

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TBT/W/61

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Committee on Technical Barriers to Trade

DRAFT MINUTES OF THE MEETING HELD ON 17-18 MAY 1983

Chairman: Mr. K. Bergholm

1. The Committee on Technical Barriers to Trade held its thirteenth meeting on 17-18 May 1983.

2. The agenda of the meeting was as follows:

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A. Statements on Implementation and Administration of the Agreement

3. The representative of India informed the Committee that the Indian Standards Institution (ISI) had been designated as the enquiry point in his country and that it would soon be in a position to answer all enquiries by other signatories. The existing facilities of the ISI Library included information on all national standards and steps were being taken to computerize this data. The ISI published yearly a Handbook of Indian Standards supplemented by Standards Monthly Additions which also contained information on the proposed draft Indian standards. He added that the administrative process necessary to effect amendments to the ISI Certification Marks Act, pursuant to the terms of the Understanding on India's acceptance of the Agreement, had been initiated after India had signed the Agreement in February 1983.

4. The representative of Czechoslovakia informed the Committee that the Federal Ministry of Foreign Trade had been assigned the responsibility of coordinating the implementation of the Agreement. The text of the Agreement had been published in the Official Gazette of the Federal Ministry of Foreign Trade. Federal ministries and national agencies had been informed of their obligations under the Agreement. In addition, internal administrative instructions on respective provisions of the Agreement would be issued. The enquiry point was established in the Czechoslovak Institute for Standardization and Quality in Bratislava, which was a branch of the Federal Office for Standards and Measurements.

5. The representative of the United States introduced the Report to the United States Congress on the Agreement on Technical Barriers to Trade - "Standards Code". It was prepared by four United States agencies responsible for the implementation of the Agreement in accordance with Title IV of the Trade Agreements Act of 1979 and covered the three years of operation and implementation of the Agreement.

6. The representative of Japan declared that the Diet had enacted the omnibus law amending parts of sixteen related laws concerning standards and certification systems on 18 May 1983. Outline of these amendments would be notified to the Committee in a document to be circulated in the TBT/1/Addenda series. He recalled that following a review carried out of Japan's standards and certification systems the Ministerial Conference for Economic Measures had adopted on 26 March 1983 a comprehensive set of policies and specific measures which aimed at ensuring, in terms of legal systems, non-discrimination between nationals and non-nationals in certification procedures, conformity with international standards, transparency of the procedures, acceptance of foreign test data, simplification and speeding-up of certification procedures. The purpose of these measures was to proceed further with the opening of the Japanese market and to promote the objectives of the Agreement on Technical Barriers to Trade.

7. The representative of the United States, in welcoming the measures announced by the representative of Japan on improvement of conditions of access to certification systems, stated that the entry into force of the omnibus law in Japan would be viewed by his delegation as a successful completion of the consultations that his authorities had been pursuing with the Government of Japan in the course of last year.

8. The representative of Brazil informed the Committee on the establishment of a Coordination Committee in her country, composed of the representatives of the National Institute of Metrology, Standardization and Industrial Quality (INMETRO), the Brazilian Association of Technical Regulations (ABTN) and of various ministries. The Committee's activities included analysing, assessing and evaluating draft standards per se, and technical regulations and certification systems with a view to preventing technical barriers to trade; coordinating and following up the work done on technical barriers to trade; and advising on the operation of the Agreement on Technical Barriers to Trade and more specifically on the provisions of Article 12 relating to special and differential treatment for developing countries.

9. The representative of the Philippines stated that implementation of the Agreement in his country was the joint responsibility of the National GATT secretariat of the Tariff Commission and of the Product Standards Agency (PSA). Standards Administrative Order 20-23, dated 22 April 1982, modified the PSA Philippine Standard (PS) Certification Mark Licensing System to include products for which there were no established Philippine Standards as yet. Since 1 August 1982, international standards or foreign standards acceptable to PSA were used as bases for the assessment of requests for the license to use the PS Certification Mark. Previously, only products which conformed with established Philippine standards were eligible for a license to use the PS Certification Mark. The text of the Agreement on Technical Barriers to Trade had been published in the Official Quarterly Gazette of the Product Standards Agency.

10. The representative of the United States reiterated his delegation's concern expressed at the previous meetings of the Committee that some signatories had not yet ratified the Agreement. He urged the delegations of these signatories to provide information on the steps taken to activate the ratification procedures in their country.

11. The Committee noted the statements made and agreed to keep this item on the agenda of future meetings.

B. Procedures for Information Exchange

12. As agreed during the three-year review, the second meeting on procedures for information exchange was held on 16 May 1983, under the Chairmanship of Mr. D. Bondad (Philippines). Representatives of interested observers were invited to participate in the meeting. The meeting addressed itself to the items contained on the draft agenda circulated in document TBT/W/56 and to items proposed in documents TBT/W/59 and TBT/W/60.

