Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON
4-5 FEBRUARY 1981

Chairman: Mr. S. Tamura

1. The Committee on Technical Barriers to Trade held its sixth meeting on 4-5 February 1981.

2. The agenda of the meeting was as follows:

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3. In opening the meeting, the Chairman, on behalf of the Committee, welcomed Greece as a new signatory to the Agreement.

A. Election of officers

4. The Committee elected Mr. S. Tamura (Japan) as Chairman and Mr. F P Furulyas (Hungary) as Vice-Chairman for 1981.
B. Terms of acceptance of Tunisia

5. The Chairman drew attention to document TBT/W/21 which contained the terms of acceptance of the Agreement by Tunisia, drafted in consultation between Tunisia and the signatories of the Agreement. He also drew attention to the provisions contained on the first page of that document concerning the applicability of the terms.

6. The Committee agreed to the terms set out in TBT/W/21.

7. The representative of Tunisia stated that his country had taken an active part in the Multilateral Trade Negotiations and although the results of the negotiations had been negligible from Tunisia's point of view, his government intended to pursue its efforts towards international trade cooperation. It was in this spirit that Tunisia had recently accepted the Arrangement Regarding Bovine Meat and had deposited an instrument of acceptance of the Agreement on Technical Barriers to Trade on 9 October 1980. In so doing, the government of Tunisia had acted on the provisions set out in paragraph 3 of the Record of Proceedings of the Trade Negotiations Committee at its meeting of 11-12 April 1979 (MTN/P/5), the terms of which were reflected in Article 15.2 of the Agreement. The terms of acceptance envisaged in Article 15.2 had been agreed in consultation with the signatories of the Agreement and it was the Tunisian delegation's interpretation that both in spirit and content these terms provided for an equitable balance of rights and obligations between Tunisia and the signatories of the Agreement.

8. The Committee took note of the statement by Tunisia and agreed that the requirements of Article 15.2 of the Agreement had been fulfilled. It therefore welcomed Tunisia as a new Party to the Agreement.

9. The Committee noted that the next step would be for Tunisia to write a letter to the Director-General of GATT confirming the agreed terms of its acceptance. The effective date of acceptance would be the date on which the letter was received by the Director-General.

10. The Committee also agreed that adoption by the Committee of the terms of acceptance of Tunisia should not be regarded as a precedent for other agreements and other governments, and that each future case should be treated on its own merits in the context of each particular agreement. It further agreed that the terms of acceptance would apply only until Tunisia accedes fully to the GATT and noted the hope expressed by some delegations that Tunisia would become a full GATT member as soon as possible.


11. The Chairman drew attention to documents TBT/2, TBT/4 and TBT/5 relating to this item.

12. The report of the Chairman of the Working Party (TBT/5) was presented to the Committee by a representative of the secretariat in the absence of the Chairman. He indicated that it had become apparent
that the matter before the Working Party was of some complexity and had a number of implications but that a good start had been made, that procedures for the exchange of information had been agreed and had begun to be implemented and that the Working Party would soon resume its work.

13. The Committee noted the progress report of the Chairman and invited the Working Party to report to its next meeting.

D. Applicability of the Agreement to Processes and Production Methods

14. The representative of the United States introduced a paper on processes and production methods (PPM) which had recently been circulated at the request of his delegation (TBT/W/24). He indicated that his delegation had had a series of bilateral discussions with delegations of other signatories in order to reach a better understanding of the respective views on the general issue. The United States delegation appreciated the support received from some other delegations concerning the question of the applicability of the Agreement to PPM. Previous discussions in the Committee had shown, however, that there were still divergencies of views on the matter. While these were legitimate, it was necessary to find a solution to the problem. In the view of the United States, the final resolution of the extent of which the dispute settlement provisions of the Agreement covered PPM should be taken up in the three year review under Article 15.9. Referring to the specific proposals contained in the last part of the United States paper, he stressed that the matter should be looked at from the technical standardizing point of view before an examination from the policy point of view could take place in the light of relevant information. His delegation believed that participation in the technical work suggested should take place without prejudice to the position taken by any delegation regarding the question whether the Agreement does or does not cover PPM. This particular issue should be tackled as part of a longer-term process of review of the operation of the Agreement. He requested that the matter be kept on the agenda of the Committee for future meetings.

