

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 20-21 JUNE 2002

Chairpersons: Mr. Joshua Phoho Setipa (Lesotho) and Ms. Emily Earl (New Zealand)

1. The Committee on Technical Barriers to Trade held its twenty-eighth meeting on 20-21 June 2002.
2. The following agenda, contained in WTO/AIR/1828, was adopted:

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I. ELECTION OF OFFICERS

3. The Committee elected Ms. Emily Earl (New Zealand) as the Chairperson of the Committee for the year 2002-2003.

II. 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)

4. The Chairperson informed the Committee that further information on the OIV had been received and was available for interested Members. She said that further consultations among Members on the issue of observer status in the context of the General Council were still needed, and proposed to come back to these requests at the next meeting

5. The Committee took note of the statement made.

III. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

6. The Chairperson drew attention to document G/TBT/CS/N/143, a notification from the People's Republic of China on the acceptance of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement) by the State Administration of China for Standardization. She welcomed this notification which provided the Committee with part of the information to be submitted by China in the context of its implementation of the TBT Agreement under the Transitional Review Mechanism. She invited China to provide in advance of October, the remaining information as specified in Annex 1A of document WT/L/432 in order that the Committee could undertake the Review at its last meeting of the year to be held on 17 October 2002, and to report to the Goods Council.

7. The representative of the People's Republic of China informed the Committee of the measures taken to implement the TBT Agreement. In November 2001, China had translated the legal instruments related to DPG and enabled the relevant agencies to understand their obligations. A working group on TBT and SPS had been established to be responsible for the implementation of the two Agreements. Regulatory measures had been promulgated to encourage the adoption of international standards in China's standardization activities. To ensure national treatment, China had replaced the two former compulsory certification systems with new regulatory provisions, and unified the two previous certification marks (i.e. the "CCIB" mark and the "Great Wall" mark) into a new "CCC" certification mark which applied to both imported and domestic products.

8. To better fulfill the obligations of transparency, China had merged the two former TBT enquiry points. The existing one handled enquiries in English. A Chinese-English bilingual website was under construction containing a database of domestic as well as foreign technical regulations, standards and conformity assessment procedures, and answers would be provided to interested parties both inside and outside of China. To facilitate this work, China had established procedures to handle enquiries and notifications.

9. China had submitted its statement on the implementation and administration of the Agreement under Article 15.2 and had notified the acceptance of the Code of Good Practice for the Preparation, Adoption and Application of Standards. Draft regulations for the management and supervision of manufacturing of boilers and pressure vessels had been notified to the Committee (G/TBT/N/CHN/1), and national treatment would be ensured for these products. She pointed out that the above measures had been taken within the first six months of China's WTO membership.

10. The representative of the United States (US) recalled that her delegation had raised concerns about the lack of notification of certain Indian labelling requirements for pre-packaged products and food adulteration rules. She welcomed the notification made subsequently (G/TBT/N/IND/1), and asked if she had to resubmit her relevant comments made at previous meetings to India. She sought assurance that the comments made would be taken into account, recognizing that the notified measures had been adopted.
11. The representative of India took note of the comments made by the US. He clarified that the labelling requirements related to Indian Gazette notifications no. 44 and no. 7 (dated 24 November 2000 and 31 March 2001). It required that all packaged products, which were subject to provisions of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 when produced/packed/sold in the domestic market, should be subject to the compliance of all the provisions of the said rules, when imported into India. He emphasized that the requirements were applicable to both imported and domestic goods. In India, all imported goods were subject to domestic laws, rules, orders, regulations, technical specifications and safety norms as applicable to domestically produced goods. He said that a comment period of 60 days was provided on G/TBT/N/IND/1. He was prepared to clarify or respond to any further questions. He noted that these measures had been in force for some time and had been applicable to domestic products since November 2000 and March 2001.
12. The representative of the European Communities (EC) recalled that the EC had raised the issue at previous meetings, and associated his delegation with the remarks made by the US.
13. The representative of Japan associated his delegation with the remarks made by the US.
14. The representative of Malaysia sought an update from the European Commission on the EU Directive on Waste from Electrical and Electronic Equipment and recalled that the issue had been raised in previous meetings. Under this Directive, manufacturers would be made liable for the collection of used electrical and electronic equipment and the recycling of the waste. She understood that a second reading in the European Parliament had been held on 10 April, and some of its provisions had been further tightened and that the waste recovery measures would be implemented in January 2006 rather than in the year 2008. She sought clarification on how the costs of the waste management were expected to be paid and shared, whether individual manufacturers or importers had to bear the costs, or if the option existed for collective financing, and if producers had to provide up-front guarantees for the costs.
15. The representative of Canada recalled that his delegation had made several interventions on this over the past years, and associated himself with the comments made by Malaysia.
16. The representative of Egypt associated his delegation with the statements made by Malaysia and Canada.
17. The representative of the United States associated herself with the comments made, and requested an update from the EC.
18. The representative of the European Communities clarified that following the second reading in the Parliament, there would be a second reading in the Council. A conciliation procedure between the Council and the Parliament was expected to take place (informally in July and formally after the summer). The proposal could then be adopted, possibly at the end of October. He would provide further information on this at the upcoming meeting, or bilaterally to interested Members.
19. The representative of Canada stated that his authorities were analysing the US country of origin's labelling provisions under the Farm Security and Role Investment Act. He sought an

explanation on the objectives of the provisions, and asked if the US intended to notify this legislation. He expected more substantial discussions in the Committee once details on its implementation had emerged from the US.

20. The representative of the United States was aware of Canada's interest in the draft regulation. She clarified that the legislation stipulated that the draft should be completed before 13 September 2004. She ensured that the notification would be made once a written proposal was reached.

21. The representative of Thailand recalled that at the previous meeting, Switzerland had made a comment regarding the information provided in Thai notifications on international standards. He reassured the Committee of Thailand's effort to meet the transparency obligations of the Agreement. However, he noted that there was no specific cell on the notification form to indicate the existence of international standards. There was the requirement to indicate relevant documents under Item 8 of the notification form (e.g. publication where notice appears, proposed and basic documents to which proposal refers, publication where proposal will appear when adopted, and whenever practicable, reference to relevant international standard). Most notifications made by Members indicated only the publications in which proposals would appear when adopted.

22. He suggested that in order to improve transparency, the Committee might consider revising the existing notification form to include an additional box for such information, similar to the one of the SPS Agreement.

23. The representative of the European Communities welcomed the responses made by Members to the EC's comments on their notifications (e.g. from Korea regarding G/TBT/N/KOR/4 on automobiles, G/TBT/N/KOR/26 on electrical appliances and fuses, Japan concerning G/TBT/N/JPN/20 on motor vehicles, and the US concerning G/TBT/N/USA/12 on the inflammable nature of mattresses).

24. She pointed out that there were a number of cases where the EC had made comments, but were still awaiting responses. For example, notification G/TBT/N/ZAF/6 from South Africa on iced desserts and ice-creams, the EC had submitted comments on it on 26 November 2001, and had raised questions on the definition of pasteurization in connection with the work of the Codex Committee on Food Hygiene.

25. The representative of South Africa recalled that the issue had been informally raised a few months before. He ensured that he would convey the EC's comments back to the South African Department of Agriculture, the agency responsible, for a formal response.

