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GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Technical Barriers to Trade

DRAFT MINUTES OF THE MEETING HELD ON 4-5 OCTOBER 1983

Chairman: Mr. K. Bergholm

1. The Committee on Technical Barriers to Trade held its fourteenth meeting on 4-5 October 1983.

2. The agenda of the meeting was as follows:

A. Statements on Implementation and Administration of the Agreement

3. The representative of Egypt announced that the ratification procedures in his country were in the process of being completed.

4. The representative of Czechoslovakia informed the Committee that the enquiry point established in his country had formally started its activities including information dissemination, on 27 September 1983.

5. The representative of the United States drew attention to a newsletter published recently by the Standards Code and Information programme of the Office of Product Standard Policy in the National Bureau of Standards. Its purpose was to inform industry and other interested groups of the Government programme and available services established in support of the Agreement on Technical Barriers to Trade.

6. The representative of Japan referred to a communication circulated in document TBT/1/Add.32 and said that amendments to parts of fifteen related laws which facilitated registration of and type approval for foreign manufacturers, had entered into force on 1 August 1983. Amendments to the parts of the Fertilizer Control Law was to be effected in April 1984. He also informed the Committee on improvements in operational procedures with respect to standards and certification systems which consisted of ensuring transparency, promoting the use of international standards, promoting the acceptance of foreign test data, and simplification and speeding-up of certification procedures. In addition, the Government would provide guidance to the standard-drafting and certification activities of non-governmental bodies in accordance with the set of policies and measures adopted by the Decision of 28 March 1983.

7. The representative of the European Economic Community, in expressing the appreciation of his delegation for the major effort made by the Government of Japan to further the objectives of the Agreement, also encouraged Japan to ensure full implementation of the decisions taken by the Liaison and Coordination Headquarters relating to operational procedures on standards and certification systems.

8. The representative of the European Economic Community also informed the Committee that his authorities had sought consultations under Article 14 concerning the new rules of certification systems applied by Spain on heating radiators.

B. Handling of comments

9. The relevant proposal by the delegation of the European Economic Community, contained in document TBT/W/64, received the support of several delegations.

10. The representative of the United States said that his delegation joined other delegations which viewed the proposal favourably but added that the authority or agency to be designated in his country might have practical difficulties in implementing it due to the system in use relating to receipt and disposition of comments.

11. The Committee agreed to revert to the proposal at its next meeting following informal consultations among interested delegations.

C. Applicability of the Agreement to Processes and Production Methods

12. The Chairman of the Committee introduced the agenda item relating to processes and production methods by indicating that, as announced at the

thirteenth meeting of the Committee, informal consultations had been pursued with a view to resolving difficulties concerning the wording of the draft text circulated at that meeting.

13. The Chairman pointed out that the purpose of preparing a text on processes and production methods was not to introduce any formal interpretation or amendment of the provisions of Article 14.25 of the Agreement nor of Article 14 as a whole. The text which was being presented to the Committee therefore in no way affected the rights and obligations of Parties under the existing provisions of the Agreement.

14. The Chairman then invited the Committee to record, in the light of the consultations held on the matter, the following conclusions concerning the functioning of Article 14.25:

"The Committee recognizes that there are differences of views among Parties in respect to Article 14.25 (TBT/M/3, paras. 34-43; TBT/M/4, paras. 20-37; TBT/M/5, paras. 19-30; TBT/M/6, paras. 14-16; TBT/M/7, paras. 48-59; TBT/M/11, paras. 44-49; TBT/M/12, para. 28).

In this context, where a Party considers that obligations under the Agreement are being circumvented by the drafting of requirements in terms of processes and production methods rather than in terms of characteristics of products, the Parties agree to cooperate in the process of dispute settlement."

15. The Committee recorded these conclusions.

16. The delegations of New Zealand, Pakistan, Philippines and the United States stated that they would have preferred that the text of the conclusions include the concept of "facilitating" the dispute settlement procedures but that they could agree to record the conclusions as proposed since there was a consensus in the Committee to do so. The representative of New Zealand noted that the support of his delegation to the conclusions should not be taken to imply that any future dispute would solely be settled within the provisions of Article 14.25 of the Agreement. Their views on the interpretation of the Agreement remained as set forth in the minutes of the previous meetings.

