WORLD TRADE ORGANIZATION

RESTRICTED

G/TBT/M/13
18 November 1998

(98-4613)

Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 15 SEPTEMBER 1998

Chairman: Mr. Otto Th. Genee (Netherlands)

1. The Committee on Technical Barriers to Trade held its fourteenth meeting on 15 September 1998.

2. The following agenda, contained in WTO/AIR/901, was adopted:

I. REQUEST FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV) AND THE INTERNATIONAL LABORATORY ACCREDITATION COOPERATION (ILAC)

3. The Chairman indicated that more time would be needed for informal consultations on the requests for observer status by the OIV and the ILAC. The Committee agreed to return to these requests at its next meeting.

II. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

4. The representative of Chile recalled that at the First Triennial Review of the Operation and Implementation of the Agreement, the Committee had agreed to invite Members to present, on a voluntary basis, the arrangements they had in place to ensure the effective implementation and administration of the Agreement. She informed the Committee of the measures already taken by her country and those that were being prepared for this purpose (Annex 1).

5. The representative of Canada enquired about notification G/TBT/Notif.98.448, dated 2 September 1998, on a draft legislation approved by the Lower House of the Netherlands Parliament on proposed mandatory labelling for timber and timber products. It was to become effective in January 2000. He argued that the proposed Dutch legislation was discriminatory, created an unnecessary obstacle to international trade, and contravened the obligations of the Netherlands and the European Union (EU) under the WTO Agreement, including the TBT Agreement and GATT rules. In accordance with Article 2.5 of the TBT Agreement, he requested justification for the proposed legislation.

6. He argued that it appeared to violate Article 2.2 of the TBT Agreement in that it was both mandatory, and targeted perceived environmental concerns in the territory of other WTO Members. He noted the extensive work undertaken in this regard by the Intergovernmental Panel on Forests (IPF), which urged countries to "consider the mutually supportive relationship between sustainable forest management, trade, and voluntary certification schemes, and endeavour to ensure, as necessary, that such schemes are not used as a form of disguised protectionism and do not conflict with international obligations".

7. He noted that despite the fact that there was no international consensus on the definition of "an area where wood production takes place on a sustainable basis" nor of the concept of a "primary forest", Section 9.3 of the legislation attempted to impose a Dutch definition as well as certain criteria on other national jurisdictions. He believed that such unilateralism was detrimental to the international trading system and would discriminate against products from countries such as Canada. These countries were using equivalent approaches to sustainable forest management, designed to address the specific problems which they faced with respect to their own forests. In addition, the proposed legislation would treat wood products from what the legislation referred to as "primary forests", less favourably than like wood products from other forests. He argued that would prejudice the products of countries such as Canada, that had maintained primary forests. It would also treat wood products less favourably than like products made from other materials. If the objective of the legislation was environmental protection, some of these other products and their process and production methods could prove to be far less environmentally benign if assessed on the basis of life-cycle analysis.

8. He indicated that Canada was supportive of certification as a marketplace activity, insofar as it contributed to sustainable forest management. However, certification should be market based, independent, and voluntary. He believed that the adoption of this policy approach was more likely to achieve the common goal of sustainable forest management, than the adoption of prescriptive and trade restrictive measures, as contained in the proposed Dutch legislation.

9. The representative of the European Communities (EC) explained that the draft legislation regarding sustainably produced timber was a proposal from the Parliament of the Netherlands. It was presented at the Netherlands' Lower House of Parliament (Second Chamber) for the imposition of a mandatory labelling requirement for timber and timber products in the Dutch market. One of the main political parties had opposed the draft legislation, but it was approved by the Second Chamber after substantial amendments. The Ministry for Foreign Trade had indicated that, although the Government of the Netherlands had sympathy for the objective of the draft legislation (promotion of sustainable forest management), there was considerable doubt as to the compatibility of mandatory labels as an instrument, with international obligations.

10. He indicated that, at present, the draft legislation was before the Upper House of Parliament (First Chamber). It was the Upper House which had requested the notification of the draft decision to be made to the Commission of the European Communities in the framework of the intra-Community procedure, and to the WTO in the framework of the TBT Agreement. The objective of the request was to obtain guidance with respect to the compatibility of the draft legislation with international obligations. For the time being, not only had discussions at the national level not finished (i.e. within the Dutch Parliament), but also the intra-Community procedure was still being undertaken. In this respect, it was not excluded that the intra-Community procedure would result in the modification of the legislation. He said that the text referred to in notification G/TBT/Notif.98.448, which had raised concerns from the Canadian delegation, was not yet finalized. It was only after the completion of the Parliamentary proceedings that the Dutch Government would indicate whether or not it would accept and implement the draft legislation, provided that it was approved by both Houses of Parliament. He invited other Members to make written comments on the notification before 19 October 1998, and assured them that their comments would be taken into account.

11. The representative of the United States (US) recalled that at the last meeting her delegation had expressed its concerns on EC notification G/TBT/Notif.97.766 on the compulsory labelling of certain foodstuffs produced from genetically modified organisms (GMOs), and that she continued to have questions in its regard. She argued that the Regulation could discriminate against imports in its implementation and create an unnecessary obstacle to international trade.

12. She believed that the labelling of food and food ingredients resulting from genetic modification, whose essential characteristics did not differ from their conventional counterparts, could confuse rather than inform consumers and increase the cost of goods. She indicated that her authorities had no information which supported the conclusion that genetically modified food or food ingredients, as a class, differed in composition, quality or safety from products produced through traditionally bred varieties. She stated that if "genetically different" foods were not to be considered equivalent, then there would be a need to label every variety of food or food ingredient, whether produced through genetic modification or traditional breeding.

13. She said that neither the regulation, nor the EC's subsequent replies, assured her delegation that the regulation would be enforced on a non-discriminatory basis. She noted that, in its replies, the EC stated that to "ascertain whether or not a food or food ingredient is of GMO origin does not always mean carrying out tests. … documentary information … may be enough", and that the EC would "draw up a 'negative' list of foods for which the absence of traces is not in any doubt" and that the "Community authorities have undertaken to encourage the development of recognized methods of detecting DNA or protein resulting from genetic modification". However, she argued that neither the list nor commercially practical tests existed, and that this could lead to a *de facto* requirement to segregate GMO and non-GMO products shipped to the EU.

14. She indicated that her delegation's concerns did not only have to do with the implementation of the EC regulation, but also with the precedent that it could set for future regulations. She noted that the Japanese Ministries of Agriculture and Foreign Affairs were considering a similar labelling

requirement. She invited Japan to notify their draft regulation when it was ready. She indicated that because of continued concerns, her delegation would make a further submission to the Committee.

15. The representative of Argentina welcomed the communication from the EC with respect to Regulation No. 1139/98 on the compulsory labelling of certain food or ingredients produced from genetically modified maize or soya beans (G/TBT/W/78). However, he said that the reply did not dispel the doubts that had been raised by various Members, and which his delegation shared. His view was that, while the Community Regulation was based on the hypothesis that foods produced from genetically modified soya beans and maize were not equivalent to those derived from conventional ingredients, the text of the Regulation did not provide any criteria for determining why the presence of protein or DNA resulting from genetic modification might alter the properties of a given food. He noted that one of the prime objectives of the regulation was to "… ensure that the final consumer is informed of any characteristic or food property, such as composition, nutritional value or nutritional effects, or the intended use of the food, which renders a food or food ingredient no longer equivalent to an existing food …" (preambular paragraph 9 of EC Regulation). He shared the objective of informing and educating consumers. However, he argued that the Regulation not only failed to achieve its objective, but could ultimately confuse and deceive consumers.

