WORLD TRADE ORGANIZATION

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(03-4305)

Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 2 JULY 2003

Chairperson: Mr. Juan Antonio Dorantes Sanchez (Mexico)

1. The Committee on Technical Barriers to Trade held its thirty-first meeting on 2 July 2003.

2. The following agenda, contained in WTO/AIR/2122 and ADD.1, 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), THE GULF ORGANIZATION FOR INDUSTRIAL CONSULTING (GOIC) AND THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

3. The Chairman drew attention to the requests for observer status in the Committee by the OIV (G/TBT/W/62), BIPM (G/TBT/W/135), GOIC (G/TBT/W/141) and CBD (G/TBT/W/177). He recalled that the Committee had been holding consultations on these requests for some time, but understood that further consultations were still needed. He proposed to come back to these requests at the next meeting.

4. The Committee took note of the statement made.

II. UPDATE OF THE REPORT (2002) OF THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE

5. The Chairman recalled that at its February meeting, the General Council had agreed to submit to the Ministerial Conference in Cancún a brief update to its Report of 2002 reflecting the developments in 2003. For that purpose, the Committee had been requested to update its 2002 Report.

6. The Committee adopted the update of its Report for the consideration of the General Council (GL/580/Add.1).

III. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

7. The representative of the People's Republic of China recalled that a number of Members had expressed concerns on the Chinese Compulsory Certification (CCC) system. He provided information on the implementation of the system, and explained how China had responded to Members' concerns. He recalled that according to the commitment made under Article 13.4 of the Protocol of China's accession, the two former compulsory certification systems had been merged into one, namely, the "CCC" system. It was promulgated in December 2001, before China's accession to the WTO. An eighteen month adaptation period had been provided. However, due to the outbreak of the Severe Acute Respiratory Syndrome (SARS), inspectors could not be sent on site to audit and inspect domestic or foreign enterprises. Accordingly, the enforcement of the "CCC" system had been postponed from 1 May to 1 August 2003. He noted that auditing and inspection had been resumed after the control of SARS.

8. He noted that up until present, 14,000 domestic and overseas enterprises had been certified, of which 1,500 were foreign enterprises. Most of the designated products had already been certified, and as of the new enforcement date, those designated products without a certificate and CCC mark would not be allowed to be placed in the Chinese market. He urged Members to inform their export enterprises for the timely application of the CCC system, so as to avoid unnecessary losses. He informed the Committee that the China Certification and Accreditation Committee (CNCA) was ready to answer any questions or hold bilateral consultations in this regard. He recalled that since the promulgation of the system, 150 foreign delegations had been received to clarify the implementation procedures and to exchange views on future cooperation. CNCA also provided possibilities for phone enquiries and on-line applications.

9. The representative of the United States (US) thanked China for the update on the "CCC" system. Her authorities had been actively promoting the awareness of US suppliers on these requirements. She sought clarification on whether China considered accepting factory inspection

results made by the manufacturers or by bodies of other countries. She understood that China was considering the acceptance of manufacturers' self-certifications.

10. The representative of the People's Republic of China confirmed that his authorities were willing to hold bilateral consultations with Members on this kind of request.

11. The representative of Chile drew attention to an Ecuadorian technical standard NTE INEN 102:2003 (Third Review) - "Carbon Hot Roll Steel Rods for Reinforced Concrete", applied to concrete bars (tariff code 7214.2000). This standard had been published in the Official Register of Ecuador on 23 April 2003 and had come into force on the same date. It required that imported rods be marked not only with the name of the manufacturer, but also the name of the importing agent. She sought clarification on the following: (i) whether this technical standard had been notified, and, if so, when? (ii) if it had not been notified, when would the notification be made? (iii) what did the marking consist of? and (iv) what was the objective of this measure? She understood that the common practice in steel industry was to place on each bar of the rod the name of the manufacturer. The marking of the name of the importer implied an additional cost, since manufacturers would have to put on different markings for each importer. In her view, this represented a more trade restrictive measure than necessary to fulfill a legitimate objective and created an unnecessary barrier to trade. She noted that the requirement would not apply to Ecuadorian manufacturers, since they only had to mark their names. She urged Ecuador to take into account her concerns.

12. The representative of Ecuador took note of the concerns raised. She assured that the comments would be forwarded to the technical experts in her Capital, and an answer would be provided speedily. She informed the Committee that the INEN was the body which dealt with standards information in Ecuador.

13. The representative of Mexico drew the attention of the Committee to the US draft technical regulation deriving from the Bioterrorism Act (G/TBT/N/USA/32). She recalled that Mexico had sent comments to the US authorities, and reiterated her concerns regarding the possible violation of the TBT Agreement as well as the possible economic impact of this regulation. She had doubts that the measure would fulfil the legitimate objective, and asked whether written replies to the comments made would be received. She sought information on the present state of the draft, and asked if comments made had been taken into consideration in its development.

14. The representative of the European Communities (EC) shared the concerns raised about the effectiveness of the proposed US regulation. He recalled that the EC had sent comments to the US both under the TBT and SPS Agreements. The main concerns related to the duplication of the systems, the excessive information requirements and the discrimination between imported and domestic products. He questioned the proportionality of the measure, and sought clarification on whether the comments made were being taken into account in drafting the final measure.

15. The representative of Australia acknowledged the right of the US to impose controls to ensure the safety of its food supply. However, she believed the legislation was more trade restrictive than necessary to achieve this objective. Her concerns centered on the relevant risk assessment, the recognition of equivalence of trading partners' export control legislation, as well as the trade impact of the onerous registration prior notice and record keeping rules. She sought an explanation on the intended single point prior-notification process as foreshadowed in the FDA press on 27 May 2003. Australia intended to submit formal comments on the Bioterrorism Act before the final date for comments.

16. The representative of Brazil associated his delegation with the comments made by Mexico and the EC.

17. The representative of Indonesia shared the concerns expressed. She insisted that the measure should be implemented in the least trade-restrictive manner, and sought an update on the draft.

18. The representative of Malaysia recognized the need to take safety measures, but was concerned about the potential trade-restrictiveness of these regulations, particularly with respect to their compliance costs. She shared the concerns raised by other delegations on the draft US regulation and urged that the comments made would be taken into account. She sought clarification on the issues of detention of consignment and the possibility of compensation under this regulation.

19. The representative of Switzerland echoed the concerns raised by the previous delegations.

20. The representative of the People's Republic of China supported efforts made by the US for the prevention of terrorism. China had translated the notifications and the related draft regulations into Chinese and had placed them on the AQSIQ website for comments. His authorities would send the comments to the US before the final date. The main concern of Chinese producers was the long record keeping requirements.

21. The representatives of Argentina and Ecuador shared the concerns expressed, in particular, the potential trade impact of the measure, although they understood the reasons why the US had drafted such a regulation. They sought further clarification from the US.

22. The representative of the United States recalled that the draft regulation related to the Bioterrorism Act which required the registration of food facilities and that prior notice of imported food shipment had been notified on 13 February 2003 (G/TBT/N/USA/32) with a comment period provided until 4 April 2003. The Food and Drug Administration (FDA) had received more than 500 comments and was still in the process of reviewing them. She took note of the comments and concerns expressed in the Committee as well as those made to her authorities, and ensured that meaningful consideration was being given to them before a final rule was prepared. She informed the Committee that the regulation would come into effect on 12 December 2003. The FDA anticipated to publish the final rule in October 2003, when, as the normal procedure for US regulators, responses to comments received would be published. It was unlikely that individual replies would be made to the 500 comments.

23. The representative of Australia recalled that concerns had been raised by her delegation and other Members with regard to the EC wine labelling regulation 753/2002 (G/TBT/N/EEC/15) over the previous 12 months. Australian exporters still did not know how to comply with certain aspects of the regulation, since the EC had not responded to the numerous questions posed. The need for a response was urgent, since the transit time from Australia to the EC was from six to eight weeks. The EC had recently (barely one month before the regulation was to be implemented) confirmed to the Australian wine industry the requirement to show on a wine label the name of the responsible importer, and only one importer could appear on the label. This would mean that consignments of Australian wine being shipped to the EC must affix different labels according to the EC Members' State where customs clearance was to be undertaken. She believed this was an unnecessary obstacle to trade, in particular, with respect to the substantial and unnecessary costs incurred to comply with the regulation. She expressed concerns that the EC continuously disregarded both the procedural and substantive obligations under the Agreement. Given the long lead times associated with certain aspects of wine production, she asked when the EC intended to address comprehensively the problems identified, so that the current disruption to trade could be overcome. She urged the EC to repeal the regulation, or, alternatively, defer its implementation until at least 12 months after the problems had been rectified.

24. The representative of New Zealand recalled that his delegation had raised concerns over the EC Regulation 753/2002 at Committee meetings held in June and October 2002, as well as March 2003, and regretted that problems remained. The concerns about the potential trade impact of EC policies in wine stretched back to 1998. His authorities had submitted detailed comments on this

regulation (notified as G/TBT/N/EEC/15) on 23 August 2002, and he requested a formal written response. He reiterated his view that the overall approach of the EC Regulation was in conflict with the core principles of the Agreement, in particular, the obligation under Article 2.2, not to create unnecessary barriers to trade, as well as to ensure that technical regulations were no more trade restrictive than necessary to fulfill a legitimate objective.

25. He listed the following concerns: (i) the limitation on the use of terms relating to wine varieties, production methods and vintage to wines carrying a geographic indication (GI) seemed to disregard the TBT requirements; (ii) the restriction on the use of traditional terms appeared to undermine the stated consumer information objective; (iii) the attempt to protect certain bottle types and limit their use was an unnecessary obstacle to trade. He raised questions on how the TBT and GATT national treatment and MFN obligations were fulfilled; how relevant international standards had been taken into account; and how the Agreement's provision on equivalence had been recognized. He also raised concerns regarding the TRIPS Agreement, which he believed did not extend to "traditional terms" or bottle shapes. He also shared the Australian concerns on the importing requirements.

26. He believed the EC failed to meet the Agreement's notification and consultation requirements. In view of the complexity of that regulation, this failure of compliance and the lack of clarification had created serious problems. He underlined the importance of respecting the notification obligations and taking into account comments from other Members. This was an on-going obligation which the EU was expected to respect for all the technical regulations which might affect trade and which were not based on relevant international standards. He welcomed the EC's intention to meet, for a second time, with a number of Members on 16 July 2003 in Geneva, and looked forward to receiving clarification on the Regulation, including the transition phase and the proposed amendments. He stressed that the meeting should not be a substitute for a formal written response to the comments sent. The urgency for a response was increasing given the impending application of that regulation, and, in particular, in the light of the long lead-time faced by New Zealand exporters. He requested the EC to indicate when a written response could be received. He noted that the regulation had generated a climate of commercial uncertainty for New Zealand's exporters, and urged that it be withdrawn or revised to meet the concerns expressed by his delegation and other Members.

27. The representative of the United States associated her delegation with the comments made by Australia and New Zealand. She recalled that the discussions about the EC Regulation had been on the agenda for some time, and expressed her frustration about the lack of substantive response. She requested a confirmation from the EC on whether that regulation would enter into force on 1 August 2003, or if there would be a transition period until 1 February 2004, and whether during that period labels conforming to the existing regulation could still be used. She also sought clarification on the list of products, if any, to which that regulation would apply on 1 August 2003, and what provisions would have a bearing from that date. She was not aware of any publication on the above. She sought a reply from the EC on when the comments made would be responded, and if the responses would be in writing. She asked whether the EC had plans to clarify, amend or repeal the EC Regulation.

