GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

TBT/M/26

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Special Distribution

Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 12-14 OCTOBER 1987

Chairman: Mr. D. Bondad

1. The Committee on Technical Barriers to Trade held its twenty-sixth meeting on 12-14 October 1987.

2. The agenda of the meeting was as follows:

		Page
A.	Statements on implementation and administration of the Agreement	2
B.	Updating the definitions for terms used in the Agreement	2
C.	Testing, inspection and type approval	3
D.	Relationship of the work of the Committee to the Uruguay Round	4
E.	1987 Meeting on Procedures for Information Exchange	5
F.	Spain - certification system on metalic tableware	6
G.	United States-Canada Free Trade Area Agreement	6
H.	Eighth annual review of the implementation and operation of the Agreement	6
I.	Derestriction of documents	7
J.	Report (1987) to the CONTRACTING PARTIES	7
K.	Date and agenda of the next meeting	7

3. The Chairman, on behalf of the Committee, welcomed Mexico as a new signatory to the Agreement. The representative of Mexico, referring to the communication which accompanied Mexico's acceptance of the Agreement ad referendum on 24 July 1987 (TBT/1/Add.36), informed the Committee that the procedures for ratification of the Agreement had been initiated in the Senate.

4. The observer from the People's Republic of China stated that her authorities were studying the feasibility of joining the Agreement. The Regulations on the Inspection of Import and Export Commodities of 1984 provided for non-discriminatory application of inspection systems to goods traded with different countries and regions. The State Administration of Import and Export Commodity Inspection was in charge of supervising third party inspection and the activities of independent boards in the provinces, municipalities, and autonomous regions throughout China. Her country

increasingly used international standards and advanced standards of other countries. Thirty per cent of standards adopted in China were based on international standards.

A. Statements on implementation and administration of the Agreement

5. The representative of the United States reverted to the question of ratification of the Agreement by Argentina, Greece and Rwanda. The representative of the European Economic Community said that because of the adhesion of Greece to the European Community, the Greek authorities had been involved with the adoption of an important volume of legislation on many subjects. However, they would be ratifying the Agreement without further delay.

6. The representative of the United States drew attention to two information brochures: "The ABC's of Standards-Related Activities in the United States" issued by the National Bureau of Standards (NBS), and "USDA Technical Office for International Trade" issued by the Department of Agriculture. Copies of these brochures had been circulated to enquiry points in other Parties.

B. Updating the definitions for terms used in the Agreement

7. The representative of Finland, speaking on behalf of the Nordic countries, introduced the proposal by the Nordic countries in document TBT/W/103 which suggested that the Committee initiate work for updating the definitions for terms used in the Agreement in view of the recent revision of the ISO/IEC Guide 2 - 1986 "General terms and their definitions concerning standardization and related activities". In this respect the Nordic delegations proposed that the Committee might (i) study the new and amended definitions in the fifth edition of the ISO/IEC Guide 2 for terms used in the Agreement in order to assess possible implications for the Agreement; (ii) agree to replace in Article 5, paragraph 2, the term "self-certification" by the term "declaration of conformity" at the next revision of the Agreement; (iii) consider the updating of the definitions and explanatory notes in Annex I of the Agreement; and (iv) consider the inclusion of additional terms and their definitions in Annex I of the Agreement. It was the view of the Nordic delegations that this exercise could be appropriately undertaken in the normal course of the Committee's work so long as its results did not affect the substance of the Agreement.

8. The representatives of Canada, the European Economic Community, India, Japan, New Zealand, Switzerland and the United States supported the thrust of the Nordic proposal but felt that it would be premature to determine to what extent particular changes in the definitions for terms used in the Agreement should be addressed in the Committee or referred to the Uruguay Round of negotiations. The representatives of the United States said that the Committee might appropriately consider the action proposed by the

[illegible] Article 15.9 in the context of the next three-year review of the operation and implementation of the Agreement or under Article 15 which enabled Parties to make amendments to the provisions of the light of the experience gained in its implementation over the past eight years. The representative of Japan, joined by the representative of New Zealand, said that changes in the definitions for some of the important terms in the Agreement might be significant both as regards the scope of the Agreement as well as the rights and obligations of Parties.