16. His delegation did not consider labelling to be the most practical way of attaining the above objectives, particularly in the case of processed foods containing various ingredients from different sources. Similarly, the mere "differential treatment" could cause unjustified concern among consumers, which could ultimately penalize trade in these products without scientific justification. He indicated that the Regulation did not establish a procedure to ensure compliance on a non-discriminatory basis. There was no indication of what tests should be used to determine the presence of DNA or protein resulting from genetic modification, or how often such tests should be made, or how they should be introduced into the production process. He drew attention to the fact that there were no uniform criteria within the international community for determining the methodology for the detection of DNA or protein resulting from genetic modification. There were a number of tests used for laboratory applications which could not be directly applied to the production process because of the cost and time involved.

17. In the absence of scientific arguments in the Community Regulation, his delegation did not consider that the presence of a modified protein or DNA resulting from genetic modification was sufficient in itself to establish that a food was not equivalent to its "conventional counterpart". He noted that the text of the Regulation contained no scientific explanation of why the labelling of products obtained through the genetic modification of proteins or DNA was compulsory, while modifications resulting from other technologies (radiation, genetic mutation, cell cultivation, etc.) did not require such special labelling. He concluded that this obligation discriminated against the use of certain technologies.

18. He noted that the Regulation failed to specify which protein or which specific part of the DNA had to be monitored (i.e. to provide a guideline for conducting tests). He said that the variety and number of "sequences" which modern technology caused crops to undergo was rapidly growing, and as biotechnological agricultural products entered the market, the complexity and difficulty of such tests (required under Community regulations) would constitute a growing burden if, as the EC suggested in its communication (G/TBT/W/78), these regulations were to serve as a model for future food labelling requirements.

19. He invited the Committee to consider the complications involved in applying the EC Regulation in the light of the following factors: (i) that the criteria to be used to determine acceptable GMO thresholds and tolerances, as well as the mechanisms used to develop them, were still unclear; (ii) that currently, the measure would require a restructuring of the production and marketing processes, with a direct effect on costs in exporting countries; (iii) that the increased costs of production due to labelling would ultimately be transferred to consumers (without providing

information on greater food safety); and, (iv) that the labelling scheme proposed by the EU would require third country producers to establish a system similar to that used for tracing the origins of products. This would include a mechanism for the identification of the plots of land used or of farms, of the storage and transportation systems employed, of packaging, labelling, and sales requirements, etc., and would inevitably increase the cost of the final product.

20. He indicated that, owing to the above considerations, his Government considered that the EC should immediately provide Members with the scientific evidence required to demonstrate that foods developed through genetic engineering differed in terms of composition, quality, nutritional value or safety from foods produced using other technologies. He believed that the proposed labelling requirement was not the most practical way of achieving the objective of informing consumers, and could constitute a disturbing precedent for future regulations. He requested the EC to ensure that the Regulation could be of true benefit to consumers, and that it was not a mere barrier to international trade.

21. The representative of Brazil supported the view expressed by Argentina. She indicated that a bio-safety protocol was being negotiated under the Convention on Biological Diversity, which would address trade in foodstuffs produced from GMOs. She argued that, at this stage, any labelling requirement for GMOs was premature, and indicated that it would be wise to wait for outcome of ongoing negotiations.

22. The representative of Canada recalled the concerns raised by his authorities in January 1998 on EC notification G/TBT/Notif.97.766, many of which did not appear to have been taken into account in EC Regulation 1139/98. Canada had expressed concerns with respect to: (i) the unclear rationale for the identification of protein and DNA resulting from genetic modification through mandatory labelling; (ii) the ability of the EC labelling scheme to provide consumers with meaningful information on genetically modified foods and food ingredients; (iii) the difficulties involved in ensuring compliance; (iv) the applicability of the regulation; and, (v) the serious possibility for trade disruption.

23. He welcomed the information provided by the EC in document G/TBT/W/78, but stated that certain concerns remained unanswered. He recalled that at the July Meeting, Canada had sought clarification on how the labelling statement "contains genetically modified soya" or "contains genetically modified maize" informed consumers about the characteristics of products relating to composition, nutritional value, nutritional effects or intended uses. His delegation did not believe that these statements provided information about nutrition, composition or use, although he agreed that providing consumers with accurate, understandable information about biotechnology and genetically modified foods had to be a key objective for all countries. He requested the EC, once again, to provide information to demonstrate that the wording of the label truly informed consumers about the characteristics of concern.

24. With respect to enforcing the Regulation, he noted that the EC had replied that "ascertaining whether or not a food or food ingredient is of GMO origin may not always mean carrying out tests". He indicated that his delegation and Canadian exporters were interested in the specific "scientific and technical knowledge of the food characteristics" or "documentary information" which would need to be provided, and which would suffice to fulfill the objectives the Regulation.

25. He requested information on the kinds of instances in which tests would be needed for GMO content. He reiterated that under current trading rules, countries were encouraged to use internationally accepted testing methods. In other areas of regulatory compliance with food production standards, the process used to adopt testing methodologies included: holding international meetings to study the method in question; verifying and validating the method in a number of laboratories and countries; and publishing the method in peer-reviewed journals. He asked whether the EC would follow this process, and seek the international acceptance of its testing methods. He

shared the United States' concerns regarding the preparation by the Japanese government of a regulation on the labelling of GMO-products, which may contain elements similar to those of the EC. He requested Japan to notify the draft regulation at the appropriate time and to provide opportunities for comments.

26. The representative of Switzerland noted that the perception and acceptance of food products, particularly new products (such as genetically modified ones), varied widely across societies, health authorities and consumers. He explained that this was due to cultural diversity, as well as to the wide range of ethical concerns and attitudes towards the use of biotechnology in different parts of the world. He recalled that surveys among consumers in Europe had shown that government intervention had been strongly requested, through, for instance, the labelling of GMO-products. Consumers insisted on being correctly informed about the pertinent characteristics of products when making their purchasing decisions. His delegation believed that this fact had to be taken into account when discussing trade in GMO-products.

27. Switzerland shared the view of the EC that food and food ingredients containing DNA or proteins resulting from genetic modification and conventional food products were not "equivalent". Therefore, differentiated labelling, in his view, did not violate the principles of the TBT Agreement. On the contrary, labelling should be considered a trade promoting alternative to more trade restrictive methods. In the case at hand, informing consumers on the content and nature of a product was a legitimate objective of governmental policies, falling within the scope of Article 2.2 of the Agreement. He agreed that if a labelling regulation was put into place, general WTO rules and principles had to be observed, including those of non-discrimination, proportionality and transparency. He noted that in the case of foods and food ingredients resulting from genetic modification, this also applied to testing procedures.

