

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TBT/W/52

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Special Distribution

Committee on Technical Barriers to Trade

DRAFT MINUTES OF THE MEETING HELD ON 29 OCTOBER 1982

Chairman: Mr. K. Bergholm

1. The Committee on Technical Barriers to Trade held its eleventh meeting on 29 October 1982.

2. The agenda of the meeting was as follows:

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A. Third Annual Review of the Implementation and Operation of the Agreement

3. The Chairman drew attention to the basic documentation for the third annual review contained in documents TBT/10 and TBT/10/Suppl.1. The main comments made on the items covered by the review are set out below. Corrections to the basic documentation and additional information provided by delegations are reflected in document TBT/10/Suppl.2, published after the meeting.

Implementation and administration

4. In reply to questions addressed to them by the representative of the United States, the representative of Argentina stated that the Committee would be informed as soon as ratification procedures were completed, and the representative of the European Economic Community said that by virtue of the decision of the Council of the European Communities implementing the MTN Agreements, the Agreement on Technical Barriers to Trade was fully applicable in Greece.

Dispute Settlement

5. The representative of the United States informed the Committee that his authorities were currently holding bilateral consultations with Japan under Articles 14.1 and 14.2 of the Agreement.

Accession and Reservations

6. The observer from Bulgaria reaffirmed the will of his government to become a full signatory to the Agreement, but he said there remained certain elements to be clarified in the proposed terms of accession dated 23 July 1981 to ensure that Bulgaria would have the same rights and obligations as other signatories under the Agreement. His authorities were ready to reactivate negotiations with the aim of reaching a satisfactory solution in the near future.

7. The representative of the European Economic Community said that, for his delegation the issue of Bulgaria's accession remained open for consideration. However, his delegation still held the view that the compromise text of 23 July 1981 provided the best possible solution to the problem.

8. The representative of Hungary expressed his delegation's disappointment that the Working Party on the Accession of Bulgaria was still far from reaching agreement on terms of accession after two years of negotiations. As to the substance of the matter, he said the fact that Bulgaria was not a contracting party should not prevent it from enjoying full multilateral rights under the Agreement.

9. In concluding the discussion on this item, the Chairman noted that the question of accession of Bulgaria to the Agreement remained under consideration. He recalled the procedures that had been agreed by the Committee in this regard (TBT/M/8, paragraph 7), and noted that the Committee would revert to the matter at a future meeting in the light of developments.

Conclusion

10. The Chairman noted that the Committee had concluded the Third Annual Review of the implementation and operation of the Agreement in accordance with Article 15.8. The secretariat would update the basic documentation for the review on the basis of new information made available by delegations (TBT/10/Suppl.2).

B. First Three-Year Review of the Operation and Implementation of the Agreement

11. The Chairman recalled the discussion which the Committee had had on the arrangements for the first three-year review under Article 15.9 of the Agreement (TBT/M/9, paragraphs 35 to 40 and TBT/M/10, paragraphs 26 to 34). He also drew attention to specific proposals that had been submitted in this connection by the delegations of the United States and the Nordic countries and circulated in documents TBT/11, TBT/12 and TBT/13.

General Statements

12. Following a brief exchange of views on the experience gained with the operation of the Agreement since its entry into force, the Committee noted that in general the Agreement had operated satisfactorily. The operation of the Agreement had greatly improved transparency with regard to technical regulations adopted at national level, though some technical problems still remained in connection with

the notification procedures and the operation of the enquiry points established under the Agreement, which the Committee was endeavouring to solve on a continuing basis. While a relatively large number of contracting parties had adhered to the Agreement, the Committee expressed the hope that participation would increase in the future, particularly as regards less-developed contracting parties.

Procedures for Notification

13. The representative of Brazil reiterated his delegation's concern that all Parties should comply with the recommendations adopted by the Committee relating to the notification procedures and format. With regard to the latter, she proposed that wherever possible Parties should indicate the CCCN number of products concerned by regulations and certification systems. Also, where possible, Parties should indicate in the format any reference to international standards and, in items 8 or 11, they should indicate whether documents are available free of charge or at a cost.

