

Committee on Technical Barriers to Trade

MINUTES OF THE MEETING OF 23 MARCH 2004

Chairperson: Mr. Juan Antonio Dorantes Sánchez (Mexico)

I. ADOPTION OF THE AGENDA

1. The Committee adopted the agenda contained in WTO/AIR/2253, dated 23 February 2004.

II. IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

A. STATEMENT FROM MEMBERS UNDER ARTICLE 15.2

2. In reiterating the importance of Members fulfilling their obligation in respect of Article 15.2 of the TBT Agreement, the Chairman drew the Committee's attention to the recently submitted statements on implementation and administration from Papua New Guinea (G/TBT/2/Add.77) and El Salvador (G/TBT/2/Add.78). He also noted that Indonesia had submitted a revision to their original Statement. A full list of statements on implementation and administration of the Agreement had been circulated in document G/TBT/GEN/1. On transparency, a recently updated list of Enquiry Points was contained in document G/TBT/ENQ/24. The Chairman encouraged delegations to check the information contained in this document and let the Secretariat know of any modifications that needed to be made.

3. The representative of Chile referred to her country's Supplement to the Statement under Article 15.2 regarding Law No. 19.912.¹ This Law, which ensured compliance with TBT notification procedures, formalized an existing mechanism that stipulated a time period of six months for the implementation of its provisions. Throughout 2003, the National Commission on Technical Barriers to Trade (chaired by the Ministry of Economy) had elaborated the implementation of the Law through a Decree which was currently ready for the President's signature. The scope of the Law was broader than that of notification procedures. It established principles of the TBT Agreement and good regulatory practices, such as the use of international standards, non-discrimination, the avoidance of unnecessary barriers to trade and transparency. It also included a broad system of consultation of draft regulations with the community, and established a time period of no less than 60 days for comments. The same time period was stipulated for notifications made to the WTO. The need to keep relevant information available to the public was also established (such as on the objective of the measure, alternatives considered, advantages and disadvantages).

4. It was stressed that the Law was the result of a joint effort of various institutions. Its elaboration had allowed Chile to enhance awareness among the various agencies of the government regarding the benefits of having clear and uniform rules on how technical regulations and conformity assessment procedures (CAPs) should be developed, adopted and applied. In light of the Third Triennial Review, Chile wished to share their experience on such coordination, both in terms of the implementation of the TBT Agreement as well as in the context of good regulatory practices, transparency and technical co-operation.

¹ G/TBT/2/Add.16/Suppl.2, dated 24 November 2003.

B. SPECIFIC TRADE CONCERNS

1. **New Concerns**

(i) *United States: Measure on Refillable Lighters*

5. The representative of China drew the Committee's attention to a US measure on refillable lighters. The US Consumer Product Safety Commission had made an announcement on its official website² to the effect that, starting 1 March 2004, refillable lighters with an import value of US\$2.25 or less would be required to be child-resistant. This was up from the original import value of US\$2 or less, established in 1993. The revised standard not only maintained the relationship between price and safety of the product as before, but also widened the scope of lighters covered by the regulation. This did not comply with the WTO principle of "minimizing restrictions on trade", and the principles of "fair trade". China therefore requested that the United States provide the scientific justification for setting a relationship between price and safety of lighters, and invited the United States to fulfill its obligation, under the TBT Agreement, to notify the measure.

6. The representative of the United States noted that as her delegation had not been given advanced information on the matter, she was not in a position to provide a substantive response. Nevertheless, the United States would look into the concerns raised.

(ii) *China: Mandatory Chinese National Standards for Wireless Local Area Network (WLAN) Authentication and Privacy Infrastructure (WAPI)*

7. The representative of the United States drew the Committee's attention to two Chinese technical regulations for wireless local area network (WLAN) computing which had come into force on 1 December 2003 and which had been the subject of a number of bilateral exchanges with the government of China. It was noted that these regulations had been first approved by the Chinese government on 12 May 2003, but had not been publicly announced until 9 July 2003. These had not been notified to WTO Members under the TBT Agreement and no opportunity for comment had been provided before being finalized. Furthermore, it was the US understanding that as of 1 June 2004, any foreign manufacturer or exporter to China of products containing WLAN technology would have to enter into co-production arrangements with a designated list of, currently, 24 Chinese companies in order to comply with the WAPI regulations and sell or use their products within China.

8. The US concerns ranged from compelled investment and technology transfer policies, to questions of unnecessary government interference in the marketplace. The Chinese government was the only government in the world mandating compliance with a specific WLAN encryption standard for general consumer use. Requirements for wireless LAN encryption had been otherwise left to the marketplace. Moreover, the Chinese WAPI standards substantially differed from the widely-adopted international standard IEEE 802.11 in the area of encryption techniques. The United States was therefore concerned that the mandatory imposition of these standards was overly restrictive and would result in an unnecessary barrier to trade. The representative of the United States invited China to notify its draft technical regulations. China was further encouraged to participate in the revisions to the international standard IEEE 802.11, and to reconsider its policy of mandating a specific encryption standard for general consumer use.

9. The representative of the European Communities shared the concerns raised by the US delegation, in particular with respect to the non-notification of these measures under the TBT Agreement.

² Website address: www.cpsc.gov

10. The representative of Japan was also concerned about the lack of transparency and requested China to provide more information on these measures. Japan was particularly interested to know whether China recognized the existence of relevant international standards on this issue. Members had the obligation to notify regulations that were not in conformity with international standards.

11. The representative of Mexico associated his delegation with the positions expressed by others and stated his concern about the non-compliance of the Chinese measures with the TBT Agreement.

12. The representative of China informed the Committee that the two national standards at issue had been developed on the basis of ISO/IEEE.802.11, with a view to protect the information security for the State and consumers, and so as to protect consumers' rights. However, due to security technical flaws of the Wired Equivalent Privacy (WEP) of ISO IEEE/802.11, WAPI was adopted as the security mechanism in Chinese WLAN standards. Before its adoption, WAPI had been submitted to IEEE Registration Authority and had been assigned "0x88B4" as the WAPI EtherType Field Number. Only two items in these standards, namely frequency management and cryptogram management, were mandatory. The representative of China further noted that the programmes for developing these two standards and their working groups were open, transparent and public. In July 2003, the Chinese government had sponsored a meeting to explain the two standards, and representatives of all interested circles, including US enterprises, had been invited to participate. In addition, the Chinese authorities had held several bilateral talks and discussions on the issues of concern to the United States and other Members. In particular, a meeting of technical experts was held in Xi'an, China. At that meeting, US experts had deemed WAPI a good WLAN security solution as IEEE 802.11i was in the stage of discussion. The Chinese Government attached great importance to the concerns expressed by Members and was willing to hold consultations with those interested.

(iii) Korea: Average Fuel Economy Standards for Passenger Cars

13. The representative of the European Communities drew the Committee's attention to the draft Korean Average Fuel Economy standards for passenger cars, which were currently under preparation and due to be introduced on 25 March 2004. While the European Communities shared the objective of controlling and reducing the fuel consumption of passenger cars, there was concern about the measure envisaged to achieve this objective. It seemed, in particular, that the new draft would require significant improvements in fuel efficiency only from imported passenger cars and that other, less trade restrictive means to achieve the objective, had not been taken into account. The European Communities asked for a postponement of the adoption of the measure and requested the Korean delegation to notify the draft measure under the TBT Agreement.

14. The representative of Korea stated that he would transmit the concerns raised to his capital.

2. Concerns Previously Raised

(i) European Communities: Regulation on Certain Wine Sector Products (G/TBT/N/EEC/15, Corr. 1-2 and G/TBT/N/EEC/57)

15. The representative of Mexico informed the Committee that his delegation had submitted comments during the public consultation period on EC Regulation 753/2002 and had participated in two informal consultations with the European Communities; the latest had been held on the previous day. While recognizing the amendments made to the EC Regulation 753/2002, he stressed Mexico's remaining concerns regarding the impact of the regulation on Mexican exports. The root of Mexico's concern was that the EC Regulation allowed for a label to bear the name of a geographical area provided that at least 85 per cent of the grapes used to make the wine had been harvested in that area, and that the wine had been bottled in that same area.

16. The representative of New Zealand recalled that concerns about EC Regulation 753/2002 had been raised at every TBT Committee meeting since June 2002 and her delegation had already commented in detail on issues surrounding this regulation. New Zealand was therefore disappointed that the regulation had been implemented on 15 March 2004. Nevertheless, New Zealand acknowledged the amendments made to this regulation (notification G/TBT/N/EEC/57). The European Communities was aware that New Zealand strongly opposed the exclusive reservation of traditional terms to producers from certain regions. Traditional terms or expressions were not geographical indications (GIs) and should not be treated as such. New Zealand was therefore pleased to see that the European Communities had made some acknowledgment to this effect and that one of the amendments removed the requirement for certain descriptors (such as vintage year and production method) to be "regulated" in third countries, and instead required conformity to "rules applicable to wine producers in the third country". New Zealand welcomed this acknowledgment of alternative regulatory approaches and equivalence, as required under Article 2.7 of the TBT Agreement.