28. The representative of the European Communities clarified that document G/TBT/W/78 was a response to the comments made by the US and Canada at the last Meeting. His delegation was prepared to provide further clarification, as well as to respond to all other questions raised at this Meeting. He requested delegations to provide him with written statements for his authorities. He observed that the EC approach to the protection of consumers in this area was shared by both Japan and Switzerland.

29. The representative of Japan indicated that he intended to obtain more information from his capital on some of the comments made regarding the development of a new labelling requirement in Japan for GMO-products.

30. The representative of the European Communities drew attention to notification G/TBT/Notif.98.206 (June 1998), concerning Egyptian Ministry of Trade Decree No.1/1998, and Ministry of Industry Decree No.1/1998 on the labelling of textile products. He believed that these labelling and marking requirements could create trade barriers due to the following: (i) the fact that the nature of the information required was excessively detailed; and (ii) the fact that the way in which the labels were to be applied to products was exaggerated, and costly for producers. For instance, there was a mandatory requirement to label raw textiles every 3 metres. European textile exporters had already encountered difficulties as a result of these measures.

31. He also drew attention to Egyptian Decree 465 of 1997 on the labelling of meat, which required labels to be placed on both the inside and outside of packaging containers. His authorities had received complaints from European exporters who believed the requirement to be a technical barrier to trade. It was costly, technically difficult to comply with, and was not in conformity with international practice. His delegation had sent comments to Egypt concerning the above Decrees. He hoped that a response would be provided, and the relevant provisions of the regulations amended and brought into conformity with the TBT Agreement.

32. He drew attention to notification G/TBT/Notif.98.235 concerning Brazilian Standards NBR 10334 and NBR 13793 on certification procedures for pacifiers and nursing bottles. His authorities had received complaints from European exporters who were concerned about the requirements for the dimension of nipples and baby bottles. The measures were not scientifically based and not in keeping with prevailing standards, such as Austrian, British, Finnish, French and US standards. He also drew attention to Brazilian notification G/TBT/Notif.98.276 of June 1998 on the labelling of textile products. The regulation required, *inter alia,* indication of the fiscal or tax number of the importer as well as of the composition of the textile. The label was to be placed every 2 metres on the textile. His authorities had sent comments to Brazil concerning the above notifications, but had not received a response. He requested clarification and justification for the requirements, which he believed were technical barriers to trade.

33. The representative of Egypt said that he would transmit the comments made to his authorities, and requested that written questions be provided from the European Communities.

34. The representative of Brazil also indicated that she would transmit the comments made to her authorities, and would respond to the questions of the European Communities before the next meeting.

35. The Committee took note of the statements made.

III. PROGRAMME OF WORK ARISING FROM THE FIRST TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE TBT AGREEMENT UNDER ARTICLE 15.4

36. The Chairman drew attention to the papers submitted by delegations on the programme of work arising from the First Triennial Review of the Agreement (G/TBT/W/60-61, 63-64, 70-71, 74-75, and 79-88).

A. IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT BY MEMBERS UNDER ARTICLE 15.2

37. No statements were made under this item.

B. OPERATION AND IMPLEMENTATION OF NOTIFICATION PROCEDURES UNDER ARTICLES 2, 3, 5 AND 7

38. The Chairman drew attention to the Workshop and Meeting on Procedures for Information Exchange that had taken place the previous day with the purpose of providing Members with an opportunity to discuss the functioning of notification requirements and of enquiry points. He presented a report of the meeting (Annex 2), and drew attention to certain proposals made by the US in documents G/TBT/W/89-90.

39. The representative of the European Communities took note of the US suggestions, and indicated that he would comment on them at the next meeting. He observed that there were similarities between the US proposals and the comments that had been made by his delegation at the Workshop and Meeting. He believed that electronic communication could accelerate the exchange of information and help overcome the constraints placed by the 60 days comment period. He indicated that his delegation would submit certain proposals on notification procedures at the next meeting.

40. The representative of India indicated that while the electronic exchange of information could be useful, hard copies should continue to be circulated for the sake of developing countries, for whom the internet was not always a viable option. Concerning the proposal to derestrict Committee minutes and annual reviews, he indicated that that had to be discussed in the General Council under the issue

of transparency. The Committee had to exercise care in taking decisions which could run counter to the recommendations of the General Council.

41. The representative of New Zealand supported the proposals made by the United States, and indicated that they would be useful in improving notification procedures and the dissemination of information through enquiry points under the Agreement. He suggested that while a number of delegations had indicated that they would need more time to consider the proposals, the Committee could come to an early agreement on some of them; for instance, with respect to asking enquiry points to provide their email addresses, if they had email.

42. Regarding the proposal to derestrict the minutes of Committee meetings, he took note of the comment made by India. However, he indicated that existing decisions on procedures for the circulation and derestriction of documents allowed Committees under the General Council, such as the TBT Committee, to take decisions in individual cases to derestrict certain types of documents produced. Therefore, it would not be inappropriate for the Committee to take a decision in this regard. He supported the US proposal for the derestriction of documents.

43. The representative of Brazil welcomed the US proposals. She agreed that there were problems concerning the effective implementation of some of the transparency provisions of the Agreement, and supported the suggestion contained paragraph 2 of document G/TBT/W/89 in relation to the Committee's Decisions on notification procedures (G/TBT/1/Rev.5). She noted that in paragraph 3 of document G/TBT/W/89, a list of specific actions were presented that could improve the functioning of enquiry points. However, she indicated that to implement these actions would require more than a mere statement of the problems. The Committee would have to be more specific on how to address the capacity building problems of developing countries. Without concrete commitment with regard to technical and financial assistance, it would be difficult for some developing and least-developed countries to develop the necessary infrastructure for their enquiry points.

44. Concerning the proposal on the derestriction of documents, she indicated that in the case of the TBT Agreement, she could not understand how the derestriction of documents would contribute to building "public confidence". She noted that governments, at least those who had missions in Geneva, had immediate access to documents and could at their convenience undertake the necessary consultations with industry and consumer groups. In addition, as indicated in the US paper, the difficulties with respect to transparency encountered under the TBT Agreement had to do with transparency between Member countries, and not with transparency within countries. She supported the view that as the issue of the derestriction of documents was being discussed in the General Council, decisions by the Committee should await the conclusion of Council discussions.

45. The representative of Thailand expressed his appreciation of the US proposals. However, she supported the views expressed by India and Brazil concerning the derestriction of documents.

46. The representative of Mexico welcomed the US proposals. She indicated that within the framework of the TBT Agreement, transparency obligations referred to transparency amongst Members and not to transparency between Members and their civil societies. For this reason, she could not agree to discussions on transparency in relation to civil society. She supported the comments made by Brazil and India, indicating that this matter was being addressed by the General Council. On the other hand, she pointed out that transparency between Members, and in the drafting of standards by international standardizing bodies, should be matters of great importance to the Committee, and that that was where focus should be placed.

47. The representative of Egypt took note of the US proposal regarding electronic information exchange. He indicated that the system could be used along with the existing system, and did not have to replace it. With regards to the derestriction of minutes and annual reviews, he believed that the issue should be taken up by the General Council.