15. The Committee had a preliminary exchange of views on the proposals contained in the United States paper. The representatives of Austria, Canada, Chile, Finland, Hungary and the United Kingdom speaking for Hong Kong offered comments on a personal basis pending further examination of the United States proposals by their authorities. The representative of the European Economic Community opposed the United States proposals and specifically reserved the position of the Community. The delegations of Argentina, Brazil and New Zealand indicated support for the ideas contained in the document of the United States.

16. The Committee noted the statements made. As the paper had only just been distributed at the meeting it agreed that some time was needed for delegations to study it more carefully and that it would therefore revert to the matter at its next meeting.
E. Statements on Implementation and Administration of the Agreement and Annual Review of its Operation

E.1. Implementation and administration of the Agreement

17. The Chairman drew attention to TBT/1/Add.1-24 and supplements, and to the revision of the basic document prepared by the secretariat for the first Annual Review initiated at the November 1980 meeting (TBT/M/5, TBT/W/16/Rev.1). He recalled that questions addressed to signatories concerning the implementation of the Agreement had been circulated informally by the secretariat and invited signatories to reply to the questions.

18. The representatives of Argentina, Austria, Belgium, Brazil, Canada, Chile, Denmark, the European Economic Community, Finland, France, the Federal Republic of Germany, Hungary, Ireland, Italy, Japan, the Republic of Korea, the Netherlands, New Zealand, Norway, Romania, Sweden, Switzerland, the United Kingdom and the United States responded to questions posed. The information which they supplied is included in a revision of the basic document (TBT/6).

19. The representative of the European Economic Community informed the Committee that there was a Commission proposal concerning an information procedure in the field of standards to be implemented through a contract with CEN and CENELEC. The proposal, on which no decision had yet been taken by the Council of Ministers, was to establish an information exchange system as between the members of CEN and CENELEC. The members of CEN and CENELEC were private standards organizations in which there was no governmental involvement. The idea behind the proposal was to avoid unnecessary duplication between these organizations or the creation of unnecessary obstacles arising out of their parallel work. Insofar as it was not possible to reach an accommodation in regard to a particular problem which may appear, the CEN and CENELEC would be requested to come up with a proposal for a standard for application by Community's members. What was at issue was the harmonization of voluntary, non-mandatory standards. Neither the Commission nor the Communities as such were members of CEN or CENELEC and there was therefore no possibility that the contract which was being considered with CEN or CENELEC would make them responsible for any of the activities of CEN or CENELEC. The contract related to a system which sought to organize better cooperation at the private standardizing level. The contract did not imply or involve any responsibility of the European Communities under the GATT Agreement in relation to CEN or CENELEC. However, if a member State or the Community decided to adopt a CEN standard and to make a proposal thereon, either nationally or at Community level, then of course, the Agreement would come into operation. The normal procedures of Article 2 relating to notification of proposals made and acceptance of comments and review by other Signatories would then apply. The representative of the European Economic Community also stated, in response to another question, that the Commission's proposed ideas concerning the implementation of the 1979 "Cassis de Dijon" decision of the Court of Justice indicated the policy problems arising from that decision. They did not refer to third party products or suppliers and the question of the interpretation of the decision was not yet resolved.
20. The Committee noted the information supplied by the various delegations. It agreed to revert to this item of the agenda at its next meeting in order to give delegations an opportunity to complete their replies to certain questions or to comment on certain aspects of the information given after further study.

E.2 Notification

21. The Chairman drew attention to document TBT/W/20 prepared by the secretariat, which brought together various suggestions for notification procedures that had been made in the Committee as well as suggestions by the delegations of the Nordic countries.

