

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Answers by the co-sponsors to Questions from Korea on the “Understanding on the Interpretation of the Agreement on Technical Barriers to Trade with respect to the Labeling of Textiles, Clothing, Footwear, and Travel Goods”

Communication from the European Communities, Mauritius, Sri Lanka, and the United States

The following communication, dated 20 May 2009, is being circulated at the request of the co-sponsors of the proposed “Understanding on the Interpretation of the Agreement on Technical Barriers to Trade with respect to the Labeling of Textiles, Clothing, Footwear, and Travel Goods”

I. TEXTILES, APPAREL, FOOTWEAR AND TRAVEL GOODS LABELING

1. **KOREA:** Para. 2.1 – Among textiles, yarn and fabric are subject to business to business transactions that are usually based on detailed specifications papers and no other information than the country of origin is necessary on the label. In order to reflect this aspect, could the proponents consider adding another category within this paragraph for yarn and fabric?

ANSWER: We believe this question pertains to raw materials transferred from a supplier to another business for processing into a finished product. Our understanding is that in such instances, labeling requirements are often non-applicable.

The co-sponsors would happy to discuss this question further with the Republic of Korea in order to explore the issue in greater detail.

2. **KOREA:** Para. 3 – How do Members give “positive consideration” to non-permanent labels? Could the proponents provide specific examples in which “positive consideration” works?

ANSWER: “Positive consideration” is a term used elsewhere in the TBT Agreement, in particular Article 2.7. In the context of paragraph 3 of the proposal, a Member could give “positive consideration” by favourably considering whether the required information could be included on a non-permanent (as opposed to a permanent) label. In undertaking such consideration, a Member might assess whether its legitimate objective – for example of informing consumers of fiber content or country of origin – could be met if the information were included on a non-permanent label, or whether that objective could only be met if the information were on a permanent label. Requiring information on a non-permanent label as opposed to a permanent label can be a less trade restrictive means to ensure required information is conveyed to consumers.

3. **KOREA:** Para. 5.4 – Does the expression “make available to the public” include an option of providing the information on request rather than putting it on the open notice?

ANSWER: Yes, however in order to make that meaningful, we would expect that the Member would need to have some mechanism to make the public aware of the opportunity to request copies or access to the Member’s response to comments. For example, the Member could publish a notice (in print or electronically) that the public may obtain copies of the Member’s responses to comments by contacting the Member at a certain address. “Make available to the public” would also include making documents available in a reading room at a government agency, for example. The point is that the public should have access to such information, whether in a publication, on government websites, in libraries, or in some other accessible way.

4. **KOREA:** Para. 6 – Do the proponents have any reason for omitting “in the case of a permanent label, the reason for requiring information...” in this paragraph while paragraph 5.2 contains this clause?

ANSWER: The co-sponsors will examine this drafting issue and thank the Republic of Korea for bringing it to our attention.