48. The Chairman requested the Committee to continue its consideration of the US proposals at the next meeting. He stated that it could be useful not to view the proposal as a single undertaking since some of the elements which it contained were practical and not controversial. He also added that the US had not suggested the electronic dissemination of information as an alternative to hard copies, but as a supplement. He invited other delegations to submit their proposals in writing to the Committee.

49. The Committee took note of the statements made.

C. ACCEPTANCE, IMPLEMENTATION AND OPERATION OF THE CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS BY STANDARDIZING BODIES

50. The representative of the European Communities drew attention to document G/TBT/W/74/Add.1 which provided clarification on an EC proposal presented at the last Committee meeting on paragraph J of the Code of Good Practice (G/TBT/W/74). He said that the EC proposal intended to satisfy the transparency obligations of the Code by making optional use of new means of publishing work programmes, such as, for instance, by posting them on the internet. It did not wish to eliminate hard paper copies, but rather to provide an additional way of satisfying the information requirements of the Agreement. He believed that it was more practical, economic, and easier to up-date than a biannual report. On the language to be used, he indicated that the existing language rules should continue to apply.

51. The representative of India drew attention to paragraph 3 of document G/TBT/W/74/Add.1, which states that "standardizing bodies would be offered the choice of publishing their work programmes either on paper or on a website". He requested clarification on whether the word "or" was to be replaced by the words "as well as".

52. The representative of Mexico welcomed the explanation provided by the EC in document G/TBT/W/74/Add.1. She supported the view that the information provided through the internet should not substitute the hard copy publication of work programmes. She noted that paragraph 2 of the document stated that "the current paper based publication system … could continue to be used". She sought clarification about whether the word "could" should be replaced by the word "should", so that publishing work programmes on the internet would simply provide another option under the Agreement. She said that if this was the case, her delegation could support the proposal. She indicated that choosing between accessing work programmes in hard copies or through the internet was an option to be given to the bodies which requested the work programmes, and not to the standardizing bodies that prepared them.

53. The representatives of Thailand and Peru shared the view expressed by India and Mexico.

54. The representative of the European Communities indicated that the purpose of the EC proposal was to simplify the work of standardizing bodies. As stated in paragraph 3 of document G/TBT/W/74/Add.1, "standardizing bodies would be offered the choice of publishing their work programmes either on paper or on a website". He said that standardizing bodies that wished to continue to use hard copies could do so. However, if standardizing bodies were to publish their work programmes both on paper and on the internet, that would not simplify procedures, but complicate them.

55. The Chairman shared the view that the purpose was to simplify the work of standardizing bodies, and that electronic dissemination would speed up the process. However, internet publication would create problems for Members who did not have access to the electronic medium.

56. The representative of the European Communities observed that there was a need to amend the EC proposal to take account of the fact that certain Members did not have access to the internet. However, he reminded Members of the original objective of the proposal, which was to facilitate work rather than complicate it.

57. The Chairman suggested that the Committee return to this issue at its next meeting.

58. The representative of Thailand drew attention to paragraph L of the Code of Good Practice which states that standardizing bodies should provide an opportunity for comments on their draft standards. She noted that under paragraph L, "No later than at the start of the comment period, the standardizing body shall publish a notice announcing the period for commenting in the publication referred to in paragraph J". She sought clarification on the timing of the notice and how this obligation related to the publication of work programmes every six months under paragraph J of the Code.

59. The Secretariat explained that prior to adopting a standard, standardizing bodies were required by the Code of Good Practice to publish a notice in which they announced the start of the comment period, and had to "allow a period of at least 60 days for the submission of comments on the draft standard by interested parties within the territory of a Member of the WTO". The notice was to be published in the same publication in which the standardizing body notified the existence of its work programme. Under paragraph J of the Code, a standardizing body should publish its work programme at least once every six months, and the programme should contain "the standards it is currently preparing and the standards which it has adopted in the preceding period".

60. The representative of New Zealand introduced a paper submitted by her delegation on the "Equivalency of Standards - An Interim Measure to Facilitate Trade in the Absence of Relevant International Standards" (G/TBT/W/88). She noted that Article 2.7 of the TBT Agreement required that positive consideration be given to the acceptance of the equivalence of technical regulations. While the Code of Good Practice for the Preparation, Adoption and Application of Standards reflected many of the provisions relating to technical regulations, it did not provide a similar encouragement to bodies developing voluntary standards. She recalled that during the First Triennial Review of the Agreement, some Members had stated that the Code of Good Practice should contain a similar provision to Article 2.7. It had been recognized that while the Agreement differentiated between technical regulations, which were mandatory, and standards which were voluntary, in practice, standards could also create unnecessary obstacles to trade. It was on these grounds that Members had agreed to subjecting standards to many of the same disciplines which applied to technical regulations.

61. She recalled that Members had been invited to exchange views on how the concept of equivalence could apply to voluntary standards, and to exchange information on their experience in the implementation of Article 2.7. She recognized that while in many cases, relevant international standards provided a basis for national standards, this was not always the case. She noted that even when the need for an international standard was acknowledged, experience showed that they sometimes took up to five years to develop. She questioned how countries, whose standards had similar objectives, could attempt to facilitate trade in the absence of a call in the Agreement for equivalence.

62. She emphasized that extending the concept of equivalence to standards in the Code of Good Practice would not compete with international standardization efforts, but rather would complement them. In instances where international standards were unavailable, arrangements for the recognition of the equivalence of national standards was a useful interim solution.

63. Based on the experience of New Zealand, she indicated that arrangements for the recognition of the equivalence of national standards, were relatively straightforward. They could provide a useful interim solution for the facilitation of trade until an international standard was available. If agreement on an international standard was difficult to achieve, an equivalency arrangement would tend to focus the developers of national standards on resolving the differences. This would be particularly effective if the international standards initially brought together collective agreement on just the performance objectives. She argued that equivalency arrangements could be a useful building block for the development of new international standards. Applying the concept of equivalence to voluntary standards would constitute an acknowledgement of the significant way in which standards affected trade, and the practical difficulties that they created when an unduly prescriptive approach to their development was used.

64. If national standardizing bodies were to address the equivalence of foreign standards early on, there would be no subsequent need for governments to cite foreign standards in their regulations. In effect, based on the specific equivalency arrangements that were concluded, foreign standards would have already been taken into account in the development of national standards. The consensus and public consultation processes employed by national standardizing bodies in advancing the concept of equivalence would ensure the wide acceptance by industry, as well as all other stakeholders, of the regulatory solutions that served to facilitate trade.

65. She pointed out that in document G/TBT/W/88, two different options were identified for promoting the WTO concept of standards equivalence. The first centred on the individual action of national standardizing bodies, and the second related to creating scope for cooperative action between international and national standardizing bodies and networks. She indicated that the strongest encouragement to advancing the concept of equivalence by national standardizing bodies would be to add a provision similar to Article 2.7 in the Code of Good Practice. This would provide a strong incentive for national standardizing bodies to cooperate more closely with their counterparts in other WTO Members to exchange information on their standards, particularly in instances where international standards did not exist. It would reduce the tendency for national standards to be constructed "in a vacuum", while disregarding their implications on trade.