26. The representative of Canada raised concerns about the sixth and seventh amendments of the European Union (EU) Cosmetic Directive and the uncertainty faced by his country's cosmetic industry when exporting to the European market. He found it unacceptable not to have a clear understanding of how things would operate from July 2002. He urged the EC to notify the proposed amendments in order to allow interested parties to make comments. He also urged the EC to postpone the entry into force of the sixth amendment.

27. The representative of Japan expressed his delegation's interest in the EU Cosmetic Directive.

28. The representative of the European Communities explained that the proposal was designed to amend the Council Directive 76/768 on Cosmetic Products. It had been initiated by the Commission in the year 2000 and had made progress in the Community's legislative process. The European Parliament had recently issued a ruling after a second reading on the common position, which was supported by the Commission. He envisaged the text of the proposal to be notified in the near future.

29. The representative of the United States raised concerns on EC Regulation 753/2002 on wine labelling, which reserved for the exclusive use of EU producers certain descriptive terms that communicated important information to consumers. She found the manner in which it was developed (the lack of notification and of a meaningful opportunity to comment) as well as the substance of the requirements unacceptable. She believed the EC had not followed the notification procedures under the Agreement. She noted that the proposal contained technical provisions that would have a significant effect on the importation of wine into the EU. Despite the assurance made at the October 2001 Committee meeting, the EC had not notified the proposal to provide an opportunity for comments and to consider the comments prior to its final adoption. A notification was made only on 10 June 2002 (G/TBT/N/EEC/15) after the adoption of the Regulation on 29 April 2002. She revealed preliminary concerns and reserved the right to comment on other aspects following further analysis of the Regulation.

30. She recalled that at the October 1999 Committee meeting, she had commented on EC Regulation 881/98 on "traditional expressions" (G/TBT/W/119). She noted that the protection of "traditional expressions" as identified by the EU as "traditional terms" had no counter part in the law of any other country outside the EU. She believed that to reserve generic descriptive terms and phrases exclusively for the use of EC producers raised serious concerns about the EC's compliance with its WTO obligations, including both the GATT 1994 and the TBT Agreement.

31. The new Regulation 753/2002 restricted the use of descriptive and/or generic terms (e.g. "vintage" and "ruby"). These terms had no specific connection with a geographical source of a given class of goods. The prohibition of their use in connection with imported goods might constitute an unnecessary obstacle to international trade and could also contribute to consumer deception. She found no factual basis for the EC to assert that the use of such terms on imported wines would deceive or confuse consumers. Even if such potential existed, the EC's objective could be achieved in a less trade-restrictive manner.

32. She could not agree with the EC's notion of imbuing "traditional terms" with the gloss of intellectual property, and to prohibit trademarks containing a "traditional term". She believed "traditional terms" did not constitute intellectual property, and regulations such as these which restricted the usage of descriptive language on wine labels fell under the purview of the TBT Agreement.

33. She questioned the EC's compliance with WTO obligations on its restriction on certain bottle configurations. The Regulation prohibited the use of certain bottle shapes by all but EU producers. It prohibited the use of "similar bottles which could be confused with" the reserved bottle types.

34. She could not see the basis for the EC's restrictions on the use of certain grape variety names on wine labels based on country of origin. She could not understand why the EC permitted certain countries, but not others, to inform EU consumers of certain grape varieties used to produce wines. She wondered how information on grape variety might "confuse" consumers.

35. Under the Regulation, the EC would grant labelling flexibility to those countries that agreed to adopt certain regulations or signed bilateral agreements with the EU. She expressed concern that this approach would induce countries to adopt certain regulations that it otherwise would not accept, or would be used as a leverage to extract concessions in negotiations on unrelated matters.

36. She believed that other Members might share her concerns. In particular, the EC's Regulation should have been notified in an early appropriate stage so as to enable interested parties to provide comments and to have the comments considered before the final regulation was adopted. She asked whether the EC intended to take her comments into consideration.

37. The representative of New Zealand shared the US's concerns. He noted that Commission Regulation 753/2002 laid down certain rules for applying Council Regulation No 1493/1999 on the description, designation, presentation and protection of certain wine sector products. His main concern was that the EU's overall approach to wine labelling was in conflict with the principle of the Agreement to ensure that technical regulations and standards did not create unnecessary obstacles to international trade. He accepted that the prevention of deceptive practices might be a legitimate objective under the Agreement. However, the New Zealand's initial assessment found that the regulation was more trade-restrictive than necessary to fulfil this objective. He noted that Article 2.2 of the Agreement required that "technical regulations shall not be more trade restrictive than necessary to fulfil a legitimate objective".

38. He questioned whether the wine from third countries was being accorded treatment as favourable as EU wine in respect of varieties and traditional terms. He found that Article 36 of the Regulation discriminated against non-EU wine, contrary to the national treatment obligations under Article 2.1 of the TBT Agreement and Article III of the GATT. Wine from non-WTO Members appeared to receive even less favourable treatment. The preferential treatment afforded to countries that had bilateral wine agreements with the EU under Regulation 753/2002, raised questions with respect to MFN obligations in Article 2.1 of the TBT Agreement and Article I of the GATT.

39. He expressed concern that the Regulation attempted to broaden the definition of geographical indications (GI) beyond the definition as contained in the TRIPs Agreement. He believed that the definition of GIs in Article 22.1 of the TRIPs Agreement was never intended to extend GI protection to non-GI "traditional" terms. This implied an unnecessary obstacle to international trade. To the extent that it prevented the use by imported wines of generic descriptors used commonly in global wine trade, it undermined the stated objectives of the regulation - consumer information.

40. He believed Regulation 753/2002 attempted to control the use of traditional expressions more far-reaching than the EU's earlier draft regulation (881/1998) on which considerable concerns had been expressed in the Committee. He was disappointed that the EC, despite of those concerns, had chosen to exercise greater control.

41. The Regulation appeared to limit the use of country-level GIs for third countries by only permitting the use of GIs which served to identify a third country as a whole in exceptional circumstances. This was despite the fact that country-level GIs were provided for in the TRIPs Agreement (in the Article 22.1 reference to GIs identifying a good which originates "in the territory of a Member"). Furthermore, Regulation 753/2002 also implied the precedence of European GIs over third country GIs (or third country GIs protected in bilateral agreements, as opposed to those which were not) in cases where they conflicted. He found this to be in conflict with TRIPs and GATT provisions on national treatment (TRIPs Article 3 and GATT Article III).

42. He also raised questions about the consistency with the TRIPs Agreement of provisions of the Regulation that reserved certain bottle configurations for exclusive EU use. He did not consider bottle configurations sufficient to identify a product as originating in a certain geographical area. Their use should not be restricted to certain countries or to certain geographical indications.

43. He expressed concerns that the Regulation sought to claim exclusive use of terms which described wine varieties where they were synonymous with European GIs, despite the fact that many of them had become internationally recognized and accepted as the name for certain varieties (e.g. Chardonnay). He believed this raised questions of national treatment and compliance with GATT Article III obligations.

44. He saw no basis in the TRIPs Agreement for seeking to control the use of traditional expressions, country-level GIs, varietal terms or bottle configurations or to give precedence to

European GIs. These elements of the Regulation accordingly gave rise to issues about compliance with WTO obligations, particularly in the TBT Agreement. He believed that the trade impacts of the Regulation for non-EU wine producers could be significant. The Regulation could be taken as an attempt to provide a competitive advantage for EU wines.

