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Committee on Technical Barriers to Trade

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MINUTES OF THE MEETING HELD ON 11 JUNE 1999

Chairman: Mr. Mohan KUMAR (India)

1. The Committee on Technical Barriers to Trade held its Seventeenth meeting on 11 June 1999.

2. The following agenda, contained in WTO/AIR/1100 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 was needed for informal consultations on the requests for observer status by the OIV and ILAC.

4. The Committee agreed to return to the two requests at its next meeting.

II. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

5. The representative of the European Communities (EC) drew attention to document G/TBT/W/114 (Reply by the European Commission to the Comments prepared by the United States concerning Notification G/TBT/Notif.99.75) relating to hushkitted and re-engined aircrafts. At the last meeting, the United States (US) had referred to the fact that recertified aircrafts were in full compliance with the international standards adopted by the International Civil Aviation Organisation (ICAO), and had questioned the EC's imposition of a design based standard (by-pass ratio). He recalled that the purpose of the regulation was to reduce noise levels and fuel emissions in the EC. The regulation would only affect recertified aircrafts by preventing the registration of more such aircrafts in the EC. He pointed out that while the ICAO Chapter 3 standard, which had been established in 1977, measured noise for the purposes of noise certification, it did not measure it with a view to establishing acceptable noise limits for airport activities (which involved environmental considerations). Therefore, the existing ICAO standard did not take into account airport regulations in their entirety, which were an established feature of international aviation. He argued that the ICAO noise standard was particularly ineffective because it was set 20 years ago, ignoring the increase in air traffic that had taken place since.

6. He indicated that the EC had tried, over many years, to work within the ICAO to change the Chapter 3 standard to one that better reflected modern technology and other noise-related factors. However, he explained that this had not been possible due to a lack of cooperation from certain countries, including the US. At the same time, the ICAO Chapter 3 standard was ineffective to achieve environmental objectives in terms of fuel burn and pollution. Therefore, a standard, that was not focussed on noise alone, was needed to fully achieve the environmental objectives of the proposed regulation. This was why the EC had, in its proposed regulation, referred to the by-pass ratio. As a measurement technique, it provided the most appropriate proxy to the environmental performance of aircrafts. Its use for the classification of aircraft noise performance was widespread at the international level, and had also been employed by the Committee on Aviation Environmental Protection (CAEP) under the auspices of ICAO.

7. He mentioned that the EC had adopted the Regulation on 29 April 1999, after having postponed on 29 March 1999 deadline for adoption by one month to fully take account of observations made by WTO Members. He further informed the Committee that in the joint declaration of the Council of Ministers and the EC, which had been adopted together with the regulation, both Community institutions welcomed the priority given by the US to the ICAO's work on noise standardization. They had noted with satisfaction the willingness recently expressed by the US to develop expeditiously, within ICAO and in close cooperation with the EC, the next generation of noise standards. The EC committed itself to work, in close co-operation with the US and other partners, on a new noise standard as a priority. The institutions of the EC had highlighted that this work should also include the development measures to phase-out the noisiest categories of aircrafts within Chapter 3. In order to facilitate the continuation and the conclusion of consultations on these issues, the Council had decided in this exceptional case to postpone the date of application of the regulation by one year (i.e., the regulation, although adopted, would not be applied for a year).

8. The representative of the United States welcomed the information provided by the EC, and noted that on 29 April 1999, the Council of the European Union had adopted the aircraft engine (hushkit) regulation that restricted the operation of hushkitted and re-engined aircrafts to/from and within the EU. The Council had postponed the implementation of the regulation for a year. She indicated that although the US was pleased that the Council had delayed its implementation until May 2000, her delegation would continue to oppose the regulation. She explained that while the US strongly supported environmental protection and noise-reduction measures, the regulation was based on a wrong approach. It deviated from the international noise standards set by the International Civil Aviation Organization (ICAO) to which European Union (EU) Member States had agreed and which were met by hushkitted and re-engined aircraft.

9. She reiterated her request that the EU provide the scientific studies on which it based its determination that the regulation, a design-based standard, would be effective in reducing aircraft noise. While the EC's paper (G/TBT/W/114) included certain technical data in Paragraph 5, it did not give specific citations. She confirmed that the US wished, in cooperation with the EU, to pursue the development of international aircraft noise standards through ICAO, as the appropriate forum for noise standards development. Her delegation anxiously awaited the EU's thoughts on the next generation ICAO noise standards (Chapter 4).

10. The representative of Canada raised concerns relating to the proposed EU Directive on waste management in relation to end of life cycle electrical and electronic equipment and appliances (the WEEE-Directive). It included a ban on the use of certain nonferrous metals in the above-mentioned products. He believed this was inconsistent with the GATT and the TBT Agreement, and if implemented, would create unnecessary barriers to trade. By reducing or eliminating the use of certain nonferrous metals in a broad range of electrical and electronic equipment and appliances, the proposed Directive would have significant adverse trade effects for many WTO Members who, like Canada, are the producers of such metals. His delegation associated itself with the comments and concerns raised by the US at the last meeting, regarding the EC's proposed Directive (G/TBT/M/15). While his delegation supported the underlying objectives, i.e. the prevention of waste from these products, the increased reuse, recycling and recovery of such waste and the reduction of the risks of environmental impact associated with its treatment and disposal, it was concerned that the approach being considered by the Commission was being pursued in the absence of a comprehensive and scientifically sound risk assessment.

11. He urged that, in order to ensure that the proposed Directive be consistent with the TBT Agreement, the Commission gave due consideration to its direct and indirect implications on the trade of WTO Members. It should consult closely with affected industries, including manufacturers of electronic products and producers of nonferrous metals, as well as other stakeholders and interested governments. He indicated that his MRAs delegation would welcome any additional information the Commission could provide on the proposed Directive.

12. He also voiced concern on EC's intent to move forward with a ban on the use of cadmium in batteries and accumulators in the absence of a formal risk assessment. This ban, if adopted, was likely to create an unnecessary barrier to trade for the manufacturers of electrical and electronic products that rely on nickel-cadmium batteries as a power source. He called on the Commission to await the results of the risk assessment on cadmium that was being conducted by the Belgium government. He reminded the EC of the fact that the OECD had endorsed the recycling of such batteries and accumulators as the preferred method of dealing with the environmental and health concerns that they pose. Therefore, he called on the Commission to work closely with non-EU governments and other stakeholders in examining other alternatives to a ban that would achieve the same environmental and health objectives while being less trade restrictive, such as increased recycling.

13. The representative of the United States agreed with the points raised by Canada, and expressed concern over the proposed battery Directive. Given the significant trade implications of a ban, she requested an explanation of whether the Commission had already considered alternative measures, with less impact on trade, that achieved the same environmental objectives. In view of the fact that DG XI had commissioned a risk assessment on the use of cadmium in batteries (the first draft of which was expected in June 1999), that Belgium was conducting a cadmium metal risk assessment, and that the results of risk assessments had not been made yet, she questioned the scientific grounds for a ban. In addition, no assessment of the risks of possible substitutes had been made. She requested that the Commission to disclose to the public its rationale for the ban and to allow stakeholders an opportunity to offer reactions. She enquired when the draft Directive would be notified as required by the TBT Agreement.

14. She noted that some of the assertions that had been made about the technical viability of substitutes for nickel-cadmium batteries in certain appliances requiring high power, such as cordless power tools, were not substantiated. In addition, it was unclear whether and how the difficulties and risks associated with recycling possible substitute batteries had been examined. Specifically, a risk management approach designed to ensure comprehensive collection and recycling of the cadmium contained in nickel-cadmium batteries might present a viable, less restrictive alternative to a ban on such batteries and associated applications.