22. After an initial exchange of views on the matter, the Committee agreed that document TBT/W/20 should be revised by the secretariat in consultation with delegations and that it should be examined at the next meeting of the Committee. In the meantime, current procedures for notification would continue to be followed by the signatories.

E.3 International Laboratory Accreditation Conference (ILAC)

23. The Committee noted document TBT/W/23 which contains a report on the ILAC Conference held in Paris in October 1980. It welcomed the information that had been supplied by the Chairman of ILAC, noted the relationship between the work of ILAC and that of the Committee and recommended that governments actively follow ILAC's activities. It also welcomed the technical work now being done in ILAC and expressed its interest in being informed of the results of this work when they became available.

E.4 Enquiry Points

24. The Committee invited delegations to supply the full postal address, telex and telephone numbers of their enquiry points. The secretariat was requested to consolidate this information in a document for circulation to the Committee. It was pointed out that, for government standardization activities, a single enquiry point should be established under Article 10.1.

E.5 Conclusions

25. Concluding the first Annual Review, the Chairman stated that the operation of the Agreement had begun satisfactorily. While it was natural that in the first year of the Agreement's operation the Committee should have dealt with questions of procedure, he suggested that this year the Committee should concentrate more on matters of substance. The Review had suggested to him a number of points that require attention: (1) Governments which had not ratified the Agreement should make every effort to do so in the near future, (2) Governments should pay particular attention in their implementation of the Agreement to the provisions relating to local government bodies and non-governmental bodies, (3) The Committee would need to keep under review the operation of the notification procedures, (4) There was a need for more information on the present state of affairs regarding technical assistance provided under the Agreement. As a
first step, the secretariat should present a factual paper describing technical assistance already being offered, (5) There was a close relationship between the work of the Committee and that of international standardizing bodies and the Committee should continue to follow their relevant activities, (6) There was a need to assist enquiry points in carrying out their function efficiently. For this purpose, and taking into account comments made on their activities, a meeting might be held for those responsible for national enquiry points so that they could compare their experiences and how they have dealt with their problems. In order to prepare adequately for such a meeting, the secretariat should be asked to draw up a feasibility study.

26. The Committee agreed with the suggestions for further work made by the Chairman in the preceding paragraph.

27. The Committee declared that the first Annual Review of the implementation and operation of the Agreement, as called for in Article 15.8, was concluded and that the results of the Review would be incorporated in the basic document (TBT/W/16/Rev.1), revised to incorporate information supplied during the meeting and circulated as a document of Committee.

28. Regarding the second Annual Review, the Chairman proposed that the Review should cover the same items as the first Review, that the Committee would meet as necessary, but in any case the second review should be held on 20-23 October 1981, that delegations would be invited to submit reports on the items covered by 15 September 1981 and that the secretariat would prepare a basic document for the second review by 1 October 1981. The Committee agreed to these proposals.

F. Liability of members of panels and technical expert groups

29. A question related to the liability of members of panels and technical expert groups was raised and the representative of Austria proposed to present a paper on this subject. It was so agreed.

G. Regional standard related activities

30. The Committee agreed that the secretariat should prepare a paper listing regional standardizing and certifying bodies and setting out the nature of their operating rules and the scope of their activities.

H. Activities of the International Electrotechnical Commission (IEC)

31. The observer from the International Electrotechnical Commission (IEC) made a statement to the Committee relating to the activities of his organization relevant to the Agreement. The text of the statement was circulated informally at the meeting.
I. Agenda and date of the next meeting

32. The Committee agreed to include the following items on the agenda for its next meeting:


(b) Statements on Implementation and Administration of the Agreement.

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

(d) Liability of members of panels and technical expert groups.

(e) Aspects of the operation of the Agreement: notification, technical assistance, enquiry points, regional standards-related activities.

33. The draft agenda for the next meeting would be finalized nearer the date of the meeting in accordance with the normal procedures.

34. The Committee agreed that its next meeting should be held on 11-12 June 1981.