17. Nevertheless, the representative of New Zealand reminded the European Communities of the full range of concerns set out in her delegation's written comments submitted in August 2002. Many had not been addressed. For example, the limitation on the use of terms relating to vine varieties, production methods and vintage to wines carrying a GI seemed to disregard fundamental TBT requirements. This restriction could prevent accurate information being conveyed to consumers and therefore appeared to run counter to the "legitimate objective" that the regulation aimed at advancing.

18. It was recalled that at the TBT Meeting on 7 November 2003, New Zealand had requested the European Communities to notify its proposed changes so that Members' comments could be taken into account, as per the obligation in Article 2.9 of the TBT Agreement. The amended regulation had been notified on 24 February 2004 and had been implemented on 15 March 2004. New Zealand was disappointed by the short period of time between the publication and notification of the amendment, and the implementation of the regulation. Since the regulation did introduce some additional requirements, New Zealand would have hoped that all TBT notification procedures would have been fully followed.

19. The overall approach to wine labelling reflected in 753/2002 and the amending EC Regulation 316/2004 appeared to be in conflict with core principles of the TBT Agreement, and in particular the Article 2 obligation to not create unnecessary barriers to trade and to ensure that technical regulations were not more trade restrictive than necessary to fulfil a legitimate objective. New Zealand therefore reiterated its interest in receiving written responses to the concerns expressed in its August 2002 submission, many of which had not been addressed by the amending regulation.

20. The representative of the United States was still studying the recently amended regulation. Given that Members were expected to comply with it as of 15 March 2004, it was questionable why the notification had been made at all; this was hardly the "reasonable interval" foreseen in Article 2:12 of the TBT Agreement. The United States did not feel that the substantially amended and revised regulation addressed the extensive comments provided on the earlier regulation. Although the United States had received a brief letter from the European Commission, highlighting some of the changes, this did not respond to the range of concerns that had been made in the original US submission of August 2002. Considering the substantive revision to the regulation, Members needed to be given an opportunity for comment on this new notification before entry into force. It was not reasonable for the European Communities to think that suppliers could comply otherwise. Given the long-standing and substantive concerns that had been raised about these regulations, the United States asked the European Communities to suspend their enforcement.

21. The representative of Argentina noted that the European Communities seemed to consider that some of the concerns, expressed during the informal consultations with a group of countries in October 2002 and July 2003, had been covered. Although the representative of Argentina appreciated the efforts made to address these, he did not believe that they had been covered or clarified in their

totality. In addition to the various specific aspects flagged by previous speakers, Argentina believed that there were aspects of the amended regulation that caused concern and that went counter to the WTO agreements, and in particular the TBT Agreement, in a manner that could impede exports of wine from third countries into the European market.

22. The representative of Australia underlined her country's continued concern with the TBT consistency of the EC Regulation 753/2002 and referred Members to the minutes of previous meetings where her country's concerns had been outlined in-depth. The EC notification of certain amendments to that Regulation indicated that these amendments "take account of the comments submitted and the results of the discussions" with a number of third countries. It was not clear to the Australian delegation that this was the case. Indeed, Australia continued to have concerns that the Regulation, as amended, remained inconsistent with the TBT Agreement. Concern with regard to the regulation of issues such as the traditional expressions and the use of wine particulars had not been laid to rest, nor adequately taken into account. In addition, a number of other questions and concerns had been raised and had not been addressed at all. Questions and concerns had been put to the European Communities in writing and Australia was still awaiting written responses to these. Australia considered that it would be helpful to the process if an attempt were made by the European Communities to explain how the more recent amendments to the Regulation met the specific concerns identified in the questions that had originally been posed – and that such an explanation be put in writing. Moreover, Australia had previously expressed procedural concerns with regard to the promulgation of Regulation 753/2002. Serious concerns were expressed by several Members, including Australia, that although the regulation did introduce some additional requirements, virtually no time had been provided for comments on the amendments. This was a situation where Australia would have liked to see the TBT notification procedures properly followed.

23. The representative of Brazil shared the comments made by previous speakers. In particular, she regretted that no period for comment had been provided on the amended regulation. This amendment was still being considered and it was Brazil's hope that there would be an opportunity to comment on it. Moreover, Brazil reiterated the request that written responses be provided by the European Communities to Members that presented their concerns.

24. The representative of Uruguay supported previous delegations' comments on notification G/TBT/N/EEC/57. Given the limited time for comments, her capital had neither been able to finalize the examination of the regulation, nor had time to process comments. That was the reason why Uruguay wished to maintain the right to revert to the issue at a later meeting.

25. The representative of the European Communities noted that the Commission had adopted amendments to Community-wide labelling rules on 20 February 2004. Those amendments were contained in Commission Regulation 316/2004 and the Community wine labelling rules were set out in Regulation 753/2002. The amendments took into account the comments submitted by a number of WTO Members following the notification of Community-wide labelling rules in 2002 (notification G/TBT/N/EEC/15). The amendments also considered the results of subsequent discussions including two rounds of informal consultations in Geneva, formal TBT Committee meetings, and other bilateral contacts.

26. The main substantive amendment concerned two issues. On the first issue, traditional terms, these were terms used traditionally to designate quality wines. The regulation notified in 2002 set out two categories of such terms. The first category contained terms that could be used by EU member States and third countries. The second category was reserved under certain conditions for wines produced in the EU. The amendments merged the two categories of traditional terms into one single list so that third countries could use all traditional terms provided that they fulfilled equivalent conditions to those required for EU member States. These equivalent conditions included: the submission of a substantiated request to the Commission that the traditional term in question was recognized and governed by either applicable rules or by rules laid out by representative professional

organizations in the third country; that the traditional term was sufficiently distinctive and/or enjoyed an established reputation in the third country; that the traditional term had been traditionally used for at least 10 years in the third country; and, that the rules of the third country concerned in the term in question did not mislead the consumer. There was also a provision relating to the language of the third country of origin. Further details of the conditions were set out in Article 1.10 of Commission Regulation 316/2004.

27. With regard to the second issue, on requirements relating to the legislation and regulation in third countries, the amendments eliminated the requirements for third countries to have some form of legislation or regulatory framework in place to display compulsory and facultative particulars, for example, including terms such as the vintage year and vine varieties on the label of wine exported to the Community. Following the amendments, those obligations for certain information were able to conform to rules applicable to wine producers in the third country concerned. Such rules included those emanating from representative professional organizations.

28. Finally, the representative of the European Communities recalled that a transition period to the amended rules had ended on 15 March 2004. Third country comments and the result of subsequent discussions had been taken into account in the amendments to Community wine labelling rules. To maintain and ensure transparency with its trading partners, these amendments had been notified. The European Communities had carefully noted all the questions, comments and requests and would get back to all interested Members.

(ii) *European Communities: Regulation on the Registration, Evaluation and Authorisation of Chemicals – "REACH" (G/TBT/W/208 and G/TBT/N/EEC/52 and Add.1.)*

29. The representative of Mexico reiterated the points made in other international fora, and at other meetings, to the effect that Mexico was clearly opposed to the EC "REACH" system on chemicals. Nevertheless, Mexico was prepared to work with their EC counterparts to find a solution which the Mexican industry could comply with.

30. The representative of Japan noted that while fully sharing the legitimate objective of protecting human health and the environment, Japan had concerns about the huge negative impact on trade or investment on countries outside of the European Communities. As the Japanese industry was interested in the new regulation, the Japanese Government had repeatedly expressed strong interest and concern to the European Commission. After the notification of this proposal to the WTO, on 21 January 2004, Japan would analyse in-depth the REACH system and submit a formal comment. Japan noted that at the APEC Chemical Dialogue Steering Group meeting in February 2004, concerns had been raised on this proposal.

31. Japan had three main concerns with the REACH system. First, regarding the registration of chemical substances contained in articles (Article 6), Japan noted that since the scope of Article 6 was wider than the systems of other countries' chemical management regulations, including Japan's, it ran the risk of becoming an excessive burden for importers of articles. Thus, Article 6 had the possibility of becoming an unnecessarily trade-restrictive provision. Concerning Article 6.1 (registration), Japan expected the Commission to make a positive list of the substances or products subject to the registration, limiting the scope so that it would become necessary and sufficient in light of international standards. On Article 6.2 (notification), the requirement was unclear. Japan expected the Commission to make a positive list that enumerated substances and products subject to the notification so that producers and importers could have a predictable idea of what to do. Otherwise, Article 6.2 had to be deleted. Article 6.5 stipulated the exemption of "substances that have already been registered for that use by an actor up the supply chain", and this exemption would only apply, in reality, in the case that producers used substances that had already been registered by manufacturers or importers operating within the European Communities. Japan requested that the Commission and

other authorities considered measures to avoid this problem, such as the deletion of "by an actor up the supply chain" from Article 6.5.