[illegible] reward to the proposal for replacing the term [illegible] certification" in Article 5.2, the representative of Japan said that [illegible] declaration of conformity" required further clarification. The representative of the United States said that the term "self-certification" [illegible] referred to declaration by a manufacturer or other entity of conformity with relevant standard or technical regulation without the need [illegible] certification. The term "declaration of conformity" might [illegible] misleading. The representative of Finland, speaking on behalf [illegible] countries, said that the substance of the definition for "declaration of conformity" in the revised ISO/IEC Guide 2, was the same as [illegible] definition for "self certification" in the previous Guides.

The representative of Finland, speaking on behalf of the Nordic countries, said that his delegation had listed a number of terms (page 2 of [illegible] which were important for rights and obligations of Parties under the Agreement and for which the definitions had been amended. The [illegible] identify other such terms. The representative of India supported the proposal by the Nordic countries in TBT/W/103 that Parties should consider the inclusion of additional terms in Annex I of the Agreement.

[illegible] the Committee's discussion of this item, the Indian representative suggested that the secretariat should be asked to prepare a note comparing the definitions in the fifth edition of the ISO/IEC Guide 2 of [illegible] with those in the second edition of the Guide of 1978 for [illegible] important for rights and obligations of Parties under the Agreement. The Committee agreed with this suggestion and will revert [illegible] the subject at its next meeting.

[illegible] approval

[illegible] representative of Finland, speaking on behalf of the Nordic countries, and the representatives of Egypt and India said that, [illegible] testing, inspection and type approval was included in the list of issues proposed for discussion in the Uruguay Round, the Committee should discuss this matter under the agenda item on the relationship of its work to the Uruguay Round. The representative of the United States, supported by the representative of Romania, said that it would be premature at this stage to remove this item from the agenda. In the earlier discussions, several Parties had explained their positions on a

number of issues relating to this subject. Under the terms of Articles 15.9 and 15.10, the Committee might agree to undertake a revision of the relevant provisions of the Agreement. The representative of the European Economic Community said that the Committee's contribution to the negotiations on this complex subject should not be limited to giving technical support, and that the Committee might pursue the discussion of this matter in the light of developments in NG8. The Committee agreed to include this item on the agenda of its next meeting.

F. Relationship of the work of the Committee to the Uruguay Round

15. The Chairman said that the list of subjects related to the Uruguay Round in the area of technical barriers to trade had been transmitted to the Negotiating Group on MTN Agreements and Arrangements (NG8) in document MTN.GNG/NG8/W/13.

16. The representative of the United States said that while full and formal negotiations in the context of the Uruguay Round would take place in the NG8, this Group might wish to benefit from the knowledge and experience of the Committee in its discussion of the detailed and technical matters relating to the Agreement. The Committee should therefore begin an examination of the issues raised in document MTN.GNG/NG8/W/13 on the basis of more substantial presentations by individual Parties. The representative of India held the view that negotiations on subjects in the standards-related area would be carried out mainly at a technical level and that it would therefore be useful to proceed with the discussions both in NG8 and in the Committee. Participants in NG8 had had a preliminary exchange of views on the proposals raised in the non-exhaustive list. Supported by the representatives of Canada and New Zealand, he welcomed the suggestion by the United States for further development of the issues in the list. The representative of Finland, speaking on behalf of the Nordic countries, joined by the representatives of the European Economic Community and New Zealand, said that the decision of where the negotiations should be carried out had to be taken at a higher level.

17. The representative of Brazil said that the list of subjects should remain indicative and non-exhaustive. His delegation reserved the right to put on additional items before the end of the initial phase. The representative of Canada said that his delegation might also present further items. The representative of the European Economic Community said that additional proposals could also be made in a later stage of the negotiations.

18. The representative of New Zealand supported by the representative of the United States said that the Committee should ensure that under Articles 15.9 and 15.10 Parties maintained their right to make amendments to the text of the Agreement, and that the operation of these provisions would not be effectively suspended during the Uruguay Round.

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

E. 1987 Meeting on Procedures for Information Exchange

18. The fourth Meeting on Procedures for Information Exchange was held on 13 October 1987, under the Chairmanship of Mr. S. Chang (Republic of Korea). As in previous such meetings, interested observers were also represented. The meeting addressed itself to the items on the agenda circulated in document TBT/W/101. The Chairman presented an oral report on the meeting on his own responsibility (reproduced in the Annex). He also put forward the texts of a number of proposals on matters discussed by participants.