28. The representative of Mexico echoed the concerns expressed by Australia, New Zealand and the US. She noted that regulation would come into force on 1 August 2003, and sought clarification on where its final text could be obtained. She raised the question on whether comments made by Members had been taken into account, and requested a formal reply to the comments. She believed that regulation violated various principles of the Agreement. She welcomed the meeting to be held on 16 July 2003, which, she hoped, could clarify her concerns.

29. The representative of Argentina associated his delegation with the comments made by the previous speakers. He requested a response to the concerns raised, and welcomed the 16 July 2003 meeting. However, he stressed that the meeting could not be a substitute for written replies to the questions put to the EC.

30. The representative of Brazil associated his delegation with the comments made, and welcomed the 16 July meeting.

31. The representative of the European Communities recalled that following an informal meeting with third countries on 16 October 2002 and the Committee meeting on 17 October 2002, the date of application of Regulation 753/2002 had been postponed by seven months (from 1 January 2003 to 1 August 2003). He confirmed that the EC was planning to adopt a proposal to have a transition period, during which labels under the current regime would be able to co-exist with labels under that regulation. The transition period would be for six months (from 1 August 2003 to 1 February 2004). During this period, the EC would continue to examine third country comments. His delegation was ready to participate in the informal expert discussions with all interested Members on 16 July 2003.

32. The representative of Canada referred to notification G/TBT/N/EEC/26 on an EC regulation prepared following the rulings and recommendations of the Dispute Settlement Body on the EC Sardines case. He recalled that his delegation had raised concerns about the timing of that notification, as well as the burdensome labelling requirements of that regulation. He noted that regulation had come into effect on 1 July 2003. One main concern related to the requirement that the name of the species had to be put jointly to the word "sardines" each time the word appeared on the label. He could not see the legitimate objective of that requirement, and considered it to be more trade restrictive than necessary. He recalled that in the past, the EC had concluded that trade description based on geographic names, such as "Canadian Sardines", were not sufficient. He could not support this conclusion, since such labelling had been used for decades without any evidence of problems or confusion for consumers. He requested a response from the EC.

33. The representative of the European Communities recalled that the EC had been working closely with Peru to reach a settlement on the Sardines case, and confirmed that the ruling would be fully implemented. He was aware of the transparency obligations under the Agreement[1].

34. The representative of the European Communities drew attention to a new Japanese regulation concerning the release of formaldehyde from construction material for interior use. She noted that regulation had not been notified. She raised concerns on its effects on European exports of construction products to Japan. She understood the desire of Japan to ensure high standard in the interior environment of new buildings. However, she believed that regulation would create a trade barrier, in particular, since it would not allow European manufacturers to submit their products to EC's conformity assessment bodies for the necessary performance appraisal. It would be more time-consuming and costly. She noted that there had been discussions and correspondence between her delegation and Japanese authorities. She sought a reply on whether the Japanese authorities would take the EC's comments into account, and whether, as a transitional measure, all construction products proved to have applied for the formaldehyde classification according to the new regulation would be allowed in Japan, while waiting for the subsequent certification or ministerial approval.

35. The representative of New Zealand associated his delegation with the comments made by the EC. New Zealand exporters had raised concerns about the formaldehyde testing requirements and sought clarification from Japan.

36. The representative of Japan ensured that he would report the comments back to his Capital as soon as possible in order to address the concerns expressed.

37. The representative of New Zealand raised concerns about the import to Korea of fish heads (e.g. Hake, Cod and Pollack) used in the preparation of soups for human consumption. He understood that Korea prohibited the import of Hake heads based on the presumption that they were waste. He noted that under WTO rules, "to regard a product as waste" was not a legitimate reason to prohibit the

[1] G/TBT/EEC/26 on 10 March 2003

import of that product. His authorities had informed Korea that New Zealand could process Hake heads to an edible standard, and could provide appropriate government assurances. He was not aware, and was not informed by Korea, of any specific sanitary risks to human health to justify the current prohibition. New Zealand had sought clarification at the World Customs Organization on the classification of "Hake heads for human consumption (e.g. for the manufacture of soups)", and had been provided with the opinion that they should be classified under subheading 0303.78 (Chapter Three) of the harmonized system, and not as a waste product.

38. He recalled that bilateral consultations with relevant Korean authorities had taken place in the past twelve months in order to resolve the issue. His delegation had also presented an aide memoire on the issue to the Korean delegation at the March 2003 meeting. However, no response had been received. He noted that, other than sanitary handling requirements, Korean authorities did not place specific restrictions on the fish heads cut by Korean fishing vessels abroad or those cut in Korea for human consumption in Korea. He sought justification for the import ban of Hake heads in terms of relevant GATT and TBT provisions. He believed Korea should allow the import of Hake heads, provided that the product was accompanied with an appropriate certification, ensuring that it was fit for human consumption. He urged Korea to address these concerns as soon as possible.

39. The representative of Korea was aware of the points raised by New Zealand through bilateral consultations. He informed the Committee that the issue was under examination by the relevant Ministry. He would convey the outcome back to the Committee.

40. The representative of Canada raised concerns about the US's country of origin labelling requirements on meat products. He noted that relevant voluntary guidelines had been in effect, and the new mandatory regulation originally scheduled to come into force by September 2004 could be delayed. He believed that any regulation arising from the voluntary guidelines would be unworkable, burdensome and would pose unnecessary demands on both Canadian and US industry. He noted that it was not an issue of health and safety, and urged the US not to proceed with putting in place a mandatory regulation to implement the voluntary guidelines.

41. The representative of Mexico shared the concerns voiced by Canada. She enquired about the present status of the US draft regulation. She recalled that her delegation had made a formal request in this respect, and was waiting for an answer. She believed the regulation would constitute an unnecessary burden and high costs for imports to the US.

42. The representative of the United States recalled that a notification (G/TBT/N/USA/25) had been made on the voluntary guidelines published on 11 October 2002. Although there was no requirement under the Agreement to notify voluntary guidelines, they had been notified due to the fact that a legislation was in place which would require the Food and Drug Administration to promulgate a regulation on mandatory labelling by 30 September 2004. She informed the Committee that no proposal had yet been published for the mandatory regulation.

43. The representative of Korea referred to a notification made by China (G/TBT/N/CHN/13) of 23 January 2003 on the Conditions for Boiler and Pressure Vessel Manufacturer Licensing. He found the regulation burdensome and costly for foreign manufacturers and was unnecessarily trade-restrictive. According to the regulation, manufacturers of boilers and pressure vessels were required to have at least four years of production experience to obtain a licence. However, no similar requirement applied to domestic producers in China. He believed this was inconsistent with Article 2.1 of the Agreement, and requested it to be abolished. He sought clarification as to whether foreign manufacturers were allowed to make use of outsourcing, as well as on the condition for such practices. He noted that in the contemporary business world, in many countries, including Korea, outsourcing in these areas was common. He also posed the question on whether equivalent licenses issued by other countries could be recognized by the Chinese authorities.

44. The representative of the People's Republic of China took note of the concerns raised by Korea and would respond bilaterally.

45. The representative of the European Communities recalled that on 24 March 2003 her authorities had submitted comments to Kuwait regarding notifications G/TBT/N/KWT/1-6 on the international conformity certification program. Concerns had been raised, in particular, on the different treatment of products according to their origin, the proportionality of the type approval procedures and the opportunity to accept results of conformity assessment in other Members. She requested Kuwait for a response.

46. The representative of the United States noted that her delegation had also provided comments on the Kuwaiti notifications. Part of the concern was that Kuwait appeared to be adopting a programme that had been in place in Saudi Arabia, namely the ICCP. A number of Members, including the US, had expressed concerns with that program in the context of the accession process of Saudi Arabia to the WTO. She understood that the Gulf Cooperation Council had undertaken a decision for all Gulf countries to adopt the Saudi Arabian program. Her authorities were studying the issue and would come back to it at the next meeting.

47. The representative of Brazil recalled that his authorities had requested information from Norway on its technical regulation for the importation of spirit beverages. He regretted that no answer had been received.

48. The representative of Norway assured that the comments would be transmitted to his capital, and that a response would be provided speedily.

49. The representative of Canada drew attention to document G/TBT/W/208 submitted by the EC drawing Members' attention to an Internet consultation on EC documents concerning Registration, Evaluation, Authorization of Chemicals. He appreciated the EC's effort to provide at the Internet site, at an early date, the opportunity for other Members to study the voluminous documentation related to the issue. He sought clarification from the EC on when it intended to notify the proposed legislation and its plan of action with respect to this process.

50. The representative of the United States recalled that her delegation had raised concerns at the previous meeting, with respect to the EC's draft White Paper on Chemicals. Subsequently, a consultative document of the proposed regulation had been published on the Internet, and was notified to the Committee in G/TBT/W/208. She welcomed the early notification. Her delegation was in the process of evaluating that document. She sought clarification on whether the document published on the Internet was a draft Commission proposal. Referring to the transparency obligations under Article 2.9.1 of the Agreement, she asked why the draft was notified as a working document of the Committee and not under the normal notification procedures. She urged the EC to take into account the comments made by interested parties, and stressed that an opportunity to provide meaningful comments was essential to ensure a viable final regulation.

51. The representative of Australia shared the concerns expressed, and appreciated the opportunity provided by the EC for commenting at an early stage. She sought clarification on the legitimate objectives of the EC regulation, and raised concerned over its complexity as well as the high costs of compliance, in particular, for small and medium sized enterprises. She regretted that the EC was not following the efforts within the OECD and elsewhere to develop a harmonized approach for chemicals classification and labelling. She found the EC was approaching the matter from a hazard, and not a risk management basis. She reminded the EC of its obligation to ensure that any measure to be applied should be the least restrictive one to achieve its policy objectives.

52. The representative of Mexico welcomed the early notice of the EC. She raised concerns about the EC's approach on chemical management, and found that was not the best way of fulfilling

the objective of safety. She sought clarification on the viability of such a system and if there were less costly options for its compliance. She believed the regulation would create unnecessary obstacles to trade and violate the Agreement. She sought information on the plan of action on the issue. Mexico would provide written comments to the EC in the near future.

53. The representative of Japan thanked the EU for its efforts on transparency. His delegation understood the importance of the protection of human health and environment. However, chemical industries outside of Europe had great concerns, believing that the new regulation would bring negative impact on trade and investment. Japan was preparing its comments for the Internet consultation. He noted the large number of chemical material covered by the regulation, as well as the burden which might pose on industries on safety data and risk evaluation. He found imbalance between its costs and benefits, and believed that the regulation could be more trade restrictive than necessary. He urged the EU to ensure conformity with the Agreement. He suggested that the Committee should hold further discussions on this issue, after the Internet consultation.

54. The representative of the People's Republic of China shared the views expressed, and appreciated the Internet consultation. China had great concerns on the EC's draft regulation on chemicals and had translated the documents, including the White Paper, into Chinese, and had placed them on the AQSIQ's website to draw the attention of the public and relevant parties for comments. Special meetings were held with representatives from 11 Ministries and 8 industry associations. Efforts were made to submit formal comments to the EC through the Chinese Permanent Mission by 10 July 2003. His authorities had also encouraged industry, Ministries and associations to send their comments directly to the EC via the Internet. However, due to the volume of documents needed to be examined, he sought the possibility of an extension of the deadline of comments to 10 September 2003. He recalled that this request had been submitted to the Enterprise Directorate-General and the Environment Directorate-General of the European Commission through the EC's delegation in China. He invited the EC to formally notify the draft regulation to the WTO for comments. He stated that, as a developing country, China would appreciate it, if the EC could provide special and differential treatment under Article 12 of the Agreement, and to reflect it in its draft and final regulation.