14. The representative of the Philippines stated that the Philippines' enquiry point had encountered some delays in receiving notifications from other signatories. Unavailability of the texts of proposed technical regulations or rules of certification systems in the English language were also causing problems for Parties wishing to comment on them. Translation of such texts into the national language was beyond the financial capacity of the enquiry point in his country.

15. The Committee took note of the proposal by the representative of Brazil and of the problems raised under this item, and agreed to keep these problems under review with a view to finding appropriate solutions.

Length of time allowed for comments

16. The representative of the United States presented the proposal made by his delegation in document TBT/12, to extend the recommended time period for comments from the current six weeks to sixty days, or ninety days when the proposed regulations for rules of certification systems are particularly complex. It would be up to each signatory to determine whether such an extension is desirable.

17. The representative of Sweden, speaking for the Nordic countries, drawing attention to the proposal contained in document TBT/11, said it would be preferable to maintain the present recommended six-week period while encouraging Parties to look favourably to requests for extension. An across-the-board extension of the time allowed for comments might interfere with the national decision-making processes relating to technical regulations and certification systems.

18. The representative of Canada expressed a preference for maintaining the current six week period as a basis, noting that only few requests for extension had been made in practice. He therefore favoured the proposal contained in document TBT/11. In addition, however, he said that more informative notifications would assist Parties in determining their interest in specific new proposed regulations.

19. Several delegations confirmed that there had been few requests for extensions of the comment period and that most had been granted. Several also said that the main problem seemed to be compliance with the recommended six week period. Some delegations recalled that the Committee had previously discussed this problem and had recommended that requests for extension be given sympathetic consideration (TBT/M/8, para.12(1)).

20. The representative of Switzerland said he could agree with the United States proposal but he noted that a longer comment period might induce certain signatories to make more frequent use of the procedures of Article 2.6 and 7.4. The representative of the Philippines also supported the United States proposal because he felt it could help overcome some of the practical difficulties encountered by countries like his own in handling and assessing the contents of notifications of other Parties. He said it would also be helpful to have more comprehensive information on the substance of proposed regulations in the notification format. Support for the United States proposal was also given by the representatives of Chile, Romania and the United Kingdom on behalf of Hong Kong, on the grounds that a clearly established comment period would be preferable to undertakings to give consideration to requests for extension. The representative of Austria, while not disagreeing with the United States proposal, felt the proposal contained in TBT/11 was more pragmatic.

21. The representative of Brazil supported the United States proposal in consideration of the fact that in practice the final date for comments in the majority of notifications was very close to the proposed dates of adoption and entry into force. In this connection she said it would be useful to find out whether there had been any case of the date of adoption and entry into force being changed as a result of a request for extension of the comment period.

22. In concluding the discussion, the Chairman noted that the Committee was not yet in a position to agree on a general extension of the comment period as proposed in document TBT/12, and he proposed that the Committee should revert to the matter at a future meeting. He also proposed that the Committee agree to recommend that Parties effectively provide 45 days for comments on proposed technical regulations and certification systems, and that they look favourably to requests for extension of the time period for comments as proposed in document TBT/11, namely:

"If a Party wishing to comment is unable to do so within the time-limit given by the notifying Party, it can within that time-limit inform the notifying Party about its intention to comment and request an extension of the time-limit. The notifying Party should look favourably to such requests."

23. It was so agreed.

24. The representative of the United States proposed that persons responsible for enquiry points could at an appropriate future time exchange information on the number of requests received for extensions of the comment period and the nature of responses to such requests. The representative of Chile proposed that the secretariat be asked to draw up a synoptic table showing the extent to which the recommended six week period had been observed by signatories. It was so agreed.

