information (NCSCI) is designed to meet the needs of government, industry and the public for information on non-agricultural standards, regulations, conformity assessment programmes, and related activities. There are six full time staff members working in the Center.

5. Center staff have access to standards, technical regulations and conformity assessment procedures published by U.S. standards developing organizations, U.S. Federal and State government, and foreign national and international organizations. Sources for these documents include:

- U.S. technical societies, professional organizations and trade associations;
- State regulatory offices;
- U.S. Government agencies and;
- foreign national, regional, and international standardizing bodies.

6. The Center reference collection of standards and standards-related documents includes:

- published standards and related documents;
- reference books, including directories, technical and scientific dictionaries, encyclopædias, and handbooks;
- articles, pamphlets, reports and handbooks on standardization;
- standards-related periodicals and newsletters; and
- CD-ROM, hard copy and microform files of military and Federal specifications, U.S. industry and national standards, and select international and foreign national standards.

7. The Center provides information on existing U.S. standards, technical regulations and conformity assessment procedures. The Center also has information on foreign, U.S. and Federal government conformity assessment programmes. Several directories have been published on these certification programmes along with directories on standards activities of U.S. organizations and regional and international organizations.

8. Center staff respond to standards-related requests via letter, telephone, fax, e-mail, and visitors from U.S. and foreign government bodies, business and industry, schools and universities, the general public, and embassies. NCSCI does not provide copies of copyrighted industry standards: the requester is referred to an appropriate source (e.g., the issuing standards group or other organizations) for a copy of the document or additional information. NCSCI staff use the reference collection and other indexes to identify relevant standards as well as contacts at other Federal agencies and/or standards organizations. This service is free.

9. NCSCI staff work closely with the U.S. SPS enquiry point at the U.S. Department of Agriculture to respond to inquiries. Staff members also work with the various U.S. regulatory agencies to provide information on technical regulations. Information on state regulatory activities is maintained to address local government issues.

10. In response to foreign trade-related inquiries, NCSCI contacts the appropriate foreign WTO TBT Enquiry Point or ISO Information Network (ISONET) member to obtain specific product requirements and rules, including conformity assessment, for exporting U.S. goods to foreign countries. NCSCI will continue to take advantage of information obtainable from other repositories on an as-needed basis in order to provide timely and accurate responses to standards-related inquiries.

A. ENQUIRY POINT

11. The main functions of the U.S. WTO TBT Enquiry Point are: respond to inquiries; report proposed U.S. Federal and local government regulations to the WTO Secretariat; receive and maintain copies of all notifications of proposed foreign regulations and disseminate this information to interested parties; respond to inquiries regarding the TBT Agreement and notifications; maintain the WTO hotline; and publish an annual report on TBT Agreement activities.

12. The Enquiry Point staff maintains a computerized data base of all notifications issued by the WTO Secretariat, enquiries received by NCSCI, and proposed U.S. regulations reported to the Secretariat.

B. NOTIFICATIONS

13. NCSCI staff, as the designated U.S. central government authority responsible for notification procedures under Article 10, identifies and reports to the WTO Secretariat notifications of proposed U.S. regulations in conformance with the relevant Articles under the TBT Agreement (e.g. Articles 2 and 5). In 1997, the U.S. reported 26 proposed U.S. technical regulations. Staff review the *Federal*

Register, published daily by the U.S. Government, to identify those proposed U.S. Government technical rules that are trade significant (see Attachment 1). After consulting the issuing Federal agency for concurrence, the proposed regulation is transmitted in notification form via e-mail directly to the WTO Secretariat in Geneva, Switzerland. The Secretariat, in turn, disseminates the information to WTO Members. Parties in other countries who wish to comment on proposed U.S. regulations are advised to contact the U.S. Enquiry Point, who will handle submission of comments to the issuing U.S. agency.