66. She suggested that the Committee discuss whether it would be desirable to coordinate equivalency arrangements on a regional or international basis. This would be easier to do for standards than for technical regulations, primarily because of the existence of international and regional coordinating bodies and networks (such as the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the Pacific Area Standards Congress (PASC), etc.). For such arrangements, the first step included encouraging the exchange of information amongst different standardizing bodies. International and regional standardizing bodies could facilitate the conclusion of equivalency arrangements by identifying priority areas for equivalence, as well acceptable performance requirements in each of those areas.

67. She indicated that document G/TBT/W/88 provided practical examples of how New Zealand implemented its Article 2.7 obligations. Given the evolving relationship between standards and technical regulations - as demonstrated by the fact that many technical regulations had started citing standards amongst their compliance requirements – she believed that it was timely to consider how equivalence could be implemented by national standardizing bodies. She welcomed the views of other Members on the ideas and recommendations set out in the New Zealand paper.

68. Two examples were provided in which Standards New Zealand had applied the concept of equivalence, and they related to gas appliance safety standards (a New Zealand standard), and a pressure equipment standard (a joint Australia and New Zealand standard). The standards had been easy to develop, as all existing standards with similar objectives were first examined, and judgement was passed on their equivalence. This process did not increase in a significant way the amount of time needed for the development of standards, and had the advantage of facilitating trade. With

respect to the involvement of regional bodies in this work, she noted that PASC was currently investigating areas in which Asia-Pacific standards bodies could cooperate, on a voluntary basis, to achieve equivalence. Australia and New Zealand were preparing a survey for the identification of priority areas for equivalency agreements in the PASC region. The result would be discussed in the next PASC meeting in April 1999.

69. The representative of Hong Kong, China welcomed the New Zealand paper, indicating that many of the concerns which it raised had been put forward during the Triennial Review. She particularly welcomed the suggestion that international standardizing bodies develop standards based on performance rather than design or descriptive characteristics. Such standards would contribute to achieving non-discriminatory treatment. She noted that the same idea had been incorporated in Article 6.2(a) of the Agreement on Government Procurement with respect to technical specifications. She indicated that the recommendation contained in paragraph 24 of document G/TBT/W/88, was worth pursuing.

70. The representative of Canada welcomed the New Zealand paper. During the Triennial Review, Canada had identified the absence of provisions for the equivalence of voluntary standards as an issue of concern. Equivalence had been provided for in the Agreement in Article 2.7 for technical regulations, and in Article 6.1 for conformity assessment procedures. He also recalled Canada's submission of a national experience paper on forestry at the March Meeting, which addressed the equivalence of standards based on processes and production methods (particularly those which could create unnecessary obstacles to trade). He indicated that Canada would make further submissions on the issue.

71. The representative of the United States welcomed the New Zealand paper. She recalled that during the Triennial Review, her delegation had raised questions on how various Members interpreted the concept of equivalence, and how the concept could be applied to market driven voluntary standards. The New Zealand paper explained the context in which the concept could be used, and how it would not diminish the value of international standardization. She welcomed the Canadian and Colombian contributions.

72. The representative of European Communities welcomed the New Zealand proposal, highlighting that it did not intend to replace the process of international standardization, but, to complement it. He pointed out that the concept of equivalence could be applied to performance standards, but not to standards with different design requirements.

73. The representative of Thailand shared the views expressed by New Zealand in document G/TBT/W/88. She referred to the document G/TBT/W/83 submitted by Thailand on the implementation of Article 2.7. The paper indicated that the concept of equivalence was provided for in Thailand's Industrial Product Standards Act. In practice, however, consideration of the technical requirements of foreign standards needed to be undertaken prior to establishing equivalence. In certain instances, this work had to be undertaken by technical experts. As equivalence was not always easy to achieve, focus had to be placed on international standardization.

74. The representative of Mexico welcomed the New Zealand proposal, and supported further discussions on the equivalence of voluntary standards. She suggested supplementing the Code of Good Practice with the provisions on equivalence, which already existed for technical regulations. However, she shared the concerns expressed by Thailand on the practical difficulties involved in establishing equivalence.

75. The representative of Australia referred to the examples provided in the New Zealand paper, and stated that the Australia/New Zealand Standard AS/NZS 1200:1994 was a good example of how the concept of equivalence could be operationalized. AS/NZS 1200 provided different options for complying with performance requirements through the referencing of equivalent standards. Both

Australia and New Zealand recognized that this was just the beginning of their joint efforts in this sphere, and were currently discussing a Code which would accept an even wider range standards as equivalent, including EN standards. The first step would involve recognizing the equivalence of standards by a technical committee of standardizing bodies. This process would provide regulators with the confidence that they were not relaxing safety requirements. Therefore AS/NZS 1200 was a good start, and the concept could be built upon by other Members. Her delegation supported the recommendation that appeared in paragraph 24 (a) of document G/TBT/W/88.

76. The representative of Mauritius stated that with respect to equivalence, he believed that while national standardizing bodies were responsible for providing certain services, such as those of metrology, standardization, testing of quality, and of acting as enquiry points, their responsibilities ended there. It was not the role of standardizing bodies to pass judgment on the standards of other WTO Members. The only way in which the standards of others could be assessed was through the conclusion of bilateral agreements. However, that was more the role of national accreditation councils. They were the bodies responsible for advising standardization organizations on the certification marks that were recognized in other countries, and could also provide guidance on the equivalence of standards. They had to liaison with regional or international bodies. He requested guidance from international organizations on the systems they had in place which could provide guidance on the equivalence of standards.

77. The representative of New Zealand reiterated that the concept of equivalence was not a substitute for international standardization. Having an international standard ensured that there was a common standard that applied to all countries, and which all countries could focus on. However, international standardization was sometimes impossible in some areas, and took too much time. Equivalence, therefore, could provide a useful building block to formulating international standards in these areas.

78. With respect to the comments made by Mauritius concerning national standardizing bodies not having the function of casting judgement on the standards of other bodies, he said that it was important to reflect on the fact that by not taking into account equivalence, some national standardizing bodies would overlook standards developed by other bodies with similar objectives. Therefore, equivalence facilitated trade, in the absence of international standards.

79. The Committee took note of the statements made.

D. INTERNATIONAL STANDARDS, GUIDES AND RECOMMENDATIONS

80. The representative of the European Communities drew attention to document G/TBT/W/87, a contribution from his delegation on the Conditions for Acceptance and Use of International Standards in the Context of the WTO TBT Agreement. He stated that greater emphasis should be placed on the use of international standards and their elaboration. To achieve wider use of international standards, he explained that the following was needed: (i) a distinction between international standards and other, national and regional, standards, (ii) incentives to enhance the use of international standards, and (iii) a set of principles with respect to effectiveness, transparency, balance of interest, and accountability, which international standardizing bodies would have to respect.

81. He indicated that the TBT Agreement privileged international standards by stating that Members shall use them as a basis for their technical regulations, and that the same provisions applied to standardizing bodies through the Code of Good Practice. In view of this commitment, he argued that it was important to determine what constituted an international standard. He proposed a number of principles: (i) that of impartiality, so that countries with an interest in standardization could have access to international work, and international control over the results, without either discrimination or privilege based on the nationality of participants; (ii) that standardizing bodies should not claim two different statuses, national, regional or international; and (iii) that as indicated in clause G of the

Code of Good Practice, participation in international standardization should be carried out on a national basis. He indicated that regional standardizing bodies could contribute directly to international work.

