

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Technical Barriers to Trade

FINAL MINUTES OF THE MEETING HELD ON  
28 MAY 1986

Chairman: Mr. P. Kennedy

1. The Committee on Technical Barriers to Trade held its twenty-second meeting on 28 May 1986.

2. The agenda of the meeting was as follows:

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A. <u>Statements on Implementation and Administration of the Agreement</u>	

3. The representative of the United States called attention to two documents that had recently been circulated to enquiry points of other Parties. The second Triennial Report to the United States Congress, described the activities associated with the implementation of the Agreement in the United States as well as their bilateral and multilateral consultation programmes. A second document summarized the activities of the National Bureau of Standards, the enquiry point in the United States, over the

calendar year 1985. It also included computer processed data on notifications made under the Agreement in 1985.

4. The representative of Japan reported that fifty-six out of eighty-eight items stipulated in the Action Program had been implemented since 30 July 1985. Those items included the establishment of a standard processing period for all standards/certification systems and the carrying out of measures to reflect the views of representatives of foreign interests in drafting or revising Japanese standards. Seven of the remaining items would be implemented shortly. Consultations were presently being held with foreign countries concerning eight other items including the introduction of Good Laboratory Practice (GLP) for toxicity tests on agrochemicals. Nine additional items, including action to reduce the number of measuring instruments subject to government verification, were being examined. As to the measures which had been introduced since the previous meeting, he said that his government had begun de facto acceptance of data, provided that the foreign testing organizations generating this data were designated by the ministries involved under the relevant laws. With respect to imported foods, the number of foreign organizations whose test results were accepted had increased by 262 to a total of 867 organizations from 36 countries. Furthermore, in the context of the Electrical Appliance and Materials Control Law, seventy-one products would no longer be subject to government safety testing and would be moved to the category that allowed self-certification by foreign manufacturers.

5. The representative of Romania said that his authorities had taken steps to gather data from ministries and agencies on the agreements and arrangements concluded at the bilateral or multilateral level on mutual recognition of type tests, product quality control and inspection.

6. The representative of Czechoslovakia said that the Czechoslovak Institute for Standardization and Quality in Prague had issued a number of guidelines, dated 1 May 1986, for co-ordinating the implementation of the Agreement at the national level. A commission composed of representatives of central bodies would examine and assess proposals for technical regulations and rules of certification systems and would notify those which might create technical barriers to trade in accordance with the established procedures. The notifications by other signatories were being regularly published in the official bulletin of the Federal Ministry of External Trade and in the publication of the Czechoslovak Institute for Standardization and Quality in Bratislava.

7. In response to a question by the representative of the United States, the representative of Greece said that no headway had been made in the administrative procedures for ratification of the Agreement by his country. This matter did not seem to have foremost priority among the issues before the Greek legislative authorities.

8. The Committee took note of the statements made.

B. Procedures at the National Level for Gathering Information on Proposed Technical Regulations and Rules of Certification Systems

9. The representative of Finland, speaking on behalf of the Nordic countries, said that the purpose of the proposal circulated by the Nordic

countries in document TBT/W/92 was to set up an educational process by which the national authorities in charge of preparing technical regulations and rules of certification systems would be induced to give information on their activities to the authorities responsible for notifying to other Parties. An exchange of information on any steps taken internally for gathering of such information from different national authorities would assist Parties to address the problem of compliance with the obligations on notifications in a more balanced way.

10. The representative of the European Economic Community said that Parties could achieve the results sought by the Nordic proposal in a more direct way if they raised complaints regarding problems of notifications by other Parties under the item "other business" of the agenda. This would, in particular, enable the Party concerned to draw the attention of its national authorities to the need for carrying out the obligations under the Agreement. Notwithstanding their doubts on the usefulness of the Nordic proposal, his authorities would supply information on Directive EEC 83(189) concerning information on standards, technical regulations and certification systems, which ensured that the Community fulfilled its obligations in this respect.

11. The representatives of Canada, Czechoslovakia, Hong Kong, India, Japan, New Zealand, the Philippines, the United States and Yugoslavia supported the proposal by the Nordic countries.

12. The representative of the United States said that the present situation, in which only a small sub-set of Parties made notifications, gave rise to an imbalance of rights and obligations among Parties. The reporting of those measures that drew the attention of national authorities to the requirements of the Agreement would be a constructive way of identifying the relevant problems within Parties. He also said that although his authorities had been informed of a number of cases where Parties had failed to notify their proposed technical regulations or rules of certification systems, they did not feel that it was the rôle of individual Parties to draw attention to these cases. The Committee as a whole should survey the implementation of the Agreement.