55. The representative of Malaysia joined other delegations in expressing concerns over the EC's White Paper on chemicals. She appreciated the opportunity to provide comments through the Internet. However, she was concerned about the adverse trade effects and the compliance costs of the regulation, in particular, the cost on testing which could affect the price of the product as well as the profit margins. The time needed for testing could work against imported products, resulting in discrimination. She urged the EC to take into account the concerns raised, and ensure that the final draft would be in conformity with the Agreement. She supported the request for an extension of the comment period.

56. The representative of Korea shared the concerns expressed, and believed that the EC's proposal could act as a non-tariff trade barrier for exporters to the European Union market. The proposed measures contained in the White Paper were overly burdensome and costly to industry. Korea would submit comments to the EC shortly.

57. The representative of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) associated her delegation with the concerns expressed by the previous speakers on the EC's draft regulation. She sought further clarification on the documents provided, and requested an extension of the deadline for consultations on the Internet.

58. The representative of Thailand shared the concerns expressed by the previous speakers, and requested for an extension of the comment period. He explained that due to the impact and the wide range of industry involved, more time was needed to formulate comments.

59. The representative of Brazil echoed with the comments made, and supported the request for an extension of the deadline for comments.

60. The representative of Ecuador recalled that her delegation had expressed concerns on the issue at the March 2003 meeting. She agreed that the deadline for comments should be extended, so that necessary consultations with national authorities could be held. She recalled the discussions in some other WTO fora on market access, where ambitious positions were being put forward by Members. She believed that technical barriers to trade was an area where market access could be affected.

61. The representative of Canada informed the Committee that comments were under preparation by his authorities which would then be provided to the EC. He supported the request for an extension of the deadline, given the complexity of the issue, the amount of material involved, as well as the legitimate concern of some Members to translate the documents and to consult domestically.

62. The representative of the European Communities recalled that, under Article 2.9.1 of the Agreement, on 20 May 2003, the EC had made an early notice (in G/TBT/W/208) on the "Registration, Evaluation and Authorization of Chemicals" so as to provide Members with the opportunity to become acquainted with the system and to participate in an Internet consultation. A consultation document as well as other supplementary information had been made available, and the deadline for comments was on 10 July 2003. She highlighted that the document made available for consultation represented the work of the authority directly concerned. The European Commission's decision on the legislative proposal would be made at a subsequent stage. Document G/TBT/W/208 did not substitute the notification under Article 2.9.2 of the Agreement, which would be made once a proposal is finalized. She ensured that sufficient time would be allowed for comments on the proposal.

63. The representative of the United States drew attention to a Regulation in Japan on the "Amendment of the Enforcement Ordinance and Enactment of Notification for Implementing the Revised Pharmaceutical Affairs Law and the Blood Collection and Donation Arrangement Control Law" (G/TBT/N/JPN/78). She recalled that US industry had provided comments to Japan, and continued to have concerns with respect to the requirement that blood plasma be labelled as either "kenketsu" (which meant it was voluntarily donated) or as "hikenketsu" (which meant it was compensated). She welcomed the progress that had been achieved through bilateral consultation, and urged Japan authorities to continue working with the US industry to resolve the issue, and to ensure that safe US blood products were not disadvantaged because of the labelling requirement. She requested Japan to conduct a public outreach to clarify to the Japanese public that "kenketsu" and "hikenketsu" did not have safety connotations.

64. The representative of Japan confirmed that progress had been made in the consultation, and ensured that his authorities would continue working bilaterally to resolve the concerns raised. His delegation would report back to the Committee after consultations.

65. The representative of the United States raised a procedural issue concerning the implementation of notification obligations by the EC. She noted that on 26 May 2003, the EC had notified its proposals on traceability and labelling on genetically modified organisms as addenda to G/TBT/N/EEC/6 and 7. She understood that what had been notified was the common position of the Council, as opposed to the draft position of the Commission which was the subject of the original notifications. She was not clear at what point of time, the EC viewed its obligations under Articles 2 and 5 came into effect, and sought clarification on that.

66. The representative of the European Communities explained that as a general rule, in the case of Council and Parliament legislation, the EC notified proposals from the Commission (COM

Proposal). Regarding G/TBT/N/EEC/6 and 7, after having notified the COM Proposal, the EC informed other Members, by way of addenda, of the common position of the Council.

67. The representative of Mexico informed the Committee that on the day before, her delegation had notified modified standard and technical regulation on labelling of products in Mexico, and invited Members for comments. She drew attention to documents G/TBT/W/204 and 206 submitted by her delegation. G/TBT/W/204 provided information on a list of issues included in the National Standardization Programme which would be developed as Mexican official standards over the coming year. These drafts would be notified and published for open consultations. G/TBT/W/206 provided information on Mexican Official Standards issued by the Department of Environment and Natural Resources.

68. The Committee took note of the statements made.

IV. TECHNICAL ASSISTANCE AND FOLLOW-UP OF THE SPECIAL WORKSHOP ON TBT-RELATED TECHNICAL ASSISTANCE HELD ON 18 MARCH 2003

69. The Chairman recalled that the Committee had held a successful workshop on technical assistance (TA) on 18 March 2003, where a number of proposals had been made (Annex A, G/TBT/M/29). At the meeting of 20 March, there had been a support to further elaborate the proposals for the development of the TBT-related Technical Cooperation Programme. Interested delegations had been encouraged to take the work forward and to further explore the proposals. He invited Members to reflect on the following questions: (i) how to make use of the information in front of the Committee, as approximately 100 papers and responses on TA had been received since the Committee had started developing its Technical Cooperation Programme; (ii) how the Committee could ensure that demand and supply were met. In this regard, a proposal concerning databases on TA had been made; (iii) what could be good practices which could enhance the effectiveness and the efficiency of TA activities; and (iv) what was or should be the role of the Committee on TA. On the proposal relating to the databases on TBT-related TA, he drew attention to a Secretariat paper outlining the existing relevant databases (G/TBT/W/207).

70. He reminded Members that at the Second Triennial Review, the Committee had agreed on the following elements on which the TBT-related Technical Cooperation Programme would evolve: design of a survey to assist developing countries in needs identification; identification and prioritization of specific needs in the TBT field; consideration of existing technical assistance activities by multilateral, regional and bilateral organizations; enhancement of co-operation between donors; reassessment of needs in light of agreed priorities, identification of technical assistance partners and financial considerations. The Committee had also agreed that the progress made in implementing the programme should be assessed in the context of the Third Triennial Review. He invited Members to keep in mind the remaining work which should be completed before the Third Triennial Review. He encouraged the Committee to hold focussed discussions, and come up with concrete results which, if agreed by the Committee, could be included in the Third Triennial Review. He drew attention of the Committee to the latest submissions on TA (G/TBT/W/202, 203, 209, 212, 216, 220 and 221 from Canada, New Zealand, Mexico, the US and Brazil respectively).

71. The representative of New Zealand referred to documents G/TBT/W/212 and 216 submitted by her delegation, and supported the idea to explore the possibility to develop a notification system on TBT-related TA, both from the recipient and the donor. A common notification format could be used based on the principles, needs and priorities identified at the Workshop. This would enhance a consistent approach to the information already available on TA. She highlighted the proposal made by her delegation for an information coordination mechanism (G/TBT/W/216) which could be a further means to assist donors and recipients to find each other in a user-driven way. She suggested that the Committee could consider further work in the following areas: (i) updating the existing questionnaire to assist developing countries to identify and prioritize their needs in the TBT field; (ii)

consolidating the TBT web page on the WTO website which would contain references or links to the existing databases on technical assistance, both within the WTO and externally; and (iii) developing policy principles or good practice in TA, which could include the issue of categorization of TA aiming at developing a common language used in TA information. She recognized that there were numerous practical issues for the Committee to tackle. She encouraged Members to work towards achieving concrete outcomes before the end of the Third Triennial Review.

72. The representative of the United States drew attention to document G/TBT/W/220, containing the US views on the Third Triennial Review, including those on TA. She supported New Zealand's idea to improve information exchange, and suggested to seek potential responses to assistance requests through the Committee. She noticed that TA was a standing item in the Committee's Agenda, and would continue to remain so after the conclusion of the Third Triennial Review. She highlighted the importance of information exchange between the Committee and the WTO Secretariat in order to foster a better understanding of the TA provided by the Secretariat, so as to ensure its relevance to the discussions in the Committee. She was cautious about developing a new database, and believed that there was scope to work on the existing ones to make them more accurate and effective. She supported New Zealand's proposal on seeking common definitions for the categorization of TA.

73. The representative of Canada said that his delegation attached great importance to the implementation of the TBT obligations with respect to TA, and to seeking best results that would benefit all parties. He believed there was a need to improve communications. He supported the idea of a notification system, informal or formal, as less burdensome as possible, which would allow interested parties both donors and recipients to get in touch, to accelerate the provision of TA, and to make TA more meaningful and useful. He stressed the importance of keeping the momentum of the Committee's work to obtain early concrete results which would demonstrate its commitment to moving ahead on TA. He recalled the concerns expressed on the idea of a database, and believed it would be useful for Members to examine what the existing databases gave and to determine if anything was missing. Provided that the information in the existing databases was useful, to establish links to them would be the most effective way of using resources.

74. He noted that the TA survey and the wealth of papers had provided the Committee with a great amount of information. He was of the view that the services of a consultant or expert with a background in TA could be used to come up with certain strategic ideas, priorities and views on how best to move ahead in this area. Consideration could be given to a regional approach which allowed for the sharing of TA and capacity building on a regional basis.

75. The representative of Japan supported the idea to establish non-binding guidelines or principles for TA based on the responses to the questionnaires and the results of the Workshop. The cases and practices submitted by Members should be compiled, without prejudice, as a reference for ideas to improve TA. He also supported the establishment of a Member-driven database on the WTO website with links to databases of other international organizations. However, he was mindful of the workload for the Secretariat.

76. The representative of Colombia thanked delegations for their submissions. She believed it important to continue work following the March 2003 Workshop, and to further the proposals aiming at concrete results in the Third Triennial Review. She supported the proposal to develop non-binding guidelines for TA which would provide guidance and ensure that efforts were not duplicated. She found it useful to continue work on the survey on TA needs, and urged those developing country Members who had not submitted their responses to the questionnaire, to do so without further delay. The survey could become a dynamic tool to target the TA needs identified and prioritized by developing countries, thus enhancing the implementation of the Agreement. On the creation of a database, she found the Secretariat paper (G/TBT/W/207) useful, and stressed the importance to analyse its pros and cons, as well as to avoid the duplication of efforts. She supported the proposal of

New Zealand on the creation of a coordination mechanism, as well as the follow-up mechanism as suggested by Egypt in document G/TBT/W/225.

77. The representative of the European Communities welcomed the ideas proposed by Members on how to advance the Committee's work on TA. Her delegation was open to all good suggestions that were likely to achieve results, while being mindful of the role of the Committee and the resource constraints of the Secretariat. She supported exploring ways to match the supply and demand sides of TA, and believed that the New Zealand's proposal to create a notification mechanism would enhance transparency in this respect. The Committee should build on the existing results of its work (i.e. the questionnaire, the responses, the information gathered from the supply side, as well as the results of the March 2003 Workshop). Further analysis of the information, as suggested by Canada, and to make the results publicly available in an appropriate format could be beneficial. The EC planned to submit a paper to provide information to explain how TA programmes worked in the EU, aiming at maintaining a dynamic and forward looking approach.

78. The representative of Brazil referred to a Brazilian submission (G/TBT/W/221) which contained a non-exhaustible list of TA activities that Brazil figured both as a donor and a recipient. It encompassed the period of 1995-2003, and might serve as a road map for developing countries. Brazil intended to present an addendum to this document, providing further data. He supported the ideas of regular updates of the survey responses, the notifications of TA activities, as well as creating links on the WTO website to existing TBT related TA databases.

