

**Committee on Technical Barriers to Trade**

**MINUTES OF THE MEETING HELD ON 30 MARCH 2001**

Chairman: Mr. John ADANK (New Zealand)

1. The Committee on Technical Barriers to Trade held its twenty-fourth meeting on 30 March 2001.
2. The following agenda, contained in WTO/AIR/1516, was adopted:
  - I. **REQUESTS FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV), THE BUREAU INTERNATIONAL DES POIDS ET MESURES (BIPM) AND THE GULF ORGANIZATION FOR INDUSTRIAL CONSULTING (GOIC)..... 2**
  - II. **SIXTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT UNDER ARTICLE 15.3..... 2**
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**I. REQUESTS FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV), THE BUREAU INTERNATIONAL DES POIDS ET MESURES (BIPM) AND THE GULF ORGANIZATION FOR INDUSTRIAL CONSULTING (GOIC)**

3. The Chairman after holding informal consultations with a number of delegations, concluded that there was still no full agreement among Members on these requests, largely due to the unresolved discussions in the General Council on observer status in WTO bodies.

4. The representative of the United States (US) informed the Committee that a major review of the OIV had been undertaken by an independent auditor. The report of the review had been completed with recommendations. She regretted that OIV was unwilling to revise its operational procedures accordingly. As a result, in December 2000, the US had indicated that it would withdraw from OIV with effect from 30 June 2001.

5. The Committee took note of the statements made, and agreed to return to these requests at its next meeting.

**II. SIXTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT UNDER ARTICLE 15.3**

6. The Committee concluded its Sixth Annual Review of the Agreement on the basis of the background document G/TBT/10.

**III. SIXTH ANNUAL REVIEW OF THE CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS IN ANNEX 3 OF THE AGREEMENT**

7. The Chairman drew attention to documents G/TBT/CS/1/Add.5, G/TBT/CS/2/Rev.7 and the Sixth Edition of the WTO TBT Standards Code Directory. In 2000, 9 standardizing bodies from 8 Members had accepted the Code. He drew attention to notifications (G/TBT/CS/N/127-129) received from the ISO/IEC Information Centre at the beginning of this year, concerning the acceptance of the Code by standardizing bodies of Albania, Croatia and Estonia (in 1997, 1998 and 1997 respectively before these countries became Members of the WTO). Taking this into account, at the end of 2000, a total of 127 standardizing bodies from 88 Members had accepted the Code.

8. The Committee took note of the statement made.

**IV. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT**

9. The representative of Egypt drew attention to notification G/TBT/N/BEL/2 (16 January 2001) on a Belgium draft Law aiming at promoting socially responsible production. This Law was to create a label which companies could affix to their products if those later met the criteria and standard recognized in particular by the ILO. It covered a wide range of goods and services including substances, preparations, biocides and packaging. She raised concerns that the Law which linked social concepts with trade, if adopted, would create an unprecedented obstacle to international trade. The linkage between trade and core labour standards was a concept that developing countries had been resisting. She urged Belgium to reconsider the draft and take into account the consequences of such a Law upon international trade, in particular the negative trade effects on developing countries exports not carrying such a label. She requested clarification from the European Communities (EC).

10. The representative of Honk Kong, China raised concerns about the implications of the proposed Belgium labelling scheme, in particular that its criteria was primary based on non-product related production and processes methods (PPMs). He noted that WTO consistency of such measures had been a subject of intensive debate in the WTO and no consensus had yet been reached. He also raised concern about the discriminatory effect of such measures. He sought further information on the following: whether it is mandatory or voluntary and if it is an EC-wide initiative; the labelling criteria, how it was formulated and how it is to be applied to services; the precise language of the label; whether importers have been consulted and that assessments have been made on the competitiveness of products and services bearing or not bearing the label.

11. The representative of Brazil shared the concerns raised, and sought explanation on the statement provided on the notification that "In addition, the label provides an incentive for developing countries to develop socially responsible enterprises".

12. The representative of India associated his delegation with the concerns expressed, and urged Belgium to reconsider the draft. He believed that the issue of core labour standards was not within the scope of the work of the WTO. He reserved India's right to come back with detailed comments.

13. The representative of Canada recalled that his authorities after receiving this notification related to non-product related PPMs, had gone through the procedures to seek further information on the draft Law. The first request had been made on 31 January 2001. However, it had taken 40 days before a copy of the draft was received. He raised concern about the delay, since efficient information exchange on notifications was important.

14. The representative of Argentina raised concerns on the proposed legislation. He sought clarification from Belgium on whether it was a voluntary labelling scheme, and if so, why it had been notified under Article 2.9, a provision for notification of mandatory technical regulations.

15. The representative of Malaysia, speaking on behalf of the ASEAN countries, supported the views expressed by the previous speakers, and raised concerns about Belgium using non-trade-related criteria in its technical regulations. She believed such a measure was tantamount to restrictions on trade and was not undertaken within the scope of WTO rules. It was a unilateral measure ignoring the Decision of Ministers in Singapore which rejected the use of labour standards for protectionist purposes, and that the ILO (and not the WTO) was the competent body to set and deal with labour standards. This measure was unjustified under WTO rules and should not be applied. Even if it was voluntary, it was disturbing for Belgium to consider enacting such measure, reasserting itself as arbiter for acceptable human practices. It went against the convention of using prescribed multilateral rules set up on the basis of balance and mutual benefits for all parties. She was not convinced that the proposed regulation could provide an incentive for developing countries to develop socially responsible enterprises. She wondered if Belgium conferred on itself the right to do so and why the measure was targeting developing countries. She believed that Belgium should instead introduce constructive and positive measures that would raise living standards, ensure full employment, expand trade in goods and services in a manner consistent with needs and concerns of countries at different development levels. In ASEAN's view, this proposed regulation was discriminatory, would create unnecessary obstacles to trade, as well as brought in the labour issues beyond the competence of the WTO. She urged Belgium to withdraw the proposed regulation.

16. The representative of Pakistan associated his delegation with the statements made by Egypt, India and Malaysia that this issue was not within the competence of the WTO. It was clearly articulated at the Singapore Ministerial. He urged Belgium to withdraw the proposal.

17. The representative of the European Communities reiterated that labelling was an issue which needed discussions in the Committee. Referring to the Belgium draft Law, he confirmed that it had been an initiative from the Belgium Parliament, and was in an early stage of the adoption process.

The notification had been made to inform other Members for their reflections. The Parliament would put the proposal forward to the Belgium government after receiving the comments made to the draft, including those from the EU Member States. He explained that, when circulating the notification, Belgium had not decided the precise date of adoption and had not put down the final date for comments. Currently, the draft was available on the web-site, and the comment period had been prolonged until 31 May 2001. He regretted that the draft did not reach Canada expeditiously, most likely due to a wrong fax number.

18. He clarified that the draft was intended to introduce a voluntary scheme and that it was not an EC wide initiative. The legislative part was introduced to ensure that the scheme would not be abused and would follow through fairly. Since it was at an early stage of the adoption process, there would be changes to the draft, and Members would be informed of any changes.

19. The representative of the United States drew attention to new regulations promulgated on 24 November 2000 by the Indian Ministry of Commerce, Directorate General of Foreign Trade. It concerned two regulatory changes: (i) mandatory labelling requirements for all pre-packaged imports destined for retail sale; and (ii) certification for 131 products identified with the Bureau of Indian Standards (BIS). The regulations had entered into force on 2 January 2001 (text available at <http://DGFTCOM.NIC.IN/EXIM/2000/NOT/NOT00/NOT4400.htm>). Since the proposals had not been notified, her delegations had requested India to do so, so that opportunities would be provided for interested parties to make comments. Subsequently, her delegation had been informed that no such notification was necessary since the requirements were non-discriminatory and would not pose technical barriers to trade. She found that troublesome, because notification obligations under the Agreement required Members to notify all proposed technical regulations (including amendments) which might have a significant impact on trade, unless the regulation was in accordance with relevant international standards. These obligations had been designed to allow trading partners opportunities to comment and adjust to new requirements. The comment period would also provide opportunities to address any problems, including possible conflicts with WTO rules before a measure came into force. She concluded that her delegation's right under the Agreement had been denied.

