

GENERAL AGREEMENT ON

RESTRICTED

TBT/M/41

4 December 1991

TARIFFS AND TRADE

Special Distribution

Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 1 NOVEMBER 1991

Chairman: Mr. D. Shark (United States)

1. The Committee on Technical Barriers to Trade held its forty-second meeting on 1 November 1991.

2. The agenda contained in GATT/AIR/3254 and Add.1 was adopted.

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A. Statements on implementation and administration of the Agreement

3. The representative of Austria drew the attention of the Committee to a letter sent by his delegation to the delegation of the Republic of Korea in respect of notification TBT/91.194 of 3 July 1991 concerning a mark of origin system covering 323 items at the HS 4-digit level. His authorities considered this marking requirement excessive and not justified by legitimate objectives of consumer protection. According to the TBT Agreement, marking and labelling requirements must not create unnecessary obstacles to international trade. The notification had been distributed only after the marking requirement had already come into force, so that no reasonable time had been allowed for other Parties to make comments and for their comments to be taken into account as provided for by the Agreement. His authorities were equally concerned by the requirement to indicate the name of the producer and the fibre content of wool fabric in a technologically difficult, costly and internationally unusual way, namely on the selvedge at intervals of two metres, whereas it was customary in international trade to state the fibre content on the bale or on the invoice only. His authorities had requested urgent bilateral consultations on this matter, and he asked the Korean delegation whether it had any comments to make at the present time.

4. The representative of the Republic of Korea said that with respect to the comment of the Austrian delegation on delayed notification, the Korean Government would not apply this system to shipments made before 1 July. With respect to the regulations relating to the marking of wool fabrics, these had been in force since 1983 and were applicable to both locally made and imported fabrics such as fibres 111, 112 and 113. The regulation had been applied strictly to domestic fabrics but not to imported fabrics due to the Customs Authority's lack of manpower. The main purpose of the regulations was to prevent low quality fabrics made in South-East Asian developing countries from being imported and sold in Korea in the guise of high quality fabrics from other exporting countries. Without the regulation, counterfeiting could damage the reputation of the high quality fabrics and also injure consumers. It had been the case very often that low quality fabrics had been imported and sold in Korea in the guise of high quality European fabrics, particularly since made-to-measure clothes accounted for more than 50 per cent of the Korean market. In sum, the marking regulations were considered necessary by his authorities to protect consumers, promote fair trade practices and prevent counterfeiting.

5. The representative of the European Communities said that his delegation shared the concerns that had been expressed over the mark of origin system. He welcomed the information provided by the Korean representative, but asked for more details about the system so that his delegation could proceed to examine it more thoroughly.

6. The representative of Austria also thanked the Korean representative for the explanation provided, but expressed the hope that the Committee could be given the information in writing so that it could be followed up.

7. The representative of the United States expressed concern about Article 7 of Presidential Decree number 40 of the Government of Greece concerning cosmetics. Her authorities had raised their concerns directly with the Greek Government, but the regulation had still not been notified. Her authorities believed that the Decree diverged in important respects from the relevant EC directive and it appeared to discriminate against non-EC products.

8. The representative of the European Communities said that he would look into the matter.

9. The representative of the United States drew attention to a publication "Directory of State and Local Government Laboratory Accreditation and Designation Programs in the United States" which was available from the United States' enquiry point.

10. The representative of New Zealand said that his authorities were concerned about two general matters relating to the implementation of the Agreement, both of which had a significant impact on the Agreement's effectiveness. The first related to the responsiveness of national enquiry points; the Standards Association of New Zealand had recently had difficulty in obtaining timely responses from enquiry points, and in some cases had been unable to obtain any response at all. His delegation hoped that all signatories to the Agreement would make every effort to ensure

that enquiry points provided timely and complete responses to requests for information. The second matter concerned the amount of advance notification given for proposed technical regulations or standards; TBT/33 showed that the average period of advance notification given had fallen sharply over the past several years. His delegation felt strongly that every effort should be made to ensure that the maximum possible amount of advance notification was provided, and certainly that the recommended minimum period of sixty days should be adhered to. Advance notification was important in allowing the opportunity for consultation and clarification of standards that were being introduced, and in cases where significant adjustments were needed in either the substance or the presentation of products advance notification was essential in order to allow industry sufficient time to adjust.

11. The Committee took note of the statements that had been made.

B. Twelfth annual review of the implementation and operation of the Agreement

12. The Chairman drew attention to the secretariat's background documentation contained in TBT/33 and Add.1 and invited statements.

13. The representative of Finland, speaking on behalf of the Nordic countries, proposed that the Table on page 5 of TBT/33, concerning notifications, should be supplemented with information identifying Parties that had not made any notifications and showing when each Party had acceded to the Agreement.

14. The representative of Austria supported the proposal.

15. The Committee took note of the statements that had been made, and agreed to invite the secretariat to revise TBT/33 in the light of the proposal made.

C. Report (1991) to the CONTRACTING PARTIES

16. The Chairman drew attention to the draft report that had been prepared by the secretariat (Job 1859).

17. The Committee asked the secretariat to update the draft in the light of developments at the current meeting and agreed to adopt its Report (1991) to the CONTRACTING PARTIES.

D. ISO/IEC draft Code of Good Practice for Standardization

18. The Chairman drew attention to the ISO/IEC draft Code of Good Practice for Standardization and to a communication from Finland contained in TBT/W/152.