Meetings of Enquiry Points

25. The relevant proposal by the delegation of the United States is contained in document TBT/12.

26. After a brief discussion, the Committee agreed to arrange for regular meetings of persons responsible for enquiry points on a biennial basis, the next such meeting to take place in the Spring of 1983 in conjunction with a regular meeting of the Committee. Representatives of interested observers would be invited to participate in such meetings. The meetings would deal only with technical issues, leaving any policy matters for consideration by the Committee itself. The agenda for the Spring 1983 meeting of enquiry points would be established by the Committee at its next meeting on the basis of a secretariat paper to be prepared in consultation with interested delegations.

Enquiries which enquiry points should be prepared to answer

27. The relevant proposal is contained in document TBT/11.

28. After some discussion of this proposal, the Chairman noted that no delegation opposed it but some had underlined that there might be practical difficulties in implementing it. He proposed that the Committee invite the Nordic delegations to reconsider their proposal in this light and that the matter be placed on the agenda of the next meeting of persons responsible for enquiry points for consideration of its feasibility and for making appropriate recommendations to the Committee. It was so agreed.

Regional Standards-Related Activities

29. The relevant proposal is contained in document TBT/12.

30. The representative of the European Economic Community said his delegation viewed the proposal fairly favourably but could not take a position on it at the present time. He noted that signatories of the Agreement did not have direct control over some of the bodies mentioned in the proposal and that it would therefore be entirely up to these bodies to respond or not to an invitation to address the Committee.

31. The representatives of Chile and of the United Kingdom on behalf of Hong Kong supported the proposal.

32. The Committee agreed to revert to the matter at its next meeting.

Examination of the standards notifications in the Inventories of Non-Tariff Measures

33. The relevant proposal is contained in document TBT/12. In presenting this proposal, the representative of the United States said that the aim was to reduce GATT documentation by consolidating and eliminating documents as much as possible. In addition, his delegation felt there was a need to put the notifications concerned under the jurisdiction of the Committee. As a minimum, they wished to incorporate the matters dealt with in these notifications in the TBT document

series, without necessarily specifying any time-period for reviewing of the material by the Committee.

34. The representative of the European Economic Community noted that the inventories were in the process of being revised and it was not known what the CONTRACTING PARTIES intended to do about them. His delegation was hesitant about bringing the matter before the Committee in a general and systematic way. Any signatory which felt that any of its benefits under the Agreement were being nullified or impaired in a specific case could take up the case under the appropriate procedures of the Agreement. Moreover, certain notifications in the Inventories were clearly overtaken by events and many of the outstanding problems could probably be resolved through bilateral consultations between the Parties concerned.

35. The representative of Sweden said that the United States proposal was not altogether consistent with the provisions of Article 14 which foresaw as a first stage the holding of bilateral consultations among the Parties concerned. His delegation was also hesitant about dealing with the matter in a general way, especially when the whole issue of non-tariff measures was the subject of intense discussions in the context of preparations for the Ministerial meeting. The latter concern was also expressed by the delegation of Romania, who referred to the proposal made in that context to create a new body to deal with non-tariff measures. He proposed that the item should be kept on the agenda of the Committee and taken up again in the light of the results of the Ministerial meeting. The representative of the Philippines supported this proposal.

36. The representative of the United Kingdom on behalf of Hong Kong supported the United States proposal, which he felt would permit much needed progress towards the elimination of trade barriers in the area of standards.

37. The Committee agreed to revert to the matter after the Ministerial meeting; to request the United States delegation to consider the compatibility of its proposal with the provisions of Article 14; and to encourage signatories to engage in bilateral contacts with a view to deleting notifications in the Inventories which no longer had any practical justification.

Priority list of international standards

38. The relevant proposal is contained in document TBT/13.

39. The representative of the United States said his delegation might have some difficulty with the proposal, as the United States government had no control over the activities of American standardizing bodies which participate in the work of international standardizing bodies. He said, however, there might be an interest in sharing available statistical information regarding the work carried out by such international bodies.