20. Her authorities had also raised concerns about the proposals on the following elements: (i) the lack of a reasonable period of time for suppliers to adopt to the new requirements; (ii) the rationale for requiring labels on non-perishable products to indicate the month and year of packaging as well as the maximum retail price; (iii) the justification of the additional costs imposed on manufacturers and consumers by the regulations; (iv) the reason why certain products were exempted from the labelling requirement; (v) the role of the BIS and the reason why manufacturers and exporters must register with BIS; and (vi) the coverage of the labelling requirements (noting that on 22 January 2001, clarification had been made that the labelling requirements applied only to the import of pre-packaged commodities intended for retail sale).

21. She drew attention to the fact that on 29 September 2000, a notice of proposed revisions to India's 1955 Prevention of Food Adulteration Rules had been published by the Ministry of Health in the Official Gazette. Again the proposed revisions had not been notified, and her delegation had raised this procedural concern bilaterally to India. The proposal if enacted, would severely impede exports of U.S. distilled spirits to the Indian market. The following requests had been put forward to India: (i) to remove any limitation on fusel oils or otherwise to provide an explanation of the scientific or technical basis for proposing maximum concentration levels for a variety of naturally-occurring substances in the distillation process (including fusel oils); (ii) to revise the alcohol content requirements from 42.8 per cent to allow the sale of spirits bottled at 40 per cent by volume; (iii) to recognize the geographical indications for "bourbon whiskey" and "Tennessee whiskey" and prohibit the sale of such products unless they had been produced in the US under US laws and regulations; and (iv) to justify the requirements that products be free from certain chemicals and metals which reasonably would not be found in distilled spirits. She believed that other Members might share similar concerns, and regretted that no response had been received from India.

22. The representative of Canada associated with the comments made by the US, and found it a systemic issue concerning Members' notification obligations.

23. The representative of India said that the US concerns would be communicated back to his authorities for consideration.

24. The representative of Malaysia, speaking on behalf of ASEAN countries, drew attention to notification G/TBT/Notif.98.448 concerning a proposed Netherlands Bill on Wood Labelling. She expressed concern that pursuant to the notification made in September 1998, the Dutch Bill had been re-tabled in September 2000, approved by the Lower House and was at present pending before the Senate. She recalled that ASEAN had previously expressed concerns over this proposed Bill as creating obstacles to international trade and being inconsistent with Article 2.2 of the Agreement. She had doubt about the effectiveness of the system of green and red labels. The Bill would create a negative effect on the competitiveness of wood vis-à-vis other non-durable products. The implementation of this system would discourage the use of wood (a natural, environmentally-friendly and sustainable raw material) and encourage the use of non-sustainable material.

25. She believed that the Bill imposed unilateral interpretation of sustainable forest management and constituted an extra-territorial imposition of production and process methods for a self-serving domestic agenda. Such action was detrimental to the international trading system and would discriminate against products from countries like ASEAN. Forest management plans were bound to differ from country to country and the proposed measures would only incur unnecessary certification and labelling costs. The Bill also contravened international agreements such as the WTO and the ITTA. The Dutch Government being a member of ITTA should promote "the expansion and diversification of international trade from sustainable sources by improving the structural conditions in international markets and the improvement of market access", as stipulated in Article 1(e) of the ITTA (1994). ASEAN countries had been practising sustainable forest management designed to address specific concerns of which the Bill had not taken into account. She urged the Dutch authorities to reconsider the proposed Bill and instead support multilateral efforts towards a market-driven acceptable solution. She concluded that the present Bill would only stand in the way of achieving sustainable forest management based on multilateral criteria, and would only serve the objectives of discrimination, trade restrictiveness and inconsistency with WTO rules.

26. The representative of Brazil associated her delegation with the statement made by Malaysia.

27. The representative of Canada recalled his delegation's views on the Bill expressed at previous meetings, and shared ASEAN's concerns.

28. The representative of the European Communities confirmed that the Dutch draft Bill on mandatory labelling of wood and wood products was due for debate in the Senate. The Bill had already passed the Lower House some years ago, but had not yet been debated on the Floor of the Senate pending the notification of the Bill to the EC and the WTO to solicit views on its compatibility with the respective EC and WTO rules. It was expected to be debated within the next few weeks and followed by a vote. He stressed that the current Bill was an initiative of a member of the Parliament and was not a bill from the government. Pursuing to Constitutional law, the role of the Dutch government would come at the end of the legislative process after the voting procedures in the Senate. It was at that stage that the government would have to decide to sign the Bill or not. He concluded that although this draft had been under discussion for a while, it was not at the end of the adoption process yet. He would transmit the remarks made by Members to the Dutch authorities for their consideration.

29. The representative of the United States recalled that at the last meeting, Canada had made a statement concerning the draft guideline on labelling of food derived from biotechnology prepared within the framework of Codex Alimentarius Committee on Food Labelling (CCFL). She had

coordinated within her government to reflect on the potential trade consequences if the guideline was to be adopted. She reiterated the importance of transparency when developing such mandatory labelling requirements. She recalled that trade concerns of the US and the others had been identified (G/TBT/W/94), and wondered if mandatory labelling requirements for bio-engineered food products was the best approach to inform consumers, particularly when there was no health or safety risk. In the US, mandatory labelling was introduced only when there had been a change in the composition of the food resulting in an unusual nutritional or protein characteristic, such that there were reasons to believe that it could cause an allergic reaction or other health problems. She believed that it was immaterial whether a food product was being produced by purely natural means or with the assistance of biotechnology as long as the food was free of harmful impurities. In the US, once the biotech variety had been evaluated by relevant agencies and approved for commercial use, that product was considered to be safe for consumption and for release to the environment as its conventional counterpart.

30. She shared the Canadian concern about the work being done in the CCFL, that it could lend creating to the adoption by governments of mandatory labelling requirements on bio-engineered food. In her view, governments should not take such action without, among other things, due consideration to alternative approaches, e.g. public awareness campaigns or voluntary labelling. They should also take into account the following elements: (i) the feasibility of implementing such requirements, how to verify through end-product testing as well as what would be the costs and the infrastructure needed in order to adequately implement such requirements; and (ii) what would be the implications when government taking actions in an area not related to health and safety, and what would be the likelihood of consumers being misled. She wondered if the above concerns had been taken into account by the CCFL when developing the guideline. The adoption of such a guideline based on production methods without any due consideration to the above could result in an unnecessary burden on agricultural and food production systems, as well as trade. She urged other Members to discuss this situation with their counterparts, in particular those who would participate in the Codex meeting to be held at the end of April.

31. She drew attention to a Draft Guidance for Industry prepared by the US Food and Drug Administration on voluntary labelling to indicate whether foods had or had not been developed using bio-engineering. It was intended to help manufacturers to ensure the truthfulness of their labels and not to mislead consumers. The Draft had been published in the Federal Register in January 2000 and could be obtain at the FDA web-site ([http:// www.cfsan.fda.gov/dms](http://www.cfsan.fda.gov/dms)).

32. The representative of Canada reiterated Canada's opposition to mandatory labelling based on method of production, such as modern bio technology. He believed that such labelling requirements treating similar products differently based on their production and processes methods (PPMs) could be considered as creating technical barriers to trade. These requirements could be applied in other sectors and could have implications in areas e.g. agri-food with animal welfare; forestry, mining and fisheries with eco-labelling schemes; and manufacturing sector with labelling schemes based on labour standards. He recalled that Canada had taken an approach to develop a voluntary scheme for the labelling of products derived from modern biotechnology as a practical means of providing information to consumers while upholding its WTO obligations (G/TBT/W/134).

