

# GENERAL AGREEMENT ON

RESTRICTED

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## TARIFFS AND TRADE

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Committee on Technical Barriers to Trade

### MINUTES OF THE MEETING HELD ON 16 JUNE 1989

Chairwoman: Mrs. C. Guarda

1. The Committee on Technical Barriers to Trade held its thirty-first meeting on 16 June 1989.

2. The Agenda of the meeting was as follows:

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A. Testing, inspection and approval procedures

3. The representative of the European Economic Community asked for further clarification of the term "inappropriate" used in the text of the new paragraph 5.2 in the draft proposal on Testing Procedures (TBT/W/118) and in point D of the draft proposal on Inspection Procedures (TBT/W/119). The representative of Finland, speaking on behalf of the Nordic countries, said that the language of these provisions were based on Article 2.2 of the Agreement. This Article gave examples of cases where Parties might consider that the use of relevant international standards as a basis for their technical regulations and standards were "inappropriate". Different reasons might be invoked in respect of international recommendations and guides on testing and inspection procedures. The representative of Brazil said that there should be some criteria for determining the appropriateness

of international recommendations and guides. The representative of the United States said that further discussions of the proposals would be helpful in defining the term. The representative of Canada said that his delegation supported the proposal relating to the use of international recommendations and guides. The Committee should determine to what extent international guides and recommendations were relevant to the various provisions of the Agreement on the basis of information on the preparations of these recommendations and guides in ISO/IEC and ILAC. The representative of Japan said that the Committee should be provided with information on the activities of the international standardization organizations.

4. The representative of Finland, speaking on behalf of the Nordic countries, informed the Committee that the Nordic countries would revise their proposals following the recent preparation of the draft definitions relating to conformity assessment by the ISO/CASCO Ad Hoc Group on Definitions and on the basis of the comments received from other Parties. The new proposal would be presented in the form of suggested amendments to Article 5 and would be submitted to the Committee in advance of its next meeting.

5. The representative of the United States referred to point P of the draft proposal on Procedures for Issuing Product Approval (TBT/W/107) and said that, in addition to the alternative text suggested by the Nordic countries (TBT/M/27, paragraph 22), the advisors from the private sector in her country had suggested a draft which read, "Parties shall ensure that appropriate authorities make their approval decisions on the basis of sound technical evidence". The proposal in document TBT/W/107 would be revised in advance of the next meeting of the Committee.

6. The representative of the European Economic Community said that while they could support the thrust of point B in the proposal, the provisions in point B.2 caused problems. He also said that, rather than specifying the limit of thirty calendar days under point L.1, the phrase "as expeditiously as possible" should be used. His delegation also favoured a more flexible approach under point O for the examination of the applications for approval in the order of their submission.

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

#### B. Processes and Production Methods

8. The representative of the United States said that the proposal in document TBT/W/108 and Add.1 aimed at preventing barriers to trade that might be caused by technical regulations and standards based on processes and production methods (PPMs) by strengthening the provisions of the Agreement in this respect. As there was no internationally agreed definition for the term PPMs used in the Agreement, a draft definition of this term had been suggested in document TBT/W/108/Add.1. Her delegation had submitted examples of PPMs in the past (TBT/33 and Add.1 and TBT/W/46).

In order to assist a further clarification of the concept delegations could provide the Committee with examples of any PPMs-based measures that should not be covered under the obligations of the Agreement. The Committee took note of this statement.

C. Improving the provisions of the Agreement on transparency

9. The representative of Finland, speaking on behalf of the Nordic countries, said that the new version of the proposal by the Nordic countries took into account the comments made by other delegations (TBT/W/120/Rev.1).

10. The representative of the European Economic Community suggested the deletion of the phrase "is made available domestically" in the amendments to paragraphs 2.5.2 and 7.3.2.

11. The Committee agreed to revert to this proposal at its next meeting.

D. Improved transparency in bilateral standards-related agreements

12. The representative of the United States said that her delegation would revise the proposal in document TBT/W/111 in the light of the comments made by other delegations.

13. The Committee agreed to revert to this item at its next meeting.

E. Improved transparency in regional standards activities

F. Code of good practice for non-governmental bodies

G. Extension of major obligations under the Agreement to local government bodies

14. The representative of the European Economic Community informed the Committee that his delegation intended to submit a proposal which would use a "code of good practice" approach to deal with important "best effort"-level obligations, such as those concerning the standardization, testing and certification activities of non-governmental bodies (whether on a local, national or regional level) and of local governmental bodies. The proposal would contain specific provisions for each level of activity and type of body, and would provide for a monitoring system within the framework of the Committee. A first element of the proposal would be a code of good practice for non-governmental standardizing bodies, which his delegation expected to submit before the next meeting of the Committee. He emphasized the link with the other two elements to follow, namely local government bodies and testing and certification activities. Any definitive evaluation should be made on the basis of all three elements together.

