

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TBT/W/55

11 March 1983

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Committee on Technical Barriers to Trade

DRAFT MINUTES OF THE MEETING HELD ON 10 FEBRUARY 1983

Chairman: Mr. K. Bergholm

1. The Committee on Technical Barriers to Trade held its twelfth meeting on 10 February 1983.

2. The agenda of the meeting was as follows:

	<u>Page</u>
A. Acceptance of the Agreement by India	1
B. Statements on implementation and operation of the Agreement	3
C. First Three-year Review of the operation and implementation of the Agreement	3
D. Preparations for the Spring 1983 meeting on procedures for information exchange	6
E. Election of officers	6
F. Programme of work	6
G. Date and agenda of the next meeting	7

3. The Chairman, on behalf of the Committee, welcomed Czechoslovakia and India as new Signatories to the Agreement.

A. Acceptance of the Agreement by India

4. The Chairman recalled that before India signed the Agreement on 9 February 1983, an Understanding had been reached between India and the Parties to the Agreement, the text of which is reproduced in the Annex.

5. In accordance with the terms of the Understanding, the Committee agreed to grant the Government of India an exception, in pursuance of the provisions of Article 12.8 of the Agreement, for a period of two years from the obligations of Article 7.2. The Committee further decided that it would review the operation of the exception of AGMARK with a view to determining if it had created trade problems for other signatories. If no such problems existed, the exception would be renewed.

6. Pursuant to the Understanding, the Chairman, on behalf of the Committee, declared that the signatories agreed that the misuse of certification marks by foreign suppliers was a matter of common concern, and that they should examine in

the Committee the development of co-operation to prevent such misuse. Accordingly, the Committee decided to include this item on the agenda of a future meeting.

7. The representative of India stated that the Government of India understood that when implementing the provisions of Article 5.2, the reliance upon self-certification might in some cases be conditional upon third-party surveillance. The Committee noted the statement by the representative of India without dissent.

8. The Committee adopted the Understanding as a whole.

9. The Committee further noted that the two-year exception under Article 12.8 would run from the day that the Agreement became effective for India, and that the review of the exception concerning AGMARK would take place not later than the end of the two-year period so defined.

10. The representative of India, expressed his delegation's appreciation for the assent given by the signatories to the Understanding, which had enabled India to accept the Agreement. Regarding the exception granted by the Committee to the Government of India from the obligations of Article 7.2, he said that this had been requested because a period of two years would be required for his authorities to undertake the amendments to the present Indian Standards Institute Certification Mark Act necessary to bring it into conformity with the Agreement. He explained that AGMARK was a voluntary scheme. The mark was one of origin as well as quality. The scheme had limited trade significance for the signatories because it only applied to agricultural raw materials. However, his delegation was willing to consult with any member of the Committee if it was felt that it had any adverse effect on its export interests. He understood that the exception granted by the Committee would be renewed subject to the review to be conducted before the end of the two-year period. With reference to the second and third paragraphs of the Understanding, his delegation noted with satisfaction that the question of misuse of certification marks by foreign suppliers would be considered by the Committee with a view to developing cooperation in this field. India had stated its understanding on the reliance on self-certification in order to ensure the option of recourse to third-party surveillance if and when the need arose.

11. The representative of the European Economic Community said that his delegation expected that India's acceptance of the Agreement and the solution of the particular problems raised in connexion with it would reinforce international cooperation in the field of technical barriers to trade. The representative of Romania also welcomed India's acceptance as a step in the direction of greater international cooperation in this area. The representatives of New Zealand and of the United Kingdom on behalf of Hong Kong noted with satisfaction the willingness indicated by the delegation of India to consult on all aspects of the exception granted by the Committee under Article 12.8. The representatives of New Zealand and Switzerland stressed that the renewal of the exception regarding AGMARK should not be automatic and that its extension should only be agreed if it was clear that it had no negative impact on the trade interests of any other signatory. The representative of Switzerland further stated that his delegation expected the Indian Government to take the necessary steps to bring its AGMARK scheme into conformity with Article 7.2. Switzerland acknowledged the legitimate concern of India on the misuse of certification marks and was willing to examine

this issue in the Committee. However, his delegation expressed the hope that India and other contracting parties would show a similar willingness to examine other types of fraud in international trade in an appropriate context. As to the application of Article 5.2, while recognizing that certain types of third party surveillance involved elements of technical assistance and might therefore facilitate reliance upon self-certification he stressed that recourse to such surveillance should not result in the creation of obstacles to trade.

