

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TBT/W/73

10 August 1984

Special Distribution

Committee on Technical Barriers to Trade

DRAFT MINUTES OF THE MEETING HELD ON 10 JULY 1984

Chairman: Mr. H.W. Verbeek

1. The Committee on Technical Barriers to Trade held its sixteenth meeting on 10 July 1984.

2. The agenda of the meeting was as follows:

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A. Statements on Implementation and Administration of the Agreement

3. The representative of Japan drew attention to a communication by his delegation, circulated in document TBT/1/Add.35, which gave details of measures announced by the Government of Japan on 27 April 1984 with a view to further improvements in standards and certification systems. He said that these measures related specifically to the positive utilization of foreign testing organizations, the acceptance of foreign test data, the internationalization of Japanese standards and the simplification and

speeding-up of certification procedures. The Government of Japan intended to steadily implement these measures as well as the decision by the Liaison and Co-ordination Headquarters on Standards and Certification Systems, etc. published on 26 March 1983. The major developments that had taken place after the announcement of 27 April 1984 were the following: (a) one testing firm in the United States was designated as an approved testing organization on 8 June 1984 in accordance with the implementing manual on designation of foreign testing organizations under the Electrical Appliance and Material Control Law; (b) the measures to utilize the accelerated stability test data for approval of new pharmaceuticals were implemented on 8 June 1984; (c) the upper limit for eligibility for the handling procedure for small quantity motor vehicles was raised to 500 vehicles per year per type on 1 July 1984; (d) with regard to the factory inspection after the acquisition of the JIS-labelling approval, the Singapore Institute of Standards and Industrial Research was designated as an approved testing organization on 2 May 1984; (e) English texts of implementing manuals on designation of foreign testing organizations relating to the Consumer Product Safety Law, the Law Concerning the Securing of Safety and the Optimization of Transaction of Liquefied Petroleum Gas, the Measurement Law, the Electrical Appliance and Material Control Law and the Gas Utility Industry Law were drawn up and published in June 1984. He also expressed the hope of his delegation that these measures would be utilized by other Parties to the fullest extent.

4. The representative of Tunisia informed the Committee that the National Standardization and Industrial Property Institute (INNORPI), set up by Law No.82-66 of 6 August 1982 and placed under the patronage of the Ministry of National Economy, had been designated as the enquiry point in his country. Since November 1983, INNORPI published a bulletin in the arabic and french languages, which was named Muwassafat (standards), with the purpose of informing consumers and producers on standards-related activities at the national and international levels. Copies of this bulletin would be deposited with the secretariat where delegations could consult them.

5. The representative of the United States presented a publication entitled "GATT Standards Code Activities of the National Bureau of Standards - 1983". This publication contained a compilation of notification activities in the United States and in other Parties over the year 1983. It was issued by the Office of Product Standards Policy which fulfilled the function of enquiry point in his country.

6. In connection with this item of the agenda, the representative of the United States invited the Committee to consider attentively two matters that related closely to the implementation and operation of the Agreement. First, some countries that had signed the Agreement subject to ratification had not yet completed their ratification procedures. His delegation had raised this issue in the Committee on several occasions. His authorities believed that these countries were not full participants in the Agreement and that the Committee should examine whether they could be seen as having rights under the Agreement. Therefore, he suggested that the Committee request the secretariat to prepare a paper on the legal status of countries that had not ratified the Agreement. Secondly, several

signatories had failed to establish an enquiry point in accordance with Article 10.1 of the Agreement. His delegation regarded the effective implementation of the procedures for exchange of information as fundamental to the operation of the Agreement. He therefore suggested that the secretariat should find out from such countries when they would proceed with the establishment of their respective enquiry points and also should urge them to do so without delay. He further suggested that the Committee investigate the effect of the failure to establish an enquiry point on the rights and obligations of Parties that had done so and formulate appropriate recommendations in this regard.

7. The representative of Egypt, whilst recognizing that the concerns expressed by the representative of the United States were legitimate, felt that the objectives of his proposals could be achieved by urging the countries concerned to take the necessary action to ratify the Agreement or to establish an enquiry point, as the case may be, and to inform the Committee accordingly. He did not find it advisable to involve the secretariat in any investigation of these matters. In this context, he referred to Article 12.9 of the Agreement and said that if excessive pressure was exerted on developing country signatories, this would only serve to highlight the special difficulties encountered by these countries with regard to technical aspects of the Agreement and may result in discouraging non-signatories from joining the Agreement. He therefore suggested that the Committee should simply urge the countries that had not done so to take the necessary actions with regard to the completion of ratification procedures and the establishment of enquiry points. He also recalled that the secretariat was regularly circulating, in documents L/5517 and Addenda, a status report on participation in MTN Agreements and Arrangements.