19. The Committee took note of the Chairman's oral report on the meeting and took the following action:

(a) The Committee agreed to amend its previous recommendation on enquiries which the enquiry points should be prepared to answer (TBT/16/Rev.3, page 12) by adding the following sub-item (iii): "In order to improve the handling of requests by enquiry points under Article 10.1 and 10.2, the Committee recommended that an enquiry point should, without further request, acknowledge the receipt of the enquiry."

(b) The Committee agreed that, when providing data in accordance with the previous decision on the number of enquiries received and answered by their respective enquiry points, Parties may, to the extent possible, wish to provide data on the sub-paragraph (s) of Article 10.1 or 10.2 of the Agreement to which the enquiry related (TBT/M/19, paragraph 35(a).

(c) The Committee agreed to amend the recommendation on "the significant effect of trade of other Parties" (TBT/16/Rev.3, page 6) by adding a sub-paragraph which read: "The concept of a significant effect on trade of other Parties should include both import-enhancing and import-reducing effects on the trade of other Parties, as long as such effects were significant."

(d) In order to ensure a proper implementation of its recommendation on the comment period of sixty days, the Committee recommended that the time period between receipt of a notification from a Party by the GATT secretariat, and the moment at which that notification is distributed to Parties, normally should not exceed five working days.

(e) Following its previous decision (TBT/16/Rev.3, page 2), the Committee agreed that statements of Parties describing procedures at the national level for gathering information on proposed technical regulations and rules of certification systems, should be compiled and circulated in a document.

(f) The Committee noted that for reasons of economy and efficiency, telefax would progressively replace telex as the preferred medium for urgent communication by the enquiry points, and agreed that those

Parties in which the enquiry points have this facility, should communicate their telefax numbers for future revisions of the document on enquiry points (TBT/W/31/Rev.6).

F. Spain - certification system on metallic tableware

20. The representative of Japan asked whether Spain had taken the necessary steps to rectify the discriminatory aspects of its certification system on metallic tableware following the consultations held between the European Economic Community and interested Parties in April to June 1987. The representative of the European Economic Community said that the relevant legislation was provisional as his authorities were still reviewing the problem with the Spanish authorities. There were no new developments to report at this stage. The representatives of Japan and Hong Kong reserved their position under the Agreement and under the GATT. The Committee took note of these statements.

G. United States-Canada Free Trade Area Agreement

21. The representative of the United States provided information concerning the Free Trade Area Agreement which had recently been concluded between Canada and the United States. The text agreed in the standards related area would enhance the mutual rights and obligations of the two parties to this agreement under the Agreement on Technical Barriers to Trade. At the federal level, standards and regulations were allowed where their demonstrable purpose was to protect health and safety, environmental, national security and consumer interests but these measures should not operate to exlude the goods of the other party which met these objectives. The parties also agreed to harmonize federal standards-related measures to the greatest extent possible, and to promote harmonization of private standards. Both governments would set up a process at the federal level for mutual recognition of laboratory systems and to provide for accreditation of testing facilities and of certification bodies. The agreement also provided for enhanced transparency of the regulatory process. Additional information exchange between the two countries would apply in most instances to regulation of State and provincial authorities and this would go beyond the notification process under the Agreement on Technical Barriers to Trade. The Committee took note of this statement.

H. Eighth annual review of the implementation and operation of the Agreement

22. The Committee took note of the background documentation for the eighth annual review contained in documents TBT/28, TBT/W/25/Rev.11, TBT/W/31/Rev.6 and TBT/W/62/Rev.1/Corrs.1 and 2.

23. In the discussion of the review item on notifications, the representative of the United States noted that a number of Parties had made

no notifications under the Agreement. The notification process had unduly benefitted those Parties who were able to receive advance notice of proposed technical regulations and rules of certification systems by other Parties, to make comments, and discuss these documents, while denying these rights to other Parties. In future meetings the Committee should review the imbalance in the rights and obligations of Parties created by this situation.

25. The Chairman declared that the Committee had concluded its eighth annual review of the implementation and operation of the Agreement under Article 15.8.