15. The Committee took note of this statement and agreed to address the proposal relating to a code of good practice for non-governmental standardizing bodies at its next meeting.

#### H. Transparency in the Operation of Certification Systems

16. The representative of Japan said that the proposal in document TBT/W/115 suggested that certification bodies should establish the standards processing period for each certification system taking into account factors such as approval methods and administrative procedures. Where a certification body could not process an application within the standards processing period, the applicant should be notified of the reasons for the delay. The availability of information on the standards processing period would facilitate the drawing up of production and export programmes and would thus contribute to the promotion of exports. The Committee took note of this statement.

#### I. Transparency in the drafting process of standards, technical regulations and rules of certification systems

17. The representative of Japan stated that the United States and the European Economic Community had underlined their commitment to the principle of transparency on matters relating to standardization and certification in a Joint Communiqué issued in May 1989. The relevant proposal in document TBT/W/115 suggested the improvement of transparency on the preparation and application of standards by allowing interested parties to make comments on the draft text of proposed standards.

#### J. Definitions on conformity assessment

18. The representative of Finland, in his capacity as a member of the ISO Ad Hoc Working Group on Definitions, drew the attention of the Committee to the draft definitions on conformity assessment that had been recently circulated for comments to the national member bodies of ISO. He invited Parties interested in these definitions to contact the ISO national member bodies in their countries. The Committee took note of this statement.

#### K. Informal gathering of persons responsible for information exchange

19. Mr. van de Locht, (Netherlands), Vice-Chairman of the Committee, reported on a gathering of persons responsible for information exchange which met under his chairmanship on 22 May 1989. Participants from twelve Parties had attended the meeting. Two participants had given written and oral reports on the current activities of enquiry points in their country. The secretariat had consolidated similar submissions made at the previous meetings in an informal paper. It had been suggested that the Committee considered the usefulness of preparing a manual on the operation of enquiry points in different Parties. The informal gathering had also addressed the following topics concerning the exchange of information among Parties: the delay in replies to enquiries; indication of the number of pages of the draft text on the notification format; handling of comments received by the notifying Party; information on any modifications of the proposed texts in the light of comments received from other Parties; and the nature

and scope of enquiries. It had been generally felt that some of these problems could be solved by a reinforced implementation of the relevant recommendations by the Committee on the subject of exchange of information. In addition, the secretariat had invited persons responsible for notifications to indicate, where applicable, the Harmonized System number instead of the CCCN number under point 4 of the notification format. It had also been suggested that the decision relating to the format and guidelines for notification on pages 5 and 22 of document TBT/16/Rev.4 should be amended accordingly. The Committee took note of this statement.

L. Avoidance of duplication

20. The observer from the FAO/WHO Codex Alimentarius Commission introduced a document entitled, "Relations with the GATT Committee on Technical Barriers to Trade and the GATT Negotiating Group on Agriculture" (ALINORM 89/10), prepared for the Eighteenth Session of the Codex Alimentarius Commission to be held in Geneva from 3-12 July 1989. The discussion in recent Codex meetings had shown that there was a lack of full understanding of GATT between various national delegations to the Codex Alimentarius Commission (CAC).

21. The Codex Alimentarius Commission was an inter-governmental commission set up under the sponsorship of the FAO and the WHO. At present, one hundred and thirty-six countries were members of the Commission. Its purpose was to prepare food standards for raw, semi-processed and processed foods with the twin aims of facilitating international trade in foodstuffs and protecting consumers from both health hazards and economic problems that might be caused by foods which were not in proper condition. The Commission prepared standards for foods which covered the basic identity and composition, set limits for food additives in foods, pesticide residues, various contaminants that may get into foods from industrial chemicals, heavy metals, natural sources or radionuclides. It also looked at problems of residues of veterinary drugs in foods, set rules for codes of hygienic practices in the processing of foods and looked at the problems of good manufacturing practice in the production, processing and marketing of foods. Committees that had been established within Codex prepared methods of analysis and sampling of foods. General rules had been set for labelling of foods. The Commission met every two years. Its subsidiary bodies were comprized of horizontal type committees which dealt with food additives, pesticide residues, veterinary drug residues in foods, food hygiene, food labelling covering goods across the board, particularly processed food; and vertical type committees which dealt with a wide variety of different commodity groups including meat and meat products, processed fruit and vegetables, and frozen products. There were also regional co-ordinating committees which met in different parts of the world and tried to implement the Codex work at the national level.

