

INDIAN PAPER ON THE FIRST TRIENNIAL REVIEW

Communication from India

The following communication, dated 21 July 1997, reflecting the preliminary position of the Government of India with respect to the Triennial Review of the Agreement on Technical Barriers to Trade has been received from with the request that it be circulated to Members of the Committee.

I. INTRODUCTION

1. India's overall view is that the operation of the WTO Agreement on Technical Barriers to Trade during the first three years of its existence reveals the significant potential of the Agreement to further the objectives of GATT 1994, especially in ensuring that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade.

2. India places special importance, as a developing country, to those provisions of the Agreement which are directed towards addressing the special interests of developing countries, such as the contribution which international standardization can make to the transfer of technology from developed to developing countries, assistance to developing countries in the formulation and application of technical regulations and standards and procedures for assessment of conformity with technical regulations and standards.

3. The annual reviews by the Committee on Technical Barriers to Trade so far reveal that the Committee has been unable to make an adequate assessment of the implementation and operation of this specific aspect of the Agreement. Consequently, India would like the Triennial Review to focus on an assessment of the full implementation of these provisions of the Agreement, especially Articles 11 and 12.

4. India is of the view that until a full assessment of the implementation of all the provisions, including the provisions of Articles 11 and 12, of the Agreement is made, it would be premature for the Committee during the first Triennial Review to recommend proposals for amendments to the text of the Agreement. Otherwise, such proposals could, in India's view, *inter alia* prejudice the provisions of Article 12 of the Agreement and shift the attention of the Review away from implementation of the Agreement's provisions.

II. IMPLEMENTATION OF ARTICLE 12

5. The Review should examine the implementation of the provisions of Article 12, as these are mandatory provisions of the Agreement. In this context, India proposes that the Committee should address the following specific issues:

- (i) Examination of the particular attention given by developed country Members since the entry into force of this Agreement to take into account the special development, financial and trade needs of developing country Members in the implementation of the Agreement, both nationally and in the operation of the Agreement's institutional arrangements.
- (ii) Examination of the technical regulations, standards and conformity assessment procedures adopted by developed country Members since the entry into force of the Agreement, with a view to assess the extent to which the special development, financial and trade needs of developing country Members have been taken into account by the concerned developed country Member.
- (iii) Examination of the organization and operation of relevant international standardizing bodies and international systems for conformity assessment, with a view to assess the extent special problems of developing country Members have been taken into account in these bodies.
- (iv) Examination of technical assistance provided to developing country Members under the provisions of this Agreement to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures have not created unnecessary obstacles to the expansion and diversification of exports from developing country Members.

6. India would propose for the Committee's consideration that these four issues should be examined in the course of the Review on the basis of notifications received from Members during the operation of this Agreement, and could be supplemented if necessary by asking for information from Members and relevant international standardizing bodies, through a communication from the Committee.

III. OTHER ISSUES

7. The Committee should examine problems faced by developing country Members in the implementation of provisions of the Agreement at the national level by central government bodies, local government bodies and non-governmental bodies.

8. The Committee should identify problems being faced by developing country Members in effectively meeting notification obligations specified in the provisions of the Agreement.

9. The Committee should examine steps taken and notified by developed country Members to the WTO to ensure the effective participation of, and consultations with, developing country Members in the preparation and application of technical regulations, standards and conformity assessment procedures.

10. The Committee should examine the steps taken in the WTO to assess the capacity of developing country Members to prepare and adopt technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs, keeping in view their particular technological and socio-economic conditions and their development, financial and trade needs.

11. The Committee should examine any initiatives taken by relevant international standardizing bodies to ensure broad and effective participation of developing country Members in the international standardizing bodies and international systems for conformity assessment procedures;
12. The Committee should examine any initiatives taken by Members to generate greater knowledge of, and exposure to, technologies relevant to international standardization among developing country Members.
13. The Committee should examine any steps taken by international standardizing bodies concerning products of special interest to developing country Members, including the extent of facilitation of market access of developing country suppliers through the adoption of such steps.
14. The Committee should examine any steps taken by developed country Members to enable expansion and diversification of exports from developing country Members through the provision of technical assistance;
15. The Committee should examine any steps taken by developed country Members to hold consultations with developing country Members under the provisions of the Agreement, and the areas of technology covered by such consultations.

IV. MATTERS FOR INCLUSION IN THE COMMITTEE'S FUTURE WORK PLAN

16. Based on the review of the issues mentioned above, India would propose that the Committee should consider including the following matters in its future programme of work, which could be taken up during the next three years and reviewed during the Second Triennial Review of the Agreement.
17. The use of positive measures to engender capacity building in developing countries for the purpose of preparation and adoption of technical regulations, standards or conformity assessment procedures, keeping in view their particular technological and socio-economic conditions.
18. The commissioning of a study by the Secretariat to identify the barriers to the market access of developing country suppliers, especially from the small and medium sized enterprises (SMEs), created by buyers in developed countries insisting that these suppliers use international standards as the basis for their technical regulations or standards, including test methods, which may not be appropriate to their development, financial and trade needs.
19. The consideration of measures relevant to the transfer of technology on preferential and non-commercial terms to developing countries for preparing and adopting technical regulations, standards or conformity assessment procedures conducive to their technical and socio-economic conditions and to their development, financial and trade needs.
20. The commissioning of a study by the Secretariat on the participation of developing country Members in international standardizing bodies and international systems for conformity assessment procedures, to assess whether and how account is taken of special problems of developing countries in such bodies and systems.
21. The encouragement of the organization of international meetings relevant to the provisions of the Agreement in the territories of developing country Members to give greater representative participation by such Members to the deliberations and recommendations of such international meetings.