13. The representative of Hong Kong said that arrangements in the direction suggested by the Nordic proposal had already been made in his country: the Industry Department, the authority responsible for implementation of the Agreement, sent a circular three times a year to different departments drawing their attention to the need to observe the requirements of the Agreement and requesting them to communicate any new or revised technical regulations.

14. The representative of the Philippines said that the enquiry point in his country notified, without exception, drafts of every technical regulation prepared by the relevant national authorities. The representative of Czechoslovakia said that, under the methodological guidelines established in his country for the implementation of the various provisions of the Agreement, the authority in charge of adopting the proposed technical regulations would compare these with the relevant international standards and would also consider all other circumstances which might create technical barriers to trade by using the information resources of the ministries or standardization organizations. He stated that his country had not made any

notifications as yet because all technical regulations which had been issued in his country were based on ISO/IEC standards or had no significant effect on trade.

15. The representative of New Zealand said that the promulgation of specific measures or legislative directives were not always indispensable to ensure the adherence of national authorities to the obligations on notifications under the Agreement. General consultative arrangements could also enable national administrations to achieve the same objective. He therefore suggested that the phrase "specific measures" in the proposed text be deleted and replaced by "measures and arrangements".

16. The representative of Canada, supported by the representative of Yugoslavia, said that the gathering of data on measures applied in individual parties would not necessarily provide a solution to the problem raised by the Nordic countries. The spirit in which arrangements within the administrations were carried out was more important than the nature of the specific measures.

17. The representative of Hungary said that although his delegation was in favour of redressing the imbalance among Parties with regard to notifications, he felt that the provisions of the Agreement did not require Parties to take any specific measures at the internal level to carry through notifications. Consequently, a Party might have abided by its obligations under the Agreement even if it had not made any notifications because the Agreement did not exclude the possibility that a Party could adopt international standards as a basis for its technical regulations.

18. The Committee adopted the proposal in TBT/W/92 as amended pursuant to paragraph 15 (see Annex).

#### C. Translation of Documents Relating to Notifications

19. Following the Chairman's account of the outcome of the informal consultations held among interested delegations since the previous meeting, as an initial step the Committee agreed to gather data on the facilities available in individual countries for the translation of documents relating to notifications. This data would enable the Committee to assess the extent to which parties would be able to share the burden of providing such translations to other parties. Accordingly, it invited Parties to submit, by 1 September 1986, information on translation of documents relating to notifications undertaken by governmental and non-governmental organizations within their territories over the past three years or over a longer period. In this connection, the Chairman called attention to the recommendations previously adopted by the Committee on the subject (TBT/16/Rev.2, page 6) and suggested that Parties should make every effort to ensure their proper implementation.

20. The representative of the Philippines stated his delegation's understanding that the collection of data on translations made in the past was an initial step so as to allow certain delegations to determine their views regarding the Philippines proposal (TBT/M/19, paragraph 36(i) and TBT/M/20, paragraph 12)) and that the Committee would revert to this proposal at an appropriate time.

21. The representative of India said that further to the procedure which had just been agreed to, the Committee could also consider the possibility of

translation of documents by the secretariat, upon request by Parties, as part of its technical co-operation activities.

22. The representative of Canada said that his delegation had noted, already at the time of the negotiations of the Agreement, that the question of translations would be a difficult aspect of the administration of the Agreement. He hoped that the record of translations made by parties would shed some light on this problem.

23. The Committee took note of the statements made.

D. Length of Time Allowed for Comments

24. The representative of Finland, speaking on behalf of the Nordic countries said that the proposal in document TBT/W/89 suggested a fixed time-period within which Parties should present their requests for extension of the comment period so as to guarantee a favourable consideration of these requests. He drew attention to the present recommendation, according to which a time limit of forty-five days might be applied if no comments or requests for extension had been received from other Parties within that time. He felt that the increased use of this facility would erode the normal time-limit of sixty days. The proposal maintained by Nordic countries in document TBT/W/89 would encourage Parties to make their requests for extension of the comment period as soon as possible, thus avoiding the repeated inconveniences caused by last minute requests.

