

WORLD TRADE ORGANIZATION

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Negotiating Group on Market Access

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MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Communication from the European Communities and the United States

The following communication, dated 26 October 2007, is being circulated at the request of the delegations of the European Communities and the United States.

The following submission, dated 26 October 2007, is being circulated at the request of the Delegations of the United States and the European Communities. The United States and the European Communities understand and intend that, if WTO Members adopt this draft Understanding, it would be legally binding on Members and would constitute an interpretation of the Agreement on Technical Barriers to Trade set out in Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization. As such it would be part of a covered agreement under the Understanding on Rules and Procedures Governing the Settlement of Disputes.

**Understanding on the Interpretation of
the Agreement on Technical Barriers to Trade with respect to
the Labelling of Textiles, Clothing, Footwear, and Travel Goods**

Members,

Recalling that pursuant to paragraph 16 of the Doha Ministerial Declaration, Members agreed to negotiations aimed at reducing or, as appropriate, eliminating tariffs and non-tariff barriers on non-agricultural products;

Recognizing the important contribution of the textile, clothing, footwear, and travel goods sectors to global economic growth and development;

Desiring to promote cooperative and effective approaches to address unnecessary obstacles to international trade and enhance trade in textiles, clothing, footwear, and travel goods;

Taking into account that labelling has an important function of informing consumers of certain characteristics of textiles, clothing, footwear, and travel goods;

Reaffirming their existing obligation under the Agreement on Technical Barriers to Trade (TBT Agreement) to ensure that technical regulations and conformity assessment procedures are not prepared, adopted, or applied with a view to or with the effect of creating unnecessary obstacles to international trade;

Desiring to interpret the provisions of the TBT Agreement as they apply to labelling requirements for textiles, clothing, footwear, and travel goods;

Hereby *agree* as follows:

Scope

1. This Understanding applies to the labelling of products specified in the Annex to this Understanding.

Labelling

2. If a Member requires information on a label, a Member's requirement to include any of the following information shall be rebuttably presumed to be not more trade-restrictive than necessary under Articles 2.2 and 2.5 of the TBT Agreement:

- 2.1 with respect to textiles and clothing, fiber content, country of origin, and care instructions¹;
- 2.2 with respect to footwear, predominant materials of core parts² and country of origin; and
- 2.3 with respect to travel goods, fiber content and country of origin.

¹ This presumption covers requirements using relevant international standards, or the relevant parts of such standards, as a basis for the Member's technical regulations regarding care instructions on labels.

² There are three "core parts" of footwear: (1) upper, (2) lining and sock, and (3) outer sole.

A Member may only require additional information on a label when it is not inconsistent with Article 2.2 of the TBT Agreement.

3. Members shall give positive consideration to permitting any required information to be included on a non-permanent³ label rather than a permanent label.⁴

4. A technical regulation of a Member that:

- 4.1 prohibits the information included on a label from being in more than one language, for example by prohibiting such information from being in a language other than the Member's official language(s);
- 4.2 requires a label to be pre-approved, registered or certified;
- 4.3 prohibits a label from including information that is not required by the Member, such as brand names;⁵ or
- 4.4 specifies requirements that a label be of one or more materials;

shall be rebuttably presumed to be more trade-restrictive than necessary to fulfill a legitimate objective within the meaning of Article 2.2 of the TBT Agreement.

5. Notwithstanding Articles 2.9 and 5.6 of the TBT Agreement, if a Member proposes to adopt or amend a technical regulation or conformity assessment procedure with respect to labelling, in whole or in part, it shall:

- 5.1 publish the proposed technical regulation or conformity assessment procedure in a publication at the earliest appropriate stage, in such a manner as to enable interested persons in other Members to become acquainted with it and to submit comments before the Member finalizes the technical regulation or conformity assessment procedure;
- 5.2 notify other Members through the Secretariat of the products to be covered by the proposed technical regulation or conformity assessment procedure, together with a brief indication of the measure's objective and rationale and an identification of the parts of the regulation or procedure which in substance deviate from relevant international standards and, in the case of a permanent label, the reason for requiring information other than that covered by paragraphs 2.1-2.3 of this Understanding. Such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;
- 5.3 allow no less than 60 days for Members to submit comments in writing. The Member shall give favourable consideration to reasonable requests to extend the comment period; and

³ "Non-permanent label" means any label on a product attached or affixed through stickers, hangtags, or through other similar means that can be removed or on the package of the product.

⁴ "Permanent label" means any label on a product that is securely attached or affixed through gluing, printing, sewing, embossing, silk screening, or other similar means.

