

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Rules of Origin

MINUTES OF THE MEETING OF 11 OCTOBER 1996

Chairman: Mr. C. Osakwe (Nigeria)

The agenda proposed for the meeting, circulated in WTO/AIR/430, was adopted by the Committee as follows:

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1. Observer status for International Intergovernmental Organizations

1.1 The Chairman noted that there were two elements to be considered under this agenda item: observer status for international intergovernmental organizations which have been granted ad hoc observer status; and a request from the International Textiles and Clothing Bureau (ITCB) for observer status in the Committee.

1.2 Pending the finalization of the ongoing consultations by the Chairman of the General Council on the application of guidelines for observer status, the Chairman suggested that the Committee invite the IMF, OECD, UNCTAD, IBRD, WCO and also the ITCB to attend the ongoing, as well as the following meetings, as observers on an ad hoc basis .

1.3 The Committee so agreed.

2. Report of the Committee on Rules of Origin to the Council for Trade in Goods (G/RO/W/16/REV.1)

2.1 The Chairman recalled that, at the last meeting, an informal understanding had been reached on all paragraphs of the report of the Committee to the Council for Trade in Goods contained in document G/RO/W/16/Rev.1, with the exception of draft paragraphs 8, 10, 11, 13, 18, 25 and 27. At the request of the Committee, the Chairman had undertaken further consultations with a view to resolving the issues outstanding in the paragraphs mentioned. Following these consultations, he was now in a position to submit the entire draft report, contained in document G/RO/W/16/Rev.2, to the Committee for formal adoption. The proposal was on the understanding that the report would be factually updated before final circulation with respect to paragraphs 14 and 15, and Annexes I and II concerning notifications.

2.2 The Committee agreed to change the word "conclusive" in line three of paragraph 18 to "common".

2.3 The Chairman invited the French- and the Spanish-speaking delegations to undertake language corrections applicable to the French and Spanish texts.

2.4 The representative of the European Communities suggested deleting the word "technical" in the last sentence of paragraph 27 of the French version of the draft report. The representative of Chile proposed a corresponding deletion of the word "technical" in paragraph 27 of the Spanish version of the draft report.

2.5 The representative of the European Communities pointed to mistakes in paragraphs 8, 10, 11, 25 and 27 of the current French version and suggested the correction of those paragraphs according to the corresponding paragraphs in document 5539, which was distributed in the meeting room, and where the translations from the English version were correct. He also suggested changes in paragraph 13 of the French version, where the words "il a été noté" should replace "le Comité a fait observer" in sentence three. Furthermore, in Paragraph 24 of the French version, the words "se débarrasser" should appear in inverted commas.

2.6 The representative of Argentina suggested bringing the Spanish version of paragraph 18 into line with the change undertaken earlier in the English version. The word "definitiva" would have to be replaced by the word "común". He further drew attention to a lack of congruency between the English and the Spanish version in paragraph 25. While the English text, in line three, referred to "national positions at issue", the Spanish version mentioned "*contradictory* national positions". In order to reconcile the language of the English and the Spanish version, the representative of Argentina suggested deletion of the word "contradictory" and addition of "at issue" in the Spanish version. He also suggested replacing the word "vertimiento" with "deshacerse" in paragraph 24 of the Spanish version.

2.7 With regard to paragraph 21, the representative of Mexico noted that the second sentence of the Spanish version contained a conditionality that did not appear in the original English version. He suggested amending the Spanish text accordingly. The representative of the European Communities stated that the French version of paragraph 21 contained the same conditionality as the Spanish text and suggested amending the French text accordingly.

2.8 The Committee agreed to the suggested amendments concerning the French and Spanish versions of the text.

2.9 The representative of Japan proposed that paragraph 18 should be amended by adding the following sentence: "A view was expressed that the Committee should embark upon work on preferential rules of origin applied by regional integration schemes after the current work of non-preferential rules of origin is completed". However, in case consensus on the introduction of this sentence could not be reached, he would alternatively request that his remarks be reflected in the minutes.