B. Statements on Implementation and Operation of the Agreement

12. The representative of the United States drew attention to documents TBT/1/Add.1/Suppl. 4 and 5 containing two notices on the implementation of the Agreement by the United States authorities. TBT/1/Add.1/Suppl. 4 explained the procedures that the Office of the Trade Representative had established to facilitate the handling of allegations by other signatories of violations by the United States of their obligations under the Agreement. TBT/1/Add.1/Suppl.5 contained guidelines that the Department of Commerce had issued to ensure compliance with the Agreement by State and local governments and non-government bodies engaged in standards-related activities.

C. First-Three Year Review of the Operation and Implementation of the Agreement

13. The Committee reverted to a number of proposals put forward in the context of the first-three year review initiated at the previous meeting (TBT/M/11, paragraphs 12 to 52).

Regional Standards-Related Activities

14. The proposal is contained in document TBT/12. The representative of the United States suggested that interested members of the Committee should agree informally and in advance on a list of questions which representatives of regional standardizing and certifying bodies might use as a basis for their presentations to the Committee.

15. The Committee decided that representatives of regional standardizing and certifying bodies could be invited to address the Committee on their procedures and how they related to those embodied in the Agreement, on the basis of agreed lists of questions.

Examination of Standards Notifications in the Inventory of Non-Tariff Measures

16. The Chairman recalled the discussion at the previous meeting relating to this point (TBT/M/11, paragraphs 34 to 38). The representative of the United States said that his delegation wished to modify the proposal contained in document TBT/12, in view of the Ministerial decision to establish a group on Quantitative Restrictions and Other Non-Tariff Measures. He now simply suggested that standards notifications appearing in the Inventories of Non-Tariff Measures be circulated in the TBT documents series, on the expectation that this would encourage signatories to deal with outstanding standards-related problems.

17. The modified United States proposal was supported by the delegation of Austria. The delegations of the European Economic Community, Sweden speaking for the Nordic countries and Switzerland saw some merit in the proposal, while emphasizing the need to approach such problems on a bilateral basis. The

representative of Argentina, on the other hand, said that the documentation available should be examined by a single body and that body should be the new group mentioned in the Ministerial decision.

18. The Committee decided to revert to the United States proposal at a future meeting.

Priority List of International Standards

19. The proposal is contained in document TBT/13.

20. The representative of Japan said that his delegation would not object to the drawing up of a priority list. The representatives of the European Economic Community, Switzerland and the United States said that it would be appropriate for the secretariat to analyse the notifications made under the Agreement and to forward this information to the relevant international standardizing bodies, but they felt the Committee should not take it upon itself to draw up a list of priorities for those organizations.

21. The observer from the International Standards Organization (ISO) informed the Committee that there were working procedures within ISO which allowed for suggestions on work priorities being made by any ISO member as well as by other international organizations.

22. The Committee decided to revert to this item at a future meeting on the basis of a revised proposal to be prepared by the delegation of Sweden on behalf of the Nordic countries.

Interpretation of Article 2.5 (preambular part)

23. The Chairman drew attention to the revised proposal by the delegations of the Nordic countries (TBT/14) relating to the concept of "significant effect on trade", which merged the two proposals previously put forward by these delegations (TBT/11) and that of the United States (TBT/12).

24. The representative of Japan said that signatories should be encouraged to notify every proposed technical regulation or certification system. The representative of the European Economic Community said it would be difficult to define criteria which were generally applicable to all signatories. He suggested, however, that the question of possible criteria could be discussed in depth during the coming meeting on procedures for information exchange. The representative of the United States agreed with this suggestion. It was so decided.

Interpretation of Articles 2.5.2 and 7.3.2 of the Agreement

24. The representative of Sweden, speaking for the Nordic countries presented the proposal concerning the timing of notifications contained in document TBT/14.

25. The representatives of Austria, Chile, Romania and the United States supported the proposal and said that its implementation would reinforce the notification process which was one of the main features of the Agreement. The representative of the European Economic Community also welcomed the proposal, but he said it needed to be worked out in some detail before it could be adopted. In

particular, differences among signatories as regards internal standardizing procedures would need to be taken into account in formulating any guidelines in this area.

27. The Committee while agreeing in principle to the proposal, invited the Nordic delegation to reconsider it and decided to revert to it at its next meeting, following discussion in the meeting on procedures for information exchange.

Applicability of the Agreement to Processes and Production Methods

28. The Chairman invited the Committee to note that a United States proposal, which included a draft mandate for a working party on this matter (TBT/12), had been discussed at the present and at the previous meeting. It was his understanding that a text for a possible solution of the problem was being prepared on this subject in informal consultations among interested delegations. He therefore suggested that the Committee revert to this item at its next meeting, in the light of these consultations. It was so agreed.