33. With respect to the ongoing work of the CCFL, he believed that the draft guideline on labelling the foods derived from biotechnology for non-health and safety reasons, could be problematic from a TBT prospective. He noted that the next CCFL meeting would be held in Ottawa on 30 April-4 May. He encouraged other Members to consider the TBT implications of such a guideline and to discuss this with their Codex counterparts prior to the next CCFL meeting. Canada would support a language within the guideline to ensure that non-product related PPMs labelling were applied internationally consistent and on a voluntary basis.

34. The representative of Codex Alimentarius informed the Committee that at the 28<sup>th</sup> Session of the CCFL held in May 2000, it had been agreed that further comments would be sought on the definitions concerning the labelling of foods obtained through biotechnology, and that the section on mandatory labelling would be subject to redrafting. He confirmed that the next Session of CCFL would be held in Ottawa, and encouraged delegations to comment on these initiatives through the established Codex procedures. Its outcome would be subject to further discussion at the 24<sup>th</sup> Session of Codex Alimentarius Commission to be held in Geneva on 2-7 July 2001.

35. The representative of Malaysia, speaking on behalf of the ASEAN countries, drew attention to notification G/TBT/JPN/8 (5 February 2001) concerning the Japanese Enactment of the Cabinet Order and the Ministerial Ordinance of Law for Promotion of Effective Use of Resources. Japan had stated that this Enactment was to promote the "3Rs" (Reduce, Reuse and Recycle). The designated products included automobiles, televisions, air-conditioners, refrigerators, washing machines, microwave ovens, clothes dryers, personal computers, gas and oil appliances, Pachinko machines and metal furniture. She believed that this far-reaching environmental measure would have serious implications on foreign producers. She regretted that, instead of 60 days as recommended by the Committee, Japan had provided only 33 days for comments. The proposed date for adoption was 12-19 March 2001 while that for entry into force was 1 April 2001. This had allowed little room for other Members to request for an extension of the comment period and to have the comments taken into account. She noted that the proposed law required producers (of the listed equipments) to make their products resource-saving or durable focusing on the materials and structure of the products, to provide repair services as well as to contribute to reducing waste. It also required the take back and recycling of personal computers and set up high target rates for parts reusing and material recycling in year 2003.

36. ASEAN's small and medium scale producers were concerned about this draft Enactment and sought answers on the following questions: (i) regarding the obligation of using recyclable materials, how would this regulation be carried out? (ii) on the targets set out for each product (eg. 50 per cent parts reusing and material recycling for desk-top PCs, 55 per cent for displays and 20 per cent for note-book PCs), were these targets reasonable and economical, and had industry been consulted on its feasibility? (iii) would targets be made known for each of the other products on the list? (iv) would substitute materials be easily available? The time-frame (until 2003) to meet these targets was too short and would cause problems for small scale producers. It should be at least five years instead of two years as currently envisaged. She urged Japan to take into account the above concerns for the implementation of the Enactment so that it would not be more trade restrictive than necessary.

37. The representative of Japan responded that there were two parts in the regulation. First, the obligation to use recyclable materials for the designing or structuring of products, and that obligation would be applicable only to domestic companies. Secondly, the obligation to recycle the product, and it would be applicable to both domestic and foreign producers. He would communicate the ASEAN's concerns back to his capital for further clarifications.

38. The representative of Malaysia, speaking on behalf of ASEAN countries, reiterated ASEAN's concerns over the two proposed EU Directives on waste from electrical and electronic equipment (WEEE) and on the use of hazardous substances from electrical and electronic products (HEEE). She sought clarification on the status of these two proposals as well as the outcome of the relevant discussion at the Council of Ministers in December 2000. She wondered if any decision had been taken and whether the comments made by WTO Members had been taken into account, such as the request of ASEAN for a longer phasing-in period, technical assistance, less trade restrictive methods of achieving the objectives. She also sought information on when these draft Directives would be tabled before the European Parliament as well as the dates of their adoption and implementation. If the Directives were still pending before the Ministers and Parliament, she urged the EU to exercise due consideration to the concerns of SMEs and not to implement these measures until all factors had been taken into account.

39. The representative of the United States recalled that her delegation and a number of other Members had repeatedly expressed concerns over the EU WEEE and HEEE Directives. These related to the transparency of their development as well as their potential adverse trade effects on a wide range of products. She claimed that over US\$ 50 billion of US exports to the EU would be affected by these proposals. She regretted that a genuine dialogue responsive to the concerns expressed was lacking, and questioned how the EC was meeting its transparency obligations under the Agreement. She noted that the proposals were notified only after the Commission had finalized and forwarded them to the Parliament and Council for consideration. Under the Agreement, notifications should take place at an early appropriate stage when amendments could still be introduced and comments taken into account. She doubted if Members had been provided meaningful opportunities to make comments and to have their concerns taken into account. She continued to seek understanding of the rationale of the proposals and their relationship to the EC's environmental and health objectives so that the US could better assess the consistency of the measures with EC's international obligations. Concerning the HEEE Directive, she sought further information on the procedures and transparency of its mid-term review (anticipated in 2004) as well as the products to be used for determining ban exemptions. She urged the EC to work with all stake holders to ensure the development of environmentally beneficial and economically efficient approaches.

40. The representative of Japan recalled that the issue had been discussed for a while in the Committee. In addition to the WEEE and HEEE Directives, Japan had also concerns on the EU Directives related to heavy metals in batteries and electromagnetic compatibility. He requested EC to provide information on the latest development of these initiatives.

41. The representative of Canada recalled that his delegations had also expressed concerns about these EC initiatives in the past. He also sought further information from the EC on the current status on these initiatives. With respect to the Directive on WEEE, he reiterated that Canada supported the underlying objectives, but had concerns about its implementation, especially its impact on SMEs. Concerning the restriction on use of certain hazardous substances, his delegation had requested the scientific studies for the justification of that Directive, and would welcome these studies. Regarding the Directive on batteries, Canada remained concerned about EC's intention to ban the use of cadmium in batteries and accumulators in the absence of formal risk assessments. He recalled that OECD had endorsed the approach of recycling as the preferred method.

42. The representative of United States associated her delegation with the comments made by Canada. She noted that the EC would circulate the proposal for ban on batteries soon. She enquired how the EC could ensure that other Members would have a meaningful opportunity to comment.

43. The representative of Egypt associated herself with the previous speakers, and recalled that she had elaborated detailed comments on these EC initiatives at previous meetings.

44. The representative of the European Communities informed the Committee that there was still a long process for the development of the WEEE Directive, and no decision was expected before the middle of 2002. It had been notified as soon as a text of a Commission proposal for the consideration of the Council was available. Concerning the Directive on batteries, he said that at present, it was not possible to notify nor reply to the questions raised since no Commission proposal had been adopted. He clarified that when the Commission adopted a draft legislation for the transmission to the Council, it was the very first step of the procedures. Discussions in the Council and Parliament would last for about two years to allow comments to be taken into account.

45. The representative of Egypt recalled that her delegation had raised concerns regarding the Japanese mandatory country of origin labelling scheme on perishable goods and beverages, in particular its consequences on developing countries and the cost for its compliance by SMEs. She requested Japan for explanation.