45. He was disappointed that the EC had taken so long to notify the Regulation under Article 2.9.2 of the Agreement, despite the fact that concerns had been raised by several Members, including New Zealand, in previous Committee meetings. The EU had not fulfilled its transparency obligations under the Agreement, in particular, it had failed to notify a proposal at an appropriate early stage so as to allow other Members to comment, and to provide an opportunity for amendments to be made on the basis of those comments. He was disappointed that the EC, despite the concerns expressed earlier by the others, had chosen to adopt Regulation 753/2002.

46. He requested urgent clarification from the EC on the interpretation and application of the Regulation. He reiterated his fundamental concern about the trade restrictive implications of the EC's overall approach to wine labelling. He requested the EC, in the light of its obligations under the GATT and the TBT Agreement, to reconsider its decision on the enforcement of the Regulation by January 2003, and instead, to provide an opportunity for consultation and appropriate amendment.

47. The representative of Canada supported the views expressed by the US and New Zealand. While he appreciated the EC's intentions and efforts to simplify and liberalize wine labelling requirements in the EU, he raised serious questions about the Regulation's consistency with the EC's obligations under the TBT Agreement. He was concerned about the unnecessarily restrictive nature of many of the provisions of the Regulation (e.g. the use of certain descriptive terminology, tolerance for alcohol declarations, protection of bottle shapes, varietal content criteria, requirements for wine competitions and related MFN and national treatment considerations). He questioned the need for this prescriptive approach in an area where serious health, safety or environmental risks did not seem to apply. While the prevention of deceptive practices was a legitimate public policy objective, he found the remedy which the EC was proposing in this Regulation more stringent than what was likely needed to address any perceived risk, and was taken much further than what was required for other food products.

48. He did not believe that European countries, such as France or Italy, should enjoy exclusive rights to use the word "Château" in the European market. European consumers would be well placed to know what a "Château" was, regardless if it was Château Nenin in France or Château des Charmes from the Niagara peninsula in Canada. He asked if it was necessary to legally define every term on wine labels related to a "production method" or quality descriptor so as not to mislead consumers. He believed consumer preferences could not be harmonized. The regulation of common language adjectives to describe wine went beyond what would be considered a reasoned response to the risk of deceptive practices in labelling.

49. He expressed concern about the Regulation's objective to provide a quasi-intellectual property status to certain terms, and its attempt to have third parties give the same exclusive rights to European producers for these terms in third markets by using market access to Europe as leverage. He believed the EC was inappropriately using the regulation to provide intellectual property rights by stealth. Canada would raise its concerns from an intellectual property perspective at the TRIPS Council on this matter.

50. He was aware that this Regulation would have the effect of creating unnecessary barriers to international trade. It would prohibit Canadian wine from entering the EU, since Canada's regulatory system did not provide legal definitions for many words used by its producers to describe their wines on their labels, as required under the EC Regulation.

51. He called on the EC to reconsider its approach to regulate aspects of wine labelling, keeping in mind its obligations under Article 2.1 (on national treatment and MFN provisions), Article 2.2 (on avoiding the creation of unnecessary obstacles to international trade), Article 2.3 (on addressing objectives in a less trade-restrictive manner), and Article 2.8 (on basing regulations on performance rather than descriptive characteristics). His delegation would provide detailed comments for the EC to take into account before the adoption of this Regulation.

52. The representative of Australia shared the procedural and substantive concerns raised by the US, Canada and New Zealand. She provided only initial comments on EC Regulation 753/2002 due to its late notification and difficulties in accessing its text. She raised questions about the conformity of its substantive provisions with WTO obligations, as well as to the procedures followed by the EC in developing the measure and in notifying it to the WTO.

53. She expressed concerns about the WTO implications of the EC's adoption of regulations that sought to protect EU producers from competition through the use of labelling requirements which imposed restrictions on product identification and the use of "traditional terms" and geographical indications. The EC had disregarded the concerns raised by a number of Members at the October 2001 and March 2002 meetings about the potential trade impact of the then draft regulation and the request of the draft to be notified so as to enable comments by other Members in advance of its adoption. The fact that the EC had not notified the regulation in advance had deprived Australia and the others of the rights under the TBT Agreement. She raised questions about the EC's compliance with their procedural obligations under the Agreement. The failure of the EC to comply with its obligations on this occasion would reinforce the scepticism which many Members had voiced about the EC's overall agenda in the WTO with regard to labelling.

54. She could not accept the core concept of Regulation 753/2002 that a WTO Member could reserve common adjectives and other descriptive words for the exclusive use by one of its industries. She agreed that prevention of deceptive practices was a legitimate objective under Article 2.2 of the Agreement but could not see the connection between this objective and the measures set out in Regulation 753/2002. Even assuming that the EC's objective (to prevent deceptive practices and to protect consumers) was an accurate characterization of the aim of the Regulation, she found it difficult to accept that reserving the exclusive use of common English language words was the least trade-restrictive means of achieving that objective.

55. She disagreed with the notion that the so-called 'traditional terms' listed in the annexes to the Regulation had any connection with intellectual property rights. Most of the terms were common descriptive adjectives. She rejected the legitimization of the EC's efforts to reserve these terms for the exclusive use of EU wine industries by claiming them as intellectual property rights.

56. She shared the US, Canada and New Zealand's concerns about the Regulation's consistency with key provisions of the GATT 1994. She urged the EC to refrain from applying Regulation 753/2002 pending full consultations with interested parties.

57. The representative of Argentina associated himself with the views of the US, New Zealand, Canada and Australia on the EC wine labelling Regulation. He highlighted that both the product as well as the subject matter involved, had an important systemic impact on world trade.

58. The representative of Brazil associated her delegation with the concerns expressed by the previous speakers. Brazil was studying the EC legislation and would appreciate a response from the EC on the comments made.

59. The representative of Uruguay associated his delegation with the comments made and requested the EC to give a response.