32. Second, on the issue of registration of monomer substances of which polymer consisted (Article 5.3), Japan noted that with regard to the registration of substances in Article 5.3, if the manufacturer or importer of a polymer had to submit a registration for the monomer substance, which was not contained in the polymer, it would be difficult, especially for importers of a polymer, to get information on safety data, etc. Importers of a polymer would be placed in a competitively disadvantageous position in respect of cost or procedures in comparison with EC manufacturers.

33. Third, regarding the scope of chemical substances for authorizations (Article 54.f), Japan noted that according to the explanation given by the Commission, chemical substances, which were suspected to have endocrine disrupting effects needed to be treated as a substance subject to authorizations, which were identified on a case-by-case basis. It was noted that the OECD was still conducting a Task Force on Endocrine Disrupters Testing and Assessment (EDTA) to develop the method of evaluation of endocrine disrupters. In light of this, Japan considered that inclusion of chemical substances which had been suspected to have endocrine disrupting chemicals in the subjects of authorizations seemed to be premature and scientifically not appropriate at the current stage.

34. The representative of the United States supported the comments made by Mexico and Japan and wondered whether the European Communities planned to make public the comments submitted on the second REACH notification in a similar way as had been done for the first notification, as this procedure had proven useful. Since the United States was focussing its efforts on the response to the 21 June 2004 deadline for providing comments, it was not in a position to make detailed comments at the current time. Nevertheless, once completed, the United States would be pleased to make them available to others. On substance, the United States remained concerned about the basic methodology of the EC proposal, which, from the US perspective, was overly expansive, lacked focus and priority-setting, and did not adequately assess the economic implications of the proposed approach. In general, there were still opportunities to make the proposal more streamlined and effective.

35. The representative of Canada informed the Committee that detailed concerns had been identified with respect to the proposed "REACH regulation" in formal comments supplied on the EU White Paper on Chemical Policy, in April 2002. Canada had also participated in the internet consultation process in July 2003. Canada wished to continue this on-going dialogue on chemical policy with Europe, including regulatory co-operation, and would provide further comments on REACH prior to the 21 June 2004 deadline.

36. The representative of China welcomed the notification of the proposed REACH regulation and appreciated the fact that the European Communities had provided a period of 90 days for comments and that the comment period had been extended for an additional two months. Written comments to the European Communities would be provided in due course. The REACH regulation had a wide coverage which involved more than 30,000 chemical products and relevant down-stream products. Considering that procedures of registration, evaluation and authorization were complex, burdensome and costly, the import and export cost of Chinese enterprises would definitely rise. This would negatively affect Chinese labour-intensive down-stream industries such as textiles and toys. The Chinese government had expressed its strong concern on REACH regulation at various occasions, in the hope that the European Communities would minimize such effects, including with respect to the scope of coverage, the simplification of registration and evaluation procedures as well as the reduction in costs of such procedures. It was also important that non-EU legal entities were allowed to submit registrations directly and that special and differential treatment be provided to developing countries.

37. The representative of Australia supported previous interventions and noted that her delegation was also preparing a written submission in response to the notification of amendments to the

legislation notified in the addendum to the notification G/TBT/N/EEC/52. While Australia took the view that there were some limited improvements, in general, Australia remained concerned about the overall workability of the regulation and its likely trade impact.

38. The representative of Chinese Taipei welcomed the extension of the comment period. However, due to the complexity of the regulation, the Chinese Taipei industry had difficulties in understanding exactly what was required and how different conditions were applied in terms of the provision of safety data for chemicals, safety reports and test proposals. While Chinese Taipei was pleased that requirements for registration of substances in articles had been reduced to a certain degree, the provisions of Article 6 still left uncertainties for Chinese Taipei manufactures, in particular as the term "release" was not defined. It was proposed that the European Communities provide Members with a flow-chart illustrating actions to be taken (whether by manufactures, other agencies, member State authorities or the Commission) and requirements to be met, in relation to different sections of the regulation. Such a flow chart would help manufacturers in Chinese Taipei better understand the structure of the REACH system, and the obligations it imposed.

39. The representative of Chile appreciated the transparency that the European Communities had shown, including with respect to public consultation through the internet, the notification to the WTO, and the extension of the time limit for comments. Chile had had the opportunity to deal with this question bilaterally with the European Communities in the framework of the EU-Chile Association Agreement. Nevertheless, her delegation echoed the concerns expressed by other delegations regarding the impact the Regulation could have on trade, in particular for the small and medium-sized enterprises (SMEs). While Chile shared the need to maintain the legitimate objectives of protecting health and the environment, the measure needed to be adopted in a manner that did not restrict trade more than necessary to be able to achieve that objective.

40. The representative of Thailand shared the concerns expressed by previous speakers. She appreciated the extension of the comment period and noted that her country would submit detailed written comments to the European Communities in the near future.

41. The representative of the European Communities reminded WTO Members that on 21 January 2004 it had notified a proposal for a regulation concerning the registration, evaluation and authorisation of chemicals (notification G/TBT/N/EEC/52). Following different comments from stakeholders within the European Communities and from third countries, the earlier draft submitted to an internet consultation and published under Article 2.9.1 of the TBT Agreement, was substantially modified in order to make the proposed new system less costly and more workable, while maintaining the guarantees for health and environmental protection. By Addendum 1 to notification G/TBT/N/EEC/52, the initial 90 days period for comments had been extended until 21 June 2004. The European Communities would provide an answer to all comments made by WTO Members.

(iii) *Brazil: Decree on Beverages and Spirits (G/TBT/N/BRA/135)*

42. The representative of Trinidad and Tobago recalled that at the meeting of the TBT Committee held on 7 November 2003, her delegation had expressed concern about a measure notified by Brazil under Article 2.10.1 of the TBT Agreement in document G/TBT/N/BRA/135. The measure, set out in Decree No. 4851, amended definitions of beverages and spirits such as rum, *cachaza* and *aguardiente*, and entered into force on 3 October 2003. Since last meeting of the Committee, the delegations of Trinidad and Tobago, Barbados, the Dominican Republic and Jamaica had communicated concerns about the Decree to the Brazilian authorities in accordance with Article 2.10.3. To date, the delegation of Trinidad and Tobago had not received a written response.

43. On procedure, Article 2.10.1, under which the amendment had been notified, called for immediate notification of Members. Such notification had to include an indication of the nature of the urgent problems. However, Members were notified about the amendment 24 days after the measure

had entered into force. Confirmation was sought from Brazil as to whether the questions and comments that had been submitted to the Brazilian authorities would be taken into account and, if so, whether the measure would be suspended while these questions and comments were being considered. The Brazilian authorities had cited "the prevention of deceptive practices" as the objective, rationale and the nature of the urgent problem that led to the amendment of the Decree. The delegation of Trinidad and Tobago requested a fuller explanation of the "deceptive practices" that the Brazilian authorities were seeking to prevent and which had caused such hasty entry into force of the measure.

44. On technical issues, in Decree No. 4851, reference was made to "molasses". The representative of Trinidad and Tobago wondered whether this referred to sugar cane molasses and, if so, the text needed to be amended to read "sugar cane molasses" wherever the word "molasses" appeared. This would ensure an accurate definition of rum. Trinidad and Tobago was also concerned about the distillation process described in the Decree. Caribbean rum producers had advised that the distillation of alcoholic spirits could only be achieved through the fermentation of the raw material being used. Clarification was therefore sought on this element of the Decree and it was suggested that an amendment of the language used be made so as to ensure an accurate reflection of the process through which alcohol was produced. Failure to make such an amendment would be misleading and could lead to practices with a negative effect on the global trade in the products mentioned in the Decree, such as distilled spirits and rum.

45. Trinidad and Tobago looked forward to receiving a written response to these questions and to those contained in its written communication to the Brazilian authorities. Her delegation remained open to informal discussions with the Brazilian delegation on this matter.

46. The representative of Jamaica also had serious concerns about the negative implications the implementation of Decree No.4851 would have for Jamaica's trade in rum products, as well as, more generally, the global trade in the products mentioned in the Decree. Jamaica, along with Barbados, the Dominican Republic and Trinidad and Tobago, had communicated these concerns in writing to the delegation of Brazil, requesting that they be taken into account in accordance with Article 2.10.3 of the TBT Agreement. In addition to the comments made by the representative of Trinidad and Tobago, the entirety of which the Jamaican delegation endorsed, Jamaica also sought clarification on certain points regarding the language used in the Decree in reference to process of producing: (i) "Molasses spirit" from molasses as reflected in Article 90.2; (ii) "Grain spirit" from grain as in Article 90.3; (iii) "Vegetable spirit" from vegetable as in Article 90.4; (iv) "Raw Brown sugar spirit" from raw brawn sugar or "raw brown sugar syrup spirit" from raw brown sugar in Article 90.5; and, (v) "Sugar cane spirit" from sugar cane in Article 91.1. Jamaica was likewise concerned with the description given for the distillation process. This Decree currently stated that alcoholic spirits could be obtained by a single alcoholic distillation. However, in Jamaica's view, it was not possible to produce any alcoholic spirits of any kind from a "single alcoholic distillation" alone. The raw materials had first to be fermented in order to produce alcohol after which the distillation process could take place. Jamaica was therefore requesting that the Decree be amended to ensure an accurate reflection of the distillation process for the production of alcoholic spirits. Jamaica remained open to holding discussions with Brazil, and looked forward to receiving, in the near future, Brazil's response to the questions and concerns raised.