13. The Chairman presented an oral report on the meeting on his own responsibility (reproduced in the Annex). He also forwarded the texts of a number of recommendations relating to some of the matters that the participants had discussed and approved at the meeting.

14. The Committee noted the oral report of the Chairman of the meeting and took the following action:

- (1) The Committee recommended that when implementing the provisions of Articles 2.5.2 and 7.3.2, a notification should be made when a draft with the complete text of a proposed technical regulation or rules for a proposed certification system is available and when amendments can still be introduced and taken into account.
- (2) The Committee recommended that the normal time limit for comments on notifications should be sixty days. A Party may, if necessary, however, indicate in its notification that it will proceed to implement the proposed measure after forty-five days if no comments or requests for extension of the time limit have been received from other Parties within that time. Any Party which is able to provide a time limit beyond sixty days is encouraged to do so.
- (3) The Committee recommended that:
  - (a) (i) An enquiry should be considered "reasonable" when it is limited to a specific product, or group of products, but not when it goes beyond that and refers to an entire business branch or field of regulations or standards.
    - (ii) When an enquiry refers to a composite product, it is desirable that the parts or components, for which information is sought, be defined to the extent possible. When a request is made concerning the use of a product it is desirable that the use be related to a specific field.
  - (b) The Enquiry Point(s) of a Party should be prepared to answer enquiries regarding the membership and participation of that Party, or of relevant bodies within its territory, in international and regional standardizing bodies and certification systems, with respect to a specific product or group of products.

15. Regarding the recommendation by the Committee on the length of time allowed for comments on notifications, the representative of Canada informed the Committee that some time would be needed in his country to alter the internal procedures in order to extend the comment period to sixty days. The representative of Argentina expressed the view that recommendations made by the Committee did not have mandatory effect. He added that reference to "reasonable enquiry" in the recommendation on enquiries which the enquiry points should be prepared to answer was neither a definition nor an interpretation of the provisions of Article 10.1 by the Committee.

16. In concluding the discussion of this item, the Chairman suggested that the Committee should take note of the following specific points raised in the oral report of the Chairman of the Meeting on Procedures for Information Exchange:

- (a) a proposal by the delegation of Nordic countries concerning development of criteria for assessing the trade significance of proposed regulations,
- (b) a proposal by the European Economic Community on the handling of comments,
- (c) cooperation programmes on translation of texts of proposed technical regulations and rules of certification systems.

17. The Committee took note of these points and agreed to return to point (b) at its next meeting and to points (a) and (c) in the light of developments and at an appropriate time.

#### C. International Standards

18. The representative of Sweden presented a revised proposal by the delegations of the Nordic countries contained in document TBT/W/57.

19. The representative of the European Economic Community, while supporting the proposal to set up a list of products which could be presented to relevant international standardizing bodies, wondered whether it was appropriate to limit such a list to the TBT notifications on proposed technical regulations. Technical regulations already in force and which might have a significant effect on trade would not be covered by such a list. This may make it less useful since one of the objectives of the exercise should be to avoid the establishment of non-necessary national standards. In addition, he suggested that the Committee might establish a working group to examine the proposal further.

20. The representative of Switzerland said that establishment of a list based on TBT notifications would be a good start in the direction of promoting harmonization of technical regulations and standards. The representative of Chile suggested that once the list of products was prepared by the secretariat, informal consultations could be held among the members of the Committee with a view to determining how this list could be submitted to other relevant international standardizing bodies. The representatives of Canada and the United States, though not opposed to the Nordic proposal, expressed doubts as to the necessity of establishing such a list.

21. The Committee agreed to request the secretariat to prepare a list of products covered by TBT notifications. This list should be structured into different groups of products which should be as specific as possible. It would be prepared on the basis of a computerized listing of TBT notifications which was planned to be completed by the end of the year.

22. The Committee also had a preliminary discussion of the second part of the proposal of the Nordic countries and agreed to revert to it at a future meeting.

23. The Committee noted the information given by the observer from the International Standardization organization (ISO) that the first edition of the KWIC (Key Word in Context) Index had been issued and that a copy was made available in the GATT secretariat for consultation by delegations.

D. Applicability of the Agreement to Processes and Methods

24. The Chairman drew attention to a draft text which had been prepared in informal consultations among interested delegations as a basis for a possible solution of the problem relating to Article 14.25 of the Agreement.