60. The representatives of Bolivia, Mexico, Paraguay and Peru shared the concerns expressed by the previous speakers and reserved their right to come back to the matter at a later opportunity.
61. The representative of the European Communities was not in a position to provide a detailed response to all the comments, but ensured that the EC would come back to the subject in due course. He noted that the measure had been notified on 10 June 2002 and was due to enter into force on 1 January 2003. As it was a Commission Regulation, any amendment to it would be made by the Commission. He reminded Members that the deadline for comments was August 2002. He took note of the comments made as well as of the EC's TBT obligations, and would take them into account.
62. The representative of the European Communities expressed her delegation's concerns on notification G/TBT/N/KOR/34 on a Korean regulation concerning spirits, liquors, wine and beer. The EC had commented on the Korean draft and would appreciate a response before the regulation came into force in July 2002. The concerns related to the additional labelling requirements imposed which would require producers to establish a specific line of production and storage for exports to Korea. That would have time and cost implications. She urged Korea to find a less trade restrictive solution.
63. The representative of Canada noted that his delegation had provided comments on this draft Korean regulation. Canada had requested information on its policy objective and a one year transition period to existing labelling inventories, given that it did not appear to be a matter of serious health, safety or environmental risk.
64. The representative of the United States noted that the US had also provided comments on this notification, and requested Korea to consider those comments.
65. The representative of Korea would convey the comments made back to his authorities. He explained that the change of regulation was intended to establish order in the distribution of liquors and to prevent illegal circulation of liquors taking place in the distribution channel to avoid legitimate tax levy by the authorities. The label was aimed at distinguishing liquors "for home use" or "for discount stores", and at indicating that they were not allowed to be sold in restaurants and bars. He informed the Committee that an extension of the proposed implementation deadline was given to allow reasonable time for domestic and foreign producers to adapt to the new labelling regime.
66. The representative of Canada raised concerns about the EU Member States Moratoria on agricultural biotechnology approvals and about the ban on these products. He reminded that this ban had been imposed for over four years and asked if the EU implemented a science-based approval system that was consistent with international obligations. He recalled that Canada had expressed concerns about the EU's proposed regulations on labelling of genetically modified organism (GMO) and traceability, including the nature and effectiveness of the regulations. He believed the proposals did not appear to manage any identified risks or hazards but appeared to have the potential to be trade barriers. He urged the EU to consider alternative measures. Canada had provided comments on the proposals through the enquiry point in December 2001 and was looking forward to a response.
67. The representative of the United States associated herself with the comments made by Canada.
68. The representative of the European Communities informed the Committee that a number of written comments had been received on G/TBT/N/EEC/6 (proposed regulations on genetically modified food and feed) and G/TBT/N/EEC/7 (on traceability of genetically modified organisms and food and feed produced from genetically modified organisms). Responses to the comments raised were being finalized and would be available shortly. Both proposals were being discussed in the Council and the European Parliament. He expected that the Parliament would finalize its first reading

in the first week of July 2002, and a common position between the Council and the Parliament would be achieved in the autumn.

69. The representative of the European Communities reminded Brazil that the EC had provided comments on notification G/TBT/N/BRA/29 on wine derived drinks, and would appreciate a reply. In March, the EC had expressed concerns, particularly with respect to the registration of producers of exporting countries with Brazilian authorities as well as certain labelling requirements.

70. The representative of Brazil would convey the EC's comments to her capital.

71. The representative of the European Communities recalled that the EC had made comments on US notifications G/TBT/N/USA/8, 15 and 18 (on tyres and tyre control systems) and that a response was still awaited. The observation made referred specifically to EC's Directives on the same subject and to the work of UN/ECE on global harmonization of tyre security.

72. The representative of the United States informed the Committee that, on G/TBT/N/USA/18, the comment period had ended on 5 June 2002, and 5,500 comments had been received. A final rule had yet to be issued.

73. The representative of the European Communities drew attention to the notification from China G/TBT/N/CHN/2 (on cosmetic products) which was of great concern and interest to the EC. She asked for the legislative text and for an extension of the comment period until the end of August 2002.

74. The representative of the People's Republic of China explained that in February 2001, the Chinese authorities had adopted regulations on food labelling and on cosmetics supervision and inspection. These rules had entered into force in April 2001. The notification concerned was not about a new technical regulation, but a notice to reiterate the implementation of these rules. A transitional period was provided for the adaptation of importers and exporters. The relevant texts of the rules were available on the website of AQSIQ. She would convey the EC's comments back to her authorities.

75. The Committee took note of the statements made.

IV. FOLLOW-UP OF THE MEETING ON PROCEDURES FOR INFORMATION EXCHANGE HELD ON 28 JUNE 2001

76. The Chairperson recalled that at the special meeting on procedures for information exchange, a number of proposals had been made. These had been further discussed in the previous two Committee meetings. Subsequently, the Committee had agreed to prepare a booklet on transparency provisions of the Agreement. The booklet was under production by the WTO Information and Media Relations Division and would be made available on the website in electronic format.

77. The Committee took note of the statement made.

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

78. The Chairperson recalled that the Committee had held informal discussions on the issue of labelling. It had agreed, for the immediate next step forward, to request the Secretariat to prepare a factual paper containing two lists. The first one referred to notifications made since 1995 related to labelling. This would compile the notifications by date, indicating the Members concerned, the

products covered, the stated legitimate objectives and the periods provided for comments. A second list would contain a factual reference to the specific trade concerns related to labelling brought to the attention of the Committee under the Agenda item "Statements on Implementation and Administration of the TBT Agreement" since 1995. This list would describe the Members involved, the issues, the concerns raised and references to the relevant notifications. This paper would be taken up at the next informal meeting in October 2002.

79. The representative of the European Committees introduced an EC paper (G/TBT/W/175) and stated that the EC would like to address the following labelling issues: international and regional standardization, equivalency agreements, transparency, promoting the Code of Good Practice and developing countries technical assistance concerns. The paper made proposals for continuous work in the Committee (e.g. a Secretariat paper and an informal workshop on labelling). The EC paper raised issues that could be addressed in the Committee, but did not intend to propose solutions. He wondered how best to involve observers on the work on labelling (e.g. ISO, Codex and ITC). He believed that labelling could be trade friendly but at the same time it had the potential to create trade barriers. The EC had carried out studies on labelling and came out with the conclusion that there was an increase in the use of labelling, as well as in the complexity of problems faced by exporters. His delegation recognized that there might be uncertainty in the application of the Agreement, and differences among Members on the scope of the Agreement with regards to certain types of labelling.

80. On the possibility of a workshop on labelling, he supported the participation of the observers, which could present their relevant work. Members could communicate their experience in using labelling domestically and the problems they faced in the market. He proposed that the CTE could participate in the workshop. He noted that the CTE work on labelling came under the Doha mandate, while the TBT Committee's work was the result of the Second Triennial Review. He thought that both Committees should be informed of each other's work. The EC was committed that the work in the Committee should not undermine the existing TBT rules and provisions on labelling.

81. The representative of Japan introduced the Japanese paper (G/TBT/W/176). He believed it would be productive to deepen the discussions on labelling based on fact and substance. In Japan, certain findings had come out as a result of surveys and dialogues with domestic industries. Issues arising from labelling were in general the same with ordinary technical regulations and standards. However, some labelling issues could be distinct and they related to (paragraphs 7, 8 and 9 of the paper) (i) the lack of transparency in the developing process of labelling requirements; (ii) the lack of international standards and duplication of labelling requirements; and (iii) the lack of performance-based labelling requirements.

82. The lack of transparency occurred, in particular, when the body developing labelling requirements was not a standardizing body that had accepted the Code of Good Practice (Annex 3 of the Agreement), thus did not follow the transparency provisions of the Agreement. He encouraged these relevant bodies to accept the Code. The lack of relevant international standards and the existence of different labelling requirements among Members and in different regions in the same field could create unnecessary obstacles to trade. This could be attributed to the fact that the bodies preparing labelling schemes were not always standardizing bodies that had accepted the Code and lacked the participation in relevant international standardization activities. He believed that international standardization on labelling could be encouraged in cooperation with existing standardizing processes.

83. The lack of performance-based labelling requirements could be due to the fact that the relevant bodies were not familiar with the requirements of the TBT Agreement. He encouraged to further promote the implementation of the Agreement, including the requirements on performance based technical regulations. He concluded that the issues of labelling were related to the

implementation of the Agreement, and it was important to deepen the discussion in a pragmatic manner.