79. The representative of Australia thanked New Zealand, the US, the EC, Brazil and the others for their papers on TA, which she believed had assisted crystallising the issues. In her view, the value of a database should be considered in the terms of an overall delivery, not only within the WTO, but taking into account the national aid programmes. Databases were not in themselves a means for identifying priorities and needs of partner governments, but a result of extensive consultations between the parties, often in the context of national development strategies. Databases were a valuable supporting mechanism to avoid duplication and enhance donor coherence when designing specific programmes. She supported the proposals with regard to notifications of TA needs in a common format, to be made accessible on a Website. She also supported the development of non-binding best practice guidelines for TBT-related TA. She noted that guidelines for general trade capacity building were available, e.g. under the OECD. Australia's National Association of Testing Authorities had also developed principles, from an Australian perspective, for TA providers (e.g. that providers should not exaggerate the areas in which they could provide assistance; that they should consider coordinating with related bodies so as to provide a more rounded project; to ensure good project management; to display cultural sensitivity; and to engage appropriate experts in TA deliveries). She supported the US proposal to request the Secretariat to routinely provide to the Committee information on WTO TBT-related TA. The Committee should also be informed of the TBT needs identified annually by developing country Members to the WTO Secretariat.

80. The representative of Malaysia welcomed the submissions from Members, and believed that the responses to the questionnaire and the results of the Workshop had provided a wealth of information on needs and priorities of developing countries. The analysis of the responses had shown that the most commonly requested TA activities were in the areas of improving the knowledge of the Agreements, infrastructure and capacity building in the areas of transparency obligations (e.g. enquiry points) and conformity assessment bodies. The full implementation of the Agreement would depend on the availability of sound standard, conformity assessment and regulatory infrastructures. She believed a sequenced approach would improve coordination at all levels, and would ensure the sustainability of TA delivery. The TBT Committee had the role to continue work in the areas of developing priorities and setting targets for sequence and structured TA approaches. The development of the TA programmes in the WTO, as well as in other international organizations were also important in this regard. She suggested that the responses to the questionnaire could be updated on a periodic basis (e.g. every three years during each Triennial Review). This would allow the

Committee to analyse the updated TA requirements, thus verifying the progress made, or areas where needs remained.

81. She supported the suggestions of New Zealand and Egypt to improve information exchange. She noted that a database could be a simple way of collecting information from donors and recipients. She recalled the New Zealand's proposal for a clearing-house mechanism, and noted the existence of a WTO database. She suggested to merge the two to ensure that resource constraints in the WTO were taken into account. The Committee could also, through the documents, identify sources of funds and expertise, and could also place this information on the database. She believed that the coordination between the Secretariat and international organizations was necessary. She suggested a variation to the Egyptian proposal for a task force, instead, to hold informal meetings between the Secretariat and relevant organizations once a year to review each other's TA programmes, and to examine how the programmes matched up with Members' needs as identified in the responses to the questionnaire. She noted that reports were submitted by observer organizations, allowing the Committee to obtain a picture on how TA was being provided. She recalled that the Workshop had highlighted the importance of raising political awareness of the Agreement. She believed that Members as well as the Secretariat, when participating in the various seminars and workshops, could highlight the importance of the Agreement to enhance awareness.

82. The representative of Egypt noted that document G/TBT/W/207 had provided useful information on TBT-related TA, and recognized that many TA activities had already existed. He asked if there were other databases that the document had not covered. He agreed that it might be difficult to figure out the exact state of affairs regarding TA provided world-wide. He noted that the ITC offered TBT-related TA, in particular, with respect to export quality management, and other international and regional institutions (e.g. the World Bank and the African Development Bank) had relevant programmes. He believed this kind of information could be made reference in the Secretariat's paper. He proposed to request relevant international and regional organizations for detailed information on their TBT-related TA activities. Donor Members should also be encouraged to bring to the attention of the Committee their TA programmes planned for the following few years.

83. He referred to Egypt's proposals (G/TBT/W/225) for the Committee to elaborate steps towards the construction of a single database with the following objectives: (i) to bring together the needs of developing countries Members (as outlined in their replies to the questionnaire) and the TBT-related TA programmes offered by international or regional organizations as well as donor Members; (ii) to assist beneficiary Members to identify the possible source(s) of a particular kind of TA programme; (iii) to assist donor Members to improve the quality of their programs; and (iv) to avoid duplication of TA activities offered by different donors. A task force should be established with specific terms of reference regarding its participation, as well as with clear mandate to operationalize TA delivery. The Committee might also consider the establishment of a follow-up mechanism with parameters. Periodically reports should be made first to the task force and subsequently to the Committee on the implementation of TA programmes. In case of deviations from the plan, the task force should provide the Committee with recommendations for its consideration and approval on corrective actions. The beneficiary country and the donor should put such recommendations into force. He recognized that the issue of financing the task force activities could be a stumbling block that would threaten its progress. He proposed that the Committee considered the possibility of drawing on the resources of the Global Trust Fund. He also called upon donor Members and international organizations to agree on the establishment of a fund for such purpose. He welcomed the ideas put forward by a number of Members, in particular, the one relating to notification procedure to enhance transparency as well as the one to establish guidelines on TA.

84. The representative of India noted that, with the responses to the questionnaire and the results of the March Workshop, there was a clear understanding of developing countries' TA needs. He believed that there was scope for further details on the TA schemes offered by donors. In this regard, transparency could lead to better coordination, avoidance of duplication, as well as better matching

between demands and supplies. He supported the proposal of New Zealand of a notification system on TA for donors on their TA schemes, and also for recipients on their needs. The Committee should also consider the proposals of Japan and Egypt.

85. The representative of Mexico welcomed Members' submissions, in particular, the one from New Zealand. She supported the establishment of a notification system for TA, and believed that a standard format for such notifications should be prepared. She believed that there should be a Website to place all the TA information submitted to the Committee. She supported the idea of developing guidelines or principles for good practices in the area of TA, which could include the principle of sustainability as stated in the Mexican paper G/TBT/W/189 for the following-up of TA activities.

86. The representative of the People's Republic of China reiterated the importance of the provisions of TBT-related TA to developing countries, and appreciated the work carried out in the Committee. He believed TA should be as practical as possible, and discussions were needed to establish relevant guidelines. He suggested to develop a questionnaire for donors to indicate the TA they provided at the bilateral or regional level. Information would include the kind of TA donors could provide, who could benefit from it, as well as the procedures to be followed to ensure that requests would be addressed expeditiously. He thanked the EC for the assistance provided to China in its process of accession to the WTO. He noted the existing WTO/OECD database, and believed that requests from developing countries could be placed there together with the information from donors. Links could be created to donors' websites to facilitate communication. He invited other Members to put forward suggestions to assist developing country Members to raise awareness of the Agreement, and proposed the preparation of booklets or a CD Rom on the Agreement similar to those prepared for the SPS Agreement. He supported New Zealand's proposal on a notification system on TA.

87. The representative of Ecuador welcomed Members' submissions which had provided the Committee with a better understanding on the various issues of TA. She supported the following proposals: the periodic updates of responses to the questionnaire; the development of guidelines or principles of good practices on TA; the establishment of links to databases; and to promote contact between donors and recipients so as to facilitate the provision of TA. She believed an important area of TA was to raise awareness and to improve the knowledge of the Agreement.

88. The representative of Cuba thanked delegations for their contributions, and believed that TA in the TBT field required the full commitment of all Members. She supported New Zealand's proposals as contained in document G/TBT/W/216, and appreciated the suggestions made by Egypt. She also shared the views and proposals made by Malaysia.

89. The representative of Brazil informed the Committee that his delegation intended to present a paper on a mechanism to manage the information on databases.

90. The representative of the ISO noted the comments made regarding the importance of information on TA. Document G/TBT/W/207 had described three existing databases (WTO/OECD, ISO and FTAA). He believed establishing links to them could facilitate their use. ISO was considering doing so, on a bilateral or multilateral basis. He noted the proposal to harmonize the format in which information was put on databases, and indicated ISO's willingness to contribute. He informed the Committee that the ISO was currently considering the possibility, the costs and benefits of extending its database to cover information on TA needs. He invited the Committee to express its sentiment on the usefulness of such ISO initiative.

91. The Chairman concluded that the Committee had had a fruitful discussion on TA. The views expressed, as well as the submissions by Members had provided ideas on how the Committee could proceed to further improve TA, and to make TA more effective. He noted that the Committee had realized the importance of exchange on TA information, and a majority of Members had expressed an

interest in exploring the idea on databases. There was also the proposal to establish a notification system. He believed that the Committee could consider how to make use of the existing databases, bearing in mind avoiding the duplication of work with other databases. He requested the Secretariat to explore the feasibility of making use of the existing WTO information technology facilities to enhance TA information exchange. He recalled that there was also a general acceptance on the idea of developing certain guidelines or good practices for TA. He invited Members to make further contributions to the above proposals. He also invited Members to reflect on the idea for the follow-up or an evaluation mechanism for TA. He noted that a number of delegations had proposed to update regularly the responses to the TA questionnaire, and believed it could be done on a voluntary basis. Further discussions were needed as to how the Committee could examine the updated information. He urged developing country Members who had not yet replied to the questionnaire to do so.

92. The Committee took note of the statements made.

V. PREPARATION FOR THE THIRD TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE TBT AGREEMENT UNDER ARTICLE 15.4

93. The Chairman reminded the Committee of its mandate to conduct the Third Triennial Review of the Operation and Implementation of the Agreement before the end of year 2003. He expressed his wish for the Committee to make progress in the discussion on a number of issues. He had identified these issues based on the discussions of the last meetings, of which no objection had been expressed by delegations in their discussions in the context of the Third Triennial Review. He drew attention to an indicative list of issues (with the relevant documents that pertain to each) which had been prepared solely to facilitate focussed discussions, and proposed the Committee start its discussions based on that list. The list would be amended and updated accordingly. The elements contained in the list were the following: (i) implementation and administration of the Agreement; (ii) transparency procedures; (iii) conformity assessment procedures; (iv) good regulatory practice; (v) technical assistance and special and differential treatment; (vi) equivalence; and (vii) other elements.

Implementation and Administration of the Agreement

94. The Chairman drew attention to a list prepared by the Secretariat reflecting the status of implementation by Members under Articles 15.2 and 10.1. He recalled that a similar list had been annexed to the report of the Second Triennial Review.

Transparency Procedures

95. The Chairman, based on the discussions in the Committee as well as the submissions from Members, identified the following transparency issues in which delegations had expressed interest: (i) provision of sufficient time for comments on notifications, an important tool for transparency and consultations; (ii) how comments were handled, responded to and taken into account; (iii) the timing of notifications and the final date for comments, in particular, in relation to the date of adoption and entering into force of a draft regulation; (iv) notifications by local government bodies, as well as notifications of voluntary standards prepared by government bodies which were not normally standardizing bodies adhering to the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement); and (v) facilitating notification procedures by electronic means. He welcomed further proposals and ideas and invited Members to seek practical solutions to the concerns listed above.

96. The representative of Mexico drew attention to document G/TBT/W/209, and believed that as part of the outcome of the Triennial Review, there should be recommendations to enhance the compliance of Members' transparency obligations, in particular regarding notifications. She pointed to the obligation under Article 2.9.1 that "Members shall publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties in other Members to become

acquainted with it, that they propose to introduce a particular technical regulation." She found it necessary for the Committee to establish relevant procedures to ensure the compliance of this provision. Referring to Articles 2.9.2, 2.9.3, and 2.9.4, she raised concerns that these notification obligations were not always fully complied with by Members (e.g. not providing 60 days for comments; not providing in the notifications the deadline for comments and the date for entry into force; notifying only after, or near to, the date of adoption and the date of entry into force). She stressed that notifications should be made when technical regulations were still in a draft form, and not when they had been adopted or were in the final stage of adoption. In cases where comments were provided, there would still be time for discussions, consideration or amendments as required under Article 2.9.4.