15. She expressed support for the US, European and Japanese industry's efforts to reach a voluntary agreement on the collection and recyling of nickel-cadmium batteries in EU Member States. She recalled that this proposal, which was in line with OECD efforts to increase the collection and recycling of these batteries, had been sent to DG XI last fall. To date, the Commission had not responded to this proposal. She reconfirmed her delegation's interest in the EC's reaction to this industry proposal. In this proposed agreement, battery producers, producers and importers of appliances that used nickel-cadmium batteries, and recyclers would commit to increase the quantity of nickel-cadmium batteries recycled each year until the target collection rates stated in the Directive were achieved. She pointed out that an effective implementation of such an agreement and the consideration of other risk management tools, such as market-oriented incentive schemes to support enhanced battery collection and recycling rates, might offer less trade-restrictive ways for achieving the stated environmental objectives. She requested the EC to work with all stakeholders, and stressed her delegation's willingness to engage in technical discussions of options that might be available, and the need for additional review of the current draft.

16. The representative of the European Communities stated that the situation for both Directives was rather similar, as both were still being discussed within the Commission and not yet formal proposals. He informed the Committee that for the Directive on waste electrical and electronic equipment, there had been two previous draft proposals. A third draft proposal was currently under preparation, being at the stage of inter-service consultation within the Commission, and another proposal was expected from DG XI around the end of June 1999. He implied that until the new proposal would come out, it was not clear to what extent some of the concerns made on the earlier drafts would have been met.

17. Concerning the battery Directive, he noted that consultations had been undertaken with both European industry and US industry on earlier proposals and the way in which the Directive was put together. He added that given that the Commission was about to change this year, it was uncertain whether the proposed Directive would be issued as a formal proposal and whether changes would still be able to be made. At this stage, therefore, he was not in a position to address the specific concerns raised by the US and Canadian delegations.

18. The representative of Thailand informed the Committee that a Mutual Recognition Agreement (MRA) on automotive products between Australia and Taiwan had been signed in

April 1999. The MRA covered road vehicles, equipment and parts originating in Australia and Thailand. She said that the parties had agreed to mutually accept test reports issued for and certified by each other. She explained that as it related to demonstrating compliance with technical regulations concerning safety and quality requirements of some parts and emission control of vehicles, it would be enforced from June 1999. In order to fulfill the obligation under Article 10.7 of the TBT Agreement her delegation had already submitted the notification for circulation to Members. More information would be available from the national enquiry point of Thailand.

19. The representative of the United States welcomed the information provided by the Thai delegation. She recalled that the US had previously requested similar information from the EC, Canada, Australia and New Zealand regarding their respective MRAs. She expressed her doubts as to whether these agreements had been notified under Article 10.7. Referring to the calls for the greater transparency of such agreements, her delegation wished to encourage countries, as they negotiated MRAs, to notify them as foreseen in the TBT Agreement.

20. The representative of Australia recalled that Australia had notified a MRA on automotive products on 7 June 1999.

21. The representative of New Zealand responded that New Zealand's MRAs both with Australia and the EU would be notified as soon as possible.

22. The representative of Canada informed the Committee that the notification of the MRA between Canada and the EC was long overdue, due to purely administrative problems which were about to be resolved. With regard to the MRA between Canada and Switzerland, a joint notification, probably from Switzerland, could be expected within the next two to three weeks.

23. The representative of Switzerland confirmed that his country was in the process of preparing the notification that had already been announced at the March meeting.

24. The representative of Canada recalled that his delegation had made interventions on the EC Regulation No. 1139/98 on mandatory labelling of foodstuffs produced from genetically modified organisms (GMOs) at previous Committee meetings. While recognizing the responses received from the EC, his delegation was still not entirely satisfied with three key points: (i) the rationale for the identification of protein from genetic modification through a mandatory labelling approach; (ii) the ability of the EC labelling scheme to provide consumers with meaningful information on genetically modified foods and food ingredients; and (iii) the difficulties in ensuring and enforcing compliance.

25. Referring to a more recent TBT notification, from New Zealand (G/TBT/Notif.99.244 of 19 May 1999), he noted that New Zealand and Australia, through the Australia-New Zealand Food Authority (ANZFA) were considering an amendment to ANZFA Standard A18 to require labelling of products derived from "Gene Technology" that were substantially equivalent to traditionally derived products. He held that in its current form, without the proposed amendment, Standard A18 represented a sound approach to regulating products of "Gene Technology". It was science-based, practical and served a recognized objective. He added that it would accord well with Canada's own approach and proposed regulatory changes.

26. However, he expressed concern about the proposed amendment, which would require labelling of all foods derived from gene technology, including those that were substantially identical to their conventional counterparts. He reiterated Canada's concerns regarding the labelling of like products simply because they were produced by a different production or processing method. He raised the following questions: (i) why this technical regulation was necessary and what its objective was; (ii) how the proposed labelling scheme would be made consistent with international trade obligations that required non-discrimination among like-products; (iii) how the scheme would be

verified and enforced; (iv) what methods of analysis and sampling would be used to ensure the accuracy of the labelling; (v) how and when all the necessary methods of analysis would be developed; and (vi) whether all methods of analysis and sampling schemes be subject to international scrutiny and verification. He indicated that he would provide further written comments on the proposal in keeping with the 12 July 1999 deadline.

27. The representative of the United States agreed with the comments made by Canada on the European Directive. She drew attention to a US paper (G/TBT/W/115) which provided information on a range of notifications made on genetically modified agricultural and food products. She recalled her country's general interest in ensuring transparency in the development, adoption and enforcement of technical regulations. She indicated that there had been 11 notifications under the TBT Agreement and additional notifications had been made under the Agreement on Sanitary and Phytosanitary measures. A table contained in the paper submitted specified the TBT notifications, the Member notifying, the date of notification, and gave a brief description of the 11 proposed regulations that had been notified.

28. It could be observed that during the first two years (1995-1996), only one notification had been made to the TBT Committee, and during the following two years (1997-1998), five notifications had been made covering this new technology. In the first five months of 1999, an additional five notifications had been made for Members' comment. She noticed the sharp increase of proposed new technical regulations of genetically modified agricultural and food products which indicated increasing national debates regarding the need for technical regulations. This increased attention on agricultural and food products stemming from modern genetic transfer techniques comprised a relatively small part of the significantly larger product domain covered by the TBT Agreement. However, she noted the fact that significant international trade and a wide variety of agricultural and food products were involved.

29. She also noted that international standards applicable to labelling and other aspects of agricultural and food products stemming from modern genetic transfer techniques were generally non-existent. Only recently had work been undertaken to address such standards and guidelines, and these could be relevant for Members developing science-based regulatory processes for food safety reviews. She urged Members to participate in the work of Codex Alimentarius to advance agreement on relevant international standards. She invited reactions by Members to the paper submitted.

30. The representative of New Zealand welcomed the US paper, on which her delegation would be prepared to comment later. Referring to the New Zealand notification G/TBT/Notif/98.244, as mentioned by the Canadian representative, she said that the notification related to a decision taken in December 1998 by Health Ministers of New Zealand, and Australia, amending Standard A18 of the Australian and New Zealand Food Authority (ANZFA) on genetically modified foods. She said that the main reason for the amendment to Standard A18 was consumer information rather than health and safety concerns which had already been addressed by the initial A18 Standard of labelling for substantially different genetically modified foods. Work was still continuing on this proposal and required consideration of many complex issues, including those related to definitional and compliance measures. She stressed that the principal concern was to develop a rational, sensible, workable policy which avoided the disruption of trade and met New Zealand's international obligations. She invited further comments in writing from Canada and explained that she would respond to those in due course.

31. The representative of Australia welcomed the questions by Canada. These would be referred back to his capital for response with a view to receiving a written paper. He agreed with the comments made by New Zealand providing the background to this particular notification.