17. The Committee took note of the statements made.

D. List of Products Covered by the Notifications under the Agreement

18. The Chairman recalled that the first part of a proposal by the delegation of the Nordic Countries contained in document TBT/W/57 had been adopted by the Committee at its previous meeting (TBT/M/13, paras 18 to 22). After a brief discussion on the second part of the proposal, the Committee agreed that a list of products covered by the notifications under the Agreement could be made available to interested standardizing bodies in order to obtain information on existing international standards and work under way on the products concerned.

E. Presentation by the Representative of a Regional Standardizing and Certifying Body (NORDTEST)

19. The Committee took note of a presentation made by the Secretary-General of NORDTEST (reproduced in the Annex), on the basis of a set of questions agreed to by the signatories.

20. The representatives of the European Economic Community and of the United States proposed, respectively, that the representatives of PASC (Pacific Area Standards Congress) and CENELEC (European Committee for Electrotechnical Standardization) be invited to address the Committee at its next meeting. It was so decided.

21. The Chairman noted that the same procedures as in the case of NORDTEST would be used. He invited any signatories interested in the activities of PASC and CENELEC to circulate questions before the end of this year so that a set of agreed questions could be established in time for the next meeting.

F. Projected Agenda for the Committee

22. In introducing the relevant proposal contained in document TBT/W/63, the representative of the United States said that the Committee had served as a useful forum for launching new initiatives on standards-related matters. An agenda planning its activities over an extended period of time would pave the way for addressing substantive issues drawn up from current experience and individual needs of signatories.

23. After some discussion, the Chairman noted that there was considerable support for the part of the proposal concerning rationalization of the work of the Committee and planning its agenda in a longer perspective. However, several delegations had expressed doubts as to the advisability of meeting in ad hoc sessions to give orientation to the functioning of the Committee. Some delegations had also emphasized that the Committee should maintain flexibility in its agendas so as to enable it to give priority to urgent matters.

24. Some delegations suggested that customary procedures for preparing the agenda of the meetings could be used as a starting point; for example, an agenda projecting the work of the Committee for several meetings could be circulated to signatories for consideration and comments.

25. The Committee agreed to revert to this item at its next meeting.

G. Technical Assistance

26. The representative of the Philippines said that, pursuant to the discussion among participants to the Second Meeting on Procedures for Information Exchange on this subject (TBT/M/13, Annex), his authorities wished to report to the Committee that technical assistance would be sought by them from several signatories in the areas of information and training on standards, certification, quality control and product inspection relating to specific product categories.

H. Fourth Annual Review

27. The Chairman drew attention to the background documentation for the review contained in documents TBT/10 and Suppls. 1 and 2, TBT/17 and Suppl.1, TBT/W/25/Rev.8 and Corrs.1 and 2, TBT/W/31/Rev.3 and Corr.1 and TBT/62 and Corrs.1 and 2. The main comments made under various headings of the review are set out below. Additional information provided by delegations in the course of the review are reflected in documents TBT/17/Suppl.2, TBT/W/31/Rev.3/Corr.2 and TBT/W/62/Corr.3, issued after the meeting.

Implementation and administration

28. Concerning the status of ratifications of the Agreement, the representative of Argentina referred to a statement concerning this point included in document TBT/10, and the representative of the European Economic Community said that the necessary legislative procedures in Greece were being pursued.

29. The representative of the United States asked whether the implementation of the Information Directive on technical regulations and standards adopted by the European Economic Community in March 1983 would affect its obligations under the Agreement. The representative of the European Economic Community replied that the Information Directive in question laid down a number of internal procedures for determining a common position on the harmonization of national technical regulations and standards within the Community and that in that respect, it was in conformity with the objectives of the Agreement. He said that the Directive related to internal working arrangements and he did not consider that there was an obligation to notify such arrangements under Article 15.7 of the Agreement.

30. Upon a request for clarification by the representative of the United States on a Memorandum of Understanding between the Government of the United Kingdom and the British Standards Institution, the representative of the United Kingdom informed the Committee that, in publishing this document, the government had expressed its intention to raise the status of standards applied in the United Kingdom by promoting the use of standards that were recognized on a wide basis. It had also encouraged the BSI to create new standards that would increase the competitiveness of exports by national companies. It was also stated in the Memorandum that the BSI should play its part in harmonizing technical regulations and standards at an international level. The Understanding was a purely internal arrangement which was in full conformity with the Agreement, but he did not consider that it was among the measures to be notified under Article 15.7.