25. The representative of the European Economic Community said that his delegation viewed the proposal by the Nordic countries favourably but felt that its wording could be more flexible: while the revised recommendation could postulate that a decision to make comments should be taken within forty-five days, it should not tie Parties to a cut-off date for requesting extension of the comment period. He added that Parties also had the option of not responding positively to last minute requests for extension of the comment period. The representative of the Philippines said that the proposal restricted unnecessarily the right of Parties to request the extension of the comment period within sixty days. In any case, the normal recommended period of sixty days should be maintained.

26. The Committee took note of the comments made and agreed to revert to the proposal in TBT/W/89 in the light of informal consultations to be held among interested delegations.

E. Testing and Inspection

27. The representative of Finland, speaking on behalf of the Nordic countries, said that the proposal on mutual acceptance of testing and inspection put forward by the Nordic countries in document TBT/W/94 had been suggested as recommendations by the Committee for improving the implementation and furthering the objectives of the Agreement as it stands. Any new contractual obligations for the removal of technical barriers to trade caused by testing and certification procedures would have to be looked into in the forthcoming round of MTN.

28. In response to a question by the representative of the United States on the status of the Guides prepared by ISO and IEC, the observer from the ISO

explained that the Councils of ISO and of IEC approved the Guides drawn up by the respective Council committees and submitted them as directives for the use of their member bodies and national committees. The representative of Finland, speaking on behalf of the Nordic countries commented that the ISO/IEC Guides were no more than recommendations by these specialized organizations, but their endorsement by an intergovernmental forum would greatly strengthen their status.

29. The representative of the European Economic Community said that the proposal by the Nordic countries glossed over the difficulties of this issue. In his delegation's view, the first recommendation for complying with the relevant ISO/IEC Guides was worth considering, whereas the second recommendation presented a number of uncertainties. Furthermore, he doubted the usefulness of proceeding in the two stage manner by adopting recommendations in the Committee first and by negotiating contractual obligations later in the new round. The Committee should pursue its discussion of the subject until the implications of particular terms of any proposed action were fully understood by all Parties.

30. The representative of Canada said that the relevant Guides embodied reciprocal rights and obligations as established between accreditation bodies and that their endorsement by the Committee as a basis for future contractual obligations would imply a conditional MFN approach to the negotiations on the subject.

31. The Committee took note of the statements made and agreed to revert to this item at its next meeting.

F. Possible Extension to Local Government Bodies of Major Obligations under the Agreement

32. The representative of the European Economic Community said that the fact that many standards-related activities of Parties were not covered by the Agreement might affect the degree to which Parties complied with their obligations on notifications. One of the main objectives of the Agreement was to promote the use of international standards throughout the economies of Parties. Therefore, in their longer term interests, Parties should ensure that their consideration of compatibility of technical regulations with international standards should extend to those activities undertaken beyond the level of central government bodies to cover activities of local government bodies. Parties would have to deal with any burden that this process would lay on notification procedures. His authorities were concerned that in such other areas as services, which might be the object of negotiations in the new round, there might be certain kinds of technical regulations established at local or regional level which might be inhibiting free movement of trade in services. As a basis for future discussions of this idea, his delegation would provide the Committee with cases where activities of local government bodies might have an impact on international trade.

33. The representative of the United States said that over the past six years, there has been a trend in his country to deregulate standards-related activities both at the federal and state level and at the same time to devolve responsibilities to the private sector. This could be an explanation for the relatively limited number of notifications by his country.

34. The representative of New Zealand wondered if any events had occurred at the level of local governments regarding notifications which indicated that a real problem between unitary and federal governments existed on this question. In terms of the relevant provisions of the Agreement, local government bodies could not be expected to assume any contractual obligations vis-à-vis other governments equivalent to those undertaken by central government bodies. He pointed out the notional difference between the responsibility of the authority in charge of making notifications and that of the central or local government bodies in charge of preparing, adopting and applying the technical regulations or rules of certification systems. Improvement of the implementation of the provisions of the Agreement on notification would hinge upon the responsibility of the central government body which could use its "best endeavours" to assess the trade impact of activities of local government bodies within its territory and to notify them to other Parties accordingly. The representative of the European Economic Community noted that the language of the Agreement did not preclude the extension of the provisions on notifications to the activities of local government bodies which had significant impact on trade of other Parties as had been suggested by the representative of New Zealand.