84. The representative of Switzerland thanked the European Communities, Japan and Canada for their contributions. She thought that the Committee should make as much progress as possible and supported the preparation of a factual paper by the Secretariat and the subsequent establishment of an informal workshop on labelling addressing all the issues put forward in the discussions, in which Members could provide specific examples and their own concerns. She recalled that Switzerland had submitted a paper on labelling in June 2001 (G/TBT/W/162), which raised some issues that her delegation thought would need further discussion and could contribute to an enhanced understanding of the Agreement and labelling related TBT issues. She recalled that the Doha declaration referred to labelling in two areas: non-trade concerns in the area of agriculture and eco-labelling in the area of environment. Her delegation believed that the TBT Committee should, within its area of competence, support those discussions in other WTO bodies. Some of the questions which were raised on the issue of labelling in those fora were mainly horizontal and should therefore be addressed by the TBT Committee. With regard to the Canadian paper, which highlighted the importance of discussion on implementation and suggested, as a remedy, some guidance on how regulators should proceed when establishing labelling schemes, she felt that the development of such guidelines could be premature at this stage. In her delegation's view, a discussion of outstanding issues could punctuate the nature of labelling concerns and provide an adequate basis for identifying either legal or implementation related problems. This analysis could then serve as a basis for further reflection on any necessary action (e.g. guidance for good regulatory practice as proposed by Canada or an understanding on the interpretation of certain provisions of the Agreement with respect to labelling). She suggested that the TBT Committee, in order to enhance cooperation and to avoid duplication, established an exchange of information with other WTO bodies with regard to labelling.

85. The representative of Egypt reiterated that the Committee's discussion on labelling should take place in an informal mode, should be for educational purposes and focus on means to enhance the implementation of the Agreement. None of the WTO provisions should be renegotiated or clarified. There should be no link between the Committee's discussion with those taking place in other WTO Committees. The Committee was not trying to reach a conclusion or a concrete outcome concerning the issue of labelling.

86. The representative of Brazil thanked the EC and Japan. She believed that the TBT Agreement was clear and that there was no need to clarify its provisions, which she considered balanced and adequate. She thought that there was room for discussion in the area of implementation, in order to identify areas where there were problems or issues that could be better understood, for example in the area of transparency. She considered that the areas identified by Japan concerning the lack of international standards and the lack of performance-based labelling requirements could be discussed further. She believed that the workshop on labelling should come after the discussions on the Secretariat's background paper. The involvement of other WTO bodies in the workshop, (e.g. the SPS Committee or the CTE) would be premature, since those Committees had a different scope and different mandates. She could not agree with the EC that the CTE had been requested to accelerate work on labelling in Doha. The Doha Ministerial Declaration mandated the CTE "to give particular attention to labelling requirements for environmental purposes". She thought that although the EC's paper specified that it was not intended to propose solutions, the wording "there is a need to clarify WTO rules" seemed to her a solution, prejudging the outcome of the discussions of the Committee. Similarly, she considered that the conclusion of the paper that "WTO rules should not be undermined" was in contradiction with the concept that there was a need to clarify WTO rules.

87. The representative of Mexico reiterated his delegation's position that the labelling discussion should be held in an informal and educational manner. There was no mandate to the TBT Committee

in the Doha Declaration in connection with labelling. He could support a workshop on labelling, provided that it was an informal event.

88. The representative of the United States agreed that the discussions should take place in an informal manner. She welcomed the papers from the EC and Japan, and believed that it was important to identify what the issues were. Based on the experience of the discussions in Committee meetings, under agenda item "Statements on the Implementation and Administration of the Agreement", one could identify the offenders against the existing rules as well as the proponents for guidelines and additional disciplines. She welcomed the continued exchange. However, on the subject of involving observers in the discussions on labelling, she believed that it would be a meaningful exchange of information only when specific requests were made to them.

89. The representative of Canada supported the statements made by the US and Japan. He recalled his delegation's paper (G/TBT/W/174), and supported deepening the discussions on labelling in the Committee as it related to the implementation of the Agreement. He welcomed the factual paper to be prepared by the Secretariat. Canada had proposed and supported the concept of an informal workshop on labelling. He believed it would be necessary to have a more in-depth discussion after the Secretariat's paper had been provided. He noted that the Committee's dialogue on labelling should not be driven by the ongoing work in other WTO bodies.

90. The representative of the People's Republic of China appreciated the contributions from the EC and Japan. She believed labelling requirements were different from other technical requirements, but appeared as conditions for market access. In some cases, these requirements caused unnecessary obstacles to trade. Since there was no unified definition on the term or scope of labelling, a different understanding might lead to misuse of labelling requirements in technical regulations or standards, and the subject needed careful study and consideration. She recommended further discussions on the definition and scope of labelling. Relevant international standardizing bodies should be requested to develop international standards on the principle for the preparation of labelling requirements, and when these standards were available, Members should use them as the basis for the preparation of their national labelling requirements.

91. The representative of Malaysia thanked the EC, Japan and Canada for their papers on labelling. She welcomed the decision for a paper to be prepared by the Secretariat to assist the Committee in the next informal discussion on labelling. She reiterated that the discussions should continue in an informal mode. The proposal to hold a workshop as a learning event and the role of observers could be further discussed after substantive discussions based on the Secretariat's paper had taken place.

92. The representative of Australia supported the comments made by the US concerning the nature of the labelling discussions. She had reservations about certain aspects of the proposals that had been put forward on labelling, especially some of those raised in the EC's paper. Australia was prepared to pursue the discussions on an informal basis and on the presumption that no specific outcome was expected. It should be an information collection exercise, along the lines described by the Chairperson. She did not agree to link this work with any of the Doha mandates.

93. The representative of Argentina believed that the labelling exercise in the Committee should be an informal and gradual process. He did not agree to link it to the work of the CTE on eco-labelling under the Doha Declaration. He believed that the TBT work was more generic and should not tackle specific issues such as eco-labelling. He looked forward to the Secretariat's paper and believed that the evaluation of whether to organize a workshop should be done at a later stage. He would comment on the papers from the EC and Japan once his authorities had analysed them.

94. The representative of Mexico believed that it would be useful to have a compilation of notifications for the purpose of information. However, the exercise should not be used to scrutinise the notifications. He agreed to continue the discussions on labelling in informal meetings.

95. The representative of Chile associated his delegation with the statement made by Argentina. He agreed that the discussion should be informal, for information purposes and for a better understanding of the subject. He believed that there was no mandate of the Committee on labelling other than the one under Article 15 of the TBT Agreement related to the Triennial Review, and it was not a Doha mandate. He welcomed the Secretariat's paper and emphasized that any workshop to be held should be an informal one.

96. The representative of Colombia associated her delegation with the comments made by Argentina and Chile on the way the Committee should conduct its work on labelling. She reiterated that it should be dealt with in informal meetings. She welcomed the papers submitted by the EC and Japan which provided additional information, and reserved the right to come back to them at a later stage. She supported the Secretariat's paper which would provide background material for future work, including for the possible workshop to be held subsequently.

97. The representative of India reiterated his delegation's views that the discussion on labelling should be taken on an informal basis and without prejudging the outcome. He opposed any formal programme in the TBT Committee on labelling. He believed there was no need for any new rules, guidelines or clarification in the Agreement on labelling. The relevant issue was the effect of labelling on market access of products from developing countries.