22. The observer from CAC went on to say that over the past year Codex had reviewed the status of its relationship with GATT, and in the context of the Agreement on Technical Barriers to Trade, in particular. It had increased its co-operation over the past several months as the discussions



on agriculture in the Uruguay Round had proceeded. Most countries which were Parties to the Agreement were represented in the Codex Alimentarius Commission which would be discussing the document at its meeting on 3-12 July 1989. The purpose of the document was to inform the members of Codex of the current level of the discussions concerning both the long-standing agreement which existed between the Codex Alimentarius Commission and the Committee on Technical Barriers to Trade, and the new relationship which had been developed with regard to the discussions on agriculture in the Uruguay Round. The paper reported some of the views expressed in the discussion held in the Codex Executive Committee of July 1988. In addition, it gave a summary of the current discussions in the GATT with regard to sanitary and phytosanitary regulations and barriers. Certain minor changes had been recommended in the Codex rules in order to accommodate greater co-operation with GATT. Codex was willing to collaborate to any extent possible to ensure that the co-operation between the two organizations continued and strengthened so that the Codex rules could be utilized within GATT procedures, assuming that these be finally incorporated into the agreements that would come out of the discussions in the Uruguay Round.

23. The representative of the European Economic Community understood that the purpose of submitting the document to the Codex Alimentarius Commission was to avoid duplication between the two organizations. Under the obligations of the Agreement, Parties made notifications to other Parties relating to proposed technical regulations whenever the technical content of a proposed technical regulation was not substantially the same as the technical content of the relevant international standard. He wondered whether the transmission of the notification of acceptances of Codex standards by Parties to the Committee on Technical Barriers to Trade, in accordance with the recommendation proposed by the CAC Executive Committee in ALINORM 89/10, would not create further duplication. The Committee was interested in any possible trade barrier created by deviations from international standards. If the Codex transmitted a notification which included a certain deviation from a Codex standard, then that should already have been notified by the Party itself under the procedures established by the Committee. There was no similar mechanism for information on the implementation of the international standards prepared by ISO or IEC by Parties. The observer from CAC said that, under the present arrangements, Codex notified acceptances of Codex standards which were submitted to Codex by its member governments. The sharing of information between different international organizations and dissemination of this information to the particular constituencies at the national level was beneficial. In many instances, various activities carried out at the international level were not well-known at the national level. It would be interesting to find out how many countries notified deviations to Codex standards to GATT. They were not aware whether the exchange of information had created any duplication of work. Authorities responsible for notifying acceptances of the Codex standards might not be making notifications to GATT, because they might not be fully aware of the obligations of their country under GATT in this respect. He considered that there should not be any duplication of effort between Codex and GATT. At present, any work on food standards at the international level was undertaken by the Codex

Alimentarius Commission. The GATT was simply taking note of this work. In the long run, if the Uruguay Round discussions continued in the way they had been, GATT would be the organization that would look into disputes based on Codex standards. He also said that there was a difference between what Codex represented and what the ISO and the IEC represented at the international level. The Codex was an inter-governmental commission with member governments; whereas in the ISO and the IEC, countries were not represented by national standards bodies. The representative of the European Economic Community said that his delegation considered that the document circulated by Codex required further careful consideration and that they reserved their position with respect to this document.

24. The representative of the United States asked what the purpose was of the recommendation concerning the examination of the notification mechanism. In response, the observer from the CAC stated that the recommendation concerning the revision of the notification mechanism was the outcome of the discussions in the Codex Executive Committee regarding the need for a better understanding of the relationship between the two organizations. It was, in essence, an instruction to the Codex Secretariat to strengthen the procedures for notifications to GATT.

25. The Committee took note of the statements made.

M. Date of meetings; agenda of the next meeting

26. The Committee agreed to hold its next meeting on 19 September 1989. It also agreed to meet once more before the end of the year. The agenda of the next meeting would include the following items:

1. Statements on implementation and administration of the Agreement;
2. Procedures for information exchange;
3. Improving the provisions of the Agreement on transparency;
4. Improved transparency in bilateral standards-related agreements;
5. Testing, inspection and approval procedures;
6. Code of good practice for non-governmental standardizing bodies;
7. Tenth annual review; Report (1989) to the CONTRACTING PARTIES;
8. Other business.