47. The representative of the United States noted that her country was not aware of the issue until it had been raised at the last meeting of the TBT Committee. The United States had since found that it shared substantive concerns expressed by previous speakers with the proposed regulation, adopted on an emergency basis. The United States requested more clarification from Brazil about the nature of the emergency. Comments on behalf of the US industry, which had basic questions about the approach that Brazil was taking, would shortly be transmitted. The United States hoped that these would be taken into consideration. It was pointed out that the standard to identify distilled spirits, sold in the United States, the European Union, Canada and nearly all other major spirits markets, was based only on the raw materials' production process and the characteristics of the product, and was not

defined in terms of distilled spirits' chemical composition, as Brazil was proposing. The United States was anxious to hear from Brazil about the status of the regulation and any efforts they had under way to take into account the comments that had been raised.

48. The representative of Barbados fully shared the concerns of a procedural nature which had been outlined by the delegation of Trinidad and Tobago and shared those of a substantive nature mentioned by the same delegation as well as Jamaica and the United States. First, there was a crucial need for the word "sugar cane" to be inserted before the word "molasses" wherever "molasses" was used in the Decree. If the Decree was not amended in such a way, a precedent would be created that would lead to counterfeiting of *cachaza* and rum and other similar distilled spirits. Amending the Decree in the proposed way would make Brazil's definition of rum similar to other long-standing definitions of rum adopted in the Caribbean as well as by Canada, the European Communities and the United States. Any new definition that did not explicitly recognize that rum and similar spirits could only be produced exclusively from sugar cane would undermine the integrity of the product in international markets and could create confusion that could be exploited. The second major concern related to inaccuracies in some of the technical language in the Decree. A careful reading of the Decree showed that, in Articles 90.2-5, and Article 91.1, reference was made to production of different alcohol spirits "by the single alcoholic distillation" *or* "by the distillation of fermented mash". This language was inaccurate as it was not possible to produce alcoholic spirit of any kind through "single alcoholic distillation" alone. The raw material in question had first to be fermented before the distillation process occurred in order to produce alcohol.

49. It was noted that since the last meeting of the TBT Committee, the delegation of Barbados, along with the delegations of the Dominican Republic, Jamaica and Trinidad and Tobago, had sent two joint letters to the Brazilian government through the Permanent Mission in Geneva. In addition, individual communications had been sent from Enquiry Points to the Brazilian TBT Enquiry Point. All of the substantive concerns with Decree No. 4851 had been outlined in those communications. Barbados therefore reiterated her country's request that Brazil suspend the application of Decree No. 4851 and take into account the written comments. Barbados remained open to holding consultations with Brazilian authorities on the matter with a view to resolving the issue quickly, and certainly before the next meeting of the TBT Committee.

50. The representative of the Dominican Republic supported, in full, the statements made by Jamaica, Trinidad and Tobago, and Barbados. Detailed comments and substantive communications on Decree No. 4851 had been made to Brazil and there was a need to hear answers, including on the possibility of suspending the application of the Decree.

51. The representative of the European Communities associated herself with the statements made by previous speakers. In particular, the European Communities was concerned about the impact on trade, and the creation of unnecessary technical barriers to trade. On procedure, the European Communities noted that the notification of the Decree came after its adoption and the reasons for the urgency of the measure were not fully understood. Moreover, the European Communities had submitted written comments, in January 2004, and hoped to receive a written reply shortly. On technical substance, and with regard to the definition of products and production methods, the notification indicated that the Decree aimed at preventing deceptive practices. In the view of the European Communities, the Decree was more likely to increase the risk of deceptive practices. First, in Articles 90, 91 and 93, there was a reference to spirits being obtained by simple distillation. It was the EC understanding that this element of the definition should refer not only to distillation but also to fermentation. Second, the definition of rum needed to specify that it was made from sugar cane molasses and not just molasses. The European Communities also had concerns with regard to the definition related to alcoholic strength, which it believed could lead to problems of customs classification. With regard to *cachaza*, the European Communities had concerns about the protection of GIs and TRIPS. Her delegation urged Brazil to suspend the Decree so as to consider the

comments made, and to make amendments. The European Communities would stay in close touch with Brazil through informal consultations with a view to resolving these problems quickly.

52. The representative of Brazil noted that her authorities had received draft letters from the concerned countries in the Caribbean and that the last specific request had been received on 27 February 2004. The information had been sent to the relevant Division of the Ministry of Agriculture which was responsible for the Decree. Comments would be analyzed and taken into account. Members were requested to send further demands and explanations; it would also be useful to receive the specific regulations of the countries concerned so as to try to amend, or to adapt, the Brazilian regulation to the Members who had shown concerns. The intent of the measure was to give more clarity to the process of producing rum and *cachaza* in Brazil. It had been the perception of the Brazilian Government, as well as that of the Brazilian private sector, that more clarity was needed in this respect. It had not been Brazil's intention to create any negative trade effect on Caribbean countries, or any other country. Brazil remained open to hold technical consultations with interested countries and would be in touch with those Members who had spoken on the matter.

(iv) *Ecuador: Technical Standard on Carbon Hot Roll Steel Rods for Reinforced Concrete*

53. The representative of Chile referred to the response provided to her delegation by the representative of Ecuador at the meeting of November 2003 with respect to the question raised at the meeting of July 2003, and later reiterated in writing on 28 October 2003. This was about the technical standard of Ecuador NTE-INEN 102 – 2003 (third revision) relating to Carbon Hot Roll Steel Rods for Reinforced Concrete (construction material). The concern of Chile arose from the requirement in the mandatory Ecuadorian measure to mark, in relief, during the production process of the steel rods *inter alia* the name of the producer *and of the importer*. With regard to the information on the producer, this was not a problem since this was a single information and it did not matter in which market the product was sold; all production would carry that mark. The same was not true, however, with respect to information on the importer. If all importing countries were to establish as a requirement that imported steel rods needed to have marked, in relief, the name of the importer this would become a very burdensome requirement. It would mean that rods would not be able to be produced anymore in an assembly line, but would be *ad hoc*, tailored for each customer, each importer, each country that purchased the product. It would mean higher costs, which finally would have to be borne by the consumer. In the case of the Ecuadorian measure, only the imported product would be concerned since the Ecuadorian product would just have to show the information regarding the national producer. While Chile shared the basic objective of safeguarding the safety and security of persons – particularly since its country was very earthquake prone – Chile considered that there were other less trade-restrictive options to fulfil this objective, and asked Ecuador to consider these other alternatives. Finally, the representative of Chile's believed that the measure did have an impact on trade, and, therefore, recalled the offer made by Ecuador to notify it.

54. The representative of Ecuador recalled that her delegation had provided Chile with the responses to the questions raised at the November 2003 meeting of the Committee. On that occasion, Ecuador had indicated that it *could* notify the technical regulation at issue so as to maintain transparency. However, for Ecuador, the conditions necessary to make this notification, contained in Article 2.9 and 5.6 of the TBT Agreement were not fulfilled. The objective of the measure, as rightly pointed out by Chile, was to safeguard the safety and security of persons. This was, hence, in Ecuador's constitution and internal regulations, a major concern. However, Ecuador did take note of the comments made by Chile in this regard and these would again be transmitted to the Ecuadorian authorities and a response would be provided.

(v) *India: Labelling of Pre-packaged Consumer Products and Mandatory Quality Standards for 133 products (G/TBT/N/IND/1)*

55. The representative of the European Communities reminded the Indian delegation that on 9 March 2002, his authorities had submitted comments concerning notification G/TBT/N/IND/1 regarding the labelling of pre-packaged consumer products and the mandatory certification for 133 products. The European Communities had made comments concerning the two texts notified under the same code at the last TBT Committee meeting and India was again urged to provide an answer.

56. The representative of India believed that his delegation had attempted to respond to the EC concerns through the TBT Committee, as well as on a bilateral basis. India had reiterated that requirements contained in notification G/TBT/N/IND/1 had been consistent with its national legislation as laid down in the Standards and Weight Measures Rules, 1977 and that these were applied to both domestic and imported products. The representative of India noted the comments made by the European Communities but did not have anything else to add at the current time; his authorities would further study what additional details could be provided through the TBT Committee, or on a bilateral basis.