32. The representative of the European Communities replied to some of the interventions that had been made at the last meeting on the issue of "GMO labelling". He addressed the general remarks of Canada and the US concerning the rationale of the EU approach, and, in particular, the scientific basis for the EU's notion of equivalence for labelling purposes. He recalled that the EU's Novel Foods Regulation laid down not only approval procedures for all novel foods (including those derived through biotechnology), but also labelling provisions for these foods. In particular, it laid down that foods and food ingredients be labelled when they were not "equivalent" to their conventional counterparts. He recognized that this notion did not correspond to the OECD concept of substantial equivalence, but was a concept adopted for the purpose of consumer information through labelling.

33. He argued that, like "substantial equivalence", it was a science-based notion: the Novel Foods Regulation already defined "equivalence" in terms of scientifically demonstrable differences. Regulation (EC) No. 1139/98 (notification 97.766) provided a more precise definition: the presence of protein or DNA resulting from genetic modification. The US had asked the EU to provide scientific evidence that the presence of protein or DNA resulting from genetic modification was sufficient to establish that a food is no longer equivalent to its conventional counterpart. In this respect, the presence of protein or DNA resulting from genetic modification in a food ingredient would undoubtedly constitute a scientifically verifiable difference between a genetically modified ingredient and its conventional counterpart. He concluded that it therefore was on a scientific basis, that foods and ingredients were qualified as "no longer equivalent" for EU labelling purposes.

34. He explained that the rationale of the EU approach was to provide consumers with maximum information on a scientifically verifiable base. At least in Europe, consumers would be concerned about foods produced through genetic engineering and exhibit a strong demand for identification of these products. He reasserted that the approach of the European notified legislation allowed to respond to these demands in an objective and scientifically verifiable manner. He stressed the importance that the European Commission attached to transparency and consumer information in this moment in which consumers were for the first time, put in contact with the food applications of biotechnology. The EU was committed to implementing its labelling framework, in full respect with its international obligations and in collaboration with third parties. He invited further bilateral discussions on any detailed issue or difficulty that Canada, the US or any other signing part might wish to raise. He shared the view of Canada and the US, that it was interesting to see many other notifications dealing with labelling of GMO products.

35. The representative of Norway emphasized the importance of having transparent and reliable labelling schemes in order to inspire consumer confidence in new products and technology. Traditional food labelling had provided information on the composition, nutritional value, and effects or intended uses of foods. However, the introduction of foodstuffs from GMOs raised consumer concerns that traditional labelling schemes appeared unable to meet. There were also widespread concern about the ecological effects of the use of GMOs. Thus, Norway shared the view of the European Union that food from GMOs should be labelled as such in order to meet consumer demands. He argued that consumers ought to be given the possibility to choose between conventional products and foods derived from or containing GMOs. He informed the Committee that the Norwegian GMO labelling scheme had been notified in August 1997.

36. The representative of India stated that food labelling also related to the SPS Agreement. Without specific reference to the regulation issued by the EC, he felt that requirements whether the product was genetically modified or not, and its content should be declared on the label. This would be to the benefit of the countries that did not have the testing facilities. He considered this to be a sort of self-certification by the labelling country.

37. The representative of Brazil informed the Committee that Brazil was dwelling internally to come out with some regulation on this issue. She asked delegations that had brought up this subject at the Meeting to circulate their statements, so that these could be reported back to capitals.

38. The observer of the FAO noted that the Codex Alimentarius Commission at its 23rd session as part of its medium-term plan would be considering the possible elaboration of a general standard for foods derived from biotechnology or traits introduced into foods by biotechnology, whereby it would be decided whether or not a specific committee would need to be established to deal with this issue. The Codex Committee on food labelling had already been and was continuing to deliberate on the labelling of foods derived from biotechnology.

39. The representative of the European Communities drew attention to a Japanese legislation on fishing vessels (G/TBT/W/116) published in 1950, and aimed at rationalizing development of the productivity of the fishing industry. Under this law certain performance requirements had been laid down for marine engines for fishing vessels. Hence, requirements had been set for the maximum engine size allowed to be used for each one of several vessel size categories. The engine sizes were classified and identified by a certain index number, a so-called "Engine Performance Index" (EPI). The calculation formula to determine this index had been revised in 1997.

40. He maintained that this EPI applied in relation to the Japanese legislation was not in line with the relevant international standard and that this, over the years, had had an adverse effect on imports of commercial marine engines for fishing vessels in Japan from Europe. He argued that under the Japanese regulation, the calculation method for maximum engine size was artificial in that it did not measure actual engine output which would be in line with international standards (ISO 8665, 1998). Instead, output was determined on the basis of engine displacement. He proclaimed that the EC's request for using the international standard as the basis for the Japanese regulation had been, and was still maintained in order to make it compatible with the terms of the TBT Agreement.

41. He reported that bilateral contact with the Japanese authorities had been sought. He commented on the objective of the regulation for the protection of fishery resources, and believed that measuring of the actual engine output would be a better criterion for regulating engine size in view of protection of fishery resources as well as fuel consumption, environmental aspects and maintenance costs. He concluded that the Japanese method used was neither objective nor non-discriminatory to foreign manufacturers, and represented an unnecessary obstacle to trade under the TBT Agreement. He highlighted that the regulation's revision in 1997 did not affect the EPI method used under the regulation, and that the revision had not been notified according to the Agreement, although the criteria for notification were fully applicable. He requested more information and clarification from Japan.

42. The representative of Japan assured to refer this issue back to his capital.

43. 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 AGREEMENT UNDER ARTICLE 15.4

44. The Chairman drew attention to documents G/TBT/5 (the result of the First Triennial Review) and G/TBT/SPEC/11 (a compilation of papers submitted by delegations with relation to the Work Programme). He noted that, as agreed (G/TBT/SPEC/9), the Committee would continue its Work Programme focussing on the element of conformity assessment procedures.

A. CONFORMITY ASSESSMENT PROCEDURES

45. The Chairman noted that with a view to carrying out this element of the Work Programme, a WTO Symposium on Conformity Assessment Procedures had been held on 8-9 June 1999 to develop an improved understanding of the issues. The occasion also provided an opportunity to exchange experiences with the parties involved, on the conformity assessment procedures for business transactions in the market-place and of the different approaches and requirements used for the assessment of conformity in the regulatory and private spheres, at the national, regional and international levels. He reported that at the Symposium exchanges of views and debates amongst the speakers, panelists and participants at the panel discussions had taken place and that he had concluded the Symposium with a factual non-binding summary report, under his own responsibility. He recalled that it had been agreed at the last meeting that whilst the discussions of the Symposium took account of the relevant provisions of the Agreement and remained relevant to the work of the Committee, it was for the Committee to decide if and how account would be taken of the discussions.

46. The representative of Mexico suggested to take note of what had been stated by the Chairman and of the information that he had provided.

47. The representative of Australia recalled that his delegation had previously informed the Committee that it would be submitting a paper on Conformity Assessment and the Code of Good Practice. He indicated that he would consult further with interested Members to reflect on the information from the Symposium with a view towards tabling a paper before the next TBT Committee.

48. The representative of the European Communities recommended that Committee Members could derive insights that would help to make plans on how the conformity assessment area under the Triennial Review could be taken forward. In the light of the information that had been given during the Symposium, the Committee could focus more critically on some of the relevant documents tabled. As far as future work of the Committee was concerned, he called for a discussion on how to move forward and referred to some of the ideas presented at the Symposium.

49. The representative of the United States recalled that not all delegations had been able to participate in the Symposium. She felt it would be an error if the information was not made available to all Members. It was certainly up to WTO Members to make use of it for purposes of the Committee or not. She supported the idea of having the individual rapporteurs' reports circulated to WTO Members along with the factual non-binding Chairman's report.

50. The representative of Chile pointed out that conformity assessment procedures appeared on the agenda of the Committee not because of the Symposium, but because of the Triennial Review whereby the Committee imposed the task upon itself to improve the implementation of the Agreement.