25. The representative of Argentina said that existing differences between Parties to the Agreement should not be resolved by the drafting of new texts which interpreted the provisions of the Agreement. His delegation was opposed in principle to any texts which would result in modifying the balance of the MTN Agreements as they emerged from the Tokyo Round. Concerning the substance of the text before the Committee, he wondered whether it was meaningful to consider a text relating to the procedures for settlement of disputes when there was a major difference of views among the Parties as to the applicability of the Agreement to PPMs.

26. The representative of Hungary welcomed the presentation of a draft text as a step towards the solution of the problem of PPMs. The hesitations of his delegation concerning the wording of the text could be overcome if it was clear that the intention of the Parties was to adopt a positive approach to invoking Article 14 when addressing disputes relating to PPMs.

27. The representative of the United States recalled the proposals which his delegation had made to the Committee in the past on the question of PPMs and said that in the event that it would not be possible to make significant progress in the near future on the draft text before the Committee, his delegation might wish to revert to these proposals.

28. In concluding the discussion on this item, the Chairman noted that there was a wide degree of support in the Committee for trying to solve the problem along the lines suggested in the draft text but that no consensus had emerged on the issue at this stage. It was his understanding that difficulties relating to the wording of the text could be resolved through further consultations among delegations. On the other hand, he felt that objections of a more fundamental nature might be addressed in the context of the report to the CONTRACTING PARTIES



which the Committee would prepare pursuant to the Ministerial decision of November 1982 relating to MTN Agreements and Arrangements. The Committee took note of the conclusions by the Chairman and agreed to revert to the issue at its next meeting.

E. Preparations for the Fourth Annual Review

29. After a brief exchange of views on the proposal by the delegation of Nordic countries contained in document TBT/W/56, the Committee agreed that the basic document for the fourth annual review should include information on the implementation and administration of the Agreement which would be limited to the period under review. Its lay-out should follow the one suggested in the Nordic proposal. The Committee also agreed that the secretariat could prepare the basic document in consultation with interested delegations and that no ad hoc group was needed for that purpose. Signatories should notify any changes in the information contained in sections of the document TBT/10, Supplements 1 and 2 relevant to their country by the end of July at the latest. The document would be issued on 12 September 1983.

30. In connexion with this item, the Committee took note of the decision of the Council at its meeting 20 April 1983 and agreed that a section of its annual report for 1983 would be devoted to the review of the operation of the Agreement as called for in the Ministerial decision of November 1982 on MTN Agreements and Arrangements.

31. The representative of Argentina expressed the concern of his delegation with respect to problems that some signatories had encountered in implementing the Agreement. He also referred to difficulties which countries faced in joining the Agreement due, inter alia, to problems arising from the text of the Agreement itself. He felt that certain Parties were not satisfied with the way other Parties were using the procedures of the Agreement, notably with regard to the interpretation of certain of its provisions which tended to undermine the balance of the Agreement as negotiated initially.

32. The representative of the European Economic Community, supported by the representative of the United States, stated that the emphasis given to the operation of the Agreement in the annual report for 1983 should be in line with the conclusions of the first Three-Year Review of the implementation and operation of the Agreement where the Committee had noted that the Agreement had operated satisfactorily.

33. In concluding the discussion of this point, the Chairman noted that the report should reflect the conclusions of the first Three-Year Review and refer to recommendations and decisions adopted during the period under review as further steps to improve the operation of the Agreement. The number of contracting parties signatories to the Agreement as well as the number of developing countries among them should also be mentioned in the report. Signatories as well as observers should indicate any specific problems that they wished to be addressed in the report before the end of July so as to enable the secretariat to prepare a draft for consideration by the Committee at the next meeting. It was so agreed.

34. The Committee took note of a proposal by the delegation of the United States which suggested that the Committee should develop procedures for determining its agenda and setting its work plan. It agreed to revert to it at some future time in the light of further consultations.

F. Presentation by the Representative of a Regional Standardizing and Certifying Body

35. The representative of the United States recalled the decision adopted during the Three-Year Review concerning presentations to the Committee by representatives of regional standardizing and certifying bodies (TBT/M/12, paragraph 15) and proposed that the representative of NORDTEST be invited to address the Committee at its next meeting.

36. After a brief exchange of views, the Chairman concluded that any signatories interested in the activities of NORDTEST should prepare questions to be circulated informally to all signatories before the end of July for their consideration and comments. Once the proposed questions were agreed to by all signatories, they would be communicated to the representative of NORDTEST as a basis for his presentation. If this process could be completed in time, the presentation could take place at the next meeting of the Committee.