(vi) *Korea: Import of Fish Heads*

57. The representative of New Zealand reiterated her country's concerns with regard to fish head imports into Korea. At the last two meetings of the Committee, New Zealand had made specific requests for justification for Korea's measure banning imports of edible fish heads. No satisfactory explanation had been received. Korea had asserted that "fish heads are generally regarded as waste and as not edible". However, Korea had also acknowledged that fish heads were eaten and treated as food in Korea. For a Member to "regard a product as waste" was not a legitimate reason to prohibit the import of that product, especially when there was an acknowledgement by Korea that these products could constitute food. New Zealand requested Korea, in accordance with Article 2.5 of the Agreement, to explain the justification for its measure under relevant GATT and TBT provisions. New Zealand continued to believe that Korea's measure was inconsistent with WTO obligations, whether considered in terms of GATT Article XI or under the relevant provisions of the TBT Agreement. The Republic of Korea had been informed that New Zealand could process Hake heads to an edible standard and could provide appropriate government assurances. New Zealand was not aware of any specific sanitary risks to human health to justify the current prohibition of Hake head imports, and none had been offered by Korean agencies. Other than requiring that the product be handled under sanitary conditions, Korea did not place specific restrictions on the cutting of fish heads by Korean fishing vessels abroad for human consumption in Korea, or the cutting of fish heads in Korea for human consumption in Korea, or the consumption of fish heads in Korea. The representative of New Zealand found it difficult to reconcile this approach with the import ban. She thanked the Korean authorities for a letter recently received concerning the tariff classification issue of Hake head which did indicate some willingness by the authorities to try and respond to some of their concerns. However, she remained concerned that Korea had not provided compelling justification for the WTO consistency of its import measure. The only conclusion that could be drawn, therefore, was that the measure was not based on any legitimate objective, but was designed to afford protection to Korea's domestic industry.

58. The representative of Norway informed the Committee that his country had similar trade concerns as those stated by the previous speaker. On a bilateral basis, Norway had – so far without result – been trying to solve the issue for quite some time. But Norway was still endeavouring to obtain a satisfactory explanation as to why the restrictions, which Norway believed were inconsistent with WTO provisions, were upheld by the Korean authorities. His delegation would appreciate a written explanation from Korea.

59. The representative of the European Communities supported the comments made by New Zealand and Norway. EC producers were facing the same restrictions in the Korean market, in particular with regard to Cod fish heads. Korea was urged to provide for the justification for the measure, and to remove the restrictions which the European Communities viewed as unnecessary technical barriers to trade.

60. The representative of Korea appreciated New Zealand's concern regarding the issue of import restrictions on Hake head. In addition to reasons given at the previous meeting, Korea stressed that the nature of the matter was not simply commercial, but also had social and political dimensions. In the case of food-related items which were not edible, and generally regarded as waste in both countries, the trade considerations needed to be dealt with cautiously. Nevertheless, Korea remained open to having further bilateral dialogue with New Zealand on this matter. Moreover, it was his understanding that with respect to Cod head, there were ongoing bilateral consultations with the European Communities and Norway. The concerns expressed would be conveyed to capital and efforts would be maintained to find a solution on a bilateral basis.

(vii) India: Second Hand and New Vehicles (G/TBT/N/IND/9)

61. The representative of the European Communities noted, in respect of the issue of importation of vehicles and vehicle components into the Indian market, that his delegation was particularly concerned about the practical problems linked to the importation of components and aggregates for vehicle production. It seemed that the Indian type approval test agency ARAI did not have appropriate test facilities for large engines, and that manufacturers had to establish their own facilities, or in some cases test at competitors' facilities which created problems of unfair competition. The European Communities considered that such a procedure was excessively burdensome and reminded the Indian delegation that, although there had already been bilateral discussions, an appropriate solution had not been found.

62. The representative of India noted that the EC delegation had raised two issues. The first was directly linked to the measure itself, and the other was a suggestion made for India to consider joining the UN/ECE 1998 Agreement. Regarding the first issue, and as already mentioned, discussions on a bilateral basis had taken place and India had explained the rationale of the measure put in place. In respect of the second issue, India had made know its response to the EC suggestion; India had joined as an observer to the WP-29 and a decision had yet to be taken on the question of whether to join the 1958 and/or the 1998 UN/ECE agreements or both or none. The question of accession to any of the agreements administered by WP-29 would be decided by the Indian authorities only after having duly examined various aspects. It was noted that the EC delegation had referred to some additional elements regarding test facilities about which the representative of India would have to consult with his authorities.

(viii) Argentina: Resolution on Sulphate Content in Wine and Wineries (G/TBT/N/ARG/101)

63. The representative of the European Communities reminded the Argentinean delegation that, on 10 January 2004, following a reply from Argentina to its first comments, the European Communities had submitted further comments concerning notification G/TBT/N/ARG/101 on sulphate content for wines. The Argentinean delegation was invited to provide answers to the comments sent.

64. The representative of Argentina noted that, in November 2003, the replies to the questions posed by the European Communities, in August 2003, had been sent to the European Communities. Further clarifications requested by the European Communities would be dispatched shortly.

(ix) Argentina: Labelling of Pre-Packaged Food (G/TBT/N/ARG/104)

65. The representative of the European Communities reminded the Argentinean delegation that, on 31 July 2003, his delegation had submitted comments concerning notification G/TBT/N/ARG/104 on labelling of pre-packaged food. The Argentinean delegation was invited to provide answers.

66. The representative of Argentina noted, with respect to notification G/TBT/N/ARG/104, that the MERCOSUR resolution had been surpassed by Resolution No. 26 in 2003 which took into account the comments made by the European Communities. The incorporation of the MERCOSUR regulation in the national legislation was underway.

(x) Argentina: Amendment of the Argentine Food Code on Olive Oil (G/TBT/N/ARG/90)

67. The representative of Argentina noted that there had been a process of questions, replies and clarifications regarding notification G/TBT/N/ARG/90. Recent clarifications would be sent shortly to the European Communities.

(xi) Argentina: Legal Appellation System for Wine Products (G/TBT/N/ARG/107)

68. The representative of Argentina noted that also on this issue there had been a process of questions and replies with the European Communities. On 19 December 2003, Argentina had sent replies to the comments made by the European Communities. In March 2004, the European Commission had asked for more clarifications and these were now in preparation.

(xii) European Communities: Traceability and Labelling of Biotech Food and Feed Products (G/TBT/N/EEC6 and 7 and Add.1-3)

69. The representative of the United States drew the Committee's attention to the issue of traceability and labelling of biotech food and feed products. The United States remained concerned that the regulations were unclear, cumbersome, unworkable and trade disruptive without providing any real benefit to consumers. Moreover, the United States considered the regulations to be arbitrary as they required labelling for highly refined biotech products, such as oil that did not contain detectable DNA or protein, while not requiring similar labelling requirements on products that were produced with other non-biotech methods of development. These regulations discriminated against products produced from biotech, but not against products produced with biotech such as cheese and wine. As the implementation date for the regulations of 18 April 2004 was drawing close, the lack of implementation guidance on the part of the European Commission and its member States became increasingly problematic. Sampling and testing guidance had not been issued and there was a need to see how the products would be handled. Although the United States had met with EC officials several times, questions remained, and the United States therefore urged the European Communities to delay implementation until guidance was issued on how to comply.

70. The representative of Canada supported the comments made by the United States. Her delegation questioned the scientific justification of many elements in the regulations. Canada wondered why, if a product had been approved for food and feed use in the European Communities and was therefore deemed to be safe, the European Communities would place burdensome documentation and other requirements on exporters from third countries. It was also unclear how the traceability in labelling requirements could be effectively implemented given the absence of segregation systems, and internationally accepted testing methodologies to validate the presence of GMOs. These measures were creating uncertainty for Canadian exporters. In light of the above, Canada also requested a delay in implementation so that the European Communities could issue guidance regarding compliance.

71. The representative of the European Communities stressed that the his authorities had always ensured full transparency with regard to its regulations on the traceability and labelling of GMOs. These had been notified in G/TBT/N/EEC/6 and 7. Comprehensive written replies had been provided as well as information on the state of play of the legislative process and the application of the measures in a series of addendums to the original notifications. The regulations aimed to reassure the European consumer, as well as allow the free circulation of products derived from bio-technology on the EU market. They only applied to GMOs that were authorized to be placed on the Community market following a scientific evaluation of the product safety. The rules provided a harmonized Community framework which helped ensure that the EU internal market worked, and eliminated differences between member States' legislative and administrative rules on biotechnology, thus facilitating trade. The rules also allowed the rapid removal of products presenting any unforeseen risk to consumer health, animal health, eco-systems, as well as permitting the monitoring and surveillance of potential environmental impacts.