51. The Chairman proposed to circulate informally his factual non-binding report of the Symposium along with the rapporteurs' reports to Members. He reminded delegations that if they needed the presentations, they would be made available from the Secretariat.

52. He drew the attention to documents G/TBT/W/63, 70, 79, 85 and 99, the US paper on Supplier's Declaration of Conformity (G/TBT/W/63), the EC paper on ISO/IEC guides on Conformity Assessment (G/TBT/W/70), the Swiss paper on Autonomous Recognition of the Results of Foreign Conformity Assessment (G/TBT/W/79), the Thai paper on Experience in the Various Types of Conformity Assessment Procedures (G/TBT/W/85), and the Australian paper on National Experiences with Standards and Technical Regulations (G/TBT/W/99).

53. The representative of Thailand drew attention to document (G/TBT/W/111) giving her country's view on conformity assessment procedures. During the first Triennial Review the Committee had discussed the principle of one standard – one test – one certification and the suppliers' declaration of conformity. Some Members had submitted papers for discussion. She outlined Thailand's views on conformity assessment procedures based on international standards, guides and recommendations as follows: Such guides as the ISO/IEC guides had been developed from the practices in the market-place and experiences gained. They gave good guidance to countries in developing a good and sound technical infrastructure. She reminded Members that confidence in technical competence was the key word to gain recognition, and implied that the aspired 1-1-1 approach could not come true without the relevant international guides and recommendations being implemented by Members.

54. Her delegation believed that the development of conformity assessment procedures in both the regulatory and voluntary sectors would lead towards supplier's declaration. This path would help cut down the expenses and burden of the business sector, and improve its competitiveness. She reasserted that in order to attain the goal of suppliers' declaration, it was necessary that relevant international guides be put to use. The benefits obtained consisted of the upgrading of the entire system, and maintenance of quality of the system and personnel, which would accelerate the entry into mutual recognition, adding to trade facilitation.

55. She cautioned not to forget that a successful implementation of suppliers' declaration had to be backed up by a good consumer protection law and had to involve the business sector's obligations and responsibility, e.g. product liability law. Developing countries might not yet have a liability law in force. To pass a new law or revise an existing law could be time consuming for some countries. She emphasized that such a law was, however, a necessity. She assured that her country was encouraging the development to enable suppliers' declaration, which had received positive feedback from industry and was supported by the government. She reported that the law was still at an early stage and that the process would take considerable time before such a law could be passed. She held that for full adoption of the supplier's declaration approach in international trading, both the importing and the exporting countries should have the same or a close level of preparedness. The Committee might wish to consider ways to assist developing countries in their proceeding towards supplier's declaration and in acquiring the supportive law.

56. The representative of the United States endorsed Thailand's general point that suppliers' declaration of conformity could reduce the burden to business, and added that it could also reduce costs for regulators. She recognized the issues of consumer protection and product liability (essentially the consequences of product failure) as being important underpinnings of this approach to conformity assessment. She agreed to these from the US national experience, information on which had been provided in document G/TBT/W/63. She recalled that, as the US had noted in their presentation at the WTO Symposium, consumer awareness, notification programmes, regulatory enforcement and the consequences for the supplier in the event of product failure were important underpinnings of the US approach. Each country would have to identify for itself what the elements were that would work best in its own domestic legal context, while taking into account its technical infrastructure.

57. She welcomed the invitation by Thailand to consider ways to assist developing countries in proceeding to develop their own implementation of suppliers' declaration of conformity. She advised that it might be fruitful to exchange information on key elements for consideration in ensuring a successful implementation and a credible programme. She supported Thailand's remarks on the use of international guides for building infrastructure, but wished to seek clarification on Thailand's statement that this would facilitate trade by accelerating the entry into mutual recognition. Specifically, she asked whether Thailand was referring to mutual recognition of accreditation or which level of mutual recognition Thailand precisely had in mind.

58. The representative of Chile welcomed the Thai paper. He agreed that suppliers' declaration was a tool that ought to be explored from the point of view of conformity. However, with regard to responsibility and liability, he held that there was the important issue for the importing country of cases when the supplier's declaration was either inadequate or wrong.

59. The representative of the European Communities welcomed the contribution by Thailand. He found the importance of international guides in this area, that was highlighted in the Thai paper. He linked it to the EC's paper (G/TBT/W/70) where it had been stressed that one of the first steps to make progress in the area of Conformity assessment procedures and recognition of conformity assessment was for the Committee to make recommendations on the use of international guides. He recalled that a lot had been said in the Symposium about confidence which, in the EC's view, was gained by making reliance on the specifications and guides available on the international scene and by ensuring a harmonious implementation of these. From the Symposium he gathered that the guides were widely used by both developed and developing countries. He considered this to be potentially helpful to developing countries and to be a possible focus of the Committee.

60. Regarding suppliers' declaration, towards which a lot of interest had been expressed both during the Symposium as well as in the paper of Thailand, he pointed to the experience the EC had gained with this approach. Such a system had been operated in the electrical products field for many years. In order to develop an understanding and discussion on this point, he announced the submission of an EC paper for the next meeting. He explained that some of the concerns raised by Chile on the risk to importers when a supplier's declaration was used had been handled in the EC for a large number of years. He said the EC would be happy to share their experiences with the Committee where this issue could be developed further.

61. The representative of India expressed the view that suppliers' declaration of conformity was a procedure which helped in reducing trade barriers. India supported this approach and had assistance in place for suppliers' declaration. He explained that the system in India was working very satisfactorily, going up to the level of individual agreements, whereby a number of Indian exporters were giving their declaration about the conformity of the goods they were exporting. Regarding the use of ISO/IEC guides, India, who was following these guides, found them to be very helpful in conformity assessment and had a system in place for their use.

62. The representative of Egypt in referring to paragraphs 6-7 of G/TBT/W/63 observed that suppliers' declaration of conformity seemed to carry the meaning of laws on mandatory information disclosure and also of an effective market surveillance system. He felt that both of these two requirements were very difficult and needed some technical infrastructure in developing countries. They would take a longer time to be carried out or used in developing countries. He believed that supplier's declaration of conformity was a system too early to be adopted. He noticed that trade usually took place between suppliers and customers, the customer was not in all cases the end user. The customer could be another company that took the commodity from the supplier, added some value to it and produced another good for the end user. He felt that the second producer would not want to rely on the supplier's declaration. He concluded that further discussion was needed in order to study all aspects related to it.

63. The representative of Korea welcomed the Thai proposal and Members' comments. He stated that suppliers' declaration might be a useful instrument to lessen business costs and facilitate international trade. He agreed that the appropriate international guides should be the basis for this approach to be successfully implemented. Also, appropriate infrastructures would be required. As indicated in the Thai paper, one of the requirements for the concept to be fully achieved, was that the appropriate business climate be created in connection with appropriate product reliability laws. He cautioned, however, that it would not be very wise at this stage to apply suppliers' declaration of conformity to all products, because, as was already mentioned during the Symposium, confidence on

the part of the consumer was of prime importance. That was why, with a view to human health and safety as well as the prevention of environmental hazards, there were some areas where this concept could not be applied. The Committee should be cautious in determining how and where this approach could be applied.

64. He also sought clarification of the meaning of "suppliers", casting doubts as to whether it referred to everybody involved in a line of business, including manufacturers, distributors and importers. He warned that locating liability would be quite difficult after a product had come out to the market. Thus the terminology of suppliers ought to be clarified before elaborating on the issue in more detail. The Korean government was planning to introduce product liability laws. He stated it was, however, premature at this stage to consider Korean business climate and consumer awareness. His estimate was that the introduction process would take more years.