98. The representative of Korea thought that under the condition of not prejudging the outcome, the Committee should not restrict the scope of labelling issues to be discussed. The discussions should cover areas such as: international standardization, developing countries, implementation problems, transparency matters, and the cooperation with the other international standardizing organizations (e.g. Codex). He supported the EC and the Canadian proposals about comprehensive discussions on labelling issues in the coming meetings. He believed it important to reflect the interests of all parties, and to balance the interests of trade facilitation with consumer awareness of safety, health and the environment.

99. The representative of Cuba agreed that the debate should be informal and for educational purposes.

100. The representative of Bolivia supported the statements made by Egypt, Mexico, Brazil, Argentina, Chile and Colombia. He believed that labelling requirements were increasingly perceived as barriers to trade. He welcomed the fact that labelling was to be discussed informally and as part of an educational process that was not intended to prejudge the outcome.

101. The representative of Guatemala reiterated that labelling discussions should be informal, and associated Guatemala with the Mexican view that the purpose of the exercise was informative and to educate Members on the issue of labelling.

102. The representative of Paraguay supported the views of Mexico, Egypt and Argentina.

103. The representative of Peru considered the issue of labelling to be of great interest. He supported the opinion that this matter should be dealt with on an informal basis with a view to exchanging information. He supported the proposal to organize a workshop.

104. The representative of Poland welcomed the EC paper and supported its proposals.

105. The representative of the ISO informed the Committee that a number of technical committees of the ISO and the IEC were conducting activities concerning labelling. The ISO was prepared to participate in the workshop to inform the Committee on its labelling activities. If needed, the ISO was willing to provide written information.

106. The Committee took note of the statements made.

VI. UPDATING BY OBSERVERS

107. The representative of the WHO informed the Committee that the WHO was a specialized agency of the United Nations (with 191 Members) responsible for developing and promoting international standards on food, biological products and pharmaceuticals, as well as diagnostic procedures. These were not legally binding documents, but they could be adopted as mandatory national regulations. Recommendations developed by the WHO aimed at safeguarding the quality and safety of products (e.g. food, pharmaceuticals, biological products and tobacco) placed in the global market. Concerning pharmaceuticals, the WHO developed guidelines and good manufacturing practices, including those for the quality and the identification of drugs and herbal medicines. In the biological area (i.e. vaccines, blood products, hormones, interferons and biotechnology derived products), the WHO developed recommendations for their production and quality control. It also developed "physical standards" for drugs and biologicals to ensure the comparability of activities, licensing, quality control and clinical dosing of these products. Standards for chemicals in food were developed in collaboration with FAO/WHO Codex Alimentarius and pesticide standards were developed in collaboration with the International Code of Conduct on the Distribution and Use of Pesticides. Other areas of activities concerned the development of technical specifications for radiological systems and recommendations on ionizing radiation.

108. Expert Advisory Panels (consisting of experts from developing and developed countries) would provide advice to the WHO, and the WHO would transmit the advice to its members on request. The highest form of standard-setting activities was held in Expert Committees with representatives selected from developed and developing countries as well as other governmental and non-governmental organizations. In addition, there were scientific and advisory groups. Members of the Expert Advisory Panels or Expert Committees received funding to attend relevant meetings, and some of these meetings were held in developing countries. WHO Guidelines were prepared by the Secretariat together with expert groups. These documents would then be submitted to international consultations and the consideration by the WHO Executive Board. Relevant information could be obtained at the WHO web sites. Physical standards were developed with the collaboration of laboratories from developed and developing countries, followed by the consideration by the Expert Committee on Biological Standardization. These documents were made available to any national control authority or manufacturer.

109. He recalled that during the Second Triennial Review of the TBT Agreement, one important point made was to strengthen the use of appropriate international standards and to promote the participation of developing countries in international standard setting activities. Promoting developing country compliance with international standards was on the WHO's agenda, focussing on the strengthening of national regulatory capacity in the areas of drugs, vaccines and plasma derivatives. Training courses, workshops and seminars were held to facilitate the use and understanding of international standards. He gave the example of the Global Training Network which dealt with the quality and safety of vaccines, the International Conference on Drug Regulatory Authorities, to be held in Hong Kong, with the aim of strengthening the capacity of developing countries to regulate drugs and biological. A Developing Country Vaccine Manufacturers Association had been formed to facilitate information exchange. The WHO International Programmes on Chemical Safety sponsored training in developing countries to develop expertise in

standard setting and risk analysis. New strategies were being developed to reflect the WHO Corporate Strategy (2002) and the Global Programme of Work in 2002-2007.

110. The representative of Chile welcomed the information provided by the WHO.

111. The representative of the United States welcomed the information from the WHO. She drew attention to the principles prepared by the Committee at the Second Triennial Review on the development of international standards. She recalled that relevant international bodies had been encouraged to follow these principles, although they were not binding.

112. The representative of the European Communities sought clarification on how the WHO monitored the effectiveness of its exercise to promote compliance with international standards by developing countries through capacity building.

113. The representative of the WHO explained that a mechanism was in place. In the framework of the Global Training Network, experts went back to the field to assess the implementation of what had been taught. To strengthen the capacity of medicine regulatory authorities, experts spent time in a particular country to monitor certain vaccine regulatory authorities, and follow-up would take place after six or twelve months. The WHO did not monitor what its members did in a general sense, but only in relation to particular training courses and the strengthening of national regulatory authorities.

114. The representative of Mexico sought views on how information could be communicated at the national level, between the health sectors dealing with technical regulations/standards and the information centres which might be under the Ministers for Trade and Industry.

115. The representative of the WHO agreed that the information flow could be improved. He explained that the links could be established through the WHO country and regional offices. Information could also be obtained at the WHO websites.

116. The Committee took note of the statements made.

VII. TECHNICAL ASSISTANCE

117. The Chairperson recalled that as a result of the Second Triennial Review, the Committee had been developing a TBT-related technical cooperation programme. A questionnaire had been prepared to assist developing country Members to identify and prioritize their technical assistance needs in the TBT area (G/TBT/W/178) and several replies had been received. She reiterated the importance of responses from developing countries in order that the Committee could draw up a demand driven programme reflecting the needs of these countries. She encouraged those Members who had not yet replied, to do so, and stated that the responses should be sent to the Secretariat before 31 July 2002.

118. The Secretariat would circulate the responses as Job or working documents (restricted or unrestricted) as chosen by the Members involved, following the decision of the General Council on the procedures for the circulation and derestriction of WTO documents (WT/L/452). A cover note would be placed on the document to state that "the responses provided are intended to assist the Committee to further develop its technical cooperation programme. These responses shall bear no legal implication on the status of implementation by Members, nor imply that Members have to undertake further commitments, nor do they prejudice Members' positions with respect to the Agreement or rights and obligations thereunder". She proposed to request the Secretariat to compile and summarize the responses received to assist further analysis.

119. She recalled that at the last meeting it had been recognized that developing countries might face difficulties in completing the questionnaire and that assistance might be needed. She reminded

Members that this kind of assistance could be provided, if requested, by the Secretariat, or bilaterally by other Members. With a view to enhancing discussions on technical cooperation and to ensure consistency with the overall WTO technical assistance strategy, a representative from the WTO Technical Cooperation Division had been invited to brief the Committee at the informal meeting on the overall WTO technical assistance programme and the type of assistance activities provided by the WTO in the TBT area.

