

SPECIFIC TRADE CONCERNS (Retirado do documento G/TBT/M/34)

New Concerns

Brasil x UE - Regulation on the Registration, Evaluation and Authorisation of Chemicals – "REACH"

European Communities: Regulation on the Registration, Evaluation and Authorisation of Chemicals – "REACH" (G/TBT/W/208 and G/TBT/N/EEC/52 and Add.1.)

The representative of Brazil supported the comments made by Mexico and by the Dominican Republic on the special and differential treatment for developing countries. She noted that the REACH system foresaw that the required tests would be undertaken by laboratories accredited according to OECD standards. Brazil, as other developing countries, had based its accreditation system on ISO standards. She noted that some kind of communicability between those systems should be ensured and asked the EC representative to address this issue.

Concerns Previously Raised

Brasil x Argentina - MERCOSUR Regulation on Definitions Relating to Alcoholic Beverages Other than Fermented

Argentina: MERCOSUR Regulation on Definitions Relating to Alcoholic Beverages Other than Fermented (G/TBT/N/ARG/159)

The representative of Brazil, in reply to the concern expressed by Mexico, explained that Brazil had not notified the MERCOSUR draft resolution because it had not yet been incorporated into its national legislation. It was necessary to amend the Brazilian Decree 4851 before this could be done. Both the MERCOSUR draft regulation and the Brazilian Decree 4851 were being reviewed, and a notification would be submitted to the TBT Committee at the end of this process

Barbados (República Dominicana, EUA e UE) x Brasil - Decree on Beverages and Spirits

Brazil: Decree on Beverages and Spirits (G/TBT/N/BRA/135 and G/TBT/N/BRA/160)

The representative of Barbados recalled that, at the TBT Committee Meeting of 7 November 2003, her delegation as well as the delegations of the Dominican Republic, Jamaica, and Trinidad and Tobago had raised their concerns in relation to the Brazilian Decree 4851, which contained amended definitions of rum, cachaza, aguardiente, and other spirit drinks. They believed that the amendments proposed in Decree 4851 would have a significant adverse affect on the trade of the Caribbean WTO Members involved in the production and trade of rum.

In subsequent written communications to the Brazilian authorities in November 2003 and February 2004, as well as at the TBT meetings of March and July of 2004, Barbados and the other Caribbean delegations had raised the issue of Decree 4851 again, and had outlined in detail their queries and proposed amendments. She thanked the Brazilian authorities for a communication, sent on 22 October 2004, in which they had sought to respond to the concerns raised. She sought additional

clarification from Brazil, in particular with regards to the relationship between Decree 4851 and a pending Decree which, in her understanding, would revoke and replace Decree 4851.

Furthermore, the representative of Barbados drew the Committee's attention to Brazil's new draft technical regulation outlining minimum quality requirements for spirituous beverages, notified in G/TBT/N/BRA/160, on 3 September 2004. Her delegation, in conjunction with the governments of the Dominican Republic, Jamaica, and Trinidad and Tobago on 13 October 2004 had submitted written comments to the Brazilian authorities on this new draft. They had also requested that Brazil suspended the implementation of the new draft technical regulation for a reasonable interval, so that amendments accommodating the concerns raised could be made. She believed that this new regulation in its current form would have significant adverse effects on trade in distilled spirits on Caribbean rum producers. Generally, her delegation's concerns were similar to those raised in relation to G/TBT/N/BRA/135. More specifically on G/TBT/N/BRA/160, she sought clarification on: (i) why a definition for rum and other distilled spirits had not been included in the new draft technical regulation; (ii) the technical aspects in the new draft regulation concerning the distillation processes, and the absence of language on fermentation; and, (iii) the content outlined in the new draft regulation on aged sugar cane.

In the joint letter dated 13 October 2004, the four delegations had also requested clarification on the relationship between Brazil's different technical regulations concerning definitions and quality requirements of spirituous beverages. These different regulations on spirituous beverages would include Decree 4851, the new draft regulation notified in G/TBT/N/BRA/160, and the pending decree which might or might not replace Decree 4851. In addition, she mentioned the MERCOSUR's regulation on definitions relating to alcoholic beverages which had been notified by Argentina in G/TBT/N/ARG/159. She reiterated her delegation's appreciation for Brazil's initial response to some of the concerns with regard to Decree 4851, and noted that further clarification would be requested. Her delegation remained interested in continuing dialogue in all competent fora on the full range of regulations which concerned trade in distilled spirits.

The representative of the Dominican Republic thanked Brazil for the replies to comments made in relation to G/TBT/N/BRA/135. She shared the concerns expressed by Barbados and reiterated her delegation's readiness to continue discussions on this matter at a technical level.

The representative of the United States recalled that she had raised concerns on the Brazilian Decree 4851 at past Committee meetings, and shared the comments made by Barbados, the Dominican Republic, Jamaica and Trinidad and Tobago. Her delegation would appreciate any updated information from Brazil.

The representative of the European Communities thanked Brazil for the reply to the comments made on both notifications G/TBT/N/BRA/135 and G/TBT/N/BRA/160. However, there was no reply concerning the issue of definitions, and the differences between products as defined in Articles 91, 92 and 93 were not clear. He reiterated his delegation's concerns on compliance with the TRIPS Agreement, and invited Brazil to take these concerns into account and to provide answers. He expressed his delegation's readiness to pursue dialogue at a technical level.

The representative of Brazil thanked the delegations of Barbados, the Dominican Republic, Trinidad and Tobago, and Jamaica for the written comments received on G/TBT/BRA/160. These comments, along with those of the European Communities, had been replied to in writing. A response to the US comments would be given in due time. She recalled that Members, in several interventions, had emphasized technical differences between their definition for spirits and the Brazilian one, arguing that they might impede trade. She stressed that Article 34 of the Brazilian

Decree 2314 of 1997 foresaw the possibility to import rum, and other alcoholic beverages, even though its composition differed from the Brazilian requirements if a certificate was presented, stating that the product: (i) had typical, regional and peculiar characteristics from a country; (ii) was in conformity with that country's legislation; or (iii) was consumed regularly and its name and composition were known in the region or country of origin. Hence, the aim of this Decree was not to impede trade. Moreover, she specified that G/TBT/N/BRA/160 had notified Ministerial Act number 59, whose objective was to lay down minimum quality requirements for cachaza and aguardiente de cana. Therefore, while Decree 4851 was a comprehensive document containing beverage definitions and set out the general requirements, the Ministerial Act number 59 detailed those requirements. She reiterated that any technical differences between the dispositions laid down by Ministerial Act No. 59 and those of other countries would not impede trade to Brazil.