31. In response to an enquiry by the representative of the United States, the representative of France informed the Committee that pursuant to an examination of the standardization mechanism in effect in France, his authorities had felt the need to adopt measures in view of bringing the standardization programmes in France more in line with the objectives of its industry. His authorities were also in the process of exploring ways

of furthering the involvement of French standards-creating bodies in the international standardization activities. These steps were of a purely organizational nature which his delegation did not consider subject to Article 15.7.

Notification

32. The representative of the United States pointed out that fourteen signatories had not made any notification under the Agreement so far and asked for clarifications.

33. The representative of Brazil said that the Coordination Committee which was established in last April had addressed itself to compliance by Brazil with its obligations under the Agreement and more specifically to notification requirements. Nearly all existing standards in Brazil were based on international standards. However, once the administrative procedures were completed any technical regulations that were being proposed would be notified.

34. The representative of Chile said that the technical regulations adopted in his country, were based on international standards and did not have an impact on trade of other signatories.

35. The representative of India stated that the Indian Standards Institution was making administrative arrangements in order to initiate notification procedures in accordance with the provisions of Article 2.5, by the end of this year. On the other hand, the Indian Standards Institution Certification Marks Act of 1952 was in the process of being amended with the purpose of developing and adopting a new certification mark scheme that would be in conformity with the provisions of the Agreement. An exception of two years had been granted to India, under Article 12.8, to complete those procedures

36. The representative of Pakistan stated that although the notification procedures were established in his country, no new technical regulations or certification systems had been proposed so far. His delegation had made available in the secretariat two lists of items under compulsory certification marking, relative to exports and to home market respectively, which were available for consultation in the secretariat.

37. The representative of Czechoslovakia said that although the procedures had been established in his country to make notifications under the Agreement, no new technical regulations were in preparations or adopted which required such a notification.

38. The representative of the European Economic Community said that the procedures relating to notifications by Greece could not be initiated before the Agreement was ratified by that country. He also said that Belgium and Luxembourg would comply fully with their obligations regarding notifications under the Agreement.

Acceptance, accession and reservations

39. The observer from Bulgaria recalled that the request of Bulgaria to join the Agreement had been welcomed by the Committee already in July 1980. Since that time the Bulgarian side had been making every effort to conclude the negotiations on terms of accession which would ensure equality of rights and obligations within the multilateral framework of the Agreement. After recalling the results of the first meetings of the Working Party established to draft these terms, he stated that a reasonable solution had been found in the Working Party by May 1981. However, the official reaction of the delegation of the European Economic Community to this result had been negative. Bulgaria had made a substantial contribution by accepting to further continue negotiations and to consider in particular the issue of possible unilateral safeguard action. However, In Bulgaria's view, such action in no way was to impair or delay the on-going multilateral procedures on the dispute or to diminish the multilateral surveillance functions and competence of the Committee. After recalling that new terms of accession had been discussed on 23 July 1981, he said that the efforts of Bulgaria since that time had been aimed at ensuring that the terms of accession adequately reflect the multilateral role of the Committee, thus avoiding a serious imbalance between rights and obligations. He added that the last proposal of Bulgaria, which had been submitted in March 1983 (TBT/WPB/2), clearly stipulated the possibility of taking provisional unilateral action and ensured multilateral surveillance of the Committee and the completion of the multilateral dispute settlement procedures. The members of the Working Party on the accession of Bulgaria had been requested to submit their comments on the latest proposal by Bulgaria. The information received directly and through the secretariat had shown that the majority of the comments were positive. Still, there was total uncertainty as to further negotiations. He maintained that the continuation of the negotiations was not a matter of the wording but of the approach to the substantial issues and urged every member of the Committee to define clearly its attitude to these various issues.

Testing procedures and acceptance of test results

40. Concerning a request for information by the representative of the United States, the representative of Czechoslovakia informed the Committee of a bilateral agreement which had been concluded between Czechoslovakia and the Democratic Republic of Germany on testing procedures applied on traded goods. Similar bilateral agreements would also be concluded with some of the other members of the Council for Mutual Economic Assistance (CMEA). The aim of these agreements was mainly to avoid the duplication in testing and verifying of imported products. A multilateral agreement between member countries of the CMEA in this field could only be realized after gaining some experience on the operation of bilateral agreements.