I. Derestriction of documents

26. The Chairman drew attention to a list of documents which were being proposed for derestriction (TBT/W/105). He invited signatories to convey their comments, if any, to the secretariat before 31 January 1988.

J. Report (1987) to the CONTRACTING PARTIES

27. The Committee adopted its 1987 Report to the CONTRACTING PARTIES which was subsequently issued as document L/6240.

K. Date and agenda of the next meeting

28. The date of the next meeting was tentatively scheduled for 5 February 1988. The final date will be fixed by the Chairman in consultations with delegations. The agenda of the meeting would include the following items:

1. Election of officers for 1988

2. Statements on implementation and administration of the Agreement

3. Updating the definitions for terms used in the Agreement

4. Testing, inspection and type approval

5. Preparations for the third three-year review under Article 15.9 of the Agreement

6. Relationship of the work of the Committee to the Uruguay Round.

ANNEX

Report presented by the Chairman of the Fourth Meeting on Procedures For Information Exchange on his own Responsibility

A number of participants circulated written statements to the meeting, summarizing the activities and facilities of enquiry points in support of the procedures applied in their countries for information exchange under the Agreement. Several other participants reported on the progress made since the previous meeting in specific areas relating to information exchange. In general, publicity made by the enquiry points had been effective in drawing the attention of various interested parties to their uses.

In order to increase their efficiency, many enquiry points had established electronic databases (EDB). Participants gave details on the type of data stored and the possibilities of access to these EDBs by interested parties through package networks. The meeting supported a suggestion that in future the Committee might explore the possibility of transmitting notifications under the Agreement through electronic communication systems. In this connection, the participants noted that enquiry points might progressively replace telex by telefax as the preferred medium for urgent communication. They therefore considered it useful to supplement the addresses of enquiry points, in document TBT/W/31, Rev.6, where available, with telefax numbers. The text of a relevant proposal is being circulated to the Committee for adoption.

The participants supported the continued reporting by Parties of the number of enquiries received and answered by their respective enquiry points. In addition, they discussed a proposal for obtaining further details on the nature of enquiries made to the enquiry points under Article 10.1 and 10.2 of the Agreement. The text of this proposal is being circulated to the Committee for adoption.

The participants discussed a proposal on the acknowledgement of the requests by the enquiry points and agreed to forward a proposal to the Committee. The meeting also noted that information relevant to specific enquiries were not always available in the enquiry points and that there was a need to consider whether enquiry points could be made responsible for the enquiries directed to regulatory bodies. It was generally felt that a follow-up by the enquiry points would guarantee that satisfactory responses were transmitted by these bodies. The participants suggested that the Committee discuss this point at an appropriate time in future.

The participants expressed concern about the inconsistencies in the number of notifications made by Parties. The reasons might be that responsible authorities in individual Parties were not sufficiently alerted to the rights and obligations under the Agreement in this respect or that

certain developing countries had not set up their internal procedures for notifications. It was further suggested that the fact that a number of Parties adopted voluntary standards, for which there was no obligation to notify, could also have contributed to the present imbalance in the notifications made by Parties.

The participants considered ways of introducing an improved discipline on notification procedures. They emphasized in this respect the usefulness of sharing information on procedures at the national level for gathering information on proposed technical regulations and rules of certification systems, and for this purpose, agreed to forward the text of a proposal to the Committee.

The participants discussed a proposal for extending the meaning of the recommendation on "significant effect on trade of other Parties" to cover proposed regulations that might enhance imports from other Parties. The text of this proposal is being circulated to the Committee.

The participants discussed shortcomings in the quality of notifications. While they noted the desirability of improving the section on descriptions in notifications (detailed references to CCCN, end-users, etc.), they felt that a perfectionist approach to the content of notifications might adversely affect the quantity of notifications made by Parties.

The participants noted that, due to the time required in transmitting and processing of notifications, the comment period provided on notifications was shorter than the period initially envisaged by Parties. In order to address this problem, the participants agreed to forward the text of a proposal which set a time limit for the processing of notifications by the secretariat. It was further suggested that the Committee might consider at a later stage the indication of a starting date for the recommended comment period of sixty days, taking into account the present practices of Parties in this respect.

Several participants reiterated the importance of obtaining translations of documents in a GATT language and suggested that the matter should be kept under consideration by the Committee as a part of its regular work programme.