35. The representative of India stated that the reference by the representative of the European Economic Community to the question of services was unwarranted in the context of the Committee's discussion of the extension of the application of provisions of the Agreement with regard to local government bodies. Recognizing the specificity of services, this matter would have been more appropriately addressed in the meetings on exchange of information on services. Besides, for the time being there was no indication that the work on services would be made a part of the work of GATT or of the work on various MTN Agreements. He added that his authorities had some reservations regarding the extension of the provisions of the Agreement to local government bodies.

36. The representative of Canada said that acceptance of data on tests carried out in a foreign laboratory could be considered as a type of service linked to the traded product. The Committee should remain flexible in discussing the relevance of these issues to the future development of the Agreement because boundary lines between trade in goods and trade in services were not always clear. As regards the extension of obligations on notifications to local government bodies, he felt that the European Economic Community was trying to come to grips with a matter that was problematic both for federal and for many unitary States. Constitutional issues would be raised for federal governments if they were to try to find out about the activities of local government bodies that might be notified to other Parties and to be responsible for any consultations that might proceed. At the present stage, his country was not in a position to take any obligations of a mandatory sort in respect of local government bodies. Besides he was not convinced that extra coverage was more essential in this area than in some other areas such as regional bodies.

37. The Committee agreed to revert to this matter on the basis of a proposal to be presented by the delegation of the European Economic Community at the next meeting.

#### G. Notification of Proposed Technical Regulations

38. The representative of the United States drew the attention of the Committee to some twenty technical regulations that had been issued but not

notified by Spain in the course of 1985 and 1986. The relevant Royal decrees and ministerial orders that might have affected the trade of other Parties covered numerous products including computers and peripheral equipment, electrical household appliances, television receivers, solar cells, X-ray apparatus, electromechanical elevators, passenger cars and refrigerated trucks. When it had raised the matter with the Spanish authorities, his delegation had noted that the authorities in charge of preparing notifications had difficulty in obtaining timely information on the relevant measures. Also, the national authorities responsible for issuing technical regulations were not always fully conversant with the obligations under the Agreement. The United States perceived the matter as a breach of the rules of the Agreement by Spain which called for an appropriate action. The representative of the European Economic Community said that the matter was being examined within the Community in the light of the implementation of the EEC Directive concerning information on technical regulations and standards.

39. In response to an enquiry by the representative of Yugoslavia, the representative of the European Economic Community said that the ban on imports of agricultural products from certain sources because of increased radioactive levels had not yet been notified because the measure in question had been imposed temporarily and was in the process of being revised by the Community at the time of the present meeting.

40. The Committee took note of the statements made.

#### H. Preparations for the Seventh Annual Review

41. In accordance with the arrangements for previous reviews, the Committee agreed that Parties should submit to the secretariat any information that they wish to be included under the items of the review (TBT/M/3, Annex III, paragraph 1) by 1 September 1986. The secretariat would issue the basic document containing this information as well as updated versions of the documents on consultation points (TBT/W/62/Rev. 1 and Corr. 1-2), enquiry points (TBT/W/31/Rev. 4 and Corr. 1-7) and panelists (TBT/W/25/Rev. 10 and Corr. 1) by 15 September 1986. In this connection, the Committee agreed that information on the number of enquiries received and responses given by enquiry points was a useful indication of the activities generated by the Agreement and that it should continue to be compiled annually under the review item on transparency. It therefore did not follow a suggestion by the representative of Finland on behalf of the Nordic countries that this information should only be produced every two years on the occasion of the meeting on procedures for information exchange.

#### I. Date and Agenda of the Next Meeting

42. The Committee agreed to hold its next meeting on 13-14 October 1986. The agenda of the meeting would include the following items:

1. Statements on implementation and administration of the Agreement
2. Translation of documents relating to notifications
3. Length of time allowed for comments

4. Testing and inspection
5. Possible extension to local government bodies of major obligations under the Agreement
6. Improvement of transparency on bilateral standards agreements
7. Improvement of transparency on regional standards activities
8. Seventh annual review
9. Report (1986) to the CONTRACTING PARTIES

Annex

The Committee agreed that a new sub-item (f) with the following wording should be added to the list of issues to be specified in the statements on implementation and administration of the Agreement.<sup>1</sup>

"(f) measures and arrangements to ensure that national authorities preparing new technical regulations or certification systems, or substantial amendments to existing ones, provide early information on their proposals in order to enable the Party in question to fulfil its obligations on notifications under Articles 2.5, 2.6, 7.3 and 7.4 of the Agreement."

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<sup>1</sup>TBT/16/Rev.2, page 2