

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TBT/W/75
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Special Distribution

Committee on Technical Barriers to Trade

DRAFT MINUTES OF THE MEETING HELD ON 16-17 OCTOBER 1984

Chairman: Mr. H.W. Verbeek

1. The Committee on Technical Barriers to Trade held its seventeenth meeting on 16-17 October 1984.

2. The agenda of the meeting was as follows:

	<u>Page</u>
A. Statements on implementation and administration of the Agreement	2
B. Handling of comments on notifications	4
C. List of products covered by the notifications under the Agreement	5
D. Technical assistance	6
E. Projected agenda	6
F. Preparations for the 1985 meeting on procedures for information exchange	8
G. Fifth annual review of the implementation and operation of the Agreement	8
H. Information meeting on the implementation and operation of the Agreement	9
I. Spain - type approval of heating radiators and electrical medical equipment	10
J. Report (1984) to the CONTRACTING PARTIES	10
K. Derestriction of documents	10
L. Date and agenda of the next meeting	11

A. Statements on implementation and administration of the Agreement

3. The representative of Czechoslovakia said that the Czechoslovak Institute for Standardization and Quality in Bratislava, appointed as the enquiry point by the Federal Ministry of Foreign Trade, was responsible for fulfilling Czechoslovakia's obligations under Article 10 as well as those deriving from the respective provisions of Articles 2 and 7 of the Agreement. In this connection, he drew attention to a booklet published on the GATT Enquiry Point of Czechoslovakia which contained information in three GATT languages. Notifications by other Parties were registered, translated and disseminated to federal and national governmental organs and institutions and other interested bodies. Czechoslovakia had not made any notifications under the Agreement so far because technical regulations proposed since its accession had neither deviated from relevant international standards nor had a significant effect on trade of other Parties. The enquiry point had handled requests from other Parties for documentation and information on technical regulations in several fields including construction, medical equipment, veterinary medicaments and also for specific data on reduction of electric tension and on open welding surfaces. It would soon be equipped with a data processing system.

4. Further to his announcement at the previous meeting regarding positive utilization of foreign testing organizations and acceptance of foreign test data, the representative of Japan informed the Committee of the following developments in this respect: (a) the implementing manual for utilization of foreign testing organisations relative to the Law Concerning Standardization and Proper Labelling of Agricultural and Forestry Products had been published in July; (b) individual organizations in the United States had been designated for testing in the respective fields covered by the Consumer Product Safety Law, Electrical Appliance and Material Control Law, Industrial Standardization Law and Food Sanitation Law. One organization in Canada and another in the United States had been approved in the field corresponding to the Law for Improvement and Increased Production of Livestock; (c) Good Laboratory Practice Standards on Agricultural Chemicals had been published and had entered into force as from 1 October 1984 under the Agricultural Chemicals Regulation Law. In addition, he drew attention to a new publication entitled "Standards and Certification Systems in Japan" which contained an outline of twenty-five relevant laws.

5. The representative of the European Economic Community referred to the establishment of Good Laboratory Practice Standards (GLP) in the agricultural chemicals sector in Japan and said that the Japanese authorities had not observed the recommendation by the Committee on the time limit of sixty days allowed for presentation and discussion of comments in notifying this measure to other Parties. His authorities would have wished to ascertain the conformity of the proposed GLP Standards with the relevant Recommendations adopted within the OECD which were being implemented by some of the member States of the European Economic Community. He requested that the normal length of time for comments be allowed in future and asked the Committee to note that there had not been sufficient time to comment and discuss comments in this case.

6. The representative of Japan confirmed that the GLP Standards were based on the OECD Recommendations on the matter and that his authorities had taken into account views expressed by various foreign private and governmental bodies in establishing those standards. The time period allowed for comments had been short in order to facilitate access in respect of these procedures as soon as possible. Japan's policy was to adhere to the Committee's recommendations regarding comment period to the fullest extent possible, and he hoped the Community would understand his government's initiative in this instance.