8. The representative of Finland, speaking for the Nordic countries, supported the proposals made by the delegation of the United States, though on the question of enquiry points he suggested that the Committee should ask the secretariat to investigate the issue of rights and obligations rather than formulate recommendations. He expressed sympathy for the problems that some developing countries might have in carrying out their obligations under the Agreement, but said that the provisions of Article 12.8 provided ample opportunity to deal with these problems. He therefore believed that the proposals of the United States were reasonable.

9. The representative of Canada said that it had never been the intention that non-ratification of the Agreement and the failure to establish an enquiry point by some signatories should continue indefinitely. Parties to the Agreement needed to have a clear view of the legal status of these countries in order to determine their own position under the Agreement. He therefore supported the United States proposals.

10. The representative of Brazil said that his delegation understood the concerns expressed by the United States and by other delegations, but he could not support a recommendation by the Committee as a whole to follow-up on the United States proposals. The secretariat should therefore proceed on the basis that certain delegations had requested it to investigate the matters raised by the United States.

11. The representative of the secretariat said that the secretariat could prepare a paper on the legal status of countries that had not ratified the Agreement, taking into account the informal legal history on this point dating back to the Tokyo Round. With regard to the effect of the failure to establish an enquiry point on the rights and obligations of other Parties, he believed that the secretariat could not substitute itself for the Committee in dealing with this matter.

12. In conclusion, the Chairman proposed that the Committee urge those signatories that had not yet done so to ratify the Agreement or to establish an enquiry point, as the case may be. He also proposed that at the request of some delegations, the secretariat be asked to prepare a note on the legal status of countries that had signed but not ratified the Agreement, taking into account provisions of Articles 12.8 and 12.9 of the Agreement. It was so agreed.

B. Handling of Comments on Notifications

13. The representative of the United States introduced the relevant proposal by his delegation contained in document TBT/W/71. He noted that there was a convergence between those parts of the United States and European Community proposals that related to acknowledgement of comments and designation of responsible agencies.

14. The representative of the European Economic Community said that the aim of their proposal (initially circulated in TBT/W/64 and subsequently modified in the light of informal consultations) in inviting the competent authorities to indicate their position or at least give their preliminary reactions to the comments, was to allow the Parties presenting them to decide on the appropriateness of initiating discussions. The conveyance of no more than publicly available preliminary responses, as stipulated in the proposal by the United States, could not meet this purpose.

15. The representatives of Japan, Finland (speaking for the Nordic countries) and Chile felt the matter deserved attention and they expressed interest for the proposal of the European Economic Community. The representative of Chile said that one way to solve any problems arising in this area would be to agree on an extension of the time-limit for comments on notifications.

16. The representative of Switzerland suggested that the matter could be dealt with by including an additional item in the notification format, wherein countries would indicate where and how comments would be handled.

17. The representatives of New Zealand and Canada were not certain that the proposals addressed a real need, and felt that some case studies should be made before proceeding to draft any recommendations by the Committee. The representative of New Zealand proposed that the matter be remitted to the next meeting of persons responsible for enquiry points.

18. The representative of Finland, speaking for the Nordic countries, said that the matter was important and deserved further study. The handling of comments on notifications had not worked satisfactorily, and there was room for clarifying and elaborating on the relevant provisions of the Agreement.

19. The Chairman noted that there was need for further consultations among interested delegations on the matter of handling comments and proposed that the Committee revert to it at its next meeting. It was so agreed.

C. Application of Article 2.5 (Preambular Part)

20. The representative of Finland, speaking for the Nordic countries, drew attention to document TBT/W/70 which contained a revised proposal by the Nordic countries on the definition of the concept of "significant effect on trade of other Parties". In reply to a question by the representative of Chile, he explained that the notion of "effect on trade in products in general", referred, for example, to marks of origin. He stressed that the aim of the Nordic proposal was in any case to encourage Parties to notify as much as possible.

21. The representative of Japan, supported by the representative of Switzerland, reiterated his concern expressed at the last meeting that the use of criteria should not provide an excuse for not notifying technical regulations. For its part, Japan would continue to notify all relevant regulations and certification systems. The representative of Switzerland added that the objective of transparency should be met by notifying the greatest possible number of technical regulations and the rule should be: "when in doubt, notify".