G. Request for Accession by Bulgaria

37. The observer from Bulgaria informed the Committee that his delegation had held informal consultations with interested delegations since the October meeting of the Committee with a view to pursuing the negotiations on Bulgaria's accession to the Agreement. A draft decision on the Bulgarian accession submitted by his delegation had been circulated to the Committee as document TBT/WPB/2 of 31 March 1983. He asked the representative of the secretariat to provide information on the follow-up to the circulation of this document. The representative of the secretariat said at that the request of the Chairman of the Working Party on the Accession of Bulgaria to the Agreement, the secretariat had sent a telephone message to all the members of the Working Party which stated that the delegation of Bulgaria wished to receive as soon as possible, through the secretariat, comments on its draft decision. The secretariat had also indicated that the position of the delegation of Bulgaria was flexible and that it was prepared to consider any comments on the text as well as any alternative drafting proposals made by other members of the Working Party. The secretariat had further indicated that as soon as the Chairman of the Working Party judged, in the light of the comments made, that there was a basis for discussion, he would convene an informal meeting of the Working Party for that purpose. Oral comments had been received from seven members of the Working Party. These comments had been transmitted to the Chairman of the Working Party who was currently examining them with a view to deciding on the follow-up to be given.

38. The Committee took note of the statements made.



H. Date and agenda of the next meeting

39. The Committee agreed to hold its next meeting on 4-5 October 1983.

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

1. Statements on implementation and administration of the Agreement.
2. Handling of comments on notifications.
3. Applicability of the Agreement to processes and production methods.
4. Presentation by the representative of a regional standardizing and certifying body (NORDTEST).
5. Fourth Annual Review.
6. Report (1983) to the CONTRACTING PARTIES.

41. The draft agenda would be circulated to delegations in advance of the meeting, in accordance with established procedures.

ANNEXSECOND MEETING ON PROCEDURES FOR INFORMATION EXCHANGEReport presented by the Chairman on his own responsibility

The participants in the Meeting on Procedures for Information Exchange had a detailed exchange of views on the activities and facilities of the enquiry points set up in their countries. A number of papers describing these activities and facilities were circulated. These were supplemented by oral descriptions of the procedures applied for the preparation of notifications, the replies to enquiries on proposed technical regulations, the handling of comments on notifications, and the dissemination of notifications to interested parties. The discussion showed that signatories had taken steps since the first meeting of enquiry points for the expansion of their arrangements and an improved functioning of their enquiry points in order to implement their obligations under the Agreement in the field of information exchange.

Several participants introduced brochures and booklets they had prepared to inform interested parties about the provisions of the Agreement and the operation of their enquiry points.

The participants discussed a proposal by the delegation of Nordic countries regarding criteria for assessing the trade significance of proposed regulations. The participants noted that establishment of precise criteria which were generally applicable to all signatories was not feasible at this stage. However, they agreed to recommend that the Committee return to this issue at a later date in the light of further reflections on the matter.

After a brief discussion of a proposal by the delegation of Nordic countries on timing of notification, the participants decided to forward the text of a recommendation to the Committee for its adoption. The text of this recommendation appears in the first paragraph on the first page of the informal document before you.

The Nordic countries proposal also contained the suggestion that if a proposed technical regulation or rules for a proposed certification system is presented for comments for interested parties within the country, the notification to the GATT should be made at the same time. The participants noted that the procedures for the consultation of interested parties within the country varied from signatory to signatory and that the forwarding of notifications to the GATT before the internal consultations had been completed could present difficulties in some cases.

The participants discussed a proposal by the European Economic Community on the length of the time period allowed for comments and agreed to forward a recommendation on this matter to the Committee for its adoption. The text of this recommendation appears in the second paragraph on the first page of the informal document before you.

The participants informed each other of their experience with requests for an extension of the comment period and of their replies to such requests. It emerged that requests for an extension of the comment period had in general been answered positively.

The participants had also before them a proposal by the European Economic Community on the handling of comments. Since the proposal had been submitted only recently the participants agreed to recommend that the Committee revert to it at an appropriate time.

The participants had a brief exchange of views on enquiries which enquiry points should be prepared to answer and decided to forward the text of a recommendation to the Committee on this matter. The text of this recommendation appears on the second page of the informal document before you.

The participants discussed the problems they had encountered in the translation of texts of proposed regulations including the problem of obtaining texts in one of the three GATT languages and the financial burdens resulting from translations. The participants also discussed the possibilities of establishing a

translation bank among signatories or of establishing other forms of cooperation programmes in this area. The participants agreed that the Committee might wish to revert to this matter in the light of developments.

Participants had an exchange of views on their experience in the field of technical assistance. They concluded that any concrete needs for technical assistance should be reported to the Committee.

The participants discussed in detail the facilities available in their country concerning computerized information and other sources of information on technical regulations, standards and certification systems. The participants also took note of a plan by the secretariat to prepare a computerized data base on TBT notifications.

At the suggestion of the delegation of the United States the participants agreed that the addresses of the enquiry points should be regularly up-dated.