C. OTHER MATTERS

72. No other matters relevant to the implementation and administration of the TBT Agreement were raised.

III. TRIENNIAL REVIEW

A. ISSUES ARISING FROM THE THIRD TRIENNIAL REVIEW

1. Good Regulatory Practice

73. The Chairman recalled that at the Third Triennial Review, Members had agreed on three recommendations aimed at furthering the Committee's work on good regulatory practice (contained in paragraph 14).³ These were all related to the exchange of experiences. The first recommendation mandated the identification of elements of good regulatory practice at the domestic level. Second, Members agreed to focus on the choice of policy instruments, such as mandatory versus voluntary measures, and the use of regulatory impact assessments to facilitate good regulatory practice. Finally, it had been agreed to initiate a process of sharing experiences on equivalency, particularly with regard to how the concept was implemented in practice. The Chairman proposed as a way of commencing with the follow-up to the recommendations, that Members come prepared for the next meeting to have an initial exchange of experiences, based on submissions, on good regulatory practices in the three above-mentioned areas.

74. The representative of Colombia, while supporting the Chairman's proposal, wished to have some further guidance on the way in which the presentations on the exchange of experiences of national legislations would take place. In general, for Colombia to know, for example, what the length of the presentation should be and whether it would be useful to send copies of the national legislation beforehand. Her delegation intended to make a presentation of its experience, both at the domestic and at the level of the Andean Community, at the next meeting of the Committee.

75. The representative of the United States considered the exchange the Committee was having on the follow-up to the Third Triennial Review somewhat awkward. For example, the information that had been presented by Chile (paragraph 3, above) had been quite useful and interesting, and it had been made under the Agenda Item on Statements of Implementation. Likewise, the United States would welcome the presentation that Colombia had to offer. However, as a matter of procedure, this needed to be part of the Committee's normal agenda; while it was in the follow-up to the Third Triennial Review, it was also information for the Committee. Nevertheless, the Committee was trying a new agenda structure and, over time, it might need to adapt it to the actual discussions. There had

³ Unless otherwise stated, paragraph numbers refer to those of the Third Triennial Review (G/TBT/13).

been many issues that had appeared in the Second Triennial Review, but Members only came forward on a few of the topics after the review to promote more in-depth discussions. This would no doubt happen as a result of the Third Triennial Review, and there could be other issues that Members raised. In any case, the United States supported, generally, the Chairman's suggestion for Members to come at the next meeting with papers on particular topics of interest to them.

76. The representative of Canada appreciated the Chairman's suggestion to initiate focused discussions on good regulatory practice at the next meeting of the TBT Committee. Canada was interested in discussing this issue and had indicated in the past that it intended to submit an experience paper in 2004. Canada was particularly interested in having the Committee entertain serious policy discussions on the subject given the influence that good regulatory practice had with respect to specific aspects of the TBT Agreement. An example of this was the manner in which technical regulations were designed; the way in which stakeholders were consulted related directly to comments and notification periods. Canada had a good regulatory framework in place and would be pleased to bring forward its experiences in this regard. This framework was not static. In fact, the ongoing work of Canada's new external Committee on Smart Regulation looked at how its regulatory framework could change given that the environment was changing. Canada had, for example, issued a precaution framework paper in July 2003 as an aspect of dealing with risk assessment – a key element of good regulatory practice. The representative of Canada suggested that, as a starting point, it could be useful from an information point of view to know what work had already been undertaken on this issue. Significant work had been done in international fora such as the APEC or OECD, to identify the key elements of good regulatory practice. If Members also submitted experience papers, the Committee would be in a better position to initiate a focused discussion.

77. The representative of the European Communities agreed with the Chairman's suggestion that the Committee begin, in earnest, an exchange of views considering specifically the three recommendations in the report. As a minimum, the European Communities would plan to re-introduce for the next meeting the document that had been submitted as part of the Triennial Review and, if necessary, bring it up to-date with recent developments in the European Communities. As Canada had mentioned, it was very important to start this process by having as much information on the table as possible both from Members and from outside organizations, such as the APEC and OECD.

78. The representative of China fully agreed that the issue of good regulatory practice was important, evolving and worthy of further discussion in the Committee. China was willing to participate in exchange of experiences and information with regard to elements of good regulatory practice such as transparency, adoption of international standards, equivalency and regulatory impact assessments. China suggested that the TBT Committee continue its discussion on good regulatory practice by clarifying some critical concepts related to the implementation of the Agreement, such as with respect to international standards. The APEC Sub-Committee on Standards and Conformance (SCSC) had worked out relevant guidelines and had held several seminars and workshops on a regular basis with regard to good regulatory practice. Therefore, China suggested that the TBT Committee make reference to the relevant documents and experiences of the APEC SCSC where necessary.

79. The representative of Mexico supported the proposal by China in respect of making work done by APEC known to all Members.

80. To conclude, the Chairman noted that there was a clear need for focused and concrete discussion in the Committee on good regulatory practice in response to the recommendations from the Third Triennial Review. He invited all delegations to come up with submissions for the next meeting that could help move the Committee's discussions forward in this regard. Considering what had been mentioned regarding the possibility of using other items of the agenda to share information on good regulatory practice, this still remained an option for Members who wished to do so. In addition, it was important that those Members who wished to give the Committee information relevant to the

work of international organizations did so, as this would enable the Committee to benefit from the work done in other fora. Likewise it would be important for observers to contribute with information on their experience.

2. Transparency Procedures

81. The Chairman recalled that the Committee was supposed to hold, on a biennial basis, meetings of persons responsible for information exchange, including persons responsible for Enquiry Points and notifications in order to give Members the opportunity to discuss the activities and problems relating to information exchange and to review periodically how well the notification procedures worked.⁴ Such a meeting should have been held in 2003, but, due to the priority given to other events (the workshop on TBT-related Technical Assistance held in March 2003, and the Learning Event on Labelling, held in October 2003), it had been postponed. Hence, he informed the Committee that the Secretariat would begin the preparations for a Special Meeting on Procedures for Information Exchange to be held on 2 November 2004, back-to-back with the third meeting of the Committee in 2004. Since this activity was included in the Technical Assistance and Training Plan for 2004, there would be funds available for the participation of capital-based officials from developing countries. The Secretariat would make available a draft programme before the Summer break.

82. On the issue of transparency procedures and the Third Triennial Review, the Chairman recalled that Members had agreed on three sets of recommendations (in paragraphs 26-28) dealing with the handling of comments on notifications, with the electronic transmission of information on proposed technical regulations, conformity assessment procedures and standards, and with the follow up on Members' technical regulations or conformity assessment procedures (CAPs) brought to the attention of the Committee. He suggested that the Committee address these specific recommendations in the context of the above-mentioned meeting. The Committee could then revert to these recommendations after the meeting and consider to what extent more work needed to be done. This procedure would not prevent any Member from making suggestions or proposals ahead of the meeting in November 2004.

83. The Committee agreed on this approach.

84. Referring to paragraph 28, the Chairman drew the Committee's attention to the fact that it had agreed to have amendments to notifications carry the same symbol as that of the original notification. He encouraged Members to clearly indicate, when submitting an amendment to a previous notification, the original document symbol. The Secretariat would then issue the new notification as an addendum or revision to the original notification, as appropriate.

3. Conformity Assessment

85. The Chairman recalled that at the Third Triennial Review, the Committee had agreed on a work programme intended to improve Members' implementation of Articles 5 to 9 of the Agreement, and promote a better understanding of Members' conformity assessment systems. The work programme was contained in the recommendations set out in paragraph 40. First, Members had agreed to exchange information and experiences on conformity assessment procedures and practices, and, more specifically, on Suppliers' Declaration of Conformity (SDoC). Second, Members had agreed to organize two workshops, one on SDoC and one on the different approaches to conformity assessment. Third, the Committee agreed to invite representatives from relevant international and regional accreditation fora to provide information on their operation and the participation of Members in their systems.

⁴ G/TBT/1/Rev.8 Page 19.

86. At the previous day's informal meeting, the Committee had discussed the issue of when to organize a workshop on SDoC and had agreed to hold it in March 2005, unless funds were made available to the Secretariat which would enable the Committee to hold it at an earlier date. The Chairman asked the Secretariat to provide a draft programme for this workshop to be considered at the next meeting. The Committee also agreed that it should use the day on 29 June to move ahead with its work programme in the area of CAPs. Hence, the Committee would dedicate this day to: (i) have an in-depth discussion on SDoC; (ii) in line with the third tiret in paragraph 40, have presentations made by representatives from relevant international and regional accreditation fora regarding the operation and the participation of Members, in particular developing country Members, in their systems; and, (iii) address any other issue relevant to CAPs.