65. The representative of Japan appreciated the contribution of Thailand, and pointed out that suppliers' declaration of conformity did not necessarily have to be applied to all products or all areas. He elucidated that it was appropriate in some cases, for example for low risk products, but might not be in areas of greater risk. Furthermore, along the lines of many previous speakers, he stressed the necessity to have the appropriate environment in place concerning product liability. He sympathized with the Korean delegation's proposal to elaborate further on the scope for applying suppliers' declaration of conformity. He invited Members, especially from developing countries, to share their experience of how product liability law was enforced or their experience with practices and the difficulties associated with the introduction of such laws.

66. Regarding international guides and standards, he welcomed the European Commission's contribution. He indicated, however, that at the Symposium some speakers had raised concerns with regard to the application of such international guides and recommendations. Since the guides had been in place for some time, there might be a possible gap between them and the present market reality. Some speakers had also highlighted that because international guides were very abstract there might be different approaches or interpretations in their application. Therefore, he identified the need to develop further understanding of when and how a certain regulation was based on international guides, for example ISO/IEC Guides. While commending the European contribution as very interesting, he was of the opinion that this issue could still be elaborated further. He informed the Committee of Japan's deliberations to prepare a paper for the next meeting on its national experience for further thoughts on this issue.

67. He noted that the EC's contribution (G/TBT/W/70) recommended that taking into account the technical nature of the issue, consideration be given to asking the Technical Working Group on ISO/IEC Guides to prepare such a discussion. He agreed that it might be helpful to consider this proposal of a working group, which needed not only to focus on ISO/IEC Guides. He clarified he was not suggesting to start at once with a variety of issues, including suppliers' declaration of conformity, but to further discuss in the Committee which then might consider the possibility to pursue discussions in some kind of a working group.

68. The representative of Chile believed that confidence in the field of conformity assessment procedures should be based on common works. International guides would offer a good opportunity to establish such a confidence. However, he noted that during the Symposium it was stated that there were several approaches in this field. He hinted that although international guides did exist, these were maybe not sufficiently refined yet or not sufficiently accepted and recognized, such that one could speak of international standards of common procedures. He agreed that the statements delivered by the EC and Japan could constitute a good departure basis for the work in the Committee in order to reach a state where there would be common guides. The Committee would then encourage the implementation of these common guides through national legislations.

69. The representative of Canada raised concerns as to which direction the conversation on suppliers' declaration of conformity and its related 1-1-1 approach was developing into. He noted that Canada was using both of these approaches in a limited number of specific sectors. A comparison with other countries would reveal that these were not going to accept suppliers' declarations in the same sectors, but use them in others. He concluded that regulation and ways of conformity assessment took specific approaches based on a variety of considerations, many of which were local. He noted that suppliers' declaration and 1-1-1 approaches could simplify procedures to encourage international trade. However, the issue would have to be looked at on a case-specific basis, taking into account the many factors, regulators and trade policy authorities were concerned with. He placed special emphasis on the constraints these authorities were facing in many countries due to political considerations. Often the regulator ultimately was a national parliament or national government that was imposing certain requirements on local bureaucracies in the interest of health and safety of the environment of local citizens.

70. He encouraged Members to, firstly, look at these issues as a group of approaches to improve trade and simplify the kinds of documentation that industries had to produce, but only as part of a package. Secondly, when looking at these approaches consideration needed to be given to the specificities of the sector or the geographic region that was being addressed. By way of an example, he illustrated that in Canada, there was a suppliers' declaration approach to assessing electromagnetic conformity for electronic products that used radio waves. In contrast, the EU followed a suppliers' declaration approach to the questions of electrical safety where there was a strong product liability and consumer liability law in place. He cited these as two areas comprising essentially the same set of products, where Canada and Europe took opposed approaches and this, he found, for very good reasons. He proposed to pursue deliberations on these issues not in the abstract but in the specific.

71. The representative of Indonesia conveyed to the Committee that Indonesia had just passed the consumer protection law two months ago. It would take some time before the implementation would take place. He agreed that more time would be needed for consideration and an in-depth study of the approach of suppliers' declaration. He shared the same view as Korea and Thailand that, especially for developing countries, it would take time before this approach could be implemented.

72. The representative of the United States welcomed the comments made, and clarified that the intention of the US paper solely had been to describe and provide information on the US experience. It was not meant to suggest that every Member had to adopt suppliers' declaration of conformity in the sectors that it identified or in every sector. She explained that the chapeau in the introduction for the paper was the Triennial Review of the Agreement. The paper quoted the report since it noted some positive benefits, while the Committee acknowledged at the same time that this procedure was not appropriate in all cases, particularly where technical infrastructure was lacking or it would compromise health, safety or environmental protection.

73. She said that everyone needed to consider what the best approach was for the particular task at hand, whether that was dealing with conformance with a technical regulation or a voluntary standard. Her delegation hoped that such a consideration would be undertaken in the context of good regulatory practice. The general point her delegation wanted to make was to try to bring the Committee's focus to a broader context, and not to rely exclusively on MRAs for instance which had seemed to become a preoccupation for discussions in the Committee. She expressed her appreciation for the exchange of information that was taking place on alternative approaches to conformity assessment and the relevance of international guides. Her delegation would give consideration to the proposal made by Japan to further develop this area.

74. The representative of the European Communities agreed that suppliers' declaration was not universally applicable, and certainly it was not in the European Union either. It was applicable in certain areas and it depended upon the risk associated with the type of product. He wondered whether

it would be informative if Members that used suppliers' declaration or were planning to introduce it in certain areas, could share this information with the Committee in the next meeting, in order to provide further knowledge about which types of products were currently assessed using suppliers' declaration. He felt that this might be an interesting way forward. Referring to comments on product liability and consumer protection aspects, he felt that countries that currently had suppliers' declaration in use could share their experiences in this area and help Members with their understanding. Encouraged by many of the positive comments with reference to International guides, he felt that this area could be expanded. He believed that with a view to helping developing countries, it was important to focus on accreditation aspects when taking on board some of these concepts.

75. The representative of Thailand welcomed the comments made on the Thai paper. Responding to the question made by the USA on mutual recognition, she explained that the mutual recognition mentioned in the paper referred to recognition even at the government to government or local levels. Mentioning mutual recognition in the paper was linked to the usefulness of the implementation of relevant international guides on conformity assessment to build up the technical competence. Regarding the question of Korea on suppliers, she explained that although the word "suppliers" used in the paper could mean more than manufacturers, she was of the opinion that the Committee should focus on the manufacturers' declaration.

76. The representative of India stated that with regard to conformity assessment procedures, there was no standard procedure for imported goods certification. He suggested that an ISO guide in line with other ISO/IEC guides could be developed for harmonization of the procedures for imported products, especially for those which were under mandatory certification in a country. This would help in reducing technical barriers to trade under the TBT Agreement. He held that the formulation of certain sectoral documents like QS-9000 for the automotive sector and TS-9000 for the mechanical tools sectors had led to the creation of trade barriers in the above fields. The QS-9000 document, although based on ISO 9000, included some additional requirements as defined by the bodies of automotive associations in the US which were not their national standard bodies. Certification against these standards was being insisted upon by developed countries. Developing countries like India who had a great potential for exports of automotive products were thus at a disadvantage because the certification against these standards could be given by the foreign bodies only and not by the national body. He felt that there was a lack of harmonized interpretation of the ISO 9000 and ISO 14000 series of standards. In the absence of any documentation for the interpretation of these standards, different practices were being followed by certification bodies, and as a result, undermining the value of a certification granted by these bodies.

77. The representative of the ISO welcomed the proposal of India to have a new ISO/IEC guide. He invited the Bureau of Indian Standards to make the proposal to ISO/CASCO for consideration.

