

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/TBT/W/53**

18 September 1997

(97-3793)

**Committee on Technical Barriers to Trade**

Original: English/French

## EUROPEAN COMMUNITY WORKING PAPER ON THE FIRST TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE

### Communication from the European Communities

The following communication concerning the Triennial Review of the Agreement on Technical Barriers to Trade, dated 29 July 1997, has been received from the Commission of the European Communities with the request that it be circulated to the Members of the Committee.

1. Further to the request of the Committee on Technical Barriers to Trade of 20 June 1997, the European Community sets out below, for insertion into the conclusions of the Committee, the texts of proposals it made in its note of 10 February 1997, with a view to the first three-year review of the Agreement on Technical Barriers to Trade (G/TBT/W/36). The grounds for these proposals are set out in the abovementioned note.

2. Among the proposals made by the European Community, only those which should lead to the adoption of decisions are repeated in the present document. The European Community reserves the right to review the content of these proposals as work proceeds. The measures proposed fall into two categories:

- (a) Operational measures, which are to be applied immediately, with the aim of improving the implementation and operation of the TBT Agreement in the following fields:
  - (i) notification, in accordance with Article 15.2, of measures taken by Members to ensure the implementation and administration of the Agreement;
  - (ii) acceptance of the Code of Good Practice for the preparation, adoption and application of standards, annexed to the Agreement;
  - (iii) the procedure for notifying draft technical regulations and conformity assessment procedures;
  - (iv) application of the ISO/IEC guides designed to facilitate conformity assessment;
  - (v) technical assistance;
  - (vi) use of international standards and guides.

- (b) The work programme of the Committee on Technical Barriers to Trade, based on the examination of the various approaches to technical regulations and their consequences for market access.

The European Community proposes that the Committee should initially take a more detailed look at the following three aspects:

- (i) conformity assessment procedures and their conditions of application, together with the conditions for the recognition of the results of those procedures and international and regional systems of conformity assessment;
- (ii) measures relating to the development of the role of international standards in the application of the TBT Agreement;
- (iii) relations between national, regional and international standardising bodies.

I. MEASURES TO IMPROVE THE IMPLEMENTATION AND OPERATION OF THE TBT AGREEMENT

A. Notification of measures taken to ensure the implementation and administration of the TBT Agreement (Article 15.2)

3. The Committee will make the necessary arrangements to be in a position to establish, during the three-year review, that all Members have notified the measures taken to ensure the implementation and administration of the Agreement, in accordance with Article 15.2 thereof, and have submitted the written statements provided for in the decisions agreed by the Committee on the subject (G/TBT/1/Rev.4, Section B).

4. To this end, at the meeting on 3 October 1997, the Committee will invite Members who have not fulfilled their obligations under Article 15.2 to notify the abovementioned measures in good time before the meeting of the TBT Committee on 12 and 13 November 1997.

5. The Chair will organise individual meetings with the Members concerned, in order to give them any assistance they require.

6. During the three-year review the Committee will evaluate the content of the written statements submitted by Members in the light of the provisions of the decision that it has adopted, and will send Members recommendations needed in order to supplement those statements.

B. Acceptance of the Code of Good Practice for the preparation, adoption and application of standards (TBT Agreement, Annex 3)

7. The Committee will make the necessary arrangements to be in a position to establish, during the three-year review, a significant increase in the number of acceptances of the Code of Good Practice by standardising bodies.

8. To this end, at the meeting of 3 October 1997, the Committee will invite Members to indicate the steps that they have taken to fulfil the obligations incumbent upon them pursuant to Article 4.1, first and second sentences, of the TBT Agreement, relating to the acceptance of the Code of Good Practice by the standardising bodies, and, where appropriate, the reasons why the bodies within their territories have not accepted the Code.