87. The representative of Chinese Taipei introduced a submission on SDoC, contained in document G/TBT/W/195/Add.1, dated 16 March 2004, which was a follow-up to a previous submission on the same topic. The document had been circulated in response to the call, in the Third Triennial Review, for an exchange of information and experience on the implementation of SDoC. It described detailed findings of the second SDoC market surveillance review conducted in December 2003 and contained a preliminary analysis of these results. The product that was the subject of the review was exchangeable power supply which was a key component in computers. One of the most interesting findings of the review was that while the non-compliance rate was just ½ per cent, indicating a high awareness of the new system amongst manufacturers when products were subjected to sample testing, the non-compliance or non-conformity rate was nearly 48 per cent. This high rate of non-conformity found in sample testing raised serious concerns about the effectiveness of the SDoC system to meet legitimate objectives, particularly when non-conformity could not be attributed to a lack of awareness as confirmed by the results. Chinese Taipei was now considering measures to correct the high rate of non-conformity.

88. It had been noted that the implementation of SDoC in Chinese Taipei had been a process of trial and error, mainly due to limited availability of empirical information. Although the results achieved might not have been very successful, Chinese Taipei still felt that it was useful to share its experiences with Members in the TBT Committee, especially in view of the future discussions on SDoC planned in the Committee. Chinese Taipei would appreciate if other Members that had successfully implemented SDoC would also share their empirical experiences, especially in terms of any regulatory action that had been taken to resolve problems along the way. Chinese Taipei was pleased that a workshop on SDoC had been included in the Work Programme as this could further facilitate the exchange of experiences.

89. The representative of the United States thanked Chinese Taipei for the useful update to their previous paper. As she considered that enforcement was a critical component of a successful system for implementing SDoC, she wondered if Chinese Taipei was now imposing penalties for non-compliant product, or if this was something under consideration.

90. The representative of India, commenting more generally on the issue of conformity assessment, recalled that the Committee had emphasized, in the Third Triennial Review, the importance of complying with the relevant provisions of the TBT Agreement contained in Articles 5-9. It was noted that paragraphs 30-39 contained useful observations with respect to various approaches to acceptance of the results of conformity assessment which included, *inter alia*, SDoC, Mutual Recognition Agreements (MRAs), and accreditation among others. India was open and flexible with respect to how the Committee wished to proceed on these recommendations. Nevertheless, it would be useful to have more Members, with experiences on various approaches, to come forward and share these with the Committee. India was thankful for the contribution from Chinese Taipei in this regard. From the Indian perspective, it was important to get an idea of how developing country exporters could benefit from a less burdensome approach, including perhaps SDoC. Turning specifically to the Chinese Taipei submission, it had been mentioned that the SDoC applied to 19 products, essentially from the electronics industry. India wondered how the product

coverage of this scheme had been defined and what the product sample for the market surveillance report had been. In particular, the representative of India wondered whether the product sample was predominantly related to domestic products or whether it also include imported products, and if this had a bearing on the issue of lack of awareness raised in the study.

91. The representative of Chinese Taipei noted, with respect to penalties, that there were three types of violations. However, the relationship between the Government and manufacturers was a cooperative one; the government was still trying to encourage manufacturers, and to remind them of the requirements. Penalties would be imposed after further communication with the manufacturer, and would be decided at a later date. On the issue of the sample products, Chinese Taipei did not have statistics on the number of the products which were imported and those which were domestically produced; a sample had been collected in the market place which included both.

92. To Committee agreed on the suggested procedure outlined by the Chairman in respect of the Committee's work on conformity assessment (paragraph 86, above). The Chairman again urged Members to present papers regarding the different aspects of conformity assessment, in order to improve the debate that the Committee would have at its Dedicated Session on 29 June 2004.

4. Technical assistance

93. Under this agenda item, the Chairman suggested that the Committee deal only with the recommendations regarding technical assistance that arose from the Third Triennial Review. Any other matters relevant to technical assistance and co-operation activities of Members, Observers or of the Secretariat would be dealt with under Agenda Item 5 (see page 23). He recalled that the Third Triennial Review contained in essence three sets of recommendations. The first one was about the possible creation of an "information coordination mechanism" (ICM). The second was about technical assistance provided by the Secretariat and the third was about the role of the Committee. He suggested that the Committee consider them separately.

94. Regarding the ICM (paragraph 54), the Chairman stressed the importance placed on transparency in the provision of technical assistance. In fact, the text of this paragraph began with a reaffirmation of the "importance of transparency in the provision of technical assistance and the need for coordination at the national, regional and international levels". It went on to give the Chairman the mandate to hold consultations on the extent to which an internet facility could serve the purpose of exchanging information between Members on current and future activities, and what the appropriate management approach might be to administer this mechanism. The Chairman was then supposed to report back to the Committee by mid 2004.

95. Considering the need for some haste, the Chairman had held a number of consultations with those Members (Egypt, Brazil, Canada and New Zealand⁵) who had made specific proposals in respect of paragraph 54. The objective of these consultations had been to find some common ground before opening up the discussion at the Committee level. What had emerged was that there appeared to be two inter-related concepts involved in the mandate for the ICM. The first was the "management approach" and the second was the "internet facility". The management approach, as set out in the relevant proposals, was a rather broad concept, relevant to the role of the Members, donors and the Committee, in implementing the Committee's mandate on technical assistance generally, and including with respect to the administration of the ICM. There were two issues involved. First, the nature of the body entrusted with the task of implementing the Committee's mandate on technical assistance and, second, the specific functions it was set up to execute. The internet facility was, perhaps more straightforward. A suggestion on how it could be set up on a trial basis, was contained in the Chairman's Communication.⁶ This was basically about how Members and donors could give

⁵ The proposals are contained in documents G/TBT/W/212, 216, 225, 232 and 233.

⁶ Circulated by fax to all Members on 16 March 2004.

notice to the WTO Secretariat of TBT-specific needs or offers on technical assistance that were relevant to current and future activities – and how the TBT TA website could be used for this purpose.

96. Reporting on the preceding day's informal meeting, the Chairman recalled that the discussion, based on his Communication, had focused on the first tiret of paragraph 54. In general, delegates had considered his Communication a good starting point. Nevertheless, some delegations had pointed out that the discussion needed to be framed in terms of more general principles. It was emphasized that this exercise was essentially about transparency and did not, in any way, prejudice Members' obligation under the TBT Agreement itself. It was stressed by many that the ICM needed to remain simple, dynamic and user-friendly and that the Committee needed to approach this subject in a pragmatic and realistic manner. Several delegations emphasized the need not to duplicate work done elsewhere both in-house and in other organizations. There was a need to identify gaps in existing mechanism of information exchange and see what the Committee, through its mandate in paragraph 54, could add in value in light of such gaps. In this regard it was pointed out that the ICM mechanism needed to stay focused on current and future activities. To conclude, the Chairman stressed that before revising his proposal, he wished other Members (other than the above-mentioned who had made specific proposals), to let him know how they thought the work needed to be brought forward. Such input would give him, and his successor, more of a basis to put forward a revision that reflected a broader consensus in the Committee.

97. The representative of Switzerland pointed at the need for further coordination between the TBT Committee, the OECD/WTO team working on the database⁷ and the SPS Committee (in particular with respect to the SPS STDF facility). This was needed so as to identify better policies, information gaps and gather lessons learned so far. On that basis the TBT Committee could prepare a paper responding to a number of key issues. First, what was the value added in terms of transparency to the proposed TBT ICM? Second, how could Members improve coordination on technical assistance? Third, was it really feasible to establish a mechanism to match demand and supply? In particular, Switzerland drew the Committee's attention to the experience of the STDF facility in the SPS area which could perhaps inspire discussions in the TBT Committee. This was an initiative for which the WTO provided a Secretariat function and which had created, amongst other projects, a specific database for SPS technical assistance activities drawn from the OECD/WTO database. The TBT Committee could explore the option of following a similar approach so as to contribute to improving the quality and usefulness of TBT technical assistance activities. It was suggested that the Committee invite a representative from the Secretariat who could speak about the OECD/WTO database, as well as the STDF facility, at the next meeting of the TBT Committee.

98. The Chairman noted that it would be very helpful to have the good ideas put forward by Switzerland in a paper for the Committee. This was, in fact, exactly what he had asked for in terms of views from other Members.

99. The representative of the United States supported the proposal made by Switzerland and hoped that the Chairman would take it into account in any further consultations ahead of the next meeting of the Committee. Her delegation wished to be part of those consultations.

100. Moving to the next two tirets of paragraph 54, the Chairman noted that these were about the voluntary updating of the survey questionnaire and the encouragement to Members to communicate, to the Committee, pertinent information regarding technical assistance activities of relevant regional and international bodies. He suggested that both these issues could be relevant to any eventual ICM developed under the first tiret (and just discussed) and that the Committee await the results from that discussion before taking action on these two points.