78. The Committee took note of the statements made.

B. INTERNATIONAL STANDARDS, GUIDES AND RECOMMENDATIONS

79. The Chairman drew attention to documents G/TBT/W/106 (a synthesis paper on a group of bodies involved in the preparation of international standards, illustrating their mechanisms for transparency), G/TBT/W/64, 75 and 87 (proposals made by the US and EC on international standards and their transparency), and G/TBT/W/60, 61, 81 and 99 submissions made by Colombia, Canada, Thailand and Australia on their national experience in the use of international standards, guides and recommendations. He recalled that at its last meeting, the Committee had held discussions on this item (G/TBT/M/15). Views had been exchanged, in particular regarding the US and EC proposals. Other ideas had been put forward, such as on the participation of developing countries and the need to develop a common understanding on what constituted an international standard within the context of the Agreement. Bearing in mind that the use of international standards was what needed to be

promoted, delegations were invited to bring to the Committee the reasons for their non-use of international standards, as indicated in the Triennial Review. There was a general agreement in the Committee to address the issue of transparency, as well as of decision-making in international standardizing bodies. He invited Members to reflect on what the final objective of the discussions should be.

80. The representative of the United States recalled the discussion at the last meeting on the US and EU papers which had a number of common elements. She noticed that there was still resistance from some Members against concluding the discussion, and there were other elements that delegations were interested in discussing. She stated that she had had some informal consultations that encouraged her to make a revision to the US proposal (G/TBT/W/75/Rev.1) concerning points raised in previous meetings. She expressed her interest in further comments from other delegations.

81. The representative of Japan referred to the Japanese paper (G/TBT/W/113) entitled "Issues concerning International Standards and International Standardization Bodies". An essential point to note was that transparency was a very important element of international standardization bodies or international standards, and that there should be room for more thought on how the Committee could proceed with its deliberations on this issue. It was stated in the paper that the definition of "International Standards" was not in the TBT Agreement. He found, although "International Body" was defined in Annex 1, this definition to be rather simplistic. He encouraged that the concept of "International Standards" be elaborated further in the TBT context, if it was to be used effectively. Therefore, in paragraph two of the paper it was proposed that a "guideline for international standards and their development process" be drafted and the necessary requirements for international standards clarified. The establishment of such a "guideline" would encourage the various international bodies to clarify and strengthen their rules and procedures on standards development and hence to develop international standards that would be recognized and utilized within the context of the TBT Agreement.

82. He expected international standards to reduce barriers to trade through the alignment of national standards and regulations with international standards. He pointed out that international standards should not only fulfill the requirement of transparency, but also the requirements of openness and impartiality. At the same time, international standards should meet the needs of the global market, since concerns had been raised about obsolete standards. He further noted that some standards just reflected the interests of some specific region, although the product based on the defined specification was used in the world market. He recognized, in this context, the US proposal, which was based on the focus of transparency, as being very effective, but added that there could be other elements to be elaborated on.

83. He welcomed the European proposal, although he considered it to be too structured at this point and needed further discussions. Parts of both submissions would make an important contribution to the Committee's discussion. He concluded that whether this could involve a change of the TBT Agreement, or the creation of a code of good practice for relevant international bodies, or the elaboration of rules for the procedures of setting international standards, was also an issue to be elaborated further.

84. The representative of Chile found the paper by Japan to be very interesting. His delegation disagreed with what was said under paragraph one of the US paper (G/TBT/W/75), because it constituted a weakening of the Agreement, but agreed on paragraph two in the document. He considered the EC paper to be interesting, because its approach was similar to the US proposal. It went however, a bit too far or was too generalized, such that it could be interpreted in very different ways. He feared it would probably entail a change in the Agreement itself. In view of the US, EC and most recently Japanese proposals, the Committee might go on discussing this theme. He indicated that it might be possible to reach a concrete agreement which would be important as, given

the results of the Triennial Review, difficulties in this field were increasing. He mentioned the option of taking components of those proposals in order to draft a concrete proposal that would be more specific and simpler.

85. The representative of the European Communities welcomed the submission by Japan. He stated that the points made in paragraph two regarding the criteria or requirements for international standards or standardization bodies, although the EC would not go along with all the aspects, were one of several areas that deserved being looked at more closely. He agreed with the requirements of transparency, openness, and impartiality, one or two of which were also mentioned in his delegation's submission.

86. He noted that paragraph three of the paper refered to frameworks of cooperation with regional standardization bodies and he requested the Committee to come back to this at its next meeting. There were within the EU some cooperation agreements between regional and international standardization bodies, which he believed to act as an advantage since they made the EU's regional standardization more in line with the international standards.

87. With regard to the US paper, he believed that although the concept of transparency would receive universal support, there were a number of other elements which were important. He announced that a revised version of the European Communities' paper (G/TBT/W/87) would be submitted in order to clarify some of the points made. The main points had been that bodies which make standards qualifying as international should observe a certain set of principles, namely effectiveness, coherence, impartiality and transparency. He agreed with some of the comments made that the paper might go too far and gave the impression that the WTO would need to impose conditions on international standardization bodies. He clarified that it had not been the intention. He expressed interest in the Japanese delegation's suggestion to consider a kind of working group in the future to progress the issue in a speedy way.

88. The representative of Mexico welcomed the Japanese paper and would study it carefully. He mentioned that his delegation was in favour of transparency and the participation of developing countries in the drafting of international standards. He commented on the US paper (G/TBT/W/75) along the lines of what had been said by the Chilean representative. Paragraph one of the draft decision was an operative paragraph which was not so much related to transparency in international standards as it was linked to the issue of how international standards within every country should be implemented. He did not believe that the Committee should speak about this question in its discussion on international standards' transparency.

89. The representative of New Zealand also said that more time was needed to reflect upon the papers that had been presented, and thanked Japan, the European Communities and the US for their contributions. She discovered similarities between all three proposals and agreed with Chile that the time was perhaps right to look at practical ways in moving forward on this issue. She proposed that some sort of policy direction to international bodies in the form of a decision from this Committee, as suggested by the US, be made as a useful way forward.

90. She indicated that the US draft could form a basis and recalled that New Zealand had given comments at the last meeting on the specific text provided in document G/TBT/W/75. A brief amendment to paragraph one had been suggested by her delegation which, as had been mentioned by Chile, was meant to provide some clarification to what was a particularly broad statement. Her delegation would like to see some additions to the US paper if it was to form the basis for further consideration in the Committee.

91. There were a number of elements in the European Communities' and Japanese papers which she would seek to see included. Impartiality, for example, was felt to be a key concept. In this

regard, she highlighted the European Communities' paper that the key criterion for a body to be accepted as producing international standards, which would thus be privileged under the WTO, was that of international impartiality; i.e., all countries with an interest in standardization had to have access to the work, and international control over the results, without either discrimination or privilege as to the nationality of the participants (paragraph 6 (i) of G/TBT/W/87). She stressed that this was a particular key point for a smaller country such as New Zealand. She found another suggestion in the EC paper, which could be drawn upon, to have been made in paragraph 6 (ii), namely that standards bodies could not claim two different levels of status for their core activity at the same time. Again, for a small player like New Zealand this approach would help guarantee a right to effective participation in the standardizing process by reducing the potential of conflict of interest or bias.

92. The representative of the United States welcomed the submission by Japan, the European Commission's announcement to revise its paper, and the comments that had been made, particularly those most recently by New Zealand who explicitly expressed support for a policy decision by the Committee as presented by the US in G/TBT/W/75. She referred to the US' original paper (G/TBT/W/64) to shed light on some of her remaining questions. She said that when her delegation had submitted the paper, it tried to deliver a description of the issue from the US perspective and to give a recommendation. The recommendation had been to contemplate the development of a Committee decision. She recalled that at that time this recommendation had received support by the Committee. This, in turn, gave rise to the preparation of a document G/TBT/W/75 in the form of a Committee decision. She was under the impression that the Committee had backed away from what she had perceived to be a common understanding on an approach to this question. She was convinced that it would help to bring the content of the various proposals together if the Committee began with a common understanding on whether it was working on amendments to the text of the Agreement, a Committee decision, a Committee recommendation, a guideline for international bodies or any other approach. If the Committee was not going to proceed on the basis of the US-based Committee recommendation or decision, it would help to know from the European Commission and Japan their specific proposals to be able to draft a specific proposal in the Committee.