2.10 The representative of the European Communities objected to the proposal by the Japanese delegation. He stated that the report to the Council for Trade in Goods would deal with the work undertaken by the Committee on Rules of Origin in relation to the implementation of the Agreement on Rules of Origin. Since the Agreement was exclusively concerned with the question of harmonization of non-preferential rules of origin, the inclusion of a statement concerning preferential rules of origin would exceed the mandate of the Agreement.

2.11 The representatives of Argentina, Brazil, Canada, Mexico, Morocco, Norway, the Philippines on behalf of the ASEAN Members, Poland, Romania, the United States and Uruguay supported the view of the European Communities, while the delegates from Australia, Hong Kong, Korea and Pakistan endorsed the Japanese proposal.

2.12 The Committee took note of the statements made.

2.13 The Committee then adopted the report to the Council for Trade in Goods, contained in document G/RO/W/16 Rev.2 as amended. It was agreed that the revised text would be issued in the G/L/- series.

2.14 The representative of Switzerland drew the attention of the Committee to paragraph 27 of the report which noted that the harmonization work was behind schedule and that additional steps needed to be taken to ensure adherence to the time-frame. In this connection, he stressed the responsibility of the Committee for putting in place all necessary measures to ensure that the time-frame would be respected. This would not be an easy task and Members should be fully aware of the fact that the highly detailed analysis by the Technical Committee on Rules of Origin of 1,241 four-digit tariff headings, which were themselves subdivided into 5,018 categories of goods, would inevitably result in the completion of the first negotiating round only in May or September 1997. It was essential to realise two key points: firstly, the scale and complexity of the Technical Committee's task would be considerable, and secondly, delegations would not be disposed to accept rules whose effects on origin had not been carefully scrutinized. In-depth work would therefore be essential. In the face of these major constraints, there would not be much time left before September 1997 for clarifying many points left outstanding in Phase II, for negotiating special rules for products requiring supplementary criteria other than change in tariff heading or subheading, as called for under Phase III, and also for negotiating rules of general application. In these circumstances, and given the Technical Committee's essential contribution to the identification of the problems relating to substantial transformation for specific products on the basis of the Harmonized System, the Swiss delegation considered it both necessary and timely for this Committee to generate a major new impetus to its work by developing as rapidly as possible a suitable plan of work that would enable it to master the subject matter contained in the 316 pages of the Integrated Negotiating Text, which would very soon exceed 500 pages. It would not be possible to speed up work unless the links between this Committee and the Technical Committee were strengthened, in particular by clarifying many questions left pending from the negotiating rounds in Phase II. The Committee should seek to have in the shortest time possible an overview of the problems already identified by the Technical Committee so as to be able to evaluate them from both the technical and the trade policy points of view.

2.15 The Committee took note of the statements made.

3. Origin of goods obtained or produced on vessels, factory ships, structures and installations outside a country (G/RO/2, G/RO/M/7)

3.1 The Chairman noted that draft definition 2 of Annex A to the First Report from the Technical Committee to the Committee on Rules of Origin remained under active examination by the Informal Working Group established by the Committee. He recalled that the Committee at the meeting of 13 September 1996 had:

- (a) requested the Informal Working group to intensify negotiations on draft definition 2 of Annex A on the basis of one option;
- (b) requested the Secretariat to produce a succinct, brief, comparative analysis of the current four options, and to have this circulated to delegations well in advance of this meeting; and
- (c) finally requested the Chairman of the Informal Working Group to take all necessary steps to submit one option for consideration at this meeting.

3.2 The Chairman noted that the Secretariat had circulated a succinct comparative analysis of the four options in document G/RO/W/17.

3.3 Based on the conclusions reached by the Informal Working Group in this matter, the Committee agreed as follows:

"Recalling the Decision by the Committee at its seventh meeting on draft definition 2 of Annex A on goods considered as being wholly obtained in one country, the informal Working Group considered a one-option proposal by the Chairman. Following an extensive exchange of views on the Chairman's proposal, the informal Working Group agreed to recommend to the Committee the bracketed one-option draft for definition 2 as follows:

Definition

2 (i) Products of sea-fishing and other products taken from the sea outside a country are considered to be wholly obtained in the country of registration of the vessel that carries out those operations.