19. The Secretary-General of the ISO recalled that the Committee had been informed on an earlier occasion that, in the context of the Code of Good Practice that was being negotiated in the Uruguay Round negotiations on the Agreement (1991) on Technical Barriers to Trade, the member bodies of ISO and IEC had expressed their preference for the development of a voluntary, consensus-based code of good practice. The development of such a code had been endorsed by the governing bodies of ISO and IEC, with the intention of codifying what had come to be accepted as professional good practice among standardization bodies worldwide. A working draft of the proposed code had been prepared, and was currently being advanced in an international consensus-building process. Copies of the draft were available for members of the Committee.

20. While the draft was subject to further change in the consensus-building process, the Secretary-General of the ISO said he was confident that the current draft covered essentially all principal policy elements needed to ensure that standardization work at national, regional and international level would progressively advance both GATT objectives and those of ISO and IEC.

21. The draft code addressed four essential elements for each level of standardization: consensus procedures, openness and transparency in the application of those procedures; the use of standardization as a tool to advance international trade; participation in the standardization process by all affected interests; and coordination and information flows in the standardization processes going on in all countries. The code was based directly on the ISO/IEC Guide 2 definitions, which had already been endorsed by the TBT Committee. In the context of the Uruguay Round negotiations on the Agreement (1991) on Technical Barriers to Trade, ISO and IEC had expressed their views on the future relationship they would like to see between their draft code of good practice and that contained in Annex 3 of the Agreement (1991). ISO and IEC felt that consideration should be given to finding appropriate ways for GATT and ISO and IEC to take positive advantage of their common objectives as expressed in both codes. ISO and IEC considered the best place to continue those discussions was in the TBT Committee.

22. The representative of Finland, speaking on behalf of the Nordic countries, said that the work of ISO and IEC had greatly contributed to furthering the aims of the TBT Agreement, and that cooperation with ISO and IEC had been fruitful in many areas. A continuing dialogue would be welcome. The main interest of the Committee in the ISO/IEC draft code should be to ensure that it was not contradictory to the code contained in the Agreement (1991) on Technical Barriers to Trade. It was not necessary that the two codes should be identical, since GATT's concerns were not exactly the same as those of ISO and IEC, but it was essential that they should be mutually supportive. The best means of ensuring that was for delegations to convey their comments through their own national standards bodies, although the Committee could also, if necessary, take up the matter at its next meeting. He drew attention to the draft decision of the Committee, contained in TBT/W/152, that Finland was proposing, on behalf of the Nordic countries.

23. The representative of the United States supported the proposal, noting that ISO and IEC had taken an important step forward with their draft code in recognizing that standards could facilitate or inhibit trade, depending upon how they were developed, and noting also that the effectiveness of the TBT Agreement depended to a large extent on cooperation between governments and private sector standardization bodies and that ISO, IEC and the Committee had mutual responsibilities in that regard. Once the ISO/IEC code had been finalized, the task of the TBT Committee would be to evaluate it and define its relationship to the Agreement (1991).

24. The representatives of the European Communities welcomed and supported the proposal, noting that it was important that the ISO/IEC draft code should be completely compatible with and contain no contradictions to the Agreement (1991) Code. Keeping that in mind, ISO and IEC had the opportunity with their code to go well beyond what it had proved possible to negotiate in the Agreement (1991) Code.

25. The Committee adopted the following decision:

The Committee takes note of the decisions in October 1991 of the ISO and IEC Councils to begin the consensus-building process for an ISO/IEC Code of Good Practice for Standardization. The Committee recognizes the valuable contributions ISO/IEC has made in achieving the objectives of the Agreement on Technical Barriers to Trade and the importance of the co-operation of the private sector standards community worldwide to the success of this Agreement. The Committee emphasizes the importance it attaches to a continuous dialogue taking place between GATT and the ISO/IEC on this matter, as took place in connection with the adoption of mutually consistent Definitions for use in the TBT Agreement and the ISO/IEC. The Committee notes that ensuring the two Codes in question are mutually supportive would contribute considerably to furthering the objectives of the Agreement (1991) on Technical Barriers to Trade. The Committee decides that it will, upon completion of the ISO/IEC Code, evaluate its implications for the operation of the Agreement (1991) on Technical Barriers to Trade and take whatever further action it may consider appropriate at that time.

E. Other Business

26. The representative of New Zealand recalled the list of notified environmental standards that had been prepared by the secretariat and appended to document L/6896. In his view that list provided a useful basis for further work on notifications of environmental standards. The list was a valuable indication of the extent of such measures, over 200 of which had been notified to the Committee, but in and of itself it did not provide any insights on how such measures related to the GATT since it did not indicate what trade instruments were used to ensure that notified standards were adhered to, nor the consequent trade effects of those standards. His authorities believed that it was important that those issues be considered, and in order to facilitate that he proposed that the secretariat prepare a further factual paper analysing statistically the notifications contained in the list to determine the scope and frequency of trade instruments used

to implement environmental standards. The paper could then be discussed at a future Committee meeting. The representative of New Zealand also proposed that the secretariat be requested to issue a new, consolidated document containing all notified details about the enquiry points of Parties to the Agreement.

27. The Committee agreed to request the secretariat to undertake the necessary work on environmental standards, and to issue updated information on Parties' enquiry points.

28. The representative of ISO drew attention to the sixth edition of ISO/IEC Guide 2, which had now been adopted and published and was available through the normal channels, and to the new revised edition of the KWIC index which had been prepared in response to the development of the TBT Agreement and its emphasis on the importance of the use of international standards.

29. The Committee agreed that the date and agenda of the next Committee meeting should be worked out by the Chairman in consultation with interested delegations.