46. The representative of Japan promised to come back with a reply as soon as possible.
47. The representative of Canada recalled that on 12 March 2001, the Appellate Body had issued the report on the French ban on Asbestos. Canada welcomed the Appellate Body's decision that general prohibitions like the French Decree on banning the marketing of asbestos-containing products fell under the scope of the TBT Agreement. The decision would submit similar measures to the rules and disciplines of the Agreement. However, Canada regretted that while the Appellate Body ruled that the TBT Agreement applied, it had chosen not to complete the legal analysis under the specific provisions of the Agreement. After such an important Appellate Body decision on a TBT issue, indications were still lacking on how the Agreement should be interpreted.
48. The representative of the United States drew attention to document G/TBT/W/152 which provided background information on the agreements between the EC and certain other countries on conformity assessment and acceptance of industrial products (PECAS). She noted that the EC had signed such agreements with Hungary and the Czech Republic which would enter into force this coming summer. She encouraged the EC or the Czech Republic and Hungary to notify the information to the Committee. She reiterated her concerns on the rules of origin requirements in these agreements and the potential discriminatory treatment for non-EU products, even if they met all EU requirements.
49. The representative of Canada shared the concerns expressed by the US. It was his understanding that any Canadian products carrying CE marks issued from approved laboratories (whether in Canada or the EU) would be accepted in those countries under the PECAS without having to go through further conformity assessment procedures.
50. The representative of Hungary took note of the comments made by the US and Canada. He clarified that the Protocol - agreement between Hungary and the EC on conformity assessment and acceptance of industrial products had been signed only a month ago and was expected to enter into force on 1 June 2001. In addition to what had been described in G/TBT/W/152 (i.e. machinery, electrical safety, EMC, hot water boiler and gas appliances), it covered also medical devices, good laboratory practice for medicinal products for human use, as well as inspection and certification in that field. In coordination with the EC, Hungary planned to notify the Protocol and was ready to discuss this matter with interested parties.
51. The representative of the Czech Republic confirmed the information provided by Hungary, and said that his authorities had held informal discussions with the US on the Protocol. He added that there were different legal procedures between the Czech Republic and Hungary. In his country, the Protocol was at present at the Parliament for adoption, and could come into force in summer. It would then be notified to the Committee under Article 10.7.
52. The Chairman drew attention to documents G/TBT/GEN/N/1-2 prepared by the Secretariat listing the notifications issued during the months January and February 2001.
53. The Committee took note of the statements made.

## **V. PREPARATION OF THE SPECIAL MEETING ON PROCEDURES FOR INFORMATION EXCHANGE**

54. The Chairman recalled the Committee Decision which stated that "In order to give Members the opportunity to discuss the activities and problems relating to information exchange and to review periodically how well notification procedures work, regular meetings of persons responsible for information exchange, including persons responsible for enquiry points and notifications, will be held on a biennial basis... The meetings will deal only with technical issues, leaving any policy matters for consideration by the Committee itself" (G/TBT/1/Rev.7). At the Second Triennial Review, the

Committee had agreed to explore ways to shorten the time for the submission, publication and circulation of notifications, as well as to examine steps that would facilitate the electronic transmission of information among Members (G/TBT/9). He informed the Committee that a Special Meeting on Procedures for Information Exchange would be held on 28 June 2001 (back to back with the Committee meeting). He drew attention to the draft programme prepared by the Secretariat.

55. The representative of Egypt suggested that Session Two of the special meeting should be devoted "to explore ways to shorten the time for the submission, publication and circulation of notifications".

56. The representative of Switzerland welcomed the initiative and the draft programme. His delegation had a special interest in the session on transparency obligations which would provide opportunities for Members to share practical experiences. Under the Agreement, Members should "without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account". The Swiss experience was that written comments submitted were handled differently by Members, and often, there was a lack of substantial discussions on the comments and answers to the questions. He believed that each Member had the right to receive written responses to the comments made, if so requested. He drew attention to a handbook on the implementation of the transparency provisions of the SPS Agreement, and believed that a similar supporting document could be prepared to clarify the transparency provisions of the TBT Agreement, in particular those relating to the handling of comments.

57. The representative of Mexico proposed that there should be a session at the special meeting to share experience on the dissemination of notifications at the national level to private sectors (in particular industry) to enable them to acquire such information and to be involved.

58. The representative of the United States preferred the policy issues raised by Switzerland to be discussed at the Committee meetings rather than at the special meeting. She informed the Committee that in the case of the US, in order to ensure impartiality for the consideration of the comments received, regulatory agencies did not provide an indication of the final disposition of comments during the comment period. The dispositions were provided only when the notices of the final regulations were published in the Federal Register. She was not aware of the handbook of the SPS Agreement, and preferred further discussion on the Swiss proposal at the next meeting. She supported the proposal made by Mexico since it was a challenge for her authorities to find ways to disseminate notification information domestically.

59. The Chairman concluded that the Secretariat would prepare a supporting document for the special meeting, consolidating the relevant transparency provisions of the Agreement and decisions of the Committee. The Committee could come back with further discussions on the Swiss proposal in light of the outcome of the special meeting. The programme of the special meeting would be revised taking into account of the comments made.

60. The representative of the European Communities suggested that it would be useful if WTO experts were present at the meeting to advise the Committee on what was feasible or realistic with regard to any possible proposals related to electronic facilities and transmission.

61. The representative of Egypt made a request for possible fundings to finance participants at the special meeting.

62. The Chairman requested the Secretariat to explore on that, and invited any donor Members to contact the Secretariat.

63. The Committee took note of the statements made.

## **VI. FOLLOW-UP OF THE SECOND TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE TBT AGREEMENT UNDER ARTICLE 15.4**

64. The Chairman recalled that the Committee had concluded the Second Triennial Review of the Operation and Implementation of the Agreement under Article 15.4 on 10 November 2000 (G/TBT/9). Seven areas (implementation, notifications and information exchange, international standards, conformity assessment, technical regulations, technical assistance, and other elements) had been considered. The Committee had adopted a number of decisions which included future actions to be taken by the Committee, Members and the Secretariat in the form of information exchange, further study, discussions, as well as communication with other international organizations. He believed that the information exchange exercise could contribute to assisting the implementation of the Agreement as well as to continue progress in the discussions on various elements that had been taken up during the Second Triennial Review.

65. The representative of Japan provided the Committee with information on Japanese experience in technical regulations and conformity assessment systems. He said that in 1999, based on the "Second Deregulation Promotion Three-year Plan", the Ministry of Economy, Trade, and Industry (METI, formerly MITI) of the Japanese government had amended 11 Bills to reform the technical regulations and conformity assessment systems. These Bills, which would come into force on 1 April 2001, included those related to consumer safety, electrical appliance and material safety law. With regard to technical regulations, the plan included reviews of the scope of government regulations, harmonization with international standards and guides, as well as the adoption of performance-based standards. On conformity assessment, the plan included the implementation of self-declaration, third-party certification systems, harmonization with international systems and guides, as well as the promotion of mutual recognition agreements (MRAs).

66. The reviews were put forward due to changes of circumstances (e.g. progress in harmonization with international standards and guides, recent technological advancement, improvement of the quality management systems of manufacturers, as well as the recent decrease of accidents with consumer products and industrial facilities). The traditional Japanese systems included mandatory certification by government, testing conducted by public-service corporations and descriptive standards. The reform had led to the amendment of Japanese laws under the following principles: to review pre-market regulations, to introduce self-declaration systems, to utilise private sector entities as conformity assessment bodies, to adopt performance-based standards, to adopt internationally harmonized regulatory systems, to promote mutual recognition as well as to expand post-market measures.

67. The representative of the European Communities indicated his delegation's intention to submit a paper on conformity assessment procedures, providing information on the EU experience on suppliers' declarations, and another paper on EU experiences on technical regulations. He drew attention to document G/TBT/W/150, a submission from the EC on labelling, which had been briefly discussed at the Second Triennial Review. He noted that labelling problems were on the rise and since it was a delicate issue, it deserved further discussions in the Committee. He invited other Members to reflect on the paper. He reiterated that labelling requirements fell within the scope of the Agreement, either as mandatory technical regulations or voluntary standards, and for that, the respective provisions of the Agreement applied.