7. The representative of India said that the Indian Standards Institution (ISI) was responsible for implementing the procedures for exchange of information, including the preparation of notifications on proposed technical regulations affecting trade and responding to comments on these notifications and to requests for documentation from other Parties, as well as making comments on those notifications by other Parties which were of interest to his country. All national and international standards as well as standards available from foreign private bodies were included in a computerized data base in ISI. Up to now, 12,500 products standards were developed and 1,100 products were covered under voluntary certification schemes. Mandatory certification schemes applied only to 21 categories of products. He further indicated that the amendments to the Certification Marks Act were under consideration and were expected to be ready soon. With regard to comments on proposed technical regulations, he suggested that in general these should be addressed directly to enquiry points for quick processing. While in certain cases the sixty days period could not be observed due to urgent problems, comments should in any case receive due attention.

8. The representative of the United States drew attention to two new publications issued by the National Bureau of Standards. The first related to Standards Activities of Organizations in the United States, giving summaries of standardization activities of over 750 organizations at federal and local government and non-governmental levels which in the aggregate, comprised the United States standards system. The second publication was a study, entitled "Benefits Perceived by the United States Industry from Participating in International Standards Activities", which assessed the substantial trade benefits that can accrue from such participation in terms of the needs of the firms surveyed and the perceived opportunities for new or increased foreign trade. This study gave an indication of how the United States Federal Government, in accordance with the Agreement, was using its best endeavours to encourage participation in international standardizing activities.

9. The Committee took note of the statements made.

10. In connection with this item of the agenda, the Chairman drew attention to a note prepared by the secretariat (TBT/W/74/Rev.1) concerning the legal status of countries that had signed but not ratified the Agreement.

11. The representative of the United States recalled that a number of countries had signed the Agreement a long time ago but had not yet completed their ratification procedures. He suggested that the secretariat should draw the attention of these countries to document TBT/W/74/Rev.1, ascertain their reactions to it, and report to the Committee at its next meeting.

12. The representative of Argentina said that the note on the legal status of signatories was being examined by his authorities. Meanwhile, he held the view that it was not the secretariat's rôle to draw the attention of any signatory to its legal status. Any Party that felt the need to do so could raise the matter bilaterally with the signatories concerned. As a preliminary remark on TBT/W/74/Rev.1 he said that the question of election of Chairman mentioned in paragraph 4 of that note was a procedural matter unrelated to legal rights and obligations under the Agreement.

13. The representative of United States, supported by the representative of Canada, said that the non-ratification of the Agreement by some signatories was not a bilateral matter and that the diversity of the legal status of signatories was of concern to the Committee as a whole. By way of example, he mentioned the consequences that such a situation would have on the operation of dispute settlement procedures or on the circulation of certain documents restricted to Parties. The proposal by his delegation should be taken as a first step towards future action by the Committee on the matter.

14. The representative of the European Economic Community doubted whether the Committee had the capacity to take particular action vis-à-vis the signatories that were not yet full Parties to the Agreement. It belonged to the individual Parties to assess in what way their balance of rights and obligations were affected by the present situation of these signatories. He also said that Greece was in the process of adapting its national legislation as a result of its accession to the Community. This was a very complicated process which justified Greece being treated as a special case. The representative of Finland wondered whether signatories that had not ratified the Agreement should not request observer status in the Committee. The representative of India said that the Committee should simply reiterate its urging to these countries to complete their ratification procedures. The representative of Austria noted that TBT/W/74/Rev.1 clearly showed that signatories and Parties to the Agreement could not be treated on the same footing. However, the question of the status of signatories had been raised in other Committees, and he suggested that this Committee lay the matter at rest until some conclusions were reached in these other fora.

15. The Chairman concluded that the Committee should once more urge the signatories that had not ratified the Agreement to do so as soon as possible, and should request the representatives of those signatories to draw the attention of their governments to document TBT/W/74/Rev.1 and to report their official reactions to the Committee at its next meeting. Regarding enquiry points, he proposed that the Committee also urge those countries that had not established such points, to do so without delay. It was so agreed.

