WORLD TRADE ORGANIZATION

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MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Answer to Questions from Singapore on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products

Communication from the United States

The following communication, dated 20 November 2009, is being circulated at the request of the delegation of the United States.

Question 1:

H.1. Paragraph III (B) (2) – Will the United States please elaborate on how this paragraph would operate, and explain in detail what "market incentives or other voluntary mechanisms" are, and how they would feature in this particular context?

Answer: In many instances it is preferable to provide incentives to manufacturers to act voluntarily rather than mandate specific actions through regulation. For example, the main automotive regulator in the United States, the National Highway and Transportation Safety Administration (NHTSA), not only maintains crash standards (front impact, side impact, etc.), but it also issues "stars" to auto companies for crash test performance of their vehicles. Market forces will push consumers who seek safer vehicles towards these models without actually mandating a level of performance that some other manufacturers might find uneconomical to meet.

The second part of the paragraph asks that a Member consider available regulatory or non-regulatory alternatives that may fulfill a Member's legitimate objective. This could take several forms. Some countries allow compliance with more than one standard to demonstrate conformity with the relevant requirements. In the United States, our regulators consider existing regulations in other WTO Members when developing new regulations and, if they are found acceptable, those regulations may be incorporated into the U.S. requirements. An obligation to consider what other regulators are doing before regulating would be a useful tool for minimizing unnecessarily regulatory divergences worldwide, steering regulators towards regulatory approaches that have been proven effective, cutting costs for regulators (who may not have to develop new requirements from scratch), and cutting costs for manufacturers who, with fewer regulatory approaches to comply with worldwide, will be able to recognize greater economies of scale.

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Question 2:

H.2. Paragraph III (H) – How frequently does the United States expect the "single official journal of national circulation" to be published? Does the United States currently have such a practice and what are the estimated production and distribution costs incurred for each single official journal? Would the objective behind such a provision be achieved through electronic publication?

Answer: The United States accomplishes this through daily publication of the Federal Register, which is available in both hard copy and electronically. The objective of this section could easily be met with electronic publication – the more frequent the better. The idea is to increase transparency, which increases the potential for harmonization towards well-crafted regulatory approaches, and inform interested parties of new information at the same time. All parties must know where to look and have easy access to the information. In some ways, electronic publication is preferable to printed text as it can be made available instantly to all parties globally, and can generally be more readily searched and examined.

Question 3:

H.3. Paragraph K – Which testing facilities outside of the US have been "deemed competent or otherwise approved" by the US?

Answer: The United States operates under a self-certification system with respect to automotive safety standards, so that auto manufacturers conduct their own tests in their own labs or other labs of their choosing all over the world. Therefore, our regulators do not need to deem competent any foreign or domestic testing facilities. Our intent in this section was to lay out the obligations of Members with regard to testing of automotive products where testing is required. For example some Members use a type-approval system in which all testing is performed in government or government accredited laboratories. These Members should allow or accredit labs outside their own borders to conduct tests, if they are deemed competent.

Question 4:

H.4. Footnote 47 – Will the US please clarify the reference to "subparagraphs 3(i)-(iii)" referred to in the footnote? Are the subparagraphs referring to those under paragraph E?

Answer: Yes, this footnote is referring to subparagraphs 3(i)-(iii) of paragraph E.

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