82. He added that to examine why international standards did not exist, or were not used, attention should be paid to the absence of incentives to use them, and ways to create such incentives when they were lacking. To do so, the following was needed: (i) a commitment by public authorities to advance the aims of the WTO through legislative reforms (i.e. through promoting the use of international standards); (ii) the application of the Code of Good Practice in a transparent way. Where Members had more than one standardizing body, they should provide explanations of the extent to which these bodies were bound by the acceptance, and how they implemented the Code, if one body had accepted on behalf of them all; (iii) creating arrangements between international, regional and national standardization, to ensure efficiency and coherence; (iv) that the international standardization system work towards ensuring that the corpus of international standards was coherent; for, if not, there would be a likelihood of two sets of international standards being different (both of which would be encouraged by the WTO Code of Good Practice). Such a situation would amount to codifying trade barriers; (v) that further progress be made in designing a mechanism by which bodies would be accepted by the generality of signatories to the WTO Agreement as international standardizing bodies; and finally, (vi) that national and regional standardizing bodies which participated in international standardization act coherently, and in accordance with the aims of the Agreement. He indicated that the implementation of these points would require monitoring and collaborative action by the relevant bodies within the WTO.

83. With respect to disciplining the work of international standardizing bodies, four conditions were laid out: (i) that openness be provided in the drafting of programmes and of final results, (ii) that there be openness to all views, general agreement, absence of sustained opposition, and a process to reconcile conflicting opinions (this was taken from ISO/IEC Guide 2), (iii) that standardizing bodies demonstrated that these principles were enshrined in their rules and complied with, and (iv) that the enhancement of the role of international standardizing bodies would have implications for the their responsiveness to the needs of the market and of regulators. He suggested that a formal code of procedures for observance by international standardizing bodies be prepared along the lines of the obligations for national and regional bodies included in the Code of Good Practice.

84. The representative of the Republic of Korea supported the proposal by the US in document G/TBT/W/75, which he believed would improve the transparency of the activities of international standardizing bodies. He sought further clarification on the intention of the proposal, and enquired about whether the US had specific international organizations in mind under the decision. If so, a list of these organizations would need to be attached to the decision for reference. If, however, it did not have this in mind, then his understanding was that the purpose of the decision would simply be to draw the attention of international organizations to certain general guidelines.

85. The representative of the United States indicated that the decision was not intended to apply to a specific list of bodies, but that through a Committee decision, any body which considered itself an international standardizing body could at least agree to adhering to these criteria for transparency. A specific list would be difficult to develop as there were numerous standardizing bodies. The Committee decision would simply serve to communicate a signal to these bodies and their participants.

86. The representative of Thailand supported the views expressed by the US and EC in documents G/TBT/W/75 and 87. However, she indicated that the development of international standards was dominated by developed countries, and that proposals to develop standards that reflected the interests of developing countries, were not fully taken into account. As a result of this situation, many of the international standards which have been published have proved to be

ineffective or inappropriate for developing countries. Despite this fact, however, Thailand had adopted more than 2,000 ISO, IEC standards, and ISO/IEC Guides on Conformity Assessment Procedures. As the process of international standards development took many years to complete, she supported the US recommendation that standardizing bodies be encouraged to speed up the process.

87. The representative of Japan reiterated his support for the US proposal, in particular for the last paragraph of document G/TBT/W/75, that "the international body developing standards should publish periodically a work programme containing information on the standards it is currently preparing and the standards which it has adopted in a specified period". He noted that the proposal related to some of the issues raised by the EC.

88. The representative of India also reiterated his support for the US proposal. He enquired about whether, in paragraph 1 of the decision, reference could be made to Article 12 of the Agreement, since 12.4 was relevant to the use of international standards in developing countries.

89. The representative of the United States indicated that while consideration had been given to a Mexican proposal (made at the last meeting) to delete paragraph 1 because of the confusion it created, India's request to retain it would be taken into account. However, her delegation was more inclined to eliminating it.

90. The Chairman stated that the Committee was not ready yet to accept the draft proposal of the US. As there had also been a proposal by the EC in this area, these two proposals needed to be considered further and in combination.

91. He drew the attention of the Committee to the possibility of organizing an Information Session with international standardizing bodies to better understand the procedures they followed. A draft proposal had been prepared (in the informal session) on the bodies to be invited, the type of information that Members would like to obtain, and the structure of the meeting. He pointed out that the bodies to be invited, consisted of organizations involved in the preparation of standards, and which had observer status in the Committee. He proposed to hold the Information Session back to back with the next Committee meeting in November 1998.

92. The representative of the European Communities indicated that the International Telecommunication Union should be included on the list, as it undertook recognized activities in standardization. He said that time was needed for further reflection, and requested a two week period for the submission of comments on the matter.

93. The Chairman explained that the International Telecommunication Union had not been included because it did not have observer status in the Committee.

94. The representative of Mexico requested more time to reflect on the Session, particularly on the type of information which would be sought from the organizations invited. Time was also needed since the session would touch on the issues raised in the US and EC submissions on international standards. She suggested that informal consultations be held.

95. The representative of Australia stated that if the information session were to take place in half a day, it would be important not to invite too many standardizing bodies.

96. The representative of Brazil indicated that it would be useful to have more than one information session, so as to establish contact with a number of different standardizing bodies.

97. The representative of the United States supported the original proposal of only inviting the organizations with observer status in the Committee, and of starting with a limited number of bodies. The agenda of future sessions could be refined after the first meeting.

98. The Chairman indicated that he would hold informal consultations on the Information Session, its date, the bodies to be invited, and its structure.

99. The observer of ISO informed the Committee that within ISO and IEC, transparency in the preparation of standards had a specific meaning. It referred to according due process to the preparation of a standard, based on Directives adopted by consensus. However, the preparation of International Standards on the basis of a full consensus building process, confirmed by a written ballot at every major stage, resulted in an average processing time of around 5 years or more for controversial subjects. He noted that, within ISO, the decisions taken were not final until confirmed by a written ballot. This ensured that the views expressed were supported at the national level, and made possible participation by correspondence.

100. He explained that industry welcomed the receipt of documents submitted for national consultation early on in the process of developing an international standard, particularly if it was felt that it would be in the interest of the market to obtain such preliminary information. To respond to the needs of the market, the ISO Council had approved the dissemination of the following documents: (i) ISO Publicly Available Specification (ISO/PAS); (ii) ISO Technical Specification (ISO/TS); and (iii) Industry Technical Agreement (ITA). He noted that ISO/PAS and ISO/TS were developed within ISO working groups and technical committees/subcommittees, but, due to the fact that they did not require consensus for their approval, did not have the status of an International Standard.