16. The representative of Argentina said that his delegation while not objecting to the Committee's decision, did not consider it a positive development. The discussion that had taken place would, however, have a bearing on the work of other GATT fora. Argentina would therefore follow closely any further developments in this regard.

B. Handling of comments on notifications

17. The representative of the European Economic Community said that the Community maintained their proposal circulated in document TBT/W/64. In their view it was important to give a concrete meaning to the provisions of

Article 2.5.4, but they were flexible on the exact wording of any Committee recommendation. If the Committee could not agree at this stage, it might be useful to remit the matter to the next meeting of persons responsible for information exchange, who could conduct case studies that would help reaching a decision.

18. The representatives of Japan and Finland (speaking for the Nordic countries) supported the proposal of the European Economic Community. The representative of Finland emphasized the importance of establishing clear guidelines on how comments should be handled, failing which there could be unnecessary recourse to consultations under Article 14. He added that the Nordic countries were prepared to reply to any comments from other Parties on a reciprocal basis. The representative of Chile also supported the European Economic Community's proposal, noting however, that one way to deal with the question might be for the Committee to agree to a longer recommended period for comments.

19. The representative of the United States also maintained his country's proposal, contained in document TBT/W/71. However, he also supported the suggestion that case studies should be made, so as to identify specific problems which rose in this area. This should precede any guidance being given by the Committee to Parties on the matter. He believed that an examination of the issues by persons responsible for information exchange would better assist in reaching a compromise than pursuing discussions in the Committee as heretofore.

20. The Chairman noted that no consensus had been reached on this item of the agenda. In the light of the discussion, he suggested that the item be placed on the agenda of the next meeting of persons responsible for information exchange and that the Committee revert to it on the basis of any findings reached at that meeting. It was so agreed.

C. List of Products Covered by the Notifications Under the Agreement

21. The representative of Finland, speaking for the Nordic countries, drew attention to the revised proposal circulated in document TBT/W/72/Rev.1. The Committee accepted a number of drafting changes which are reflected in the text appearing at Annex 1. While accepting the changes, the representative of Finland said that the Nordic delegations would make a proposal for the revision of the list in 1987.

22. The representative of India said that the ISO and other international organizations should be asked to focus their activities in the areas covered by the list of products in order to facilitate the elimination of technical barriers to trade. The representative of the United States said that his country was represented in ISO and IEC by non-governmental bodies, which had a different opinion on this. He suggested that it be indicated in the Introduction to the list that "Parties" themselves would make the list of products available to their "relevant national standardizing bodies" which could take the list into consideration in their work at international level. The representative of Canada supported this proposal, noting that the list was not a good guide for setting priorities at international level as practices in determining which technical regulations should be notified differed among the Parties to the Agreement. It was so agreed.

23. The Committee adopted the proposal contained in TBT/W/72/Rev.1 and at Annex 1, as amended and recommended that the Parties should circulate the list to their national standardizing bodies inviting them to take it into account in the work of international standardizing bodies in which they participate.

D. Technical Assistance

24. Pursuant to its discussion on the subject at its fifteenth and sixteenth meetings and after a brief exchange of views at the present meeting, the Committee adopted the procedures for exchange of information on technical assistance reproduced at Annex 2.

25. The representative of Brazil gave information on the International Seminar on Technical Barriers to Trade, organized in Brazilia on 26-28 September 1984 under Article 11 of the Agreement, with the participation of government officials from five developed country Parties and the GATT secretariat. The objective of the seminar was to familiarize government officials and representatives of the private sector involved in standardization and quality assurance activities in Brazil with GATT principles and rules and the operation of the Agreement on Technical Barriers to Trade. The results of the seminar would contribute to the implementation and administration of the Agreement in Brazil. The issues raised during the seminar were being assessed with a view to identifying areas where further technical assistance might be needed.