68. He recognized that differences existed among countries and sectors, and different approaches for labelling could be chosen depending on the situation. These differences could contribute to a risk that labelling requirements were perceived or actually acted as barriers to trade. It could become more so, as regulators were increasingly faced with growing demands from consumers to ensure proper information through labelling. His delegation believed that the Committee should clarify the link between labelling requirements and the Agreement. This would improve the application of the provisions relevant to labelling and ensure that labelling requirements were not abused as protectionist

measures. It could help to minimize the differences between national and regional labelling requirements which at times were not justified.

69. He proposed the following approaches in the Committee: (i) to promote the flow of information on labelling among Members so that a better understanding of the various approaches in different countries and the difficulties faced by developing countries could be obtained. It was a wish of the EC to better identify the barriers to trade in certain "grey" areas which were illegal under the Agreement, so that they could be removed when a clear common understanding on labelling arrived; (ii) to examine relevant work in international fora, e.g. Codex Alimentarius and ISO; and (iii) to clarify how best to apply the TBT provisions for labelling requirements. The Committee could adopt common views on labelling through multilateral guidelines or some other means. These guidelines should address the needs of SMEs and relevant technical assistance should be considered.

70. He clarified that the current EC proposals (G/TBT/W/150) did not address the matter of the labelling requirements related to non-product related production and processes methods (PPMs). However, if other Members wished to raise this issue, his delegation was ready to join in the discussion. The EC would actively contribute to this information exchange exercise.

71. The representative of Canada welcomed the EC paper, and indicated his delegation's willingness to hold discussions on labelling, since the subject matter fell within the scope of the Agreement. Canada would prepare a paper on labelling for the consideration of the Committee.

72. The representative of Japan realized that the issue of labelling could be contentious involving divergence of opinions. While he was cautious about the possible protectionist characteristic of labelling requirements, he agreed with the EC that it was an important issue that needed further discussion in order to find out what could or could not be done in the Committee.

73. The representative of the United States was cautious about how the Committee should proceed with the discussion in labelling. She noted that the EC paper had excluded non-product related PPMs based labelling and proposed to examine the different approaches to labelling. She believed that the Committee needed to consider the issue on a broader base, since labelling was just one of the options among different regulatory tools. If the Committee were to examine the appropriateness of labelling, it should consider how this kind of measure related to alternatives to achieving regulatory objectives. She invited other delegations to consider this point to ensure constructive discussions.

74. The representative of Brazil agreed to a debate on the issue of labelling, since it was a matter of concern to all Members. However, before the Committee entering into such a debate, it should frame out clearly what the debate would be. She welcomed the fact that non-product PPMs based labelling was excluded from the EC paper. However, she was concerned about the EC statement indicating that they could be included at a later stage. She believed that at this stage, if agreed by all Members, the Committee should hold the discussion. However, it should not pre-judge the outcome on the need to elaborate guidelines on labelling. She supported the EC's view that the Committee should explore work in other fora (such as ISO), in particular with respect to voluntary labelling standards, to generate further discussion. She reiterated Brazil's position on eco-labelling that it could create opportunities for market-access, but it could also create barriers to trade. She believed that could be a subject of discussion in the Committee.

75. The representative of Switzerland supported the EC proposal and announced that his delegation was in the process of preparing a paper on labelling to contribute to further discussion.

76. The representative of Chile noted that the EC proposal would lead to a broad debate on labelling issues. He shared the concerns expressed by Brazil that at this stage, it was premature to

prejudge the outcome of the debate. He believed that the Committee should focus on exchange of information among Members and the relevant work in other international organizations.

77. The representative of Egypt recalled that at the Second Triennial Review, the Committee had stressed the importance of labelling requirements being consistent with the disciplines of the Agreement. She reiterated Egypt's resistance to widening the scope of the Agreement regarding labelling. She believed that developing multilateral guidelines on labelling was an ambitious idea which could not solve the problems of developing countries and SMEs.

78. The representative of Malaysia noted that labelling requirements were addressed under a number of provisions of the Agreement. The question was how far these provisions had been observed. She believed that if Members had been following the disciplines of the Agreement, there would be no need to further discuss the matter. She had doubt on the need to broaden the discussion beyond the existing provisions. Her delegation would further reflect on the matter and come back to it at the next meeting.

79. The representative of Canada recalled that during the Second Triennial Review sub-national notification had been an important issue for his delegation. He believed that Members should make a greater effort to explain the Agreement, the notification obligations and procedures to their local governments. In Canada, relevant seminars had been held with officials from the provincial government of Ontario, and similar dialogue would be conducted with other local governments. This should be an issue that the Committee could take up, in particular at the forthcoming June meeting on procedures for information exchange.

80. On other elements concerning the follow-up of the Second Triennial Review, he informed the Committee that the Standards Council of Canada was chairing the ISO/CASCO working group for the revision of ISO/IEC Guide 60, and invited participation of Members in this task. Canada also intended to submit a paper on good regulatory practice.

81. The representative of Australia, referring to the recommendations made at the Second Triennial Review, reiterated the importance of continued improvement in transparency of Members' implementation of the Agreement. Australia would submit a revised notification under Article 15.2.

82. The representative of the ISO informed the Committee that the Second Triennial Review and its Annex 4 had received great interest among ISO members, and it had been studied in depth in the ISO Council. The ISO President would meet with the Director-General of the WTO to report on this. Concerning the issue of labelling, ISO was ready to provide information on its activity related to eco-labelling, if so wished by the Committee.

83. The Committee took note of the statements made.

## **VII. UPDATING BY OBSERVERS (ISO, ITC AND UNIDO)**

84. The Chairman recalled that during the Second Triennial Review, the Committee had agreed to invite its observers "to provide regular updates on their activities" and "to inform the Committee on the ways in which they are seeking to ensure effective participation of Members, and particularly of developing country Members in their activities".

85. The representative of the ISO provided an overview of the ISO technical assistance activities. Firstly, the ISO/DEVPRO 2001-2003 Triennial Programme for Developing Countries directed towards 66 members and 46 correspondent members with the following activities: (i) identification of developing countries' needs (i.e. input from the seven ISO regional officers as well as discussions in DEVPRO meetings with developing countries and donor countries); (ii) provision of information by means of development manuals, ISONET and the World Standards Services Network; (iii) capacity

building and training programmes through regional seminars, fellowships, assistance in obtaining sponsorships, training of standardizers; and (iv) a project (coordinating with UNCTAD financed by the Italian government) for the building of information technology infrastructure in national standardizing bodies in developing countries of the Mediterranean Basin and Horn of Africa.

86. The ISO serviced the SGM Forum (Forum on Standards for Global Market) technical assistance projects database, in which a number of intergovernmental organizations and ISO members had indicated interests in entering and updating information on their technical assistance projects. A Task Force had been established under the ISO Technical Management Board (TMB) to prepare recommendations to facilitate involvement of developing countries in the ISO technical work (e.g. to increase representation, chairmen and secretaries as well as twinning arrangements between developed and developing country members). The draft report of the Task Force was under consultation and would be submitted to the TMB for decision in June 2001. The proposal would take into account the level of development of different developing countries based on a sustainable approach. It would address the situation of the lack of support from national stakeholders, the lack of infrastructure and expertise, as well as the lack of modern technologies and other economic problems. Sharing secretariats was not necessarily the only nor the best way to engage developing countries in ISO work, in particular for countries where national infrastructures had not yet been fully developed.

87. When asked if there had been an improvement in developing countries' participation (in terms of effective and quality participation) in the ISO work, he informed the Committee that it depended on the specific fields of standard development. In the case of quality and environmental management standards, there had been an increase in effective participation, mostly due to the existence of national interests and experts. The same situation applied to the commodity and mineral sectors, a good level of participation had been on the rise, depending on the level of development and infrastructure of each individual country. However, in the area of high-tech products, participation was very limited. Additional information can be obtained from the ISO web-site at [www.iso.ch](http://www.iso.ch).