40. The Committee took note of the proposal and agreed to revert to it at its next meeting.

Interpretation of Articles 2.5 (preambular part); 2.5 1; 7.3.1; 10.1; 10.2 of the Agreement

41. The relevant proposals are contained in documents TBT/11 and TBT/12.

42. The Committee had a preliminary discussion of these proposals. It agreed to revert to them at its next meeting following further consultations among delegations, noting that some of these matters might be taken up in the next meeting of persons responsible for enquiry points.

Applicability of the Agreement to Processes and Production Methods (PPMs)

43. The relevant proposal is contained in document TBT/12.

44. The proposal received support from the representatives of Australia, Brazil, Canada, Chile, New Zealand, Romania and Switzerland. However, several of these delegations stressed the need to define very clearly the mandate of the proposed working party, and some suggested that the United States delegation might wish to elaborate its proposal in this regard for the next meeting.

45. The representative of Austria said that in the view of his delegation, PPMs were not covered by the Agreement and therefore the issue did not fall within the competence of the Committee.

46. The representative of Japan said the definition of PPMs was not clear, nor was it clear how it affected international trade. It was therefore necessary to consider this issue further on the basis of case studies. However, if there was a consensus in the Committee to establish a working party as proposed, his delegation would join the consensus.

47. The representative of the European Economic Community recalled that there had already been extensive discussions of this question, both during the Tokyo Round and in the Committee itself. The issue was not one of interpretation of the Agreement, but one of extension of its coverage. He saw no usefulness in establishing a working party when the positions of the members of the Committee remained as far apart as they had always been on this subject. As long as this was the case, his delegation therefore opposed the establishment of a working party to discuss PPMs.

48. The Chairman said that his understanding was that the Committee was not in a position at this stage to agree to the establishment of a working party as proposed in document TBT/12. He noted that there had been a suggestion that the proposing delegation prepare a draft mandate for the working party in consultation with other delegations and taking into account the points made in the discussion. He therefore proposed that the Committee revert to this proposal at its next meeting and invited delegations to reflect on the issue with a view to reaching a satisfactory solution in the context of the first three-year review of the operation and implementation of the Agreement. It was so agreed.

Applicability of the Agreement to Services

49. The relevant proposal is contained in document TBT/12.

50. After a brief discussion, the Chairman noted that the Committee was not in a position to adopt the proposal. He further noted that the United States delegation reserved the right to revert to the matter at a later stage, after the Ministerial meeting. The Committee endorsed these conclusions.

Conclusion

51. The Chairman noted that the Committee had initiated its first three-year review of the operation and implementation of the Agreement and that it would complete this review at its next meeting, taking into account all the proposals put forward in documents TBT/11, TBT/12 and TBT/13 and in the course of this meeting, as well as any other proposals which delegations might wish to submit by the end of 1982. He proposed that upon completion of the first three-year review the secretariat should issue a document containing the substance of all recommendations and decisions of the Committee on the implementation and interpretation of the Agreement, for use by all those implementing the Agreement and for the information of prospective new signatories of the Agreement. It was so agreed.

C. Report to the CONTRACTING PARTIES under Article 15.8

52. The Committee adopted its third Report (1982) to the CONTRACTING PARTIES, which is contained in document L/5407.

D. Statement by the observer from ISO

53. The observer from the International Standardization Organization (ISO), referring to discussions at previous meetings of the Committee regarding existing international standards, indicated the willingness of ISO to assist the secretariat in collecting relevant information (TBT/M/10, paras.13-14) on the basis of a new computerized standards indexing system ("Kwic Index") currently being experimented by his organization.

54. The Committee thanked ISO for its cooperation and agreed to revert to the matter at a future meeting.

E. Date and agenda of next meeting

55. The Committee agreed to hold its next meeting around the turn of the year, at a date to be fixed by the Chairman in consultation with delegations. The agenda of the meeting would include the following items:

1. First three-year review of the operation and implementation of the Agreement.
2. Meeting of enquiry points: draft agenda for the meeting.
3. Other business.