97. The representative of Brazil referred to document G/TBT/W/214, and introduced his delegation's proposal on notifications. He noted that when a Member notified a draft regulation to the WTO, a document symbol and a number would be provided for that notification. He proposed that in a case when subsequently, the Member notified the adoption of or amendment to that particular draft regulation (e.g. as a result of comments received), this further notification should be issued as an addendum to the previous document. This would facilitate access to the relevant documents, and could reflect whether comments had been taken into consideration.

98. The representative of Egypt expressed his view that the Review discussions should take into account the situation of developing countries. He noted the submission from China (G/TBT/W/205) which demonstrated that in the year 2002 most of the developing country Members (two-thirds of the WTO Membership) had not submitted notifications to the Committee. This would mean that those Members either did not have a measure to notify, or there was a lack of technical and/or financial resources to do so. The Review should address this problem in a pragmatic way. It should seek ways to raise the awareness of regulatory authorities to meet the transparency obligations, and to consider the relevant technical assistance and capacity building needs.

99. He raised concerns about the comment period of notifications, in particular, with the lack of resources in developing country Members to comment within 60 days. This problem became more serious when less than 60 days of comment period was provided. The Review should address this issue with a view to ensuring that comment periods were fully available, with due regard given to problems facing developing country Members. He drew attention to Article 10.5 which stated that "developed country Members shall, if requested by other Members, provide, in English, French or Spanish, translations of the documents covered by a specific notification or, in case of voluminous documents, of summaries of such documents." He proposed making this obligation automatic. The Committee should also seek ways to improve the transparency of the implementation of Article 12 on "Special and Differential Treatment". He referred to the work in the SPS Committee on a similar provision, which he believed could be worthy of consideration by the Committee. He supported Brazil's proposal on document symbols of notifications, and believed that could facilitate the tracing of documents, as well as the following-up of amendments made to draft technical regulations and conformity assessment procedures.

100. The representative of the People's Republic of China made the following proposals: (i) comment periods should be at least 60 days and calculated from the date of circulation of the notification by the Secretariat to the final date for comments; (ii) the period for the adoption of regulations should be at least six months; (iii) in order to facilitate Members and their interested parties receiving notifications, the Secretariat should circulate notifications by electronic means, in addition to the existing practice, i.e. placing them on the Web site.

101. The representative of Cuba supported the proposal made by Brazil in document G/TBT/W/214, and the one by China to distribute notifications through electronic mail.

102. The representative of the United States requested the Chairman to include document G/TBT/W/165 in the discussion of "Transparency Procedures." Her delegation had assessed the trade concerns arising from labelling requirements in the context of the Committee's discussions, and had found these concerns were associated with the lack of notification, and the timing of notifications, as well as the question of considering the comments made on drafts. These were similar concerns as those identified by the Chairman.

103. The representative of Canada agreed that transparency was an important element to be addressed under the Review, and shared the Chairman's summary of the issues. He supported the idea of sharing comments on notifications, as well as Brazil's proposal on the tracking of notifications. He recognized that it was not always easy to draw the attention of regulatory authorities to the international trade aspects of a regulation. It was important to keep in mind that trade concerns was an important element to be considered, not only at the end of the process of regulation development. He proposed that Members undertook to share information on a regular basis, their procedures on domestic consultations regarding draft regulations before notifications were made. This could be done electronically through Web sites to enable trading partners to be acquainted with the draft. He believed this could increase transparency, and allow time for other Members to develop comments at an early stage.

104. The representative of Chile introduced a paper submitted by his delegation on labelling (G/TBT/W/213). He stressed the importance of abiding by the disciplines of the Agreement, when Members prepared labelling requirements, in particular, those related to transparency procedures. He believed that labelling did not warrant a debate as a separate item in the Triennial Review, but should be discussed under the elements of transparency, as well as good regulatory practices, since these measures should be treated as technical regulations or standards under the Agreement.

105. The representative of the European Communities appreciated the summary provided by the Chairman on the Triennial Review, and felt that the elements identified corresponded to the EC submission (G/TBT/W/197). She stressed the importance of the implementation of the transparency provisions of the Agreement, as well as the sharing of comments made on notifications. She believed this could assist Members, in particular developing country Members, to profit from the technical knowledge and legal expertise of other Members. The access to the final text of a regulation could enable Members to determine whether or not comments on a draft had been taken into account.

Conformity Assessment Procedures

106. The Chairman, based on the discussions in the Committee as well as the submissions from Members, identified the following elements which delegations wished to discuss under the Triennial Review: (i) suppliers' declaration (SdoC); (ii) accreditation; (iii) mutual recognition agreements (MRAs); (iv) relevant international guides and standards; (v) acceptance of results of conformity assessment; (vi) transparency of national procedures; and (vii) good practices. He noted that these elements might be interrelated, and drew attention to the relevant submissions received since the previous meeting (G/TBT/W/209, 210, 211, 215, 217, 218 and 220 submitted by Mexico, Canada, New Zealand, Brazil, the EC and the US respectively).

107. The representative of Mexico referred to Articles 5-9 of the Agreement, and believed these established substantive obligations for Members on the preparation, adoption and application of conformity assessment procedures. Although the Agreement allowed Members to choose the appropriate level of protection as well as the approaches, non-compliance with these provisions could pose serious problems on market access. In some cases, the provisions were respected. However, problems could be generated due to external factors, such as the lack of facilities needed for proper implementation of conformity assessment procedures, or the fact that trade impacts of certain procedures were ignored. The Triennial Review should seek ways to foster technical assistance for

the establishment of the infrastructure needed, as well as to enhance the harmonization of the different approaches in order to facilitate trade.

108. The representative of Canada introduced a Canadian paper (G/TBT/W/210), which focused on the role of voluntary conformity assessment, and how it could be used to eliminate or reduce technical barriers to trade. The paper highlighted the issue of accreditation based on international standards/guides to facilitate the acceptance of results of conformity assessment. It also emphasized the importance of global conformity assessment systems (as manifested in organizations such as ILAC and IAF). It noted the Code of Good Practice for Conformity Assessment which was currently under review at the ISO. He noted that voluntary conformity assessment systems had been used in Canada in a range of areas with government regulators participating in the form of partnerships with voluntary conformity assessment bodies. When confidence was built, it would allow moving from government control to voluntary approaches. This had been found to be efficient and cost-effective. He believed that many governments were overburdened with participating in the regulatory process, and keeping large bureaucracies and technical experts. In fact, this could be achieved adequately with the same level of confidence using voluntary conformity assessment. He highlighted the need for stakeholders to participate in the development of international standards, guides and recommendations, and referred to it as the foundation for achieving the recognition of conformity assessment results. He supported, where appropriate, the use of other kinds of conformity assessment approaches (e.g. SDoC in low risk areas, as well as other private conformity assessment schemes, such as the IEC CB scheme).

109. The representative of New Zealand appreciated the Chairman's comments on the need to have a focussed discussion with a view to ensuring that the Third Triennial Review could lead to the development of certain guidelines for better implementation and administration of the Agreement. He referred to document G/TBT/W/211, prepared by New Zealand, which provided concrete suggestions for that purpose. He noted the importance of building on the indicative list of approaches to conformity assessment which had come out of the Second Triennial Review. He agreed with Canada that Members should take full part in the development of relevant international standards and guides. He supported efforts to assist all Members to participate, including through the provision of appropriate technical assistance and capacity building. He believed that the Agreement had provided good disciplines on conformity assessment, in particular, in Articles 5 and 6. The Committee should build on the emphasis in Article 6 on the acceptance of results of conformity assessment procedures in other Members. The vital ingredient was to obtain sufficient confidence in the systems employed by other Members. One way of doing so was through MRAs. New Zealand had negotiated a number of MRAs with other Members under Article 6.3. However, he found that MRAs might not always be the most appropriate means to facilitate the acceptance of results from other Members, since they could add to administrative and financial burdens. In this regard, he supported further work to facilitate voluntary cooperation by means of accreditation to qualify relevant conformity assessment bodies. Members could be invited to share experience in these areas, and to explore options for strengthening the architecture of accreditation as well as voluntary co-operative relationships. He believed these areas could benefit from improved technical assistance and capacity building, and noted the relevant work being done in international accreditation bodies (e.g. ILAC and IAF). The Committee might wish to invite ILAC and IAF to share their experience in this regard.

110. He noted the potential of "recognition of equivalence" and SDoC to lessen administrative burdens and costs incurred in conformity assessment. There was a need to ensure that the correct safeguards were in place (e.g. adequate market surveillance, substantial penalties for false or misleading declarations, an appropriate regulatory environment and appropriate product liability regimes, as noted in the Second Triennial Review). He invited Members to share experiences in the development and operation of consumer protection legislation (i.e. underpinning the relationship between buyers and sellers). He highlighted the importance of improving transparency in conformity assessment procedures, and proposed to review the notifications made under Article 5.6 and other

relevant provisions, as well as to review material available in other publicly available sources (e.g. the trade policy reviews) to obtain a picture of the existing conformity assessment architecture.

111. The representative of the European Communities referred to the EC submissions (G/TBT/W/217 and 218), and noted that the papers built on the elements outlined by the Chairman. Regarding international standards and guides, she agreed that it was essential for Members to participate in their development, and stressed the importance of their use. She noted that ISO/IEC Guide 2: 1991 (as referred to in the Agreement under Annex 1 on terms and definitions) had been revised, and proposed to invite the ISO to explain to the Committee how this Guide had evolved, in particular those terms and definitions relating to conformity assessment. She believed that it would allow Members to take note of the changes, and could facilitate discussion in this area. One of the possible results of the Triennial Review could be that the Committee took note of the changes and the potential differences/gaps in this regard.

112. She was of the opinion that accreditation as well as the relevant international or regional voluntary cooperative arrangements could enhance the acceptance of conformity assessment results among Members. She pointed to document G/TBT/W/218, which provided the experience of the EC on SDoC, and voiced the fundamental conditions for this approach (i.e. good assessment of risks to ensure that the appropriate tool matched with the risks involved in terms of health and safety, and the protection of the environment; a functioning market surveillance system in terms of resources and enforcement powers; product liability; and consumer redress).

113. The representative of Brazil, referring to document G/TBT/W/215, provided information on the infrastructure and mechanisms for conformity assessment procedures in Brazil (i.e. certification, SDoC, inspection and labelling), as well as information on international recognition. He believed this informative document might serve as an instrument to assist developing countries to further develop their conformity assessment systems. He emphasized that, when properly designed and implemented, conformity assessment procedures could become the instrument needed for developing countries to improve market access with sustainability and transparency. However, it was important to ensure that these instruments for international trade would not become unnecessary obstacles to trade, in particular for developing countries. Brazil would submit another paper on the issue of recognition of conformity assessment procedures to facilitate discussions.

114. The representative of Japan introduced document G/TBT/W/222, prepared by his delegation, which proposed the following two issues for further discussion: the use of appropriate accreditation schemes and the possibility of using SDoC. He welcomed the relevant submissions by Canada and New Zealand, and agreed that the use of internationally harmonized standards, guides, and recommendations would enhance the confidence in conformity assessment services which were based on accreditation. International and regional conformity assessment systems (e.g. those of ILAC and IAF) would have the potential to reduce or eliminate duplicative costs of conformity assessment. In order to enhance the utilization of these systems, it was important to improve their procedural transparency and openness (i.e. in the development of guidelines/recommendations), and that the views of regulatory authorities were adequately reflected. He agreed that the use of voluntary conformity assessment systems could contribute to reducing costs and avoiding delays in the delivery of products to markets. However, in order that these systems were utilized, a high level of moral or ethical standards should be followed. He noted that SDoC was another tool that might facilitate effective conformity assessments. He suggested that suppliers could use test/inspection reports from competent laboratories whose ability and fairness were confirmed by accreditation and international standards (such as draft ISO/IEC 17050) to ensure their procedural transparency.