88. The representative of the ITC informed the Committee of the ITC/Commonwealth Secretariat Project to determine technical assistance needs in the areas of technical regulations, sanitary and phytosanitary measures. The project consisted of case studies carried out in six countries and would aim at identifying the immediate and long-term technical assistance needs of developing countries to improve participation in international standardization activities and to develop effective national infrastructure for conformity assessment. The following three groups of developing countries had been identified for the case studies: (i) countries where work in standardization and conformity assessment is at a nascent stage (e.g. without established national standards bodies); (ii) countries which have limited participation in international standardization activities and would require progress in this area as well as the needed conformity assessment bodies; (iii) countries which have well-developed national institutions and interests in international standardization. However, their participation is not effective. The type of assistance to the different developing countries would vary according to their stages of development in standardization and conformity assessment activities.

89. The case studies would examine assistance needs in the following areas: (i) development and adoption of standards for products of export interests; (ii) development of technical regulations based on international standards; (iii) awareness among industry of the need to carry out research and analytical work for the effective participation in standard activities at the national and international levels; (iv) development and strengthening of national infrastructures for conformity assessment; and (v) difficulties encountered as a result of technical regulations in main export markets. The outcome of the study would be disseminated at regional workshops, and could provide the basis for future technical assistance activities jointly or separately by the two organizations.

90. He informed the Committee that ITC was preparing a handbook on the implementation of the TBT Agreement which was expected to be ready at the beginning of the year 2002.

91. The representative of the UNIDO presented the UNIDO integrated programme approach to technical assistance in accreditation, certification, standardization and metrology. The programme would involve a budget of US \$50,000,000. It had been developed as a result of requests from developing countries. To date, fundings of \$ 30,000,000 had been generated from UNIDO and other sources.

92. In 1998-2000, 50.8 per cent of the relevant UNIDO activities were targeted to African countries, 33.9 per cent to Arab countries, 6.61 per cent to Asian countries, 5.53 per cent to Eastern European countries, and 3.09 per cent to Latin American countries. He gave the example of the project in East African countries of which the objectives included the following: to promote micro and small scale enterprises; to improve competitiveness and sustainability of agro-related industries (e.g. food, textiles and leather); to promote the quality principles, investment and information; as well as to upgrade production technology and strengthen national standardizing and conformity assessment bodies. In the case of Uganda, UNIDO had assisted the setting up of proper laboratories, thus overcoming the difficulties they faced in meeting the technical requirements for the export of fish products to the EU.

93. The following UNIDO projects had been developed jointly with national, regional or international bodies: (i) the UNIDO/ISO/ILAC project on "enabling the achievement of international recognition of laboratory accreditation bodies through UNIDO's pre-peer accreditation scheme" to assist national accreditation bodies (for inspection bodies, calibration and testing laboratories) to become signatories of the ILAC multilateral arrangement (MLA for the mutual recognition of conformity assessment results). A similar project regarding the accreditation of certification bodies had been developed for the IAF/MLA; (ii) the UNIDO/EU project for the West African Economic and Monetary Union to reinforce the competitiveness of the private sector through national capacity building as well as the regional integration process (i.e. to establish a regional system for standardization, certification and accreditation); and (iii) the UNIDO/PTB (National Metrology Institute of Germany) project on Legal Metrology for African least developed countries. He emphasized the importance of cooperation with the WTO, ISO/IEC, ILAC/IAF and BIPM/OIML for the provision of technical assistance to promote awareness and capacity building in the areas of regulations, standardization, conformity assessment and metrology.

94. The Committee took note of the statements made.

## VIII. TECHNICAL ASSISTANCE

95. The Chairman recalled that, at the Second Triennial Review, the Committee had agreed to develop a demand-driven Technical Cooperation Programme. It had agreed to start with a survey to identify the specific needs of developing country Members as well as the existing TBT-related technical assistance activities before reassessing the needs, identifying the technical assistance partners and financial considerations. Members had been invited to further communicate information on technical assistance programmes they proposed, provided or received.

96. He recalled that the General Council's Decision in October 2000, besides requesting the Committee (in the context of the Second Triennial Review) to examine the problems faced by developing countries in international standards and conformity assessment, it also requested the Director General to explore with relevant organizations financial and technical mechanisms to assist the participation of developing countries in international standard-setting activities. As part of the follow-up of that Decision, on 23 January 2001, a meeting at the Deputy Director-General level had been arranged by the Secretariat with a number of organizations involving in standard-setting and TBT-related technical assistance activities. In order to better identify the needs of developing countries as well as to explore possibilities to channel technical assistance activities to the relevant bodies, at that meeting, the organizations had been invited to provide to the Secretariat (before 15 May 2001) with relevant information in their respective areas. The Secretariat would

compile the information received to obtain a global picture of the situation. The compilation (targeted to be finished at the beginning of September) would provide a basis for further discussions to prioritise the needs taking into account the existing activities.

97. He recalled that at the informal meeting held on the previous day, delegations had underlined the importance of information being sought from Members that would assist in the preparation of the compilation document to be prepared by the Secretariat. This information could focus on the assistance being sought, provided, or offered by Members.

98. He informed the Committee that he had sent out a request for Members to provide information by the end of May, regarding their national experiences in relation to specific needs of developing countries as well as technical assistance activities provided or received in the TBT area. He recalled the Committee's observation on the challenges faced by developing countries in the various TBT areas (G/TBT/9). He invited delegations to use that document as a reference when compiling their national information.

99. The representative of Egypt emphasized that the Technical Cooperation Programme should contain precise criterion with practicable steps to evaluate the efficiency of the technical assistance provided and the positive impact of such activities for the implementation of the Agreement. She expressed dissatisfaction with some of the ongoing technical assistance activities focussed only on lectures, workshops and seminars aiming at assessing the situation in developing countries for the purpose of data assembling. She provided the Committee with information concerning the technical assistance activities received by Egypt in 1995-2000 and the assessment of the assistance granted. She also provided information on Egypt's technical assistance needs and the international or regional bodies deemed capable to provide such assistance.

100. Technical assistance received by Egypt in 1995-2000:

<b>Type of assistance provided</b>	<b>Year</b>	<b>Bodies that provided the assistance</b>
Strengthening of food control	Feb. 99	FAO TCP/EGY/6713
Umbrella programmes for training on the Uruguay Round follow-up and future negotiations on agriculture	Sep. 99	FAO
Regional seminar and consultancy mission on TBT and enquiry points	97-99	ITC RAIB/96/00
Seminar on ISO 9000	1995	ISO
Seminar on ISO 14000	1997	ISO
Seminar on ISO 14000	1999	ISO
Seminar on conformity assessment	2000	ISO
Selection of standards, testing and quality task force	2000	EC
EU Directives and CE marking	1998	France

101. Egypt had assessed the results of the above programmes and found that the benefit achieved had been mainly to improve awareness. However, little had been done on the actual establishment of infrastructures and training of experts needed for standardization, accreditation and in the field of metrology as well as measurement.

102. She suggested that technical assistance could be sought from the following international, regional and national bodies: (i) the World Bank to provide business and standardization bodies with applicable studies in the fields of exports and imports, production, sales and technical regulations; (ii) the PTB (the Physikalisch-Technische Bundesanstalt institution which had accorded



2 million Deutsche Marks to a number of African and Arab countries within the framework of a regional project in 1998 –2002) in the fields of standards, quality and laboratory accreditation; (iii) any other bodies, such as the WTO, UNIDO, the Swedish Board for Accreditation and Conformity Assessment, A-A-CH countries, DAR – Germany, BMWA Austria and SAS Switzerland.