93. The representative of Thailand agreed with the discussion relating to the three papers (US, Japan, EU) only with regard to specific issues. These were the transparency of international standards and the issue of obsolete international standards. As the EU was going to revise its proposal, she requested that it be simplified.

94. The representative of Canada agreed that the area of international standards and international standards bodies was very important to the work of the Committee in terms of trade facilitation. He thanked the European Communities for taking into account Canada's comments made at the last meeting to revise the EC paper (G/TBT/W/87). He welcomed the Japanese paper, and observed a certain determination from the Committee to find some common ways of moving forward in this area. His delegation supported the general thrust of the Japanese paper towards better transparency, more openness, a more inclusive approach to international standards work and the need to engage all interested parties, i.e. all Members who have an interest in trade and a specific interest in terms of their own trade, to get involved and participate actively in the work of international standards bodies. He said it was up to countries to determine what those interests were and to make their own decisions in this area.

95. He also supported the notion of impartiality. He felt that the ultimate test of international standards was whether they had credibility in the trading system. In order to prevent them from being subject to charges under the TBT and WTO Agreements it was critically important that they had full acceptance world-wide which required a maximum involvement by both developed countries and developing countries. He deemed it to be important, as Japan had pointed out, that these standards met the needs of the market as it was the market that determined which standards were accepted as

international standards and put in place. He encouraged more work to be done in the area of ensuring that obsolete standards were revised or removed, as well as reform in the international standard system to ensure that standards were brought to the market-place as quickly as possible.

96. He noticed that the Japanese paper referred to the need of having a code of good practice or a set of guidelines, that would create some oversight requirements over international standards bodies. In this regard, he recalled that Canada had indicated in its comments on the EC paper at the last meeting that it had some problems with the Committee trying to develop any kind of legal requirement to be placed over other international bodies, recognizing the fact that these bodies themselves were independent. He felt that if there were issues with respect to transparency and the procedures for the development for international standards, these should be first addressed at the domestic level and, in particular, with respect to intergovernmental organizations. He stated that all Members participated in the various international standards bodies that created standards for governments, such that it was an incumbent upon Members to bring their respective concerns directly to domestic participants in those bodies to make sure that, in fact, these bodies were carrying out the requirements determined in the Committee with respect to transparency, inclusiveness, etc.

97. Welcoming a fruitful discussion, he emphasized that Canada shared common views in the US, Japanese and EC papers, and expressed his hope that, at the next meeting the Committee would be able to arrive at some kind of decision or recommendation in this area.

98. The representative of India welcomed and agreed with the submission by Japan regarding the definition of international standards. He considered it to be very important for the harmonization of standards. He highlighted that it would, however, be a very difficult task to define international standards, as there were about 50 international organizations globally whose background had to be considered by the Committee. He agreed with the need for transparency in international standardization work, in a way comparable to the one realized in national work, as contained in Annex 3 of the Agreement. He also identified a need for greater transparency regarding the development of national technical regulations, standards and conformity assessment procedures.

99. The Chairman summarized his impression that two sets of questions were being debated: a "content" question with various proposals having been tabled; and a "form" question relating to if and when the Committee was to decide, what form this was going to take, whether this was going to be an amendment to the text of the Agreement or a decision etc. He said he was not sure whether the Committee had arrived at that stage yet. He proposed to put this item on the agenda of the next meeting, as it seemed that delegations needed more time, also in view that the Japanese proposal had just been received.

100. The representative of Chile suggested that at the next meeting the Committee while discussing content might consider to discuss form as well. He questioned whether that would feature on the agenda explicitly.

101. The Chairman replied that the current agenda item would appear again. The proposals were on the table and could be used as a point of departure.

102. The representative of Chile invited other delegations to present their views on contents to see what sort of proposals the Committee could come up with in order to give substance to the current discussion.

103. The Committee took note of the statements made.

C. TECHNICAL ASSISTANCE UNDER ARTICLE 11

104. The Chairman referred the Committee to document G/TBT/W/93 (India's Experience on TBT Notification System and Procedures for Information Exchange).

105. The representative of the United States responded to questions raised by India with regard to this document. Regarding the question of whether the national notification system of developed countries included all organizations in the country engaged in enforcement of technical regulations and conformity assessment procedures, she noted that, for the US, the national notification authority was in a position to consult with all relevant organizations involved in the development and application of technical regulations and conformity assessment procedures. She explained that, it was not the notification authority that relied on each individual agency to identify relevant proposals for notification under the TBT Agreement. Instead the US official journal, the Federal Register, was the basis upon which proposals were identified for purposes of making notifications under the Agreement. Specific agencies might be consulted, when there were questions about whether a specific publication was appropriate for notification. The Administrative Procedures Act was the primary legislative vehicle for ensuring that proposals were published for comment in the Federal Register. She acknowledged that in the absence of such a requirement, the system implemented by the US might not be appropriate or effective.

106. In response to India's second question, she noted that, unless a complaint was voiced by another WTO Member, it would be difficult to know whether a particular standardizing body had failed to meet its publication advocations under the Code of Good Practice. She encouraged India and others to bring specific trade issues to the attention of the Committee.

107. The Committee took note of the statements made.

D. SPECIAL AND DIFFERENTIAL TREATMENT UNDER ARTICLE 12

108. The Chairman drew attention to document G/TBT/W/103.

109. The Committee took note of the statement made.

E. OTHER ELEMENTS

110. The representative of Thailand drew attention to the issue of equivalency of technical regulations and standards with reference to document (G/TBT/W/112 Rev.1). Regarding technical regulations, Article 2.7 of the Agreement stated that Members give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own. She understood that Article 2.7 had been implemented. She was not sure, however, whether implementation was extensive and met the objectives of the Agreement. She said that the adoption of international standards played an important role in the establishment of equivalency, but wished to note that Article 2.4 allowed for deviations according to needs. Those likely to feel the impact of the acceptance or non-acceptance of the equivalency of technical regulations were the business sector. The Committee might consider that information in this regard be compiled for laying out the actions to be taken to fulfill the obligation under the Agreement.

111. As for standards under Article 4, standards implementation was the charge of the business sector. If an adoption of international standards was effectuated, problems would lessen. In cases where international standards did not exist, it was common practice that foreign standards would be used as references. She highlighted that the change from “list of references” to “list of equivalent standards” deserved support. New Zealand's proposal (G/TBT/W/88) concerning an addition to the

Code of Good Practice regarding the equivalency of standards might have some merit and Members might wish to discuss domestically and draw conclusions.

112. The representative of New Zealand thanked Thailand for its contribution on equivalency. She identified similarities to New Zealand's paper (G/TBT/W/88) referred to in paragraph seven of the Thai paper. She also pointed to what she found to be a useful summary in New Zealand's submission and to the document prepared by the Secretariat (G/TBT/SPEC/11). She went along with Thailand in seeing the merit to have the issue of equivalency further discussed in the Committee. While she recalled that New Zealand had suggested a specific amendment to the Code of Good Practice, she stressed to be open to other ways of moving forward if Members were not willing to work on modifications of the Code at this point. As an example she specified that it might be possible for the Committee to look at a decision, and then consider an amendment to the Code at an appropriate point in time in the future.

113. The representative of Thailand raised a second issue which related to the Code of Good Practice for the Preparation, Adoption and Application of Standards, referring the Committee to document G/TBT/W/110. The following justification with regard to the proposal made by Thailand regarding the change in paragraph L of the Code of Good Practice, for the comment period of "at least 60 days" to read "at least 30 days", was given: The provision of paragraph L applied for document circulation within the territory of the Member, not among WTO Members; adding the term "at least" would allow Members the flexibility to choose any comment period that was suitable to their need above the minimum specified. Countries were therefore free to select 30, 45, 60, 90 days or a longer period. She pointed out that in today's world, standards preparation of each country had to respond to the need of the market and industry of that country. Even though the comment period in paragraph L might be shortened in the case of safety, health or the environment, it might not cover the fields needed by the market and industry. She invited comments from Members for further discussion.