115. The representative of Egypt noted that Article 5.2 outlined the main elements which Members should follow when applying procedures for assessment of conformity by central government bodies. Annex 4 of the report of the Second Triennial Review (G/TBT/9) had elaborated principles for the development of standards, guides and recommendations related to conformity assessment. He

believed that, without changing the current balance of rights and obligations, Article 5.2 should be reviewed with the aim of further improving its implementation, in particular, with regard to the understanding of wordings such as "undertaking conformity assessment procedures expeditiously", "limited necessary information requirements" and "equitable fees". Referring to Article 6 on the "Recognition of Conformity Assessment by Central Government Bodies", he noted that Article 6.1.1 concerned the confidence in the continued reliability and technical competence of exporting Members' conformity assessment bodies. This provision, as well as paragraph 26 of G/TBT/9 noted the existence of different mechanisms to facilitate the acceptance/recognition of conformity assessment. These include mechanisms of significant importance to developing countries (such as the use of accreditation and SDoC).

116. He agreed with the view that conformity assessment requirements, to the extent that they were redundant and costly, could negate or reduce the benefits of international trade. He noted that in some cases, these procedures were carried out by the regulatory authority of the importing country or by a public or private body operating on its behalf. He believed that it could constitute significant additional costs to firms selling to multiple markets where procedures were different. As stated in document G/TBT/W/209 (submitted by Mexico), while tariffs were reduced, international trade was hampered by technical measures which might not be in conformity with the Agreement. Conformity assessment requirements could become non-tariff trade barriers, if they led to (i) increased product costs due to multiple testing and certification requirements in different markets (in some cases, for different importers within the same market); and (ii) time and administrative delays.

117. He was interested in the papers submitted by Canadian and New Zealand (G/TBT/W/210 and 211 respectively), stating the importance of accreditation activities based on the use of international standards, guides and recommendations as a means to enhance harmonization of conformity assessment procedures. He agreed that a global accreditation system based on the principle of "one accreditation- accepted everywhere" would be a way to reduce the time and costs associated with conformity assessment, and to build the required confidence in the reliability of exporting Members' conformity assessment bodies. He encouraged the development of such regional and international systems, and suggested the following: (i) importing country's acceptance to rely on exporting country's accredited test results and certificates with due regard and without prejudice to the special and differential treatment allowed for developing countries under Article 12.4; and (ii) guaranteed participation of all developing country Members in such systems. He welcomed the statement made by New Zealand which highlighted the need for technical assistance in this area.

118. On SDoC, he noted the increased use of this approach as a less burdensome and less costly way to claim that a product or service met certain standards or requirements. This approach could be used by both developed and developing country suppliers to minimize costs and ensure timely delivery of products to foreign markets, while meeting market requirements. The ISO/CASCO had developed ISO/IEC Guide 22 "General criteria for suppliers' declaration of conformity". This document had been recommended to be converted into an ISO standard in 2000 (ISO/IEC DIS 17050 "General requirement for supplier's declaration of conformity") providing detailed elements on SDoC. This draft standard, together with ISO/IEC 17049 which defined a framework of supporting documentation to facilitate confidence in SDoC, was applicable to different sectors. He believed that the Committee should, under the Triennial Review, consider the value, usability and understanding of SDoC, in particular, with respect to suppliers from developing countries. The draft ISO/IEC 17050 could be a good basis for deliberations. The Committee could also explore means to enhance the transparency of the use of SDoC. The following information could be provided regularly to the Committee: (i) the regulatory authorities which apply SDoC; (ii) the beneficiary sectors, and reasons; (iii) the beneficiary suppliers and their country of origin; (iv) the surveillance mechanism to ensure that products comply with requirements; (v) the incentives for suppliers to comply with requirements; and (vi) the penalties for a misleading declaration.

119. The representative of the United States drew attention to document G/TBT/W/220, which contained her delegation's view on conformity assessment in the context of good regulatory practice. In her view, the decision as to whether to use mandatory requirements to assure conformity with a technical regulation was an important aspect of regulatory policy. The Agreement acknowledged that a positive assurance of conformity might not always be required, and referred to the recognition of conformity assessment by bodies located in the territory of another Member. She recalled that at the Second Triennial Review, the Committee had identified different approaches to facilitate the acceptance of results of conformity assessment. A number of Members had made submissions (e.g. Canada, in G/TBT/W/196, and the EC, in G/TBT/W/173) providing their views on MRAs and the limitations of those, which her delegation shared. She believed that it would be useful, in the context of this Review, to highlight Article 6.4, which had not been the subject of much discussion. Article 6.4 would enable suppliers to use conformity assessment bodies of their choice, provided that another Member had allowed these bodies to be recognized on a national treatment and non-discriminatory basis. This approach could be appealing to regulatory authorities, and won their confidence as the qualification of conformity assessment bodies was accomplished, using the same process as that used for domestic ones. She drew attention to document G/TBT/W/165 related to practical compliance issues concerning labelling requirements. Among the concerns, the costs and burdens associated with testing and conformity assurance, including the availability of reliable testing methodology, were identified. She suggested reflecting those in the discussion on conformity assessment.

120. The representative of Malaysia supported further discussion on the acceptance of results of conformity assessment in the Third Triennial Review, and welcomed the relevant submissions from delegations. She recalled that this issue had been briefly dealt with in the Second Triennial Review, and believed there was more scope for progress. She noted the concerns expressed about the practical difficulties for exporters to obtain certain certifications, as well as the costs and complications associated with inspection requirements specified in regulations. In some cases, the lack of proper domestic infrastructure made it necessary to seek expensive services from importing country-based agencies. Malaysia used several mechanisms for the acceptance of results to remove trade barriers and reduce transaction costs, without having to reach government-level MRAs, which could be complex and difficult. These mechanisms included accreditation body recognition agreements, as well as peer recognition arrangements through cooperation at the certification body level. Although these arrangements could be between non-governmental bodies, they could result in regulatory recognition. The increased delegation of conformity assessment to the private sector made such arrangements more frequently used. She noted that although agreements between accreditation bodies were common, they did not always result in the acceptance of conformity assessment results by government regulators. She believed the Committee could usefully explore how accredited conformity assessment results could gain wider acceptance, and some of the elements mentioned by Egypt could be considered. She highlighted the usefulness of SDoC in the low-risk sector, such as information technology equipment, and suggested that the Committee could identify other sectors where SDoC could be appropriate.

121. The representative of Chinese Taipei proposed that in order to facilitate discussions on SDoC, the Committee could hold an informal workshop on the subject (as indicated in her delegation's submission in G/TBT/W/195). Topics might include the scenarios to which different SDoC models could apply; factors that would affect the successfulness of a SDoC application; and the operation of effective market surveillance systems. On the issue of accreditation, she noted the importance of enhancing the acceptance of conformity assessment results, and the development in recent years, of international and regional accreditation schemes in the areas of laboratories, management systems and product certifications. The organizations associated with such schemes did not participate in TBT Committee meetings. She suggested that, in order to encourage regulators to use accreditation as an approach to verify the technical competence of conformity assessment bodies, and to avoid the duplication of testing, it would be useful for Members to exchange information on their experience with these schemes and organizations. She noted that the Canada's paper on the approach to voluntary conformity assessment touched upon this topic, and welcomed discussions on that paper.

Good Regulatory Practice

122. The Chairman drew attention of the Committee to a number of submissions concerning good regulatory practice (G/TBT/W/209, 219, 220, and 223 from Mexico, the EC, the US, and Japan respectively).

123. The representative of Mexico believed that good regulatory practice is an important element to be considered in the Third Triennial Review. Articles 2.1-2.4, and 2.8 of the Agreement provided substantive obligations for Members to ensure that their technical regulations did not constitute unnecessary obstacles to trade. Amongst the problems faced by exporters in gaining market access, was due to the fact that these provisions were not respected. The problems did not only associate with the implementation of any individual provision of the Agreement (e.g. those related to meeting legitimate objectives, national treatment, international standards), but also with the implementation of the Agreement as a whole. For that, the Committee should focus discussions to ensure that good regulatory practices were respected by Members. It was necessary to analyze the possibility to guide Members to follow certain important good regulatory practices for their preparation, adoption and application of technical regulations, standards and conformity assessment procedures. These practices should be applied to all aspects covered under the Agreement.

124. The representative of the European Communities referred to his delegation's submissions G/TBT/W/197 which included a number of issues on good regulatory practice, and to G/TBT/W/173 which contained a toolbox of instruments for regulatory practices. She provided information on the European Commission's self-imposed practices when developing new technical regulations (G/TBT/W/219). One important element was transparency, and the EC were seeking ways to improve the transparency of law making. There existed strict standards in terms of consulting with the public and other trade partners. The EC also ensured that technical regulations were proportionate in conjunction with the legitimate objectives pursuit, which meant to carry out impact assessments for proposals with significant impact, taking into account their possible social, environmental and economic dimensions. The economic impact assessment would cover the trade restrictiveness of the proposed measures. She informed the Committee of a web site where interested Members could obtain further information on the EC's procedures as well as download documents. She invited other Members to provide information on their domestic regulatory practices.

125. The representative of Canada agreed that good regulatory practice was an important issue, and sharing information on this was a good first step. He supported Mexico's suggestion that more concrete results should be achieved under the Review. He was interested in the EC initiative on regulatory practice, in particular, the use of regulatory impact statements as part of the regulatory development process. Canada had had this procedure for some years. Regulators had to prepare impact assessment statements which included economic impact. To improve regulatory practices, his authorities were looking into increasing the trade and economic elements in the impact statement. He suggested that one possible outcome of the discussion in the Committee might be to develop a certain template with respect to a regulatory impact assessment statement. It might be a useful tool for Members when preparing technical regulations to take into account trade and economic impact.

126. The representative of the United States requested that the US paper on labelling (G/TBT/W/165) be discussed under this topic. She found the Canadian suggestion interesting, but would comment on it at a subsequent meeting. She drew attention to document G/TBT/W/220 which contained her delegation's view on approaches to technical regulations and their associated conformity assessment requirements. She noted that the TBT Agreement (an international agreement) might not be drafted in such a way which could easily be used in a particular Member's domestic context. For domestic compliance, it was likely that a Member would need to adopt a policy or administrative mechanisms to ensure that all agencies understood the obligations of the Agreement and to comply with the provisions when they prepared, revised, or applied technical regulations or conformity assessment requirements. Although not specifically mentioned in the Agreement, she highlighted the

mechanisms for intergovernmental coordination and interface with non-governmental parties as essential to ensuring compliance with the Agreement and that regulations and conformity assessment procedures did not create unnecessary trade barriers. Mechanisms for administrative or judicial appeal could also be helpful. She believed the discussion of the Committee on labelling and transparency were integral components for the consideration of good regulatory practice.

127. She recalled her views previously expressed under the topic of conformity assessment. She supported the proposal made by Chile at the previous meeting, that, in the context of Annual Reviews, Members' statements on the implementation and administration of the Agreement under Article 15.2 be compiled. This would facilitate the review of the structures Members put in place to ensure domestic implementation. She proposed to include such compilation table as part of the Triennial Review. This compilation could also be prepared as an ongoing document to be updated regularly, with the possibility of including additional elements, which would provide a picture of the implementation by Members that could be readily referenced. She noted this kind of work was being done in other fora (such as the OECD and APEC), and believed it relevant when Members adopted or sought improvements to their domestic mechanisms. For the Triennial Review, an exchange of information on the various approaches to ensure quality in the preparation and application of technical regulations would be useful.