⁵ "Information" for purposes of subparagraph 4.3 means information related to the product or the marketing of the product and does not include information that is false, deceptive or misleading.

- 5.4 discuss these comments upon request with the Member or interested person providing them, and take these written comments and the results of these discussions into account in finalizing the measure, and publish or otherwise make available to the public, either in print or electronically, its responses to significant comments it receives no later than the date it publishes the final technical regulation or conformity assessment procedure.
6. Notwithstanding Articles 2.10 and 5.7 of the TBT Agreement, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 as it finds necessary, provided that the Member upon adoption of a technical regulation or conformity assessment procedure shall:
- 6.1 publish the final technical regulation or conformity assessment procedure in a publication at the earliest appropriate time, in such a manner as to enable interested persons in other Members to become acquainted with it;
- 6.2 notify other Members through the Secretariat of the products to be covered by the final technical regulation or conformity assessment procedure, together with a brief indication of the measure's objective and rationale, including the nature of the urgent problems, and an identification of the parts of the regulation or procedure which in substance deviate from relevant international standards.
- 6.3 allow interested persons and other Members to submit comments in writing and discuss these comments upon request with the Member or interested person providing them, and take these written comments and the results of these discussions into account in deciding whether to modify the regulation or procedure, and publish or otherwise make available to the public, either in print or electronically, its responses to significant comments it receives at the earliest appropriate date after it publishes the final technical regulation or conformity assessment procedure.

Final Provisions

7. The Committee on Technical Barriers to Trade shall review the operation and implementation of this Understanding, including the list of products contained in the Annex, on an annual basis. The Committee shall also review other developments in technical regulations and conformity assessment procedures involving international trade in textiles, clothing, footwear, and travel goods of importance to this Understanding in accordance with the Committee's procedures.⁶
8. The Annex to this Understanding constitutes an integral part thereof.

⁶ It is understood that, for this purpose and to facilitate transparency, exchanges of information, and discussions among Members, the WTO Secretariat will prepare an annual report of the notifications received by the WTO Secretariat with respect to the labelling of textiles, clothing, footwear, and travel goods.

ANNEX

TEXTILES, CLOTHING, FOOTWEAR AND TRAVEL GOODS SUBJECT TO THE UNDERSTANDING

1. With respect to textiles and clothing, this Understanding shall cover all products contained in the Annex to the former WTO Agreement on Textiles and Clothing.
2. With respect to footwear, this Understanding shall cover all products contained in Chapter 64 of Harmonized Commodity Description and Coding System (HS) Nomenclature, except for HS6406 (Footwear Parts).
3. With respect to travel goods, this Understanding shall cover all products listed below:

<u>HS Number</u>	<u>Product Description</u>
ex 3926.90	Handbags made of beads, bugles and spangles, of plastics
42.02	Trunks, suit-cases, vanity-cases, executive-cases, brief-cases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; travelling-bags, insulated food or beverage bags, toilet bags, rucksacks, handbags, shopping bags, wallets, purses, map-cases, cigarette-cases, tobacco-pouches, tool bags, sports bags, bottle-cases, jewellery boxes, powder-boxes, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper. - Trunks, suit-cases, vanity-cases, executive-cases, brief-cases, school satchels and similar containers:
4202.11	With outer surface of leather, of composition leather, or of patent leather
4202.12	With outer surface of plastics or of textile materials
4202.19	Other - Handbags, whether or not with shoulder strap, including those without handle:
4202.21	With outer surface of leather, of composition leather or of patent leather
4202.22	With outer surface of sheeting of plastic or of textile materials
4202.29	Other - Articles of a kind normally carried in the pocket or in the handbag:
4202.31	With outer surface of leather, of composition leather or of patent leather
4202.32	With outer surface of sheeting of plastic or of textile materials
4202.39	Other - Other:

4202.91	With outer surface of leather, of composition leather or of patent leather
4202.92	With outer surface of sheeting of plastic or of textile materials
4202.99	Other
ex 4602.11	Luggage, handbags and flat goods, whether or not lined, of bamboo
ex 4602.12	Articles of a kind normally carried in the pocket or in the handbag, of rattan
ex 4602.12	Luggage, handbags and flat goods, whether or not lined, of rattan, nesoi
ex 4602.19	Luggage, handbags and flat goods, whether or not lined, of willow
ex 4602.19	Articles of a kind normally carried in the pocket or in the handbag, of palm leaf
ex 4602.19	Luggage, handbags and flat goods, whether or not lined, of palm leaf, nesoi
ex 4602.19	Luggage, handbags and flat goods, whether or not lined, made from plaiting materials nesoi
9605.0	Travel sets for personal toilet, sewing or shoe or clothes cleaning