22. After some further discussion, the Committee adopted the text of the recommendation reproduced at Annex 1.

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

23. The representative of Finland, speaking for the Nordic countries, introduced the proposal contained in document TBT/W/72. He explained that the three international standards organizations, designated in the proposal were already involved as observers in the activities of the Committee and this was the reason why they had been singled out among more than three hundred bodies involved in international standardization work.

24. The representative of Japan suggested that the list of products contained in document TBT/W/68 be presented in two parts: one referring to notifications concerning technical regulations and the other to those concerning rules of certification systems.

25. The observers from the International Electrotechnical Commission (IEC) and the International Organization for Standardization (ISO) said that the respective organizations would willingly assist the GATT secretariat with the task of completing the list of products with indications on where relevant international standardization work was taking place or could take place.

26. The representative of the United States noted that this point required careful study, as there were indeed many other international bodies besides the three mentioned. In addition, his country was not represented at

government level in either ISO or IEC, as was the case for most other signatories. His delegation would therefore need to consult the United States private sector before taking a position on the Nordic proposal.

27. The Committee agreed to revert to this item at its next regular meeting in the light of a revised proposal to be submitted by the Nordic countries.

E. Technical Assistance

28. The Chairman pointed out the note by the secretariat on technical assistance revised in document TBT/W/67/Rev.1.

29. The representative of Egypt, supported by Romania, reiterated his proposal made at the last meeting that the subject of technical assistance be kept as a permanent item on the agenda of the Committee (TBT/M/15, paragraph 22). This would give notice to developing countries inside and outside the Agreement of the Committee's commitment to the issue. He noted that other GATT committees had agreed to keep the subject of technical assistance permanently on their agenda. Regarding this Committee, he drew attention to its special collective responsibility in view of the Preamble of the Agreement, which referred to transfer of technology, and of its relevant provisions which included, besides Article 11, Articles 12.7 and 12.10.

30. The representative of the European Economic Community expressed the support of his delegation for the proposal in document TBT/W/67/Rev.1. In connection with Article 12.10, he said this did not imply that the matter should be examined at every meeting. Annual reviews provided an adequate periodicity. Given the fact that the Committee met two or three times a year there was also adequate opportunity to raise the matter in the intervals, if necessary. Similar views were expressed by the representatives of Austria, Canada, Finland, (speaking for the Nordic countries), Japan and the United States. These delegations would oppose any decision to place the item on the agenda of the Committee on a permanent basis, though of course any delegation could request the inclusion of the subject on the agenda of a particular meeting.

31. The representative of Canada said that he could support the proposal in TBT/W/67/Rev.1 but with some reluctance since technical assistance was essentially a bilateral matter.

32. The Chairman, noting that no consensus had been reached, proposed to revert to this item at the next meeting. It was so agreed.

F. Presentation by the Representative of Regional Standardizing and Certifying Body CEPT)

33. The Committee took note of the presentation made by the representative of the European Conference of Post and Telecommunications Administrations (CEPT) on the basis of agreed questions (the text of the presentation is reproduced at Annex 2).

G. Preparations for the Fifth Annual Review

34. The Committee agreed to proceed with the preparations for the fifth annual review in accordance with the arrangements for previous reviews. Signatories should notify to the secretariat any action taken by them under items of the review (listed in TBT/M/3, Annex III, paragraph 1) by 12 September 1984, to the extent that this had not already been done in the normal course of the Committee's work during the review period. The secretariat would issue by 21 September 1984 a basic document containing any changes in the information contained in TBT/10, supplements 1 and 2 and TBT/17, supplements 1 and 2 as well as updated versions of the documents on consultation points (TBT/W/62 and Corr.1 to 4), enquiry points (TBT/W/31/Rev.3 and Corr.1 to 4) and panelists (TBT/W/25/Rev.8 and Corr.1 to 4).

35. The representative of Finland, speaking for the Nordic countries, proposed that document TBT/16/Rev.1, entitled Decisions and Recommendations Adopted by the Committee since 1 January 1980, be revised before the fifth annual review, and that the new version include information on the background and purpose of the actions taken by the Committee. It was so agreed.

H. Projected Agenda for the Committee

36. The representative of the United States, referring to the projected agenda circulated informally by the secretariat in accordance with the procedures adopted by the Committee at its last meeting (TBT/M/15, paragraph 28), suggested improvements in the presentation of this paper, designed to assist the Committee in planning its future work. Thus, a tentative time-table and a work plan could be established for each of the projected agenda items. By way of example, he said that the Committee could already consider a tentative agenda for the next meeting on procedures for information exchange, due to be held in 1985. He proposed that in advance of the next meeting of the Committee, the secretariat circulate for comment, a draft projected agenda with such annotations under each item, and incorporate the comments in the final version of the projected agenda.