Conclusion

41. The Chairman noted that the Committee had concluded its fourth annual review of the implementation and operation of the Agreement under Article 15.8. The Committee took note of the statements made under various items of the review.

I. Report (1983) to the CONTRACTING PARTIES

42. In the context of the review of the operation of the Agreement in accordance with the Ministerial Decision of November 1982 on MTN Agreements and Arrangements, the Committee discussed, inter alia, the status of negotiations on the request for accession by Bulgaria to the Agreement on Technical Barriers to Trade.

43. The representative of the European Economic Community suggested that the relevant section of the report to the CONTRACTING PARTIES should state that the Working Party on the Accession of Bulgaria had not met following the proposal for a draft decision on the terms of accession, contained in document TBT/9 and agreed to by most members of the Working Party. He also drew attention to the fact that the Committee had taken no action on the matter in accordance with the decision it had taken at its eighth meeting.

44. The representative of Bulgaria said that the positions taken by the members of the Working Party with respect to other drafts presented in the course of the negotiations should also go on record. He also wished to place on record that since the third progress report by the Chairman of the Working Party to the Committee, Bulgaria had been confronted with a situation in which no official reactions were expressed by members of the Working Party on a new proposal by Bulgaria contained in TBT/WPB/2, and more generally on the follow-up to be given to the negotiations.

45. The Committee took note of the statements made concerning this matter and adopted its Report (1983) to the CONTRACTING PARTIES.

J. Derestriction of Documents

46. The Chairman drew attention to the proposal for derestriction of documents set out in TBT/W/65. The Committee agreed to derestrict the full set of working documents prepared for the fourth annual review.

K. Date and Agenda of the Next Meeting

47. The Committee agreed to hold its next meeting on 28-29 February 1984.

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

A. Election of Officers for 1984.
B. Statements on implementation and operation of the Agreement.
C. Handling of comments on notifications.
D. Application of Article 2.5 (Preambular Part).
E. Presentation by representatives of two regional standardizing bodies (PASC and CENELEC).
F. Technical assistance.
G. List of products covered by the notifications under the Agreement.
H. Projected agenda for the Committee.
I. Other business.

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

ANNEX

Presentation by the Representative of NORDTEST

NORDTEST is a joint Nordic body set up in 1973 by decision of the Nordic Council of Ministers on the initiative of the Nordic Council. Countries represented in NORDTEST are Denmark, Finland, Iceland, Norway and Sweden. NORDTEST has the function of promoting developments in the field of technical testing. Its activities are carried out by a board, a secretariat and nine technical groups. The NORDTEST secretariat is located in Helsinki. The members of the board are appointed by governments or by relevant ministries in the participating countries. The technical groups consist of one representative from each country. Presently there are nine technical groups which are active in the fields of building, fire, acoustics and noise; non-destructive testing (NDT); heating, ventilation and sanitation (VVS), electronics, consumer goods, mechanics and chemistry.

NORDTEST has the function of promoting developments in the field of technical testing. Its primary task is to initiate research on characteristics and properties of materials and products. It also selects and adopts appropriate test methods among national and international ones. If such methods do not exist, NORDTEST assumes the rôle of developing new methods. The proposed test methods are circulated for consideration within the Nordic countries. Once a proposed method has received the support of the participating countries, it is recommended and registered as a NORDTEST method. The adopted test method is forwarded to the national standardization organisations as a basis for national standards within the Nordic countries. Information on NORTEST methods is also made available to ISO and IEC. A third task of NORDTEST is to provide guidelines to test laboratories. These guidelines are included in the publication entitled "NORDTEST Guidelines for Acceptance of Test Results". The use of NORDTEST methods and guidelines by the national authorities is not mandatory. However, member countries often refer to NORDTEST methods in technical regulations or specifications applied by them.

Formulation of certification systems and arrangements or development of methods for the reciprocal recognition of test data are not included in the program of NORDTEST. It is not an agency for accreditation of laboratories. Work is under way to harmonize the existing national laboratory accrediation systems that exist in Denmark and Sweden. Such systems as may be set up in other Nordic countries will also be harmonized.

The relationship of NORDTEST with international standards organizations is maintained through the national standardization organizations in the Nordic countries.

Copies of "Annual Report, 1982", "Register of NORDTEST Methods" and a brochure on NORDTEST are available for consultation in the GATT secretariat.