26. The representative of Finland announced his government's intention to organize a seminar in 1986 under Article 11 of the Agreement, on the subject of technical barriers to trade in general and more specifically on the Agreement itself. The seminar would be open to participants from developing country Parties and observers.

27. In connection with technical assistance programmes, the representative of Japan said that Japan International Cooperation Agency (JAICA) provided training programmes to experts from developing countries in the field of standards.

28. The representative of India said that the Indian Standards Institution (ISI) would be organizing a training programme on standardization policies this year similar to the ones organized since 1968 for the benefit of developing countries, members of the Non-Aligned Group. Indian experts had provided technical assistance to a number of developing countries in Asia and Africa in the field of standardization, quality assurance and metrology. India had also received technical assistance from several developed countries.

29. The Committee took note of the statements made.

E. Projected Agenda

30. The Chairman called attention to the projected agenda of the Committee circulated on 3 October 1984 which included suggestions by the delegation of the United States on individual items.

Individual Standards Writing and Certifying Bodies

31. The Committee agreed to drop this item from the projected agenda.

Testing and Inspection

32. The representative of the United States, referring to the proposal by his delegation on this item of the projected agenda, suggested that the Committee concentrate on the first part of the proposal for the time being, namely to have a preliminary discussion of testing and inspection, including its importance in any future development of the Agreement, at the Committee's first meeting in 1985.

33. The representative of Japan agreed with the United States that testing was an important subject that deserved discussion in the Committee and his delegation would be prepared to contribute positively to such discussions.

34. The representative of India said that testing and inspection were subsidiary activities varying from product to product. Priority should be given to work on international harmonization of technical standards, as a means of eliminating technical barriers to trade.

35. The representative of Austria, Canada, Chile, the European Economic Community, Finland (speaking for the Nordic countries) and Switzerland expressed their readiness to participate in preliminary discussions of testing and inspection, but stressed that it was premature to situate the discussion on this subject in the context of any future renegotiation of the Agreement or of a possible new round of multilateral trade negotiations. The discussion should rather focus on fully implementing existing provisions of the Agreement relevant to the subject.

36. The representative of Finland (speaking for the Nordic countries) noted in this connection that the work carried out by other bodies, such as the ISO/CERTICO and the International Laboratory Accreditation Conference (ILAC) could also be taken into account in the Committee's discussions.

37. In conclusion, the Committee recognized the importance of having a preliminary discussion of testing and inspection at its first meeting in 1985. In this regard, the representative of the United States reiterated his delegation's views that the discussion should also include the importance of testing and inspection in any future development of the Agreement.

Examination of Standards Notifications in the Inventories of Non-tariff Measures

38. The representative of the United States recalled his delegation's proposal on this point made during the First Three-Year Review and the discussion that took place at that time. He suggested the present proposal be dealt with in two parts. For the time being, his delegation only requested the Committee to agree to the first part of the proposal, namely to ask the Group on Quantitative Restrictions and Other Non-Tariff Measures to report on its progress at the Committee's first meeting in 1985. The representative of Argentina did not object to this idea but said that the Committee should request the Chairman of the Group rather than the Group

itself to report on progress of work to date. He raised serious doubts about the second part of the United States proposal, which he said called for some elaboration before it could be usefully examined in the Committee. The representative of Japan had similar doubts about the second part of the proposal, but he could agree to the Group's report being placed before the Committee.

39. Several delegations also had doubts about the first part of the United States proposal. In the ensuing discussion, the representatives of the European Economic Community, Finland (speaking for the Nordic countries), India and Spain raised questions concerning procedures for dealing with the report of the Group which only had a mandate to report to the CONTRACTING PARTIES; the relativity of the Inventories to the provisions of the Agreement, particularly Article 14; the adequacy of the Inventories as an instrument for examining issues under the Agreement; and the appropriateness of intervening in the discussion of the Group which had a mandate to deal with quantitative restrictions and other non-tariff measures in a balanced way.