(ii) Goods obtained or produced on board factory ships are considered to be wholly obtained in the country of registration of the factory ships, provided that those goods are manufactured from the products referred to in subparagraph (i) originating in the same country.

(iii) Products taken from the seabed or subsoil beneath the seabed outside a country are considered to be wholly obtained in the country that has the rights to exploit that seabed or subsoil.

Note

Definitions 2(i) and (ii) include registration that a country grants to chartered vessels or factory ships, provided that this registration is in accordance with the requirements of that country."

3.4 The representative of Japan expressed a reservation with regard to the proposal and stated that his delegation considered the use of the term "country" without defining it as problematic. In his view, legal problems as well as general confusion were likely to arise, as it would be unclear what the term "country" would cover. Also, he emphasized that the relationship between subparagraphs 2(i) and 2 (iii) would require further clarification. The representative of Korea expressed a reservation of his country in the context of the view expressed by the Japanese delegation.

3.5 The representative of the Philippines endorsed the proposal as a basis for further examination. The delegate reminded the Committee that the delegation of the Philippines had informally circulated a suggestion during the meeting of the Informal Working Group with regard to subparagraph 2 (iii) concerning the status of the International Seabed Authority.

3.6 The representative of Argentina commented on the suggestion from the Philippines regarding subparagraph 2 (iii), stating that it should be clarified insofar that the seabed or subsoil outside a country overseen by the International Seabed Authority would not refer to the continental shelf and the exclusive economic zone, which are under the sovereign rights of coastal countries and therefore would not be under the supervision of the International Seabed Authority.

3.7 The representative of Canada recalled that he had informally circulated a proposed revision to subparagraph 2(ii) during the meeting of the Informal Working group with the intent to clarify the content of the paragraph.

3.8 The Committee took note of the statements made.

4. Proposal by the United States pursuant to Article 9.3(a) of the Agreement on Rules of Origin (G/RO/W/15)

4.1 The Chairman drew the attention of the Committee to a proposal by the United States regarding a specific "starting point" to be undertaken as a new approach by the Technical Committee in its work in the second Phase of the Work Programme. The proposal had been circulated in document G/RO/W/15. He further recalled that at its meeting on 13 September 1996, the Committee took note of the statement made by the US delegation and agreed to revert to this matter at the next meeting.

4.2 The Chairman then stated that he had undertaken informal consultations which made evident considerable interest and support for the United States' proposal as well as the need for clarification; given the various views expressed, the United States delegation undertook to revise its proposal and to present a refined proposal to the next informal consultations in November.

4.3 The Chairman suggested that the Committee revert to the proposal at its next meeting and that, in the meantime, he would undertake further informal consultations on the matter.

4.4 The Committee so agreed.

5. Notifications under Article 5 and paragraph 4 of Annex II of the Agreement on Rules of Origin (G/RO/N/12)

5.1 The Chairman, recalling that the draft report of the Committee to the Council for Trade in Goods would be factually updated to take account of new notifications, informed the Committee that not many new notifications had been received since the last meeting. He suggested returning to this item at the next meeting.

5.2 The Committee so agreed.

6. Other Business

(i) Meaning of the word "obtained" in definition 1 (i) of Annex A

6.1 The representative of Canada raised the question of the meaning of the word "obtained" in the context of "wholly obtained" in subparagraph 1 (i) of Annex A. Canada proposed that at the next

formal meeting, the Committee should request the Technical Committee to review the meaning of the word “obtained” in the context mentioned above. Canada would also seek consensus on this request, during informal consultations preceding the next meeting of the Committee.

6.2 The Committee took note of the statement made.

(ii) Procedures for circulation and derestriction of WTO Documents

6.3 The Chairman noted that the General Council had adopted procedures for circulation and derestriction of WTO documents (WT/L/160/Rev.1). The practical implications for the Committee on Rules of Origin would be that all documents of the Committee on Rules of Origin would be circulated as unrestricted documents with the exception of working documents and minutes of meetings.

6.4 The Committee took note of the Decision.

(iii) Date of the Next Meeting

6.5 The Chairman proposed, as agreed at the meeting on 10 May 1996, that 19 and 20 November 1996 be reserved for informal consultations, and 22 November for the next formal meeting.

6.6 The Committee so agreed.