114. She further explained that regulations had an impact on trade, warranting that more time be given for their imposition. The comment period of "60 days" had been agreed by the Committee as appropriate, but it became clear that the problem persisted with Members not being able to meet the comment deadline after receiving a WTO notification, not to mention cases of text incompleteness. In the case of regulations, it would help solve the problem if Members agreed to extend the comment deadline on request, and on a case by case basis. Based on the text regarding regulations and standards, she expressed the view that prime importance had been given to the development of national standards rather than to regulations affecting trade. She reiterated that in the process of national standards development, response to the needs of the industry and market had to be taken into account.

115. In addition, consideration had to be given in the case of an adoption of international standards as national standards. She stated that when a Member, being active in the preparation of international standards such as ISO/IEC/Codex, had followed all stages of circulating drafts within its country through to the publication stage as international standards, and finally adopted them as national standards, the question remained whether it was necessary to further subject these standards to another comment period of 60 days in that country.

116. The Committee took note of the statements made.

IV. TRADE FACILITATION RELATED TO THE TBT AGREEMENT (AS REQUESTED BY THE COUNCIL FOR TRADE IN GOODS)

117. The Chairman recalled that at its last two meetings, the Committee on Technical Barriers to Trade had held discussions on this agenda item. Concerns had been raised about how the discussions on trade facilitation in the Council for Trade in Goods (CTG) could be coordinated with and

transmitted to the work of this Committee. Delegations had been invited to inform the Committee on any discussion of TBT related issues in other fora.

118. The Committee took note of the statement made.

V. OTHER BUSINESS

119. The representative of Canada said that Canada was of the view that national enquiry points played an important role in terms of fulfilling the objectives of the TBT Agreement, specifically those pertaining to notification and information exchange. He recalled that last fall a workshop for national enquiry points had been held. Arising from that, a number of proposals came forward including from Canada to further improve the operation of these enquiry points. One of the proposals that Canada had put forward in document G/TBT/W/100 (17 November 1998) suggested that national enquiry points might wish to consider adopting, on a voluntary basis, some kind of service standards to guide their operations. He clarified that this was not a proposal that had been presented to the Committee for a decision at its last meeting. He nonetheless had detected some expressions of interest in this idea. Having promised to the Committee that his delegation would share the service standards adopted by Canada's enquiry point, he announced the submission of a copy of the Canadian enquiry point service standards for the information of other delegations and further discussion if so desired.

120. The observer of the FAO informed the Committee of its activities of relevance to the WTO/TBT Committee (Annex 1).

121. The observer of the UN/ECE conveyed some information on the annual session held in May of the UN/ECE working party on technical harmonization and standardization policies. He drew the Committee's attention to a paper which set out the key points of the outcome of the annual session. Copies would be made available to the Secretariat for distribution. He highlighted two issues from the annual session of the working party: firstly, the workshop on the implementation and use of international standards held in conjunction with the working parties' session. He said the conclusions of this workshop could be found in the Annex of the paper on the outcome of the working parties session. He encouraged representatives of WTO Members to look into these conclusions because they would have some value for the discussions on international standardization issues. Secondly, he emphasized a decision taken at this event following from the discussion at the workshop but also from a discussion at the previous conference held in Berlin on Standardization in the 21st Century: this decision identified the importance of global harmonization of technical regulations. Upon the outcome of the discussions at these two events the working party had decided to establish an ad-hoc group of specialists to examine a global framework on how technical regulations could make more effective use of internationally recognized standards. The establishment of this group had been endorsed in the high fora in UN/ECE. It would come into being and its activity should be taken as a kind of brief active work which could also be beneficial for WTO/TBT Members. The working group was expected to deliver its report at the forthcoming meeting of the working party which would be held in October next year.

122. The Committee took note of the statements made.

123. The Chairman suggested that the next meeting of the Committee be held on 30 September and 1 October 1999, and the following items would be addressed: (i) Implementation and Administration of the Agreement by Members under Article 15.2; (ii) Preparation, Adoption and Application of Technical Regulations; and (iii) International Standards, Guides and Recommendations.

ANNEX 1

The FAO Committee on World Food Security is one of FAO's governing bodies which reports to the FAO Council and Conference. At its 25th Session in Rome from 31 May to 3 June 1999, the Committee discussed the importance of food quality and safety as an integral component of food security, as confirmed in the 1996 Rome Declaration on World Food Security. The Committee stressed the complementary roles of government, industry, consumers and civil society in general in ensuring the quality and safety of the food supply.

The Committee noted the economic and health impacts of food quality and safety problems faced by many developing countries. The Committee further noted the problems faced by developing countries in meeting the requirements of the WTO TBT and SPS Agreements, while recognizing that these agreements aimed at improving food safety in international food trade.

The Committee stressed the importance for developing member countries to participate more actively in the work of the Codex Alimentarius Commission. It noted that while the level of this participation has increased in recent years, more effort was needed to improve this participation, particularly through the establishment and operation of National Codex Committees with possible financial and technical support of donor countries.

The Committee supported the work of FAO in providing technical assistance to developing member countries to strengthen and upgrade their national food control systems and programmes and it noted that the WTO SPS and TBT Agreements called for developed countries to provide relevant assistance to developing countries.

The 23rd Session of the Codex Alimentarius Commission will meet in Rome from 28 June to 3 July 1999. It is expected that up to 100 Codex Member governments and over 40 international governmental and non-governmental organizations will attend. Codex is now up to 165 governments. A few days ago, the government of Namibia joined the Commission. The Commission will be discussing, among other issues, the facilitation of the participation of developing countries in the Codex process, including the possible revision of the Codex Code of Ethics for International Trade in Foods relating to the special treatment of developing countries in the application of food standards.

The Commission will also be discussing amendments to the Codex Alimentarius Procedural Manual recommended by the 14th Session of the Codex Committee on General Principles (Paris, France, 19-23 April 1999), including core functions of Codex Contact Points and draft Principles Concerning the Participation of INGOs in the Work of the Codex Alimentarius Commission. It is also noted that the CCGP agreed that all Codex texts, including standards and their annexes, were covered by the TBT definition of "standard", and that distinctions based on acceptance under the Codex Procedures were not relevant in the framework of the WTO. Draft guidelines for the development of equivalence agreements regarding food import and export inspection and certification systems do exist. The Commission will decide on final adoption at the end of June. The Committee, that developed them, is hosted by Australia and at their recent meeting they also discussed the elaboration of guidelines for the judgement of equivalence. This judgement paper would relate to sanitary measures, but a discussion also took place at that Committee as to whether non-safety or technical matters were to be included into such a document.

FAO, in cooperation with WHO and WTO, will hold a Conference on International Food Trade Beyond 2000: Science-Based Decision, Harmonization, Equivalence and Mutual Recognition in Melbourne, Australia from 11-15 October 1999. The Conference will address food quality and safety and how they affect trade, health and development at both domestic and international levels. The Conference will be intergovernmental and should point the way for improved international and

domestic trade of good quality and safe foods from the year 2000 onwards. The 1999 Conference will take into account the progress made in implementing the 1991 FAO/WHO/GATT Conference on Food Standards, Chemicals in Food and Food Trade recommendations and the Uruguay Round Agreements, current food quality and safety needs and the next round of the WTO multilateral trade negotiations.

The Governments of the Commonwealth of Australia and the State of Victoria Australia have kindly agreed to host the event. It is expected that up to 500 participants from over 100 FAO Member Governments will attend.