128. The representative of New Zealand expressed interest in Canada's proposal. New Zealand also required the preparation of regulatory impact statements in preparation of new regulations, and was prepared to work on this proposal with Canada.

129. The representative of Japan introduced document (G/TBT/W/223) on good regulatory practice in the context of APEC. He recalled that at the last APEC/SCSC meeting, Japan had been requested to introduce APEC activities on good regulatory practice to the Committee. As a result of discussions, three guidelines had been compiled. He believed that the APEC guidelines, which were non-binding references for APEC Members, would be beneficial to WTO Members. From these guidelines, practical information or ideas could be obtained with regard to good practice (e.g. ensuring transparency, non-discrimination, developing performance-based regulations, using international standards, considering the reliability of regulatory schemes and the possibility of alternatives to mandatory technical regulations). In his view, good regulatory practice related to a variety of implementation and administration issues under TBT obligations. He invited other Members to obtain this document at the APEC web site, and believed it useful for the Committee's discussion.

130. The representative of the European Communities drew the Committee's attention to an EC submission made in 2002 (G/TBT/W/173). The paper referred to regulatory cooperation and collaborating amongst regulators to pursue good regulatory practice. Equivalence of technical regulations was one of the options the EC pursued. However, it was different from the regulatory practice pursued in the domestic context.

131. The representative of Malaysia welcomed the submissions on good regulatory practice, in particular, those which contained elements such as transparency, non-discrimination, and avoidance of unnecessary obstacles to trade. She noted good regulatory practice depended on the domestic regulatory processes and the mechanisms and systems in place, as well as the specialized agencies, the domestic laws, procedures and guidelines. She was interested in the technical assistance aspect of the issue, since in most developing countries, the mechanisms and systems needed were not well developed. She suggested that in this context of the Triennial Review, the Committee could consider how to strengthen developing countries' capacity for good regulatory practices through technical assistance.

132. The representative of Chile referred to document G/TBT/W/213, and reiterated his view that labelling requirements were technical regulations or standards which did not warrant special consideration different from other regulations or standards under the Review. The Chilean paper

examined commercial problems and whether these pertained to labelling issues or not. He gave the following example: "if country A requires certain characteristics of a product to be mentioned on a label so that that product might enter its market, is this a problem of labelling or of import licensing and/or a problem involving a technical regulation or a conformity assessment procedure." He considered this kind of requirement different from those relating to the size of letters or the colour to be used on a label. What might or might not be written on a label, or when a label provided information on the compliance of a product with certain requirements, was not a labelling problem. The root causes of the problem was the technical regulation itself. He gave an example of a recent dispute in the WTO on the use of the term "Sardines", and recalled that a certain sardine type product of Peru was prevented from being labelled as "Sardine"[2]. This product could not be marketed due to the prohibition of using a certain label.

133. He noted one aspect which made labelling different from other technical standards. It was the absence of relevant international rules or standards. He believed there was no universal standard on labelling, since labels often depended on the level of development of a country. In certain developed countries, consumers might require more information on labels, and this might be different from those consumers in Chile. He did not oppose labels which provided information to consumers, and believed that consumers had the right to be informed so as to make decisions on their purchases accordingly. However, there should be a balance between consumers' information and the trade obstacles that could arise. He noted that labelling could, at times, be burdensome for manufacturers. Therefore, he believed labelling should be voluntary, and if mandatory schemes were needed, in order to avoid trade barriers, the TBT disciplines should be followed.

Technical Assistance and Special and Differential Treatment

134. The Chairman noted that the issue had been discussed under the previous agenda item.

Equivalence

135. The representative of New Zealand recalled that his delegation had taken up the issue of equivalence in previous triennial reviews. He noted that Article 2.7 required Members to give positive consideration to the concept of equivalence for technical regulations. However, no similar provision appeared in the Code of Good Practice for the Preparation, Adoption and Application of Standards. He believed the approach of equivalence could contribute to reducing trade obstacles, where international standards did not exist or where international standards would be ineffective or inappropriate. He recalled that at the Second Triennial Review, it had been emphasized that this approach should only be used where international standards did not exist. Equivalence could be a useful interim measure until a suitable international standard could be made available. One of the concerns had been that equivalence could detract from the formulation of international standards. He agreed that the development of international standards should be a priority. However, he noted that there would always be a time-lag between the identification of a need for an international standard and one finally being agreed. While the absence of a certain international standard should be temporary, the need for an approach to cope with the situation during this time was a permanent one. He reiterated that it was not New Zealand's intention to detract from the formulation of international standards. However, he did not see any conflict between the use of equivalence and the development of international standards. The former could be an important stepping stone towards the latter, and making use of equivalence could assist reducing or removing unnecessary barriers to trade while achieving regulatory objectives. He noted that recently, in the ISO, there had been a move, wherever possible, to declare specific national, regional or international standards as equivalent, rather than setting out one standard as the sole option. He thought that the Committee might wish to invite ISO to share its experience on this.

[2] WT/DS/231

136. He noted that it is one thing to agree that equivalence was a good idea in principle, and another to operationalize equivalence in practice. One way to approach this would be in the broader framework of regulatory cooperation. He gave the example (as contained in G/TBT/W/211) of the Trans-Tasman Mutual Recognition Arrangement (TTMRA). The TTMRA had emerged out of the close economic relations between New Zealand and Australia, and was one of the most comprehensive MRAs existed. It had begun as a move to create mechanisms for regulatory cooperation, and had provided a useful platform for the pursuit of equivalence as well as had allowed regulators to share experiences and establish mutual confidence (e.g. in the area of electromagnetic compatibility). It was an example of how equivalence could work when faced with differences in market or product characteristics, regulatory environments and technical infrastructure. The benefits included the reduction of transaction and compliance costs, enhanced competition and fostered a regional voice in global standards setting forums.

137. Another approach of equivalence used in New Zealand was to refer to other Members' national standards in its own legislations. For example, importing cars which met the safety standards of any of the EU, US, Japan, Australia or UNECE could be placed in its market. He stressed this did not imply a lowest common denominator approach to equivalence. New Zealand recognized only those standards that adequately fulfill its legitimate regulatory objectives. This approach had proved to be beneficial to facilitate trade in motor vehicles, and was feasible in other areas. He highlighted that if equivalence was to be pursued, it was important that adequate transparency mechanisms were in place. The SPS Committee in its discussions on equivalence, had highlighted that the transparency of equivalency agreements and confidence in the equivalence determination process were vital for the effective operation of equivalence. He believed, therefore, that it was important for the Committee to consider transparency guidelines in its discussion on equivalence under the Third Triennial Review. Standards equivalence could play an important role in avoiding and further reducing unnecessary obstacles to trade. Members should consider the concept of equivalence the same way under the Agreement for both technical regulations and standards.

138. The representative of Egypt agreed that the issue of equivalency of standards should be considered in a pragmatic manner, what really mattered was putting equivalence in practice, and that equivalence could be enhanced through cooperation between regulatory authorities. He underscored that effective and targeted technical assistance was one form of cooperation that developing countries needed in order to gear their systems to the levels where equivalence could be achieved.

139. The representative of the European Communities noted that equivalence of standards could be discussed under the heading of good regulatory practice. The EC had studied the New Zealand paper, and believed this related to regulatory cooperation as well as regulators agreeing and recognizing different standards as equivalent. This was different from the core business of an international standards body. She supported the idea to invite the ISO to share its experience and views on the issue, so as to obtain a common understanding on what these concepts meant.

140. The representative of the People's Republic of China referred to paragraph 38 of the Second Triennial Review, where the Committee had reiterated the importance of giving positive consideration to accepting as equivalent technical regulations of other Members (Article 2.7). China supported the discussion on equivalence under the Third Triennial Review, and would make certain proposals.

Other elements

141. The representative of the People's Republic of China brought attention to a proposal made by his delegation on international standardizing bodies. He noted the three international standards setting organizations (i.e. CAC, OIE and IPPC) recognized in the context of the SPS Agreement. As for the TBT Agreement, he appreciated the "Principles for the Development of International Standards" as agreed by the Committee at the Second Triennial Review. However, no international standardizing bodies had been referred to in this Decision. He said that China, as a new Member and a developing

country Member, committed itself to the implementation of the provisions of the Agreement, including those relating to basing its technical regulations, standards and conformity assessment procedures on relevant international standards, as well as notifying draft regulations and procedures if these differed from existing international standards. However, when implementing these provisions, the following question remained: which were the international standardizing bodies referred to by the Agreement? China faced the problem of not being able to respond to that question when raised by regulatory authorities, as well as not knowing whether to notify certain notifications. For that, China requested the Committee to clarify the above question at the Third Triennial Review.

142. The representative of the European Communities drew attention to a proposal raised by his delegation regarding ISO guides and terms and definitions (G/TBT/W/197), and recalled the relevant comments made under the topic of conformity assessment procedures.

143. The representative of Australia noted that a number of Members had indicated an interest in the issue of labelling under the Third Triennial Review. She recalled Chile's statement, and supported the view that labelling should not be singled out for any particular treatment. She did not find the need for a discussion aiming at clarifying, interpreting the Agreement or creating guidelines with respect to labelling. She suggested that a more productive approach might be to include various aspects of labelling in the discussions of the different topics as identified by the Chairman. She agreed with Chile that labelling issues and trade concerns related to the implementation of the Agreement. Australia might come up with further suggestions.

144. The representative of the European Communities recalled the work that had been done in recent years in the area of labelling, e.g. the papers which had been prepared, in particular, those by the Secretariat (G/TBT/W/183-184), and that developing country Members had expressed interest in the topic. She believed labelling was an important subject, as the Committee had discussed it and had agreed to hold an event on it. For that, it deserved to be dealt with as an issue in the context of the Third Triennial Review. She found it interesting that an issue where so much time had been devoted had become controversial in terms of where it should be placed under the Review. She was open to having it discussed under the various topics (e.g. transparency and good regulatory practice). However, she was cautious that there might be certain aspects of labelling which could not be covered under the elements as identified by the Chairman. Some aspects may need to be addressed under "other elements". She believed that it was premature to decide at this moment, where labelling should be placed, as it would depend on the result of the discussion.

145. The representative of India shared the view expressed by Chile and Australia that labelling was a subject matter which did not require any special treatment, since the disciplines for labelling requirements were well covered under the Agreement. Triennial reviews under Article 15.4 dealt with the implementation and operation of the Agreement. The elements as identified by the Chairman for the Review could well cover and allow for reflection on labelling issues.

146. Following a suggestion by Chinese Taipei, the Chairman requested the Secretariat to prepare a stocktaking paper to reflect the state of discussions aimed at facilitating further work for the Third Triennial Review. This would be prepared as an informal non-paper.

147. The Committee took note of the statements made.

VI. UPDATING BY OBSERVERS

148. The Chairman drew the Committee's attention to a communication (made available in the room) from the IEC updating its technical assistance activities.