40. The representative of the United States, taking these hesitations into account, suggested that the Committee should at least seek to obtain information informally on the work of the Group. However, as a consensus could not be reached even on this modified proposal, he said that the United States would request that the item be placed on the agenda of the Committee's next meeting; and that his delegation would itself report to the Committee on the work of the Group. The Committee took note of this statement.

F. Preparations for the 1985 Meeting on Procedures for Information Exchange

41. After a brief discussion on the arrangements for the next meeting of persons responsible for information exchange, the Committee agreed that the meeting would be held in conjunction with the meeting of the Committee tentatively scheduled for May-June 1985. The secretariat would prepare an annotated draft agenda for the next meeting of the Committee, based on the comments made during the discussions and on any other proposals that signatories might make, such proposals to reach the secretariat by 31 January 1985.

G. Fifth Annual Review

42. The Chairman drew attention to the background documentation for the review contained in documents TBT/10 and Corr.1, TBT/10/Suppls.1 and 2, TBT/17 and Suppls.1 and 2, TBT/18, TBT/W/25/Rev.9, TBT/W/31/Rev.4 and TBT/W/62/Rev.1. The representative of the United States requested that the list of Committee members and observers in document TBT/18 be changed to show those signatories that had not ratified the Agreement in a separate category. After a discussion, in which took part the representatives of Argentina, Canada, Czechoslovakia, Finland (speaking for the Nordic countries), India and Japan, no consensus was reached to modify this part of the document.

43. In the part of document TBT/18 referring to notifications, the Committee agreed that reference should be made to Parties, since only Parties had notification obligations.

44. The Chairman noted that the Committee had concluded the Fifth Annual Review of the Implementation and Operation of the Agreement in accordance with Article 15.8. Corrections to the basic documentation and additional information provided by delegations in the course of the review as well as during the discussions of other points of the agenda would be reflected in documents TBT/18/Suppl.1, TBT/W/31/Rev.4/Corr.1 and TBT/W/62/Rev.1/Corr.1, to be issued after the meeting. Following a suggestion by the representative of Finland, he urged Parties to distribute document TBT/16/Rev.2 to all persons and bodies concerned with the implementation of the Agreement in their countries.

H. Information Meeting on the Implementation and Operation of the Agreement

45. The Chairman said that the suggestion he had made to convene an information meeting with developing country signatories and non-signatories had received general support in the informal consultations that he had recently held with a great number of representatives of developing country signatories and observers. He felt that only with sufficient information developing countries might be in a position to formulate their specific problems with the Agreement. Furthermore, it was his impression that administrative problems involved in implementing the Agreement in developing countries had in many cases overshadowed the advantages of accepting it. The purpose of this meeting would be to discuss ways of improving knowledge of the principles and objectives of the Agreement with a view to enabling developing country signatories to make fuller use of the Agreement and to facilitating acceptance of the Agreement by other developing countries.

46. The representative of India, in supporting the proposal by the Chairman, said that the responsible persons in developing countries would benefit from an exchange of information on the experience of developed signatory countries in implementing the Agreement.

47. The representatives of the United States, Hungary and the European Economic Community also supported the proposal for holding an information meeting with the developing countries, but felt that this meeting should be held simultaneously with the meeting of persons responsible for information exchange in order to benefit from the presence of experts from capitals. The representative of the United States said that the discussion should focus on information since policy issues could only be usefully discussed in the Committee itself. He therefore reserved his delegation's position until the date and agenda of the information meeting would be agreed. He also said that if in the future the Chairman wished to consult with signatories and observers, such meetings should be open to all delegations having an interest in the subject under discussion. The representative of the European Economic Community said in this connection that the Committee should also address on a future occasion the special and differential treatment of developing countries and the content of Article 12 of the Agreement. For this reasons he felt that it would be useful to revert to the matter at the next meeting of the Committee.

48. The Chairman concluded that the information meeting with the developing country signatories and non-signatories would be held in conjunction with a regular meeting of the Committee and the meeting of persons responsible for information exchange in the Spring of 1985 and with the participation of

experts from capitals. The secretariat would prepare an outline of the points for discussion at the information meeting, which would form the basis for consideration of the item at the Committee's next meeting. Any outcome of the discussions in the information meeting would, of course, be considered by the Committee at its regular meeting. It was so agreed.