C. Notification procedures

9. The decisions and recommendations adopted by the Committee since 1 January 1995 and set out in Document G/TBT/1/Rev. 4, Section B are to be supplemented or amended as follows:

(a) Local government bodies directly below central government level

Decision:

*Members whose local government bodies directly below central government level are authorized to adopt technical regulations or conformity assessment procedures shall inform the Committee thereof. The Secretariat will include a list of such Members in the documents prepared for the annual reviews of the implementation and operation of the TBT Agreement.*

(b) Body responsible for notification procedures

Decision:

*The name and address of the body or authority designated to handle comments concerning the notification of a draft technical regulation or conformity assessment procedure must be indicated in the notification form if they are not the same as those of the body responsible for the draft.*

(c) Reference to international standards and international guides or recommendations

Decision:

*Reference to relevant international standards or international guides or recommendations and, where appropriate, the reasons why the notified draft is not in accordance with those international standards, guides or recommendations must be indicated in the notification form.*

*A section is added for this purpose in the notification form.*

N.B.: A similar provision should apply *mutatis mutandis* to draft standards published in accordance with paragraph L of the Code of Good Practice annexed to the TBT Agreement.

(d) Communication of texts and translation of notified drafts

Decision:

*Members shall attach the text of the draft to the form notifying the WTO of a draft technical regulation or conformity assessment procedure.*

*Developed country Members shall also attach to the notification form a translation or, if the draft in question is voluminous, a summary of it translated into one of the working languages of the WTO.*

*The Secretariat will send a copy of the abovementioned documents to any Member on request.*

(e) Time allowed for comments

Decision:

*The time limit for comments shall be sixty days from the date of communication of the notification of the draft technical regulation or conformity assessment procedure effected by the WTO Secretariat in accordance with Article 10.6 of the TBT Agreement. A Member may, if necessary, however, indicate in its notification that it will proceed to implement the proposed measure after 45 days if no comments or requests for extension of the time limit have been received from other Members within that time. Any Member which is able to provide a time limit beyond sixty days is encouraged to do so.*

(f) Handling of comments

Decision:

*Any Member which receives comments on a notification shall reply to those comments within a reasonable period of time and, in any event, before the final adoption of the notified draft.*

(g) Role of the Committee

Decision:

*The Committee shall ensure the smooth operation of the notification procedures. If necessary, the Secretariat shall supplement the notification forms communicated by Members, with the agreement of the latter.*

D. ISO/IEC guides on conformity assessment

10. The European Community reserves the right to make proposals concerning the application of the ISO/IEC guides on conformity assessment in the light of the conclusions of the Technical Working Group instructed by the Committee to examine those guides and the way in which they can help to improve the application of Articles 5 and 6 of the TBT Agreement.

11. The European Community reserves the right to make proposals concerning the application of the ISO/IEC guides on conformity assessment activities by WTO Members (Note No 3146, June 1997).

E. Technical assistance

Declaration of the Members:

*In the interest of transparency, donor Members consider it useful to communicate to the Committee information concerning their technical assistance programmes, including regional programmes, and to update this information each year. It will be included in the documents prepared for annual reviews of the implementation and operation of the TBT Agreement.*

N.B.: The Committee's decision concerning technical assistance included in document G/TBT/1/Rev.4, Section E remains unchanged.

## II. WORK PROGRAMME OF THE TBT COMMITTEE

### Decision:

*The Committee will examine the various approaches to technical regulations and their consequences for market access, in order to harmonise those approaches and thereby facilitate trade in goods by preventing the appearance of technical barriers.*

*To this end, the Committee invites Members to communicate to it in writing a brief description of their approach to technical regulations and standardisation.*

*The Committee's work programme will initially cover the following aspects:*

#### (a) Conformity assessment procedures

*The Committee recalls that, pursuant to Article 5.1.2 of the TBT Agreement, "conformity assessment procedures shall not be more strict or be applied more strictly than is necessary to give the importing Members adequate confidence that products conform with the applicable technical regulations or standards, taking account of the risks non-conformity would create".*

*In order to facilitate application of the provisions of the TBT Agreement, and in particular Article 5 thereof, the Committee will examine the various types of conformity assessment procedures and their conditions of application. The Committee notes that, of these procedures, the manufacturer's declaration of conformity is in principle the least trade-restrictive. The Committee therefore encourages the use of this procedure by Members, provided that it takes sufficient account of the public order requirements of protection of human health and safety, the environment and consumers and that it makes provision to ensure:*