149. The representative of ISO informed the Committee that his organization had been committed to capacity building and assisting developing countries to participate in international standards

activities. In 2002, a Joint Committee on Assistance to Developing Countries in the areas of standardization, certification, accreditation and metrology was established with the participation of BIPM, IAF, ILAC, OIML and UNIDO in order to better coordinate efforts to assist developing countries. In cooperation with the WTO Secretariat, regional workshops had taken place to identify the problems which hindered developing countries from actively participating in international standardizing activities. Subsequently, a Task Force had been established in the ISO to develop an action programme containing various activities to assist developing countries. A number of objectives had been highlighted, such as: to improve awareness (i.e. the importance of standardization and the participation in international standardization); to increase national and regional cooperation; as well as to develop electronic communication. The ISO Technical Measurement Board had agreed to establish twinning arrangements which would allow for the possibility of a developing country to co-chair or co-secretary a technical committee. Developing countries had also been encouraged to establish "national mirror committees," so as to facilitate the flow of information between national stakeholders and to report back to the international committees. To provide support in the information technology field, the project MED2000 had been implemented to provide assistance in both hardware and software for the establishment of web-sites and dissemination of information among national stakeholders as well as international partners. Training was provided to enable the use of ISO electronic service, such as e-balloting.

150. In collaboration with the IEC and the others, a Programme on E-learning was being developed. He believed that it could be an effective means to strengthen capacity in responding to training needs. He listed the following advantages: optimizing investment; designing training courses that could be further updated; improving computer literacy; and facilitating access to information and the transfer of knowledge. The costs for travel and accommodation, a problem faced by developing countries, could be reduced. The project also offered the possibility to establish a structured programme for the tutoring and evaluation of participants' knowledge, which could take the form of an international certificate course on international standardization and technical barriers to trade. ISO had also been offering conventional training courses. However, due to the limited resources, a small fraction of the demand had been covered.

151. The representative of Egypt highlighted the advantages of the project MED2000 and the importance of e-learning to disseminate knowledge. As the Committee was looking for measures to deliver technical assistance on time and in a less costly manner, structured e-learning programmes could be considered as one of technical assistance delivery, given that it did not require too much funding. He noted that the activities of the ISO Task Force for developing countries were relevant to Egypt's proposal on TA.

152. The representative of Jordan welcomed ISO's initiative in capacity building which would enhance the technical expertise in developing countries.

153. The representative of Colombia welcomed the E-learning initiative. She recalled that in the Survey on TBT technical assistance needs, the lack of understanding and dissemination of the Agreement among stakeholders had been identified by developing countries as an area of difficulty. She believed the initiative would assist to improve the understanding of standardization and could be considered as a training of trainers activity. She invited the Committee to consider the use and advantages of the E-learning initiative, as its multiplier effects could assist to improve the implementation of the Agreement.

154. The representative of Chinese Taipei thanked ISO for its presentation. He expressed that, although Chinese Taipei was not a member of the ISO, he supported the Committee to continue encouraging developing country Members to identify products and areas of interests in international standardization. This would allow targeting technical assistance appropriately and efficiently.

155. The representatives of El Salvador and the People's Republic of China expressed their interests in the ISO's initiatives which aimed at improving the understanding of international standardization.

156. The representative of the World Bank referred to the three areas of work by the Bank on standards: research and analysis; capacity building and the core function of the Bank on lending portfolio on standards and trade facilitation. He expressed the interest of the Bank in expanding the understanding of the relationship between standards, trade and development. For this purpose, the Bank was finalizing a database referring to 689 firms, 17 countries and 24 industry sectors, which would be the first database specifically devoted to standards and technical barriers to trade. It would be a source of information to draw on for empirical analysis on a wide range of issues, including the relationship between technical requirements and market access, information on the use of international standards and the use of MRAs. The World Bank, in cooperation with the Government of Canada, was working on a project related to trade facilitation, which considered technical trade barriers in relation to other variables, such as electronic commerce, transport and logistics. Other analytical work of the World Bank included the following: the relative impact of the various trade facilitation measures on bilateral trade flows; capacity building priorities at the country level in relation to trade facilitation objectives; and how trade would change within a region if countries entered into a regional trade agreement to raise capacity in standards. This analysis would be included in a Chapter on Trade Facilitation of the World Bank's Global Economic Prospects 2004 Report, which would be released in September 2003.

157. In capacity building, the World Bank had developed a programme for audio and video communication, linking its distinct learning centers and resident missions around the world. A network had been established for distance learning centres where the World Bank offered courses to a number of countries through a programme on trade-related studies, seminars and analysis. Part of that capacity building effort was aimed at enabling the World Bank and the International Monetary Fund staff to better educate the regional-operation staff in matters related to trade, including standards and technical barriers to trade. Other ongoing projects in capacity building referred to country specific analysis, workshops on standards and technical regulations, as well as regional seminars on standards and trade in co-operation with the UK Department for International Development and other partners.

158. Regarding the core function of the Bank, its lending portfolio, he explained that over the period 1981–2002, the Bank had had approximately 5000 projects classified as trade-related, such as projects related to trade liberalization, trade finance, technical assistance for WTO accession and trade facilitation, which included components of projects related to standards. In 1996-2000, approximately 3.2 billion dollars had been allocated for lending in infrastructure. Several of those projects had included lending for metrology systems, laboratory upgrading, testing and certification infrastructure. In 1981-2002, around 3.8 billion dollars worth of lending related to institutional reform in trade facilitation. More information concerning the work of the Bank was available at its web-site: www.worldbank@org\trade.

159. The representative of India thanked the World Bank and the ISO for the updates. He welcomed the developing country task force which had been instituted in the ISO, and sought clarification on whether there were opportunities for e-participation which could facilitate the participation of developing countries in technical committees of the ISO.

160. The representative of the ISO indicated that, in addition to sponsoring the participation of developing countries which required funding, a lot of ISO's activities had become electronic. All information could be obtained electronically; balloting could take place electronically; and most technical committees had web sites where ISO Members could have access to information and make comments electronically. At the end of year 2003, there would be no further distribution of ISO

standards on paper. He noted the concern of developing countries in this regard, but indicated that ISO had plans to ensure that these countries would obtain the proper access.

161. The representative of the Dominican Republic thanked the ISO and the World Bank for their initiatives to benefit developing countries, and encouraged developed country Members to take part in the work of the two institutions.

162. The Committee took note of the statements made.

VII. OTHER BUSINESS

163. The representative of the People's Republic of China reported to the Committee on the incident of Severe Acute Respiratory Syndrome (SARS) in China, and urged other Members not to impose prohibition and restrictive measures on any industrial, agricultural products and foods from China due to SARS. He noted that since the outbreak of SARS in November 2002, the central and local governments as well as health agencies at all levels had attached great importance to the prevention, control and treatment of the disease. On 24 June 2003, the World Health Organization removed Beijing from its list of SARS-infected areas and its travel warning to the capital city. The Chinese government would make continuous efforts taking measures such as exercising surveillance in SARS to prevent its returning. To ensure the health and normal movement of goods and people, as well as to minimize the negative impact of SARS on the regional economy, his government hosted the China-ASEAN entry-exit quarantine meeting on SARS on 1-2 June 2003. The meeting had endorsed the view that it was not necessary to disinfect goods for SARS. He drew attention to the fact that the WHO, FAO, and OIE had jointly concluded on 11 April 2003 that "to date there is no epidemiological information to suggest that contact with goods, products, or animals shipped from SARS-affected areas has been the source of SARS infection in humans." Based on the above conclusions, he stated that WTO Members should not prohibit or restrict the importation of agricultural and industrial products from SARS-infected Members, including China, and should not require authorities of SARS-infected Members to certify that goods are not contaminated by SARS viruses. He recalled that since the outbreak of SARS in China, certain Members had taken certain prohibition and restrictive measures which were not scientifically justified and inconsistent with the TBT or the SPS Agreements. These measures resulted in unnecessary barriers to China's exports. He urged those Members to remove those SARS-related bans or restrictions.

164. The Chairman reported to the Committee of the result of an informal consultation held the day before on the preparation of a learning event on labelling. He proposed to hold the learning event on 21-22 October 2003 based on a draft programme prepared by him and the Secretariat. Members could entrust himself to finalize the programme and make the necessary arrangement for this event, which would be held back to back with the informal meeting of the Committee on 23-24 October.

165. The representative of the European Communities welcomed the draft programme as well as the fact that there would be a number of speakers from developing country Members. He appreciated that it would be an open participation, and that each Member could bring interested parties in its delegation to the event. He sought the possibility of the Chairman informing the CTE about this Event, since it was relevant to the CTE's ongoing work. He announced that his delegation planned to provide additional funds for the participation of developing country Members.

166. The representative of Switzerland proposed to have the CTE join in this undertaking.

167. The representative of Australia supported the Chairman's proposal, and agreed with the draft programme, in particular, the proposed arrangements concerning participation. She would not oppose the participation of CTE representatives, if delegations considered such participation necessary. She believed that it should be up to each Member to decide who should be participating.

168. The representative of India thanked the Secretariat for the preparation of the draft program, and Members who had proposed case studies for the learning event. On the issue of participation, he shared the view that the decision of participation should be left to delegations. He recalled his delegation's position that the event should be focussing on labelling in the context of the TBT Agreement and that there should not be any formal conclusion or any attempt for a clarification of the Agreement.

169. The representative of Egypt supported the draft program and welcomed the additional elements and speakers proposed by other Members. Regarding participation, he believed that it was up to each Member to decide who should be included in its delegation. This could include those colleagues covering the CTE work. He shared the view that the event should not come to any formal conclusion.

170. The representative of Mexico supported the draft programme of the Learning Event. She noted that there would be a speaker from the Mexican private sector to give a presentation on food stuffs labelling. She supported the view that each delegation should decide who would participate in the Event, including representatives from other Committees of the WTO, or those coming from the private sector and industry.

171. The representative of Brazil reiterated his delegation's view expressed at the Committee meeting in March, that the event should be of an indicative nature and should not result in any conclusions or recommendations. Its focus should be on information exchange among Members on the issue of labelling in the context of the implementation of the TBT Agreement. The discussion should be based on the presentations of the cases to be selected by Members. However, it should not focus on compliance. The event should provide an opportunity for better understanding of the concerns raised by Members related to the implementation of labelling schemes, with particular attention to developing countries' concerns. As regards funding, she believed that speakers from developing country Members should have priority. Brazil did not oppose the participation of representatives from other Committees, if Members so decided.

172. The representative of Japan recalled that his delegation had made proposals on the elements to be discussed in the learning event, and thanked the Chairman for including those in the draft programme. He believed the timing of the event was appropriate, since its result could be included in the Third Triennial Review.

173. The representative of the United States supported the view that each Member could decide who in its delegation should participate in the event. She thought that it had been an understanding arrived at in the informal consultations.

174. The representative of Chinese Taipei supported the draft agenda. She sought the possibility of funding the speaker nominated by her delegation.

175. The representative of Korea supported the draft programme, and that the event would be based on case studies and would focus on developing countries' concerns. He pointed out that it would be appropriate for each presentation to cover the legitimate objectives of the labelling scheme; the criteria as to whether the scheme was voluntary or mandatory; as well as its potential market access effect on developing countries' exports. He believed that the event would be useful and informative.

176. The representative of Thailand supported the labelling event, and proposed that speakers should also cover the element of the potential adverse trade effects of the labelling scheme, as well as how they had been taken into account.

177. The Committee agreed to hold a Learning Event on Labelling on 21-22 October 2003, and to entrust the Chairman and the Secretariat to finalize the programme.

178. The Chairman invited those Members who intended to come forward with presentations and nominate speakers in the event to provide the information to the Secretariat before 10 July 2003. He announced that funding would be available to finance participation from developing country Members, and the WTO Technical Cooperation Division would consider the requests. The coming formal meeting of the Committee would be held on 5-7 November 2003 to conclude the Third Triennial Review, as well as to conduct the annual transitional review mandated in Paragraph 18 of the Protocol of Accession of the People's Republic of China. Informal meetings would take place on 1[3] and 23-24 October 2003.

179. The Committee took note of the statements made.

[3] Subsequent postponed to 2 October 2003