I. Spain - Type Approval of Heating Radiators and Electrical Medical Equipment

49. The representative of the European Economic Community recalled that at its meeting in restricted session held on 11 September 1984, the Committee had taken note that the Spanish delegation was committed to take a position on a maximum number of applications for type approval of imports of heating radiators and electrical medical equipment by 8 October 1984. In fact, the Commission in the Ministry of Industry in charge of examining applications for imports of heating radiators had only met on 16 October 1984 whereas the meeting of the Commission responsible for electrical medical equipment had been postponed since last July. On account of this, his delegation reserved the right to request a special meeting of the Committee under Article 14.22 of the Agreement before the end of the year and he indicated that his delegation was considering possible retaliatory action against Spain.

50. The representative of Spain said that the reason why nine out of ten files on applications for imports examined on 16 October 1984 had not been approved was that the commission responsible for type approval of heating radiators had not been able to obtain further data or documentation required from the applicant firms. His delegation felt that in view of the progress made to reach a satisfactory solution of the matter any discussion for further action was not required. He suggested that bilateral consultations on the matter could be pursued to facilitate the approval of applications.

51. The representative of the United States recalled that his delegation had been pursuing bilateral consultations with the delegation of Spain on type approval of imports of electrical medical equipment under Article 14.1, but so far without success. His delegation would proceed with these consultations but it did not exclude the possibilities of raising the matter at the next meeting of the Committee.

52. The Committee took note of the statements made.

J. Report (1984) to the CONTRACTING PARTIES

53. The Committee adopted its fifth report (1984) to the CONTRACTING PARTIES, which is contained in document L/5703.

K. Derestriction of Documents

54. The Committee noted that the proposal for derestriction of documents will be circulated by the secretariat in document TBT/W/76. The Committee agreed to derestrict the full set of working documents prepared for the fifth annual review.

L. Date and agenda of the next meeting

55. The Committee agreed to hold its next meeting on 26-27 February 1985.

56. The agenda of the meeting would include the following items:

1. Statements on implementation and administration of the Agreement;
2. Composition of the Committee;
3. Testing and inspection;
4. Status of work on standards notifications in the Inventories of Non-tariff Measures;
5. 1985 Meeting on procedures for information exchange;
6. Information meeting on the implementation and operation of the Agreement;
7. Other business.

57. The draft agenda for the meeting and the projected agenda of the Committee will be circulated to delegations in accordance with agreed procedures.

ANNEX 1

List of Products covered by the Notifications

The Committee

- adopted an introduction to the list as presented in the annex to document TBT/W/72/Rev.1, as amended (TBT/M/17, para. 22);
- requested the secretariat to include in the list, in co-operation with the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and the Codex Alimentarius Commission (CAC), indications on where relevant international standardization work was taking place or would take place;
- requested the secretariat to distribute the list as a derestricted document;
- recommended that the Parties should circulate the list to their national standardizing bodies inviting them to take it into account in the work of international standardizing bodies in which they participate.

ANNEX 2Procedures for Exchange of Information
on Technical Assistance

Specific needs for technical assistance as well as information that may be provided by potential donor countries on their technical assistance programmes may be communicated to Parties through the secretariat. In agreement with requesting countries or potential donor countries, as the case may be, the information concerning specific needs and technical assistance programmes would be circulated by the secretariat to all signatories on an informal basis. Whilst information would be multilateralized in this manner, technical assistance would continue to be provided on a bilateral basis. The secretariat would reflect the information circulated under this procedure in the documentation prepared for annual reviews of the implementation and operation of the Agreement if the Parties concerned so agree.

Technical assistance would remain as an item of the agenda of the Committee on a permanent basis and would be included on the agenda of a regular meeting of the Committee when so requested by a signatory in accordance with the agreed procedures.