Applicability of the Agreement to Services

29. The Committee noted that the United States delegation reserved its right to raise this matter at any time in the Committee.

Length of Time Allowed for Comments

30. The representative of the European Economic Community presented a proposal by his delegation which took into account the various positions expressed during previous discussions of the proposal made by the United States in document TBT/12 and which complemented the recommendation made by the Committee at its previous meeting (TBT/M/11, paragraphs 17-28). The proposal read as follows: "The Committee recommends that the normal time limit for comments on notifications should be nine weeks. In exceptional cases, however, a Party may give notice that it will proceed to implementation of the proposed measure after six weeks if no comments or requests for extension of the time limit have been received from other Parties within that time".

31. After a brief exchange of views, the Committee agreed to revert to this proposal at its next meeting, after it had been discussed at the meeting on procedures for information exchange.

Conclusion of the First Three-Year Review

32. In concluding the review, the Committee noted that in general the Agreement had operated satisfactorily and that this had been recorded in its Report (1982) to the CONTRACTING PARTIES (L/5407, paragraph 13). A number of proposals relating to coverage, interpretation and operating procedures of the Agreement had been considered (TBT/W/49, TBT/11, TBT/12, TBT/13, TBT/14 and TBT/15). The following proposals had been adopted:

- (i) to hold regular meetings on procedures for information exchange, the next meeting to be held in the Spring of 1983;
- (ii) to recommend that parties effectively provide forty-five days for comments and look favourably to requests for extension of the comment period;

- (iii) that representatives of regional standardizing and certifying bodies might be invited to make presentations to the Committee.

The following proposals remained under discussion and would be taken up as separate issues at future meetings of the Committee:

- (i) interpretation of the preambular part of Article 2.5 (concept of significant effect on trade) and criteria for notifications;
- (ii) interpretation of Articles 2.5.2 and 7.3.2;
- (iii) Recommended period for comments on notifications;
- (iv) application of the Agreement to processes and production methods;
- (v) priority list of international standards;
- (vi) examination of standards notifications in the Inventories of Non-Tariff Measures.

D. Preparations for the Spring 1983 Meeting on Procedures for Information Exchange

33. The Committee discussed arrangements for the next meeting of persons responsible for information exchange including persons responsible for enquiry points, on the basis of a discussion paper submitted by the delegation of the United States (TBT/15) and a note by the secretariat (TBT/W/53). It agreed to convene this meeting on 16 May 1983 before the next regular meeting of the Committee. In this connection, the Committee invited signatories to submit in writing, if possible no later than 29 April, any relevant information concerning the procedures for information exchange applied in their country. It also requested the secretariat to prepare a draft agenda for that meeting, and agreed that the Chairman of the Committee should appoint its chairman after consultations with delegations.

E. Election of Officers

34. The Committee re-elected Mr. K. Bergholm (Finland) as Chairman, and Mr. D. Bondad (Philippines) as Vice-Chairman for 1983.

F. Programme of Work

35. The Committee noted that the following items remained on its agenda for subsequent meetings and agreed to revert to them as needed in the light of any relevant developments:

- (i) statements on implementation and administration of the Agreement;
- (ii) individual standards writing and certifying bodies;
- (iii) regional standards-related activities;
- (iv) information on existing international standards;

- (v) priority list of international standards;
- (vi) testing and inspection;
- (vii) technical assistance;
- (viii) examination of standards notifications in the Inventories of Non-Tariff Measures;
- (ix) application of the Agreement to processes and production methods;
- (x) interpretation of Article 2.5 (preambular part);
- (xi) interpretation of Articles 2.5.2 and 7.3.2;
- (xii) recommended period for comments on notifications;
- (xiii) procedures for information exchange.

G. Date and Agenda of the Next Meeting

36. The Committee agreed to hold its next meeting on 17-18 May 1983, starting on the afternoon of 17 May.

37. The agenda for the next meeting would be drawn up by the Chairman in consultation with delegations taking into account the items on the Committee's work programme and the discussions that had taken place at this and previous meetings.

Annex

UNDERSTANDING

The signatories agree to grant the Government of India an exception, in pursuance of the provisions of Article 12.8 of the Agreement, for a period of two years from the obligations of Article 7.2. The Committee shall review the operation of the exception of AGMARK with a view to determining if it has created trade problems for other signatories. If no such problems exist, the exception shall be renewed.

The signatories agree that the misuse of certification marks by foreign suppliers is a matter of common concern and that they should examine in the Committee the development of co-operation to prevent such misuse.

The Government of India understands that when implementing the provisions of Article 5.2 the reliance upon self-certification might in some cases be conditional upon third-party surveillance.