14. In 1997, NCSCI worked with a private company to review and identify proposed state regulations. The contractor reviewed the publications of all 50 states in an effort to fulfill TBT Agreement requirements for local government notification. No trade significant trade related regulations were identified. The Center continues to work with State officials to identify proposed state regulations.

15. Notifications of proposed foreign regulations are obtained via the WTO website and circulated to concerned Federal agencies, trade associations and other interested organizations. In 1997, 770 notifications were received. Foreign notifications are published in a variety of newsletters, journals and periodicals. Notifications are also distributed to the American National Standards Institute and selected individuals, government officials, and private organizations. NCSCI continually seeks new methods, such as the Internet, to disseminate this information to a wider audience and encourages U.S. organizations to feature this information in their publications.

16. Copies of the full text of proposed foreign regulations notified through the WTO Secretariat are made available free of charge. Copies of proposed U.S. regulations are also available at no charge from the Center. The text is faxed, mailed or sent electronically. Enquiries can usually be handled regardless of their language if the G/TBT/Notification number appears prominently in the request. Requests in English do, however, expedite the response. NCSCI staff responded to over 262 enquiries in 1997 related to text of notified regulations. Many of the requests were for more than one regulation. Requests are answered in the order they are received.

C. COMMENT HANDLING

17. NCSCI collects comments from U.S. groups on proposed foreign regulations and transmits them to the appropriate foreign government agency through the relevant enquiry point. In an effort to enable interested U.S. parties to review and comment effectively on a proposed foreign regulation, NCSCI requests and receives extensions of comment periods when the available time was insufficient to obtain, translate (if necessary), and study the proposed regulation, then prepare comments. NCSCI also collects comments from foreign countries on proposed U.S. regulations and forwards them to the appropriate agency with acknowledgement to the submitter and any necessary follow-up. U.S. industry and foreign parties can, and do, comment directly to the regulatory agency.

D. EXTENSION OF THE COMMENT PERIOD

18. Requests for extensions of the comment period, both U.S. and foreign, are handled by Center staff by contacting the appropriate U.S. regulatory agency or foreign enquiry point. In 1997, NCSCI received eleven requests for extensions of the comment period related to U.S. regulations. NCSCI requested the extension of eight foreign regulations.

E. TRANSLATIONS

19. NCSCI uses an outside contractor (private company) to coordinate English translations of proposed foreign regulations upon request. The cost of translation is paid by the requester. If more

than one request is received for the same translation, the cost may be divided equally among requesters.

F. HOTLINE

20. The Enquiry Point at NIST maintains a WTO hotline to provide up-to-date information on notifications of proposed foreign regulations. The hotline - a recorded message which is updated once a week - may be reached by calling (301) 975-4041 at any time. The message includes product, country, closing date for comments, and G/TBT/Notification number for each notification, and a phone number for obtaining additional information.

G. PUBLICATIONS

21. In addition to specialized directories and general information publications, an annual report summarizing NIST's TBT Agreement activities is prepared and disseminated to interested parties in the U.S. and to all WTO TBT enquiry points. A brochure describing Center activities is also available.

H. TECHNICAL ASSISTANCE

22. Other programmes within the Office of Standard Services perform the following functions related to TBT Agreement issues: provide assistance to U.S. exporters on specific technically-based, standards-related issues; assist the International Trade Administration (Department of Commerce) and Office of the U.S. Trade Representative in developing technical positions for bilateral and multilateral discussions; monitor the level of U.S. participation in international standardization activities to assure that the U.S. is adequately represented in crucial areas; and participate in the U.S. Trade Representative's Trade Policy Staff Committee's Subcommittee on Standards and on the Department of Commerce's Industry Functional Advisory Committee. Staff assist individuals in determining whether or not a proposed foreign regulation is consistent with current U.S. regulations and standards and other international regulations and standards. They also handle complaints from U.S. industry representatives concerning current foreign standards and certification practices that are considered to be technical barriers to trade.