103. Concerning the implementation and administration of the Agreement, the Egyptian Organization for Standardization (EOS) sought technical assistance to establish sound infrastructure and mechanisms for the purpose of the preparation of technical regulations, implementation of the Code of Good Practice in Standardization as well as the submission and handling of notifications. It also sought assistance to modernize and improve the performance of the Egyptian enquiry point through the following steps: (i) to assess the needs of importers and exporters for information on quality requirements; (ii) to upgrade the information system for the retrieval, processing and storage of information, as well as to disseminate information to final users (e.g. public, business and academic); (iii) to develop a database on standards, technical regulations and certification requirements; (iv) to develop a web-site to facilitate the electronic transmission of information, services and documents; (v) to improve the efficiency of the notification procedures; and (vi) to integrate into national and international trade and technical information networks.

104. In the area of international standardization, Egypt sought the following technical assistance: (i) to assist EOS to improve the management of their standardization operations (to assess priorities, to speed up the process and to influence international standardization); (ii) to assist EOS to improve their processes for the publishing of standards, dissemination of standards information and publicity of its programmes and activities; (iii) to assist EOS to set up an efficient and effective technical enquiry service to provide information and advice on standards matters; and (iv) to activate EOS participation in international standards development.

105. In the field of conformity assessment procedures and quality management, Egypt aimed at the following projects: (i) to establish facilities to provide quality control and certificate systems, in particular, for small and medium industries; (ii) capacity building and participation in relevant international systems; and (iii) to establish a third party certification service operating in conformity with international criteria and to improve the quality of Egyptian products through the introduction of quality management standard (ISO 9000). It sought the establishment of quality systems certification service under EOS to provide internationally recognized and accepted testing and certification services through the development of a training center to train internationally recognized auditors and assessors; the enhancement of facilities and equipment as well as the appropriate management and technical skills needed for effective testing services; the identification of potential users (in particular, exporters) of the testing and certifications service, to assess their needs and define their priorities.

106. In the field of capacity building, requests were made to establish a training institute to develop the necessary expertise and increase awareness of the above-mentioned issues; as well as to acquire the electronic means to modernize the administration systems.

107. She encouraged other developing country Members to submit information on their needs as well as the technical and financial assistance that could be sought from relevant bodies. This exercise should take into account individual Member's circumstances and level of development. She hoped that the Egyptian contribution could serve as a basis for further discussions and for consultations with relevant organizations to explore means to satisfy the Egyptian requests. She invited relevant organizations to update information on their technical assistance activities provided to Egypt and other countries in terms of the stages of development as well as the extent of their achievement.

108. The representative of Brazil presented her delegation's proposal for the Technical Assistance/Cooperation Programme (G/TBT/W/156). It aimed at facilitating trade by means of promoting technical cooperation among Members' technical bodies as well as training of human

resources in these bodies so as to build the technical confidence needed for mutual recognition agreements.

109. Technical cooperation/assistance activities should focus on the areas of metrology (basic, industrial and legal), standardization, technical regulation and conformity assessment, and could be delivered by means of the following modalities: technical assistance; technical missions; training and human resources development; technical Consultation; on-the-job training; joint technical activities; and meetings such as, seminars, workshops and lectures.

110. In the area of metrology, technical assistance would involve the following activities: (i) to map the institutional structures and facilities of the requesting countries to identify their strong and weak points; (ii) to design a programme of technical internships (in the hemisphere's best equipped metrology laboratories) made available to technicians of the requesting countries' most needy systems; (iii) to hold courses related to e.g. measurements, measuring instruments, metrology and quality systems, laboratory accreditation and calibration; (iv) to hold seminars on metrology topics to promote interaction between experts, researchers and technicians; (v) to conduct studies on the technical feasibility of sharing metrological infrastructure at the regional or sub-regional levels; (vi) to conduct cross-comparison activities among calibration laboratories; (vii) to establish a panel of visiting consultants to undertake tasks in their specialized areas; (viii) to establish a database of consultants to provide longer-term assistance and consulting; (ix) to design a programme to improve the participation of developing countries in key comparisons under the BIPM/CIPM and regional metrology organizations; and (x) to design a programme to help countries to improve or create their legal metrological structures, including metrology legislation and systems for control and inspection of pre-packaged goods and measuring instruments.

111. In the area of standardization, a computerized system would be needed for the drafting, discussions, voting, recording and selling of standards. Courses should be organized to train specialist teams to participate in international standardization; to draw up company standards and to establish standardization structures in companies and sectoral entities; to implement ISO/IEC Guides 59, 21 and Annex 3 of the TBT Agreement; as well as to introduce the concepts and obligations of the TBT Agreement, including to establish inquiry points, to train regulatory authorities for the preparation and maintenance of national archives of technical regulations.

112. In the area of conformity assessment, technical assistance activities could include the following: (i) to organize courses to train auditors in assessing conformity with ISO/IEC Guides 62, 65 and 66, ISO 17010 and ISO/IEC 17025; (ii) to organize courses and technical assistance for the creation and/or consolidation of certification bodies (in the areas of products, processes, systems and personnel), to train experts to participate in the work of international bodies such as IAF, ILAC as well as IATCA and to participate in peer evaluations; (iii) to create regional or subregional accreditation agencies (taking into account the region's interest) to support joint assessments by accreditation agencies participating in MLAs and to support on-hand training for administrators of the hemisphere's accreditation agencies; (iv) to hold specific courses and provide technical assistance in areas such as uncertainties in measurements, certification of measuring instruments, laboratories accreditation, testing laboratory quality system (ISO/IEC 17025) as well as the implementation of ISO/IEC Guides 58, 60, 61, 62, 65, and 66; and (v) to conduct cross-comparison activities among testing laboratories.

113. The administrative coordination of the Programme would be carried out by the TBT Committee. The individual technical assistance activities would involve input from the relevant organizations, e.g. BIPM/CIPM and OIML (on scientific/industrial metrology and legal metrology, respectively), ISO/IEC (on standards) and IAF and ILAC (on conformity assessment). Regarding technical regulation, support could be provided from the ISO and regional standards bodies in order to take into account the balance between standards and technical regulations according to the TBT Agreement. The Programme would reflect on the existing technical assistance activities to avoid

the duplication of work among different agencies. Regional initiatives should be considered, since they would involve countries of similar experiences and concerns. Members with better equipped systems should provide lists of specialists for the above-mentioned specialists databases. WTO could contact international financial agencies and Members to support the activities of the programme.

114. Based on the information on the demands and supplies of technical assistance activities in the above-mentioned themes, the Committee should be able to define a matrix to identify concrete actions to follow-up the Programme. These actions should be updated, and a WTO web-site should be created to allow interested parties to obtain information on the implementation of the Programme.

115. The representative of Canada welcomed the contributions from Egypt and Brazil. He recalled the Committee's Decision in developing a demand-driven Technical Cooperation Programme which would start with a survey to identify the specific needs as well as the existing TBT-related technical assistance activities. He invited other Members to share their views on how the Committee would proceed, given the huge amount of information to be collected in order to assess technical assistance needs and to develop the Programme. Ways should be sought to better cooperation and coordination within the WTO and with other organizations, such as the observers of the Committee.

116. The representative of the European Communities welcomed the work which had been started by the Secretariat, Egypt and Brazil. However, he was concerned about the uniformity of the data to be collected. He found the information contributed by Egypt provided a good structure, and could be used by other Members as a basis for their own submissions in order to facilitate future analysis.

117. He supported the Brazilian view on the provision of technical assistance through regional bodies, and invited further discussions in the Committee on that. He believed that not every country would require the same whole spectrum of technical assistance and capacity building activities.