120. She recalled a proposal made by the EC at the informal meeting that the Committee could hold a half-day workshop on 16 October 2002 to further explore the issues of technical assistance. She encouraged Members to contact her or the Secretariat to convey their ideas on how the workshop could be organized and structured. She announced that funding would be available to assist the participation of capital based representatives from least-developed country and resource constraint Members (one representative per Member). Requests for such funding should be made to the Secretariat before the end of August so that the WTO Technical Cooperation Division could approve the application and make the necessary arrangements.

121. The representative of the United States welcomed the responses received, and appreciated the efforts which had been made by those Members to coordinate at the national level to reply to the questionnaire. She believed that the more submissions were received, the easier it would be to identify the gaps in technical assistance activities. She noted that the discussions on technical assistance in the past years had left the Committee in a position to target the specific needs in relation to the implementation of the Agreement, which might result in more effective resource allocation.

122. She welcomed the idea of a workshop which would provide useful opportunity for informal exchange. Those Members who had submitted written responses could provide additional views or information orally. It would also be an occasion for donors or potential donors to respond to the needs identified and to clarify where the gaps were. She recalled that observers of the Committee had been providing information on their technical assistance activities. The Committee could invite them to respond to the specific needs identified in the survey.

123. She observed that there was a lack of assistance (either by the WTO or other international bodies) in the core area of TBT obligations. It related to the need for an adequate domestic regulatory infrastructure to ensure that technical regulations were designed in a appropriate and effective way to meet justifiable objectives. Her delegation would come back to the issue once the responses to the survey had been analysed. She noted that much assistance had been provided in relation to one aspect of the Agreement, which was on the use of international standards and the participation in international standard setting activities. She recalled that in the Ministerial Decision on Implementation Issues and Related Concerns, there was a mandate for the Director-General to facilitate the participation of Members in the activities of international standard-setting bodies and to identify TBT-related technical assistance needs. She questioned whether it could result in a duplication of efforts and whether it was appropriate for the Committee to address this, if it had already been fulfilled by the DG's mandate. She sought views from other Members.

124. The representative of Japan agreed that there was a need for good coordination between the DG's mandate and the current work of the Committee.

125. The representative of Canada reiterated his support of the Committee's ongoing work on the technical cooperation programme, and was pleased to see the progress made. He shared the US's views on the need for technical assistance in the area of technical regulations. He believed it was an area lacking the same type of technical assistance as that provided for standardization issues. He recalled that during the informal discussions, a number of Members had raised the issue of how the work of the Committee could coordinate with the overall work of the WTO, and stressed the importance of coordination among WTO bodies on technical assistance issues.

126. The representative of the European Communities explained that the workshop would provide an opportunity to have an overview of the responses to the survey. Developing country Members could also indicate whether the assistance to be provided would be useful or not. He recalled that a concept of a database on the supply side of technical assistance had been explained by a representative of the Technical Cooperation Division at the informal meeting. He wondered if it was possible to ensure the usefulness of that database for the TBT technical assistance programme. He believed that the workshop should focus on technical assistance rather than to examine how technical regulations were developed by Members. He clarified that it was not the EC's intention to limit the workshop to be a half day event.

127. The representative of Brazil believed that the participation of observers in the workshop could be useful. The Committee could seek their advice and clarification on technical assistance issues.

128. The representative of the United States did not oppose the participation of observers at the workshop. However, in view of the limited time available for discussions, she suggested that observers should not be invited to give presentations, but only to respond to questions. She clarified that her comment on technical assistance related to the implementation of the Agreement was made on the basis of the needs identified in the responses to the survey. Her delegation would further elaborate on this at the workshop and invited the others to do so as well.

129. The Chairperson concluded that a workshop would be held on 16 October and that observers would be invited to participate on an interactive basis.

130. The representative of the ISO believed increased participation in international standardization could assist participation in international trade, since international standards were one of the tools to facilitate trade. He reported on the five ISO regional workshops (Belgrade - December 2001, Bangkok - February 2002, Nairobi - March 2002, Bogota - April 2002 and Cairo - May 2002) aimed at enhancing the participation of developing countries and economies in transition in international standardization. They were organized in cooperation with the WTO, CODEX/Alimentarius and IEC, and were funded by three ISO members (Germany, Japan, Sweden) and the WTO. The aim of these workshops was to identify obstacles to participation and to seek possible solutions. Participants included representatives from national standards bodies, industry, as well as consumer and trade representatives. The programme had been prepared on the basis of responses to a questionnaire circulated prior to the workshops. Programmes of action had been produced at the workshops. A "wrap-up workshop" would be held in Stockholm in September 2002, and would recommend specific actions to be taken by national standard bodies, stakeholders of standardization, the donor community, governments and international organizations. International organizations (including the WTO) and donor organizations had been invited to give their views. The recommendation of the wrap-up workshop would be presented to national standards bodies at the ISO General Assembly, and might be transmitted to interested governments and technical assistance agencies. It could provide a basis for future technical assistance activities related to international standardization and conformity assessment. He would report to the Committee on the result of the wrap-up.

131. The Committee took note of the statements made.

VIII. OUTSTANDING IMPLEMENTATION ISSUES IN ACCORDANCE WITH PARAGRAPH 12 OF THE MINISTERIAL DECLARATION

132. The Chairperson recalled that the Committee had been mandated by Ministers in Doha to address two outstanding implementation issues related to the TBT Agreement (Job 01/152/Rev.1). The first issue related to a proposal that made Article 11 "Technical Assistance to Other Members" obligatory. The second issue related to the acceptance by developed country importers of self declaration regarding adherence to standards by developing country exporters.

133. The representative of India noted that implementation issues related to concerns on various WTO Agreements, including the TBT Agreement. They had been raised by a number of developing country Members in the run-up to Seattle and the Doha Ministerial Conference. Decisions had been reached in Doha on certain TBT issues (paragraph 5 of the Doha Decision on Implementation-Related Issues and Concerns). Ministers had agreed that negotiations on outstanding implementation issues should form an integral part of the work programme. In accordance with paragraph 12(b) of the Doha Ministerial Declaration, "all other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, ..., by the end of 2002 for appropriate action".

134. He believed that there had been a proliferation of technical regulations and standards in such a way that it affected market access of exports from developing countries. Developing countries lacked the technical, infrastructural and financial capacity to comply with these technical requirements as well as the provisions of the Agreement. There was a need for technical assistance and cooperation (e.g. in areas of conformity assessment procedures, test facilities/institutions and MRAs; in infrastructure, financial resources and technical expertise; in the participation in international standard setting bodies; as well as in human resource development, automated systems for dissemination of information and the establishment of national notification systems).