- that manufacturers are able to provide the proof required by the regulations, particularly the technical documentation, and take the necessary measures to ensure that the manufacturing process guarantees the conformity of the products to this technical documentation;*
- proper supervision of the market by the public authorities;*
- the existence of a system of product liability.*

*The Committee decides to add to the examination of the conformity assessment procedures the examination of :*

- the conditions governing recognition of the results of those procedures, as covered by Article 6 of the TBT Agreement;*
- the international and regional conformity assessment systems, as covered by Article 9 of the TBT Agreement.*

*The Committee will entrust the examination of the abovementioned questions to the Technical Working Group set up to study the ISO/IEC guides and recommendations in connection with Articles 5 and 6 of the TBT Agreement.*

(b) Application of international standards and international guides or recommendations

*Aware of the role that the application of international standards and international guides or recommendations can play in preventing technical barriers to trade, the Committee invites Members to ensure that these international documents are used as fully as possible by all bodies concerned, including the standardising bodies, in accordance with the provisions of the TBT Agreement.*

*The Committee will develop cooperation with international standardising bodies to ensure that international standardisation work takes account of the needs of international trade when setting priorities, setting deadlines for the adoption of international standards and adapting standards to technical progress, while ensuring a high level of requirements.*

*The Committee will shortly invite international standardising and conformity-assessment bodies to establish and give Members access to the regularly updated list of international standards they have adopted which are regarded as acknowledged rules of technology<sup>1</sup> and which in their view may have an effect on trade, including the status of the transposal or acceptance of the international standards by the members of those bodies;*

*The Committee will also invite the competent international standardising and conformity assessment bodies to provide the necessary information on the progress of international harmonisation and initiatives planned in the area in question, when communicating notifications in accordance with Article 10.6 of the TBT Agreement.*

*Where necessary, the Committee will send the international standardising bodies all relevant recommendations concerning the preparation of international standards in connection with the application of the TBT Agreement.*

*The Committee will undertake the necessary work to identify the international standards and international guides and recommendations relevant to the TBT Agreement and, to that end, define the criteria to be satisfied by those documents for the purpose of applying this Agreement, taking account of the diversity of international bodies and legal instruments concerned and of the necessity to obtain a coherent set of international standards.*

*On the basis of experience gained, the Committee will consider whether it is possible to introduce a procedure for monitoring the international harmonisation process and the use of international standards which have a major impact on trade.*

*The Committee will set up a Working Party to examine these matters relating to the role of international standards and international guides and recommendations in the application of the TBT Agreement.*

(c) Coordination of the activities of national, regional and international standardising bodies:

*The Committee notes that if the process of international harmonisation of standards is to be effective and if the role of international standards and international guides or recommendations in the application of the TBT Agreement is to be developed, it is necessary to clarify the structures and working methods of the standardising bodies at the various levels, and in*

---

<sup>1</sup>ISO/IEC Guide 2:1991, 1.5

*particular non-government bodies, and to ensure effective coordination of their activities, in accordance with the provisions of paragraph H of the Code of Good Practice.*

*Therefore, the Committee calls on the international standardising bodies to devise procedures for their cooperation with the national and regional standardising bodies of which they are composed, to ensure that the hierarchy of standards is respected and to harmonise the procedures for cooperation between bodies established in different geographical areas. Such procedures should in particular cover:*

- a mutual information procedure on standardisation work;*
- the conditions governing the transfer of standardisation work at international level;*
- measures aimed at ensuring that international, regional and national standards are consistent.*

*At the same time, the Committee invites national and regional standardising bodies to develop mutual information procedures with their counterparts in other geographical areas.*

*The Committee invites the Working Party set up to examine the role of international standards in the application of the TBT Agreement to study :*

- the means intended to improve the transparency of standardising activities;*
- the procedures for cooperation between regional, national and international standardising bodies, taking as a working basis the Vienna Agreement between ISO and CEN on the one hand, and the Dresden Agreement between IEC and CENELEC on the other, and the rules governing relations between regional and national bodies in the Members' territorial jurisdictions.*