23. NCSCI staff participate in or sponsor workshops or seminars on standards information and the operation of WTO TBT enquiry points. Representatives from around the world visit the Center as part of NIST's Standards in Trade training programme and receive an overview of NCSCI programmes and activities.

II. CONCLUSION

24. The network of WTO TBT enquiry points provides the United States and all WTO Members with an effective means for obtaining standards information. The transparency provisions, specifically the notification requirements, provide exporters with important product requirements and the opportunity to comment on proposed trade significant regulations. As NCSCI continues to expand its standards information activities, staff members will work closely with other enquiry points to meet the needs of all WTO members.

FOR FURTHER INFORMATION CONTACT:

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ATTACHMENT 1

**United States Procedures for Identifying Proposed
Central Government Regulations**

The National Center for Standards and Certification Information (NCSCI) of the National Institute of Standards and Technology's Office of Standards Services, performs the "Enquiry Point" functions for the United States under the WTO Agreement on Technical Barriers to Trade (TBT). One of NCSCI's responsibilities is to report to the WTO Secretariat proposed U.S. Government technical regulations and conformity assessment procedures which might significantly affect trade as required under Articles 2 and 5 of the TBT Agreement. The United States is committed to notifying all proposed rules that may significantly affect imports from WTO Members.

Proposed U.S. Government technical regulations and conformity assessment procedures are published in the *Federal Register*, a daily Federal Government publication which contains Rules, Proposed Rules and Notices of Government Regulatory Actions. (Note: The terms "Rules" and "Regulatory Actions" include the TBT Agreement defined terms "technical regulations" and "conformity assessment"). NCSCI staff review the *Register* to identify those proposed regulations which might impede trade. The procedures and criteria used are outlined below.

- NCSCI staff review the Table of Contents of the *Register* which lists, by U.S. regulatory agency, the type of action and brief description of the subject area. Under the heading, Proposed Rules, certain words within the description (e.g., "standards", "regulation", "certification") signal that a particular action potentially should be notified. The page numbers of the notices are noted.
- Each notice published in the *Register* includes a summary paragraph which describes the action and product(s) covered. For each notice identified under Proposed Rules, as described above, the summary is reviewed to determine whether it concerns a voluntary standard, adoption of an international standard, a change in an existing regulation, establishment of a new regulation, or a change in administrative policy or procedure. Those notices that indicate a change or establishment of a new regulation are examined further to establish whether or not to notify.
- A proposed rule should be notified if it is trade significant. NCSCI staff use several sources to supplement their own information concerning the notification process, including: (a) the types of notifications previously issued by WTO Members; (b) the background information contained in the published version of each proposed regulation; and (c) consultations with the issuing Federal agency. These sources provide the necessary information to determine trade significance. This information includes: significant import market, importance to foreign manufacturers in preventing import delays, and possibility that the product will be imported in the future.
- In rare cases, neither the notice nor the issuing agency can provide enough information to assess the proposed rule's possible trade impact. NCSCI staff then contact the International Trade Administration (Department of Commerce (DoC)). Various DoC offices maintain product/country statistics that can help determine whether or not: (a) the products in question affect WTO members; and (b) the trade significance of the product in terms of: dollar volume of imports, market size or potential market growth. (Note: These criteria to determine whether a proposed regulation should be notified, was a recommendation adopted by the Committee on Technical Barriers to Trade as contained in G/TBT/1/Rev.5, p. 15.) If the product concerned is imported from a WTO Member and/or has a large trade volume, the proposed regulation is notified.

- It is, of course, difficult to assess the significance of the impact of a specific proposed regulation. Where there is a doubt as to the level of trade impact, the United States notifies the proposed regulations.
 - Notifications of proposed regulations are sent electronically directly to the WTO Secretariat in Geneva as soon as possible after trade significance can be determined. Copies of the full text of all proposed U.S. regulations are available free of charge from the NCSCI office.
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