135. He recalled that at the First and Second Triennial Reviews, the Committee had held discussions on technical assistance, and had noted that certain Members, in particular developing country Members, had encountered difficulties in the implementation and operation of the Agreement. The Committee had recognized the importance of ensuring that solutions were targeted at the specific priorities and needs identified by individual, or groups of, developing country Members that would allow them to effectively implement, as well as benefit from, the Agreement. The Committee had noted that provision of technical assistance, including technical assistance under Article 11, could be directed at both the national and regional levels. The Committee had also recognized the importance of enhancing the effectiveness of technical assistance and cooperation, and had agreed to build on the results of the Workshop held in July 2000 with a view to identifying realistic and practical options for progress. The objective would be to develop a demand driven technical cooperation programme related to the Agreement, taking into account existing and proposed technical assistance activities, as well as seeking ways to achieve more effective cooperation and coordination among donors in order to better target the needs identified by developing country Members. He recalled that Ministers in Doha had reaffirmed the approach adopted by the Committee to develop a demand driven technical cooperation programme. The programme would evolve on the basis of the following elements: the design of a survey to assist developing countries in needs identification; the identification and prioritization by developing and least-developed country Members of their specific needs in the TBT field; the consideration of existing technical assistance activities by multilateral, regional and bilateral organizations with a view to the effective and efficient development of technical assistance programmes; and the identification of technical assistance partners and financial considerations.

136. He recalled that Ministers in Doha had attached great importance to technical assistance and capacity building. Article 11 of the TBT Agreement on technical assistance was a mandatory provision, though each paragraph was qualified by phrases such as "to take such reasonable measures as may be available to them" and "mutually agreed terms", leaving room for discretion. He noted the ongoing work in the Committee on technical assistance, particularly, the questionnaire prepared at its March 2002 meeting to help developing countries to identify their specific technical assistance TBT needs. India was in the process of responding to the questionnaire.

137. He believed it crucial to provide tangible technical assistance and cooperation to developing country Members so as to enable them to effectively pursue their rights and to meet their obligations under the Agreement. Workshops and seminars had been an important tool in raising awareness of the benefits and obligations under the Agreement, but much more could be done. It was necessary to

ensure meaningful technical assistance and cooperation to developing countries to effectively operationalize Article 11 of the Agreement.

138. Concerning the issue of the acceptance by developed country importers of self declarations regarding adherence to standards by developing country exporters, and to introduce this provision in Article 12, he recalled that, at the First Triennial Review, the Committee had noted the growing concerns with respect to the restrictive effect on trade of multiple testing and conformity assessment procedures. The Committee had agreed to exchange information on Members' experience in the various types of conformity assessment procedures and their conditions of application. In the Second Triennial Review, the Committee had noted a number of approaches, including supplier's declarations, to facilitate acceptance of results of conformity assessment. Supplier's declarations of conformity, when used in appropriate circumstances and for certain sectors, had been considered by a number of Members to be a less onerous approach for the assurance of conformity. From a manufacturer's perspective, supplier's declarations allowed flexibility and non-discriminatory treatment in the choice of location for conformity assessment procedures, reduced the uncertainty associated with mandatory testing by designated laboratories based in foreign countries as well as minimizing the associated costs. The Committee had noted that this approach could be enhanced by the introduction of penalties for non-compliance, and surveillance. The Committee, however, had acknowledged that supplier's declarations might not always be appropriate. Consideration needed to be given to the particular characteristics of the sector, the relevant product risks, as well as health and consumer safety issues.

139. He believed it would be beneficial for the Committee to hold focussed discussions on the approach of supplier's declarations, in particular on how suppliers from developing countries exporting to markets of developed countries could benefit from this mechanism.

140. The representative of Mexico thanked India for its explanation and stated that there was a need to continue discussing the implications of the proposals in detail. With regards to the self declarations, he pointed out that there was a need for greater study, especially in light of the fact that under the Agreement, Members had the right to adopt different conformity assessment systems, provided they did not create unnecessary obstacles to trade and provided they were in compliance with the principles of the Agreement.

141. The representative of Malaysia thought that Article 11 provided scopes for bilateral technical assistance, and the Committee could explore ways to make this provision more operational. On supplier's declarations, she recalled that at the Second Triennial Review, Members recognized value in using this mechanism. She hoped the issue could be further discussed, especially with regards to how supplier's declarations could be utilised in certain sectors as a means to facilitating exports.

142. The representative of Egypt agreed with Malaysia that the issues related to Article 11 and supplier's declarations needed to be elaborated further in the next meeting. He believed that there was a correlation between the Committee's discussions on technical assistance and Article 11. He thought that the requirements of the TBT Agreement were not debatable, but the capacity of developing countries should be up to the level to meet such requirements. The TBT Agreement recognized the gap between developed and developing countries and called upon Members to assist developing countries in complying with their obligations. He considered that exports from developing countries might be hampered for the simple reason that such a country was unable to implement the Agreement. He thought that technical assistance should address this problem in an effective manner and believed that the questionnaire would help to identify the concerns and needs of developing countries. He agreed that Article 11 should be made more operational.

143. The representative of the United States appreciated the explanation given by India. She welcomed continued exchange on technical assistance and supplier's declarations and recognized

there were multiple links between these issues and the main consideration was to be consistent with the Agreement.

144. The representative of the European Communities was of the view that Article 11 made the provisions on technical assistance obligatory. He thought that technical assistance, either bilateral, regional or multilateral needed to be developed further, but believed that the issue was being addressed by the Committee's Technical Cooperation Programme. Once the Programme progressed, the Committee could see which needs had to be addressed. On self declarations, he noted that it had been discussed at the Second Triennial Review. He expressed concern that an unbalanced situation could be created if this approach was to be used by developing country exporters only. If a third-party certification scheme was used for a particular sector, there would be a difference in the rules if self declaration was accepted for a certain group of foreign producers. He suggested that the Committee could examine the whole issue of supplier's declarations, for example by means of case studies. He explained that this mechanism was used within the EU in certain sectors, and was willing to share the experience on this. He believed that supplier's declarations had to be linked to a effective market surveillance policy. One way to address this issue was to further examine ways to promote self declarations, looking at the benefits and costs. The EC would submit a paper on its relevant experience.

145. The representative of Chile considered that the October workshop would be an opportunity to look at the needs of developing countries and to see what could be achieved in this context. With regard to the supplier's declarations, he joined the others in saying that it was important to comply with the principles of the Agreement. He reminded delegates that the Committee had to report to the Trade Negotiating Committee on these issues by the end of the year, and that at the October meeting, the Committee would need a thorough reflection on them.

146. The representative of the People's Republic of China emphasized that Articles 11 and 12 were to ensure that developing country Members better fulfilled the obligations of the Agreement, and that technical assistance should enhance their capacity. He agreed with other delegations to discuss the issues further at the next meeting.

147. The representative of Brazil considered that the two proposals made by India were included in the negotiation package agreed at Doha. On Article 11, there might be room for a specific proposal. However, this Article was not a provision on Special and Differential Treatment, because it related to all Members. The provision was already mandatory, and a way could be found to make it more operational. On self declarations, she believed that the Committee had not held substantive discussions on it, and it was premature to make it mandatory for developed countries in relation to developing country exporters. She welcomed further reflection on both issues.

148. The Chairperson acknowledged there was a need to have a focussed discussion on these outstanding issues. It was desirable to make progress at the October meeting so as to enable the Committee to report back to the TNC before the end of the year.

149. The Committee took note of the statements made.

IX. OTHER BUSINESS

150. The Chairperson informed the Committee that its next meeting would be held on 17 October 2002. Back to back with it, there would be informal consultations on 15 October and a workshop on technical assistance on 16 October.
