

GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Technical Barriers to Trade

DRAFT MINUTES OF THE MEETING HELD ON 29 FEBRUARY 1984

Chairman: Mr. H.W. Verbeek (Germany, F.R.)

1. The Chairman called attention to document TBT/Spec/9 in which the European Economic Community requested the initiation of dispute settlement procedures under Article 14.4 of the Agreement. He invited the Committee to investigate the matter in accordance with the provisions of Article 14.4.
2. The representative of the European Economic Community introduced a communication from his delegation, contained in document TBT/Spec/9 of 20 February 1984, which informed the Parties of its request for a Committee investigation concerning problems posed for Community exports by Spanish homologation requirements for heating radiators and electrical medical equipment, with a view to facilitating a mutually satisfactory solution. He said that their recourse to investigation by the Committee under Article 14, paragraph 4 followed the failure of consultations, held on two occasions with the delegation of Spain under Article 14, paragraphs 1 and 2, to reach a satisfactory resolution of the matter. In the view of his delegation, new technical regulations and type approval procedures, introduced by Spain in 1983 on heating radiators and electrical medical equipment, did not comply with the requirements of the Agreement in a number of respects and created unnecessary obstacles to trade.
3. With reference to heating radiators, the representative of the European Economic Community claimed that measures taken by Spain by the Royal Decree of 1982 which made the sale of this product subject to authorization and by the Ministerial Order of 1983 which established the criteria and procedures for such authorization, had not been notified to other Parties until his delegation had drawn the attention of the Spanish authorities to this omission. He further said that the regulations in question had entered into force on 1 March 1983, immediately after their adoption without allowing "a reasonable interval" in between as required in Article 2, paragraph 8 of the Agreement. Whereas imported products were subject to authorization from 1 March 1983, domestic products had been granted a transitional period of one year. The discriminatory nature of these measures was aggravated by the fact that testing facilities for type approval of imported products were not in operation at the time that the regulations came into force. Since then, seven type-approval procedures had been concluded, only one of which concerned a request by a foreign producer. Once the transitory period expired on 1 March 1984, administrative procedures for type approval of pending requests would be further delayed by the flow of new requests from domestic producers. He

added that type approval for imported products was also held up at the level of a working committee in the Ministry of Industry, composed of government as well as industry representatives. His delegation also noted with concern that the testing procedures involved the supply of confidential economic information which was not in any way essential for determination of conformity with technical specifications.

4. In connection with electrical medical equipment, the representative of the European Economic Community said that the Royal Decree which made the sale of this product subject to certification and the Ministerial Order establishing the criteria for such certification had not been notified to other Parties. This legislation was also implemented with a transitional period of one year for the domestic industry.

5. The representative of Spain regretted that his authorities had not taken fully into consideration the requirements of the Agreement on Technical Barriers to Trade in preparing the new legislation on the two products in question. Pursuant to the representations made by the European Economic Community, they had proceeded with an amendment to the Royal Decree which eliminated the discrimination between domestic and foreign producers of fluid-filled radiators and convectors. This amendment was published in the Official Gazette of 26 February 1984 and a relevant notification would be made to other Parties in the near future. The representative of Spain informed the Committee that a certification body and connected testing laboratories were established, and that they had started examining some twenty-five requests for type approval in July 1983. Laboratory testing was carried out on the basis of samples of each type of radiators. In some cases inspections were carried out in the territory of the foreign producer before sending the samples to the testing laboratory in Spain. He also said that the working committee in the Ministry of Industry was composed of representatives of the Ministry of Industry, IRANOR, Consumers Institute and the industry concerned. The technical personnel from the industry only played an advisory rôle in the committee. It was the working committee as a whole which proposed the procedures to the Inter-Ministerial Commission on Standardization and Certification for final approval. The economic information was requested by the Ministry of Industry with the aim of having more complete data on the sector under study. This information was requested from domestic and foreign producers alike.

6. With respect to electrical medical equipment, the representative of Spain said that notifications would be made of the Royal Decree and of the projected amendment which would eliminate the transitory period granted to domestic producers. As presently set, this period is due to expire on 1 July 1984.

7. The representative of the European Economic Community requested that the Committee take the following action with respect to heating radiators,

- (i) take note of the statement by the representative of Spain according to which a recent amendment of the Royal Decree had eliminated discrimination with respect to imports;

- (ii) invite the delegation of Spain to communicate to it promptly the text of this amendment to the Royal Decree as well as its implementing legislation;
- (iii) proceed with the investigation of the procedures for type approval with a view to proposing remedies to eliminate any unnecessary obstacles to trade that may result from these procedures.

8. It was so agreed.

9. Concerning electrical medical equipment, the representative of the European Economic Community requested that the Committee take the following action:

- (i) invite the delegation of Spain to notify promptly to other Parties the Royal Decree containing the technical regulations and type approval procedures for this product and any future amendments to be introduced to these regulations;
- (ii) recommend that discriminatory treatment in favour of domestic products be eliminated promptly;
- (iii) invite the delegation of Spain to inform it of the details of the procedures for type approval of this product so as to facilitate, if necessary, a discussion of these procedures at a future meeting of the Committee.

10. It was so agreed.

11. The Committee agreed to meet in closed session on 25 April 1984 to pursue its investigation of the matter in accordance with Article 14.4 of the Agreement.