101. He explained that ISO/PAS publications were developed by a working group, and approved by a simple majority of the P-members of the parent committee. They were referred to as "Committee Drafts" and could be used for production and trade. The ISO/TS were ISO publications for which consensus had to be reached amongst the P-members of the parent ISO committee through a formal enquiry process within the committee by correspondence. They were referred to as "Draft International Standards". The two types of documents were subjected to a review after three years to reconfirm their acceptance, withdrawal, or to further develop them into International Standards. The latter would mean that additional requirements with respect to increased openness and consensus building would need to be met. After a period of six years, documents either became International Standards, or were abandoned. He explained that ITAs were technical documents resulting from international workshops (i.e. documents developed outside the regular technical structure). When published, they included an indication of the organizations that had been involved in their development.

102. He recalled that ISO had stressed the importance of introducing a unified set of documents with identical designations throughout the standardization system (and at its different levels, i.e. national, regional, and international). ISO and IEC had agreed on new documents, and measures had been taken to communicate the need for them to their partners at the regional level (such as the European Telecommunications Standards Institute (ETSI), the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC) in Europe, the Pan American Standards Commission (COPANT) in Latin America, other groups for the ASEAN countries, etc.). He expressed ISO's willingness to present its procedures in greater detail to the TBT Committee, which were the same as those of the IEC. He believed that the ISO process allowed all interested members to participate in the development of a new standard either through meetings, or correspondence, and that this process complied with the suggestions presented in documents G/TBT/W/75 and G/TBT/W/87.

103. The Committee took note of the statements made.

E. PREPARATION, ADOPTION AND APPLICATION OF TECHNICAL REGULATIONS

104. The representative of Thailand presented document G/TBT/W/80 on the Thai experience in the preparation, adoption and application of technical regulations. She noted that for the adoption of

technical regulations under the Standards Act in Thailand, proposals could be made by the government, consumers, or the private sector. When proposals were approved, public hearings were held along with notifying the WTO. The entire process took one to two years to complete. For technical regulation issued under other Acts, however, public hearings were not possible, but notifications were made to the WTO and the comments received were taken into account. In general, she believed that public hearings were very helpful.

105. The Committee took note of the statement made.

F. CONFORMITY ASSESSMENT PROCEDURES

106. The representative of Korea drew attention to the EC proposal on ISO/IEC Guides on Conformity Assessment (G/TBT/W/70). He basically agreed with the EC's view that the relevant ISO/IEC Guides were helpful in facilitating international trade. However, he could not support the EC proposal because he did not believe that an agreement or recommendation on their use by the Committee was necessary. In addition, the full implications of their use were unclear.

107. The representative of Switzerland introduced document G/TBT/W/79 as part of the interchange of experiences recommended by the Triennial Review. She stressed the importance of the autonomous recognition of results of foreign conformity assessments in reducing technical barriers to trade. Based on Article 6.1 of the Agreement, Switzerland had developed a system for the autonomous recognition of the results of foreign conformity assessments. She believed that the recognition process had to be based on the qualifications of the author of the assessment, and not on the origin of the imported goods.

108. She noted that the Swiss system of autonomous recognition was embodied in the Federal Law on Technical Barriers to Trade (LETC), which entered into force on 1 July 1996. According to that law, "test reports or conformity certificates by foreign organizations are only acceptable if it can be shown that: (i) the test or conformity assessment procedures followed meet Swiss requirements; and (ii) the foreign conformity assessment body has an equivalent qualification to the one required in Switzerland." The two conditions were cumulative. She said that in order to be able to use this provision, Swiss technical regulations for products had furthermore to be respected.

109. She explained that in Switzerland, the competence of a laboratory or a conformity assessment body was in principle established by means of accreditation. The equivalence of the qualifications of a foreign laboratory or assessment organization depended on accreditation as known in Switzerland. If a foreign laboratory or conformity assessment body was recognized abroad and accredited by a regional or international accreditation organization (such as ILAC and International Accreditation Forum), it was assumed that the foreign organization had equivalent competence. Membership of the aforementioned organizations and reciprocal assessment under the various accreditation schemes, confirmed the equivalence of qualification of affiliated bodies. The Swiss Accreditation Authority (Service d'accréditation suisse, SAS) had a list of foreign accreditation schemes determined to be equivalent to the Swiss scheme.

110. She indicated that if a foreign laboratory or conformity assessment body was accredited abroad but its accreditation scheme was not part of one of the aforementioned regional or international cooperation organizations, it would not be able to benefit from this presumption. The person responsible for placing the product on the market in Switzerland would then have to prove that the qualifications of the foreign laboratory or conformity assessment body mentioned in its report or certificate were equivalent.

111. She said that in Switzerland, autonomous recognition was given without requiring systematic reciprocity. However, because the country's economic interests had to be protected, when Swiss certificates issued by conformity assessment bodies whose competence had been proved, were not

recognized by other countries, the Swiss Government could refuse, in turn, to recognize their certificates. To date, situations had not arisen in which the mechanism for reciprocity needed to be instigated.

112. With respect to trade impact, she indicated that the autonomous recognition of foreign test reports and certificates allowed a reduction in the costs of reassessment abroad for the manufacturer or the person placing the product on the market. It was a tool for trade liberalization because it opened up domestic markets and promoted healthy competition in the recognizing country, and, as a result, gave consumers a greater choice of products. The objective, namely the recognition of foreign test reports and certificates, could also be met through the conclusion of mutual recognition agreements (MRAs). These had the advantage of offering contracting parties a legal framework for the recognition of their certificates. Nevertheless, the negotiation of such agreements was often long and difficult. Autonomous recognition could therefore be used when such agreements had not yet been concluded, or when trade flows did not justify their conclusion. She invited other Members to share their experience on the application of Article 6.1.

113. The representative of Thailand drew attention to document G/TBT/W/85 containing her delegation's experience with various types of conformity assessment procedures. She invited the Committee to comment on the document.

114. The observer of ISO recalled that document G/TBT/W/73 invited WTO Members to submit observations and comments on the ISO/CASCO working document entitled "Considerations on Entering into Mutual Recognition Agreements for the Acceptance of Conformity Assessment Results", developed by private sector organizations. The chairman of CASCO had noted the interest of the TBT Committee in a number of ISO/CASCO Guides, and had called for more governmental representation in the national delegations which participated in CASCO meetings. Such representation would improve cooperation with the regulatory sector.

115. The Committee took note of the statements made.

G. TECHNICAL ASSISTANCE UNDER ARTICLE 11

116. The representative of Japan informed the Committee that the Joint WTO/ISO/ITC TBT Seminar in Japan was postponed to 23-26 February 1999. The seminar was mainly for the participation of East Asian developing countries. The number of participants would be limited to 30.

117. The Committee took note of the statement made.

H. SPECIAL AND DIFFERENTIAL TREATMENT UNDER ARTICLE 12

118. The Chairman drew attention to paragraph 33(b) of document G/TBT/5. He recalled that during the Triennial Review, the Committee had agreed to consider including the following issues in its future work programme (these could be addressed over a period of three years and reviewed during the Second Triennial Review of the Agreement): (i) the use of measures to engender capacity building in developing country Members, including the consideration of measures relevant to the transfer of technology to these countries for the preparation and adoption of technical regulations, standards or conformity assessment procedures; (ii) the preparation of a study by the Secretariat to establish the state of knowledge concerning technical barriers to the market access of developing country suppliers, especially small and medium sized enterprises (SMEs); (iii) inviting representatives of relevant international standardizing bodies and international systems for conformity assessment procedures to make written and oral presentations to the Committee with a view to assessing whether and how account was taken of the special problems of developing countries in such bodies and systems. The Secretariat would circulate a compendium of the written contributions made by the relevant organizations; and (iv) encouraging the organization of international meetings

relevant to the provisions of the Agreement in the territories of developing country Members to give greater representative participation by such Members to the deliberations and recommendations of such international meetings, and the electronic dissemination of information.