37. The representative of the European Economic Community said that his delegation could not agree on specific dates and subject matters being included in the projected agenda as a general proposition. He warned that such a procedure would tie the Committee to a rigid work programme, irrespective of the need to take up specific issues, and to the detriment

of the flexibility needed to discuss important matters as they arise. However, he had no objection to proposals regarding the agenda of the next meeting of enquiry points being circulated separately.

38. In concluding the discussion on this point, the Chairman proposed that any suggestions on items in the projected agenda be circulated in draft form to all signatories before issuing the projected agenda. The final projected agenda would reflect comments by signatories on these suggestions. He also proposed that the item "procedures for information exchange" be placed on the agenda of the next meeting of the Committee. It was so decided.

I. Date and Agenda of the Next Meeting

39. The Committee agreed to hold its next meeting on 16-17 October 1984.

The agenda of the meeting would include the following items:

1. Statements on implementation and administration of the Agreement;
2. Handling of comments on notifications;
3. List of products covered by the notifications under the Agreement;
4. Technical assistance;
5. Fifth annual review of the implementation and operation of the Agreement;
6. Projected agenda.
7. Preparations for the 1985 meeting on procedures for information exchange.
8. Report (1984) to the CONTRACTING PARTIES;

ANNEX 1

Application of Article 2.5 (Preambular Part)

Recommendation

For the purposes of Article 2.5 the concept of "significant effect on trade of other Parties" may refer to the effect on trade:

- of one technical regulation only or of various technical regulations in combination,
- in a specific product, group of products or products in general, and
- between two or more Parties (countries).

When assessing the significance of the effect on trade of technical regulations, the Party concerned should take into consideration such elements as the value or other importance of imports in respect of the importing and/or exporting Parties concerned, whether from other Parties individually or collectively, the potential growth of such imports, and difficulties for producers in other Parties to comply with the proposed technical regulations.

ANNEX 2

Presentation by the Representative of the European Conference
of Post and Telecommunications Administrations (CEPT)

The European Conference of Post and Telecommunications Administrations (CEPT) was set up in 1959 to establish closer relations between member administrations so as to allow harmonious development of postal and telecommunication services at regional level.

At present, 26 European countries are represented in CEPT, which has no permanent headquarters nor legal personality. Chairmanship of the Conference is determined by a vote every two or three years. Membership of CEPT is limited to administrations of European countries that are members of Universal Postal Union (UPU) or International Telecommunication Union (ITU).

CEPT does not make any decisions in the legal sense. It adopts only recommendations that are not mandatory, each administration remaining sovereign to decide whether or not to apply them, partly or in full. Since CEPT has not legal personality and its recommendations are not mandatory, it is the responsibility of the administrations or governments of its member countries to ensure that implementation of the recommendations is consistent with the provisions of Article 2 of the Agreement on Technical Barriers to Trade.

CEPT is not a standardization body. Its aim is not to establish standards in a closed system but essentially to harmonize the development of postal and telecommunication services at European level. Nevertheless, it has important activities in the formulation of recommendations of a technical character regarding the telecommunications and postal equipment as well as terminals linked to telecommunication networks. In the past 25 years it has adopted a large number of recommendations in those areas. Such recommendations are designed to supplement or spell out in more detail those adopted at world level by ITU in the context of the International Telegraph and Telephone Consultative Committee (CCITT). These recommendations fall within the framework of the activities of world-wide organizations such as the UPU and the ITU. In no case do CEPT recommendations duplicate or contradict those adopted by UPU or ITU. The European administrations co-operate in preparing CCITT meetings and try to monitor application of recommendations approved at world level. Where CCITT recommendations present several options, CEPT tries to define a common choice of one of them in order to favour exchanges at regional level. There are no European specifications inconsistent with specifications at world level. In certain cases, CEPT makes recommendations on points not dealt with by CCITT.

CEPT has no certification or testing activities; these are carried out at national level by the telecommunication administrations. Within CEPT, however, the administrations co-operate to harmonize specifications and procedures for type-approval and testing.

CEPT does not and will not grant any certification marks.

The texts of recommendations adopted by CEPT are of a public character and are available to anybody wishing to obtain information on this subject.

CEPT exchanges information on its work and activities but has not established any formal link with other organisations since there is no observer status within CEPT. In fact, CEPT is an association of administrations, each of them speaking in its own name, so that CEPT cannot speak as such in other international bodies. Representatives or observers designated to conferences, have no mandate to act as spokesman or make decisions on behalf of the member administrations as a whole.