118. The representative of the United States welcomed the information provided by Egypt, Brazil and the Secretariat on which her delegation would further study. She agreed that the submission from Egypt could serve as an example for other Members to submit information on their national experience in needs assessment and to establish priority. She wondered if information concerning technical assistance as a result of bilateral arrangements would also be provided. As a donor, her delegation did not compile centrally all the information on technical assistance related to the implementation of the Agreement. However, it would not be difficult to submit information on technical assistance provided to a particular country, such as Egypt.

119. She noted that the request by the General Council was focussed on exploring mechanisms to assist participation of developing countries in international standard-setting activities, while the Committee's Technical Assistance Programme covered other aspects of the implementation of the Agreement.

120. The representative of Malaysia thanked the Egyptian and Brazilian contributions, and noted the commonality in the two submissions in terms of requests in specific sectors. She agreed that other Members could consider using these as a basis for their own submissions. She found the updating by the ISO, ITC and UNIDO useful in providing a picture on what had been done in the various areas. Information from regional bodies such as the APEC and ASEAN would also be useful to better target the specific needs and priorities of Members. The Committee should reflect on how to move forward once the compilation was prepared. However, the compilation should be a revolving list, taking into account further requests from Members.

121. The representative of Chile underlined the need for long-term criteria in order to develop an effective Technical Cooperation Programme. Countries requesting technical assistance should identify their priorities at the time (e.g. the need to establish certain types of conformity assessment bodies), should avoid duplication of works from donor organizations, but to seek how they could

complement each other. Expected results should also be reflected. Objectives of the Programme should also aim at the better implementation of the Agreement, and for that, the result of the technical assistance activities should be evaluated in terms of, e.g. how a Member further implemented the transparency provisions.

122. The representative of India welcomed the information provided, and indicated that a submission from his delegation would be delivered before the end of May. He requested the Secretariat to provide an interim report on this information gathering exercise at the June meeting.

123. The representative of Panama drew attention to document G/TBT/W/142 (Results of the Workshop on Trade Facilitation, Regulations and Standards: The Development Challenge in Central America – held in Panama City on 27-29 June 2000). At the Workshop, representatives had prioritised the technical Assistance activities to be delivered at the national and regional level. She suggested that information could serve as a basis for the identification of needs in similar regions and organizations to provide technical assistance activities. She welcomed the information provided by the relevant organizations and believed that it would enhance the coordination of technical assistance activities needed.

124. The representative of Australia emphasized the importance of ensuring that the Technical Cooperation Programme was based on specific needs identified by Members, as agreed under the Triennial Review.

125. The representative of Switzerland noted that technical assistance, among other things, had been identified as an important element to overcome difficulties encountered by developing country Members in the implementation and operation of the Agreement. His delegation recognized its priority to the Committee's work. The compilation of information on existing TBT-relevant technical assistance activities by international and national organizations could be used as a basis to achieve the objective of the Technical Cooperation Programme. Regarding the financing of the activities, he believed that it was premature to have a clear answer at the present moment. However, it should be, whenever possible, a general and coherent approach, not excluding voluntary extra-budgetary contributions.

126. The representative of UNIDO provided the following additional information on UNIDO technical assistance activities: (i) a US\$ 4.75 million project in Egypt which included the upgrading of its accreditation body for the ILAC/MLA, as well as the assistance to meet the CE marking requirement in Europe; (ii) in Brazil, to upgrade the capacity of laboratories and to meet the CE marking requirement; and (iii) in Central America, to support a project to facilitate the export of agricultural products.

127. The Chairman concluded that the information gathering exercise, which was the first step for the development of the Technical Cooperation Programme, would involve information contributed from different complementary fronts. This process would lead to the next stage when the Committee would analyse the information received and compiled. Since the Technical Cooperation Programme was a demand-driven one, it was important for Members to provide the information needed. He invited the Secretariat to provide an update at the June meeting on the proceeding of this information gathering exercise.

128. The Committee took note of the statements made.

## **IX. OTHER BUSINESS**

129. The representative of the European Communities drew attention to the European Council Resolution on the Precautionary Principle (G/TBT/W/154), and invite other Members to share their views on that. He recalled a number of risks or potential risks faced in the European Community in

recent years touched upon precaution and prevention measures. This precautionary principle or approach involving risk assessment had been incorporated in governments' laws in the EU which might not be the case in other parts of the world.

130. The representative of Chile agreed to discuss the issue of labelling aiming at reaching a common view within the Committee. However, he was doubtful about linking the precautionary principle and the TBT Agreement, as well as if the Committee was the appropriate forum to discuss the matter.

131. The representative of Canada recalled that his delegation had posed a number of questions on the relevant EC Communication last year, and requested a response from the Commission. He noted that exercising "precaution" was an inherent part of Canada's regulatory policy, and assumed that was the case for other countries. Exercising precaution was commonly applied by decision-makers in a wide range of policy areas (e.g. for human, animal and plant health, food safety, environmental protection, and resource management). This was fundamental for protecting the health and safety, social, economic, and environmental interests of Canadian citizens, as well as Canada's international reputation for safe and high quality products and services.

132. The issues had been raised in various international fora. However, in reviewing the EC papers, he understood that some countries had characterized this "principle" as being distinct from a prudential approach of risk assessment policy which could also be applied outside a science-based framework. In this context, there were a number of issues that required further consideration, particularly questions relating to its proper application and the meaning of this "principle" in the context of specific situations, the potential for its abuse or misuse, including as a protectionist trade device. Canada had been following the relevant international debate, and had established a domestic process to facilitate on-going discussions amongst a number of federal departments responsible for risk management. He indicated that his delegation would prepare a paper on this subject.

133. The representative of the United States recalled that there had been relevant discussions on the precautionary principle in the previous meetings, and shared the view raised by Chile about whether the Committee was the best forum for such discussions. She believed that precaution approaches might be applied under varied circumstances and the discussion on the issue should be context specific (e.g. on food safety, marine environment and fishery management) instead of an abstract one.

134. The representative of Brazil did not support further discussion on the precautionary principle in the Committee, although Brazil applied precaution based on scientific evidence, and had signed the Rio 1992 Declaration. The principle had already been taken into account in a number of provisions of the WTO Agreements, including Article 2.2 of the TBT Agreement which stated that legitimate objectives could be pursued in light of the lack of scientific evidence. The same principle was under Article 5.7 of the SPS Agreement and Article XX of the GATT. For this reason, she could not see the need to further pursue discussion on the matter.

135. The representative of Egypt associated her delegation with Chile and the US, and reiterated that it was another sensitive area for Egypt. She was particularly concerned about how to ensure that the application of the principle would not lead to discriminatory or arbitrary measures, in particular, to hinder exports from developing countries.

136. The representative of India shared the Egyptian view, and reiterated that the Committee was not the right forum for the discussion of the precautionary principle.

137. The representative of Panama, Uruguay and Malaysia, speaking on behalf of the ASEAN countries supported the view about the inappropriateness of the Committee to discuss this issue.

138. The representative of Argentina supported the view of the previous speakers that the subject-matter should not be discussed in the TBT framework. He noted that it was discussed in other WTO fora. He supported the Canadian view on its application relating to scientific justification.

139. The representative of the European Communities clarified that the intention of submitting the paper was to seek reaction from the Committee, and was not to propose an immediate debate at the moment. Since even among EC member states, there was no uniform understanding on the conditions when precaution should be applied, he believed that it would be useful to share views with other Members at the international level. If necessary his delegation would come back with another paper on the subject matter.

140. The Committee took note of the statements made.

## **X. ELECTION OF OFFICERS**

141. The Committee elected Mr. Joshua Phoho Setipa (Lesotho) as Chair of the Committee for 2001 to 2002.

142. The next meeting of the Committee would be held on 29 June 2001, back to back with the Special Meeting on Procedures for Information Exchange to be held on the previous day.

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