119. The Committee agreed to include the elements listed under paragraph 33 (b) of document G/TBT/5 in its future work programme.

IV. OTHER BUSINESS

120. The observer of China stated that her country was in the process of acceding to the WTO, and that it attached importance to the TBT Agreement. She informed the Committee that a TBT enquiry point had recently been established, and welcomed the provision of technical assistance.

121. The representative of the United States thanked the Chairman and the Secretariat for organizing the Workshop and Meeting on Procedures for Information Exchange.

122. The Committee agreed to hold its next meeting on 20 November 1998.

Annex 1

IMPLEMENTATION AND ADMINISTRATION OF THE TBT AGREEMENT

Contribution from Chile

The TBT Agreement, having been approved by the Congress of Chile in May 1995, is now a law of the Republic.

In Chile, voluntary technical standards are developed by the National Standardization Institute which, in September 1995, accepted the Code of Good Conduct for the Preparation, Adoption and Application of Standards.

As Chile is a unitary country, compulsory technical regulations, for their part, are prepared at the national level by the Ministries and other government agencies according to subject.

The Ministry of the Economy, and more specifically the Foreign Trade Department, is responsible for administering the Agreement; this means, *inter alia*, that it is responsible, through the Ministry of Foreign Affairs, for notifying technical regulations and conformity assessment procedures that are being prepared and for circulating to public and private bodies that may have a special interest, any notifications submitted by third countries in the framework of the Agreement. It also acts as an enquiry point, i.e. it answers enquiries from nationals and other Members of the TBT Agreement and provides the relevant documentation referred to in Article 10 of the Agreement.

Although the Ministry of the Economy communicated the obligations under the Agreement to all bodies with responsibilities in the field of technical regulation it proceeded, in September 1997, the National Commission on Technical Barriers to Trade was set up, which meets periodically at the Ministry and includes representatives of all of the regulatory bodies as well as of the Ministry of Foreign Affairs and the National Standardization Institute.

The objectives of the National Commission basically consist in establishing a coordination network among the different institutions concerned with technical regulation, thereby facilitating compliance with the TBT commitments, and to agree on a preliminary draft law on standardization, technical regulation, conformity assessment and metrology.

Currently, the main activities of the National Commission consist in: (i) preparing an up-to-date register of technical regulations in the different public departments; (ii) appointing in each institution a person to serve as a contact for the exchange of information on the preparation, adoption and implementation of national regulations and possible problems or comments concerning regulations from other countries; (iii) discussing preliminary draft law.

In addition, the Foreign Trade Department of the Ministry of the Economy has been visiting the different public services with the authority to issue technical regulations in order to make them aware of their TBT obligations and to deal with any questions or doubts which may emerge.

The effects of the adopted measures seem gradually to be living up to expectations. Thus far in 1998, Chile has notified eight draft regulations, in most cases granting a time-limit of 60 days for comments. In the cases where a Member country asked for the text of the draft regulations, it was faxed to them promptly. As the system of coordination at the national level is upgraded, we hope to be able to transmit this information electronically.

Annex 2

WORKSHOP AND MEETING ON PROCEDURES FOR INFORMATION EXCHANGE

Summary Report by the Chairman

As mandated by the Decision of the Committee on Technical Barriers to Trade which states that "Regular meetings of persons responsible for information exchange including persons responsible for enquiry points will be held on a biennial basis" (G/TBT/1/Rev.5), a workshop and meeting on procedures for information exchange took place yesterday.

At the workshop, the transparency provisions of the TBT Agreement were laid out, the differences between the TBT and SPS Agreements explained, and several national and regional experiences concerning enquiry points and notification procedures presented. A number of speakers addressed the importance of disseminating standard information to industry, and they provided information in this respect. The session was fruitful in laying the groundwork for the afternoon meeting that followed.

In the afternoon, the meeting on information exchange took place. It was designed to pick up on the issues raised in the morning session, in particular in relation to national experiences, and to address the following: the specific difficulties and problems faced by national enquiry points and with respect to notification procedures; proposals and suggestions concerning procedures for information exchange (including ways to enhance electronic exchange); and possible relevant technical assistance.

With respect to the difficulties experienced, a number of important points emerged from the meeting. Developing countries indicated that they were experiencing problems with respect to raising national awareness among government agencies and industries of the importance, benefits and the obligations under the provisions of the TBT Agreement. They requested technical assistance in the form of workshops and seminars. Some enquiry points faced difficulties in coordinating their work with relevant regulatory authorities and disseminating information to stakeholders. In certain instances, merely obtaining information on the technical regulations adopted under the auspices of different ministries proved to be a difficult task. Also, the handling of the large volumes of information involved appeared to burden some enquiry points. To overcome this problem, it was suggested that comprehensive efforts, including the involvement and coordination of regulatory authorities, relevant government and local governmental agencies, enquiry points and private sector would be essential. Suggestions were made also to enhance the efforts of cooperation in the regional context. Some developing countries drew attention to the difficulties involved in generating funding for the establishment and the maintenance of an appropriate infrastructure of enquiry points, in particular to be equipped for electronic information exchange. A number of participants shared their experience on the basic equipment and requirements needed for an enquiry point. Information was also provided by a number of representatives on relevant training and technical assistance programmes in this respect.

Regarding the handling of notifications from other Members, a number of representatives drew attention to the problems posed by the short comment period provided and the need for document translation, indicating that the costs of translation were high and created delays. Concerns were also expressed on the difficulties faced by standardizing bodies to prepare work programmes every six months under paragraph J of the Code of Good Practice (Annex 3 of the Agreement). To overcome these problems, there was a view that it would be useful to enhance electronic exchange of information and the cooperation among Members.

At the meeting, there was a general feeling that it is important to follow the Committee's Decisions and Recommendations on notification procedures and information exchange, contained in document G/TBT/1/Rev.5. The delegation of the United States put forward certain proposals for improving information exchange, contained in two papers entitled "Improving the Operation of the TBT Agreement's Notification Provisions: Proposals for Consideration by Enquiry Point Officials", and "Meeting on Procedures for Information Exchange". The proposals included surveying enquiry points in order to determine the steps that are needed to facilitate electronic information exchange, and derestricting Committee minutes as well as Annual Reviews. It also proposed adding to the existing recommendations by the Committee contained in G/TBT/1/Rev.5, with respect to the translation of documents, processing requests for documentation, the handling of comments on notifications, and the booklets of enquiry points, including a proposal on electronic dissemination of information concerning the translation of documents and comments on notifications of other Members on a voluntary basis. Many of these suggestions were favourably received by other representatives present at the meeting. It was decided that these proposals would be transmitted to the Committee for further discussions and consideration.

_____