⁷ <http://tcbdb.wto.org/>

101. Regarding the second set of recommendations, contained in paragraph 55, the Chairman noted that these referred to the Secretariat's role in technical assistance. First, the Secretariat was requested, as part of the Committee's standing agenda item on technical assistance, to regularly deliver information on its recently concluded programmes and future plans on TBT-related technical assistance, and reflect this in the Committee's annual reviews. Second, the Committee agreed to explore how the results of the Committee's discussions (e.g., on needs identified, lessons learned, gaps in technical assistance activities) could be reflected in the WTO's Technical Assistance and Training Plan.

102. The Secretariat noted, in respect of the first tirt of paragraph 55 (on how the results of the Committee's discussions could be reflected in the WTO's Technical Assistance and Training Plan) that nothing prevented the Committee from forwarding directly any specific needs identified on technical assistance to the Committee on Trade and Development for their consideration in the context of the development of the TA Plan for 2005. However, to have an influence on that plan, and considering the timeline, such information would need to be forwarded preferably before the Summer.

103. The representative of India recalled that footnote 20 in the Triennial Review stated that the Secretariat would prepare a booklet and a CD-Rom on the TBT Agreement and wondered what plans the Secretariat had in this respect. He stressed that the CD Rom prepared for the SPS Committee had been very useful for delegations.

104. The Secretariat noted that it was currently working on the booklet, which would be the first step, followed by the CD Rom. The Secretariat intended to have the booklet ready by November 2004.

5. Other Elements

105. The Chairman recalled that in paragraph 61 (on terms and definitions), the Committee had agreed that the ISO/IEC could be invited to provide information to the Committee on the revised ISO/IEC Guide 2:1991 with a view to examining whether and how far this revised document departed from ISO/IEC Guide 2:1991. Hence, with paragraph 61 in mind, the ISO had been asked to provide information to the TBT Committee on the revised Guide.

106. The representative of the ISO recalled that further to the report ISO had submitted at the TBT Committee's last meeting on the development of the ISO/IEC 17000 Conformity Assessment - General vocabulary, ISO was pleased to report that it was progressing this document to its final stage of development. By June 2004 it would have been translated and formatted into the three official languages of ISO (English French and Russian), and be released to ISO/IEC Members for a final two month ballot. Assuming a positive vote, it was expected that the Standard would be published in the last quarter of 2004, or the first quarter of 2005. The representative of the ISO recalled that the current ISO/IEC Guide 2:1996 Standardization and related activities – General vocabulary, would be modified to remove the clauses in that document which related to conformity assessment terms and definitions, and instead a cross-reference to the new ISO/IEC 17000 would be inserted. A new edition of ISO/IEC Guide 2 would be released with no other change than to take into account this removal, and to add a reference to the new ISO/IEC 17000. This edition would coincide with the publishing of ISO/IEC 17000.

107. The representative of the European Communities recalled that Labelling was referred to in the Triennial Review under the headings "Good Regulatory Practice", "Transparency Procedures" as well as "Others Elements". Under the latter heading it was stated that the: "The Committee agrees to continue to consider labelling concerns in its discussions in the context of the implementation and operation of the Agreement". In continuing discussion on labelling, the European Communities felt that it would be useful for Members to refer back to the Labelling Event held in October 2003, as this had been very useful and had clarified a number of concerns of the European Communities. There

had been a number of common issues that had arisen in the presentations and discussion, such as: the importance of good regulatory practices; the need for transparency in developing labelling schemes; the potential for labelling to have an impact on trade (both positive and negative); the harmonization of labelling schemes between different Members; the reasons for difference between labelling schemes in different Members; and, different approaches to the use of voluntary and mandatory schemes.

108. The representative of the United States was of the view that it was clear, in the Triennial Review, that the Committee had agreed to continue to consider labelling concerns under the item of the agenda relevant to the implementation and operation of the TBT Agreement. Hence, the representative of the United States hoped that the European Communities, and other Members that had an interest in labelling issues, raised them in the context of the Committee meeting under that agenda item.

109. The representative of the European Communities noted that there was an agenda item on the implementation and administration of the Agreement – but that was slightly different from the implementation and operation of the Agreement. Although perhaps this was a linguistic point, for the European Communities, there was a slight difference.

110. The Chairman noted that, at the current stage, he did not consider that the Committee needed to have an in-depth discussion on this issue. He noted that there was an opportunity for Members to deal with labelling under the agenda.

B. PREPARATION OF THE FOURTH TRIENNIAL REVIEW

111. The Chairman recalled that at the last meeting, after the Committee had adopted the Third Triennial Review, one Member, supported by a few others, had suggested that future agendas of the Committee should include a new and standing item on the *preparation* of the Fourth Triennial Review. Assuming that the Committee would meet three times a year, this meant that nine meetings from current one (by the end of 2006) the Committee would need to adopt its Fourth Triennial Review. Three years seemed some time away, but the Committee did have quite some work ahead of it. There could hence be some merit in setting out a procedure, at an early stage, for how over the next three-year cycle, and at what point the Committee needed to start considering the wrapping up of the implementation of the Third Triennial Review and starting the process that would lead to a smooth adoption of the Fourth Review. For this purpose the Chairman proposed to develop a procedural "roadmap" for the Committee's consideration before the end of this year.

112. The representative of the United States noted that the Committee had never had a "roadmap" to guide it in previous reviews and it was difficult to react to the Chairman's proposal in the absence of something to comment on. It was stressed that it could be difficult to be too precise in deciding when things "started and stopped". In other words, the conclusions from the Third Triennial Review were ongoing in nature; it was up to Members to bring information to the table, for example, on national regulatory experiences. This was not a procedure that "stopped" simply because the Committee was going to have a fourth Review. In any case, the United States would be willing to consider the Chairman's ideas and react to them at the appropriate stage.

113. The Chairman stressed that his intention was simply to order the debate during the coming three years. There was no intention to decide already now what would actually be included in the Fourth Triennial Review. The idea, or rationale, was to establish a procedure that could help the Committee be more efficient when it had to discuss and adopt the next Review.

114. The representative of Canada considered that the Chairman's offer to draft a roadmap on the procedure for the Fourth Triennial Review was helpful. Based on the experience the Committee had had with respect to the Third Triennial Review, where Members had found themselves both hurried

and hurried in completing the review, Canada had given the matter considerable thought. Canada was interested in identifying achievements, issues and timetables with respect to properly preparing the next Review. Any thought the Chairman might have in this regard would be helpful.

115. The Chairman indicated that he would proceed as proposed.

IV. NINTH ANNUAL REVIEW

A. THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT (ARTICLE 15.3)

116. The Chairman noted that the Ninth Annual Review of the Implementation and operation of the TBT Agreement was contained in document G/TBT/14, issued on 5 March 2004.

117. The representative of the United States appreciated the fact that the Ninth Annual Review contained more detail in respect of technical assistance activities.

118. The representative of Brazil considered that the document was more user-friendly and could be used as a training tool.

119. The Committee adopted the report.

B. THE CODE OF GOOD PRACTICE (ANNEX 3)

120. The Chairman drew the Committee's attention to the Ninth Edition of the WTO TBT Standards Code Directory prepared by the ISO/IEC Information Centre which contained information received according to paragraphs C and J of the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the Agreement. To facilitate discussions on matters relating to the operation of the Code of Good Practice, the Secretariat had prepared two lists. The first list, contained in document G/TBT/CS/1/Add.8, compiled the standardizing bodies that had accepted the Code in the period under review. In 2003, three standardizing bodies from three Members had accepted the Code of Good Practice and no standardizing body had withdrawn from the Code. The second list, contained in document G/TBT/CS/2/Rev.10, compiled all the standardizing bodies that had accepted the Code since 1 January 1995. It was noted that an addendum to the list had recently been issued as document G/TBT/CS/2/Rev.10/Add.1, dated 10 March 2004.

121. The Committee took note of the above-mentioned documents.

V. TECHNICAL CO-OPERATION

122. The representative of Switzerland informed the Committee that it would be presenting a list of its activities in the field of TBT at the next meeting.

123. The Secretariat updated the Committee on its recent technical co-operation activities as well as its plans for 2004. Since the last meeting of the TBT Committee, the Secretariat had held a regional workshop in **Dhaka**, Bangladesh on 13-14 November. The workshop had been organized by UNIDO as part of a project, carried out in the South Asian Countries, aimed at strengthening the legal and institutional framework for standards, metrology, testing and conformity assessment. Some 24 officials from the SAARC⁸ LDCs participated: Bangladesh, Bhutan, Nepal and the Maldives. Each country was represented by officials from the government, industry and national standardization bodies. Back-to-back with this event, the same team from the Secretariat held a national workshop in **Delhi**, India on 17-18 November 2003. Some 50 people attended this workshop from relevant Ministries and agencies involved in TBT issues. In the discussion, there was particular focus on

⁸ South Asian Association for Regional Co-operation (SAARC). The full membership is: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

issues regarding conformity assessment, transparency and the recently adopted Third Triennial Review.

124. A third regional workshop was held in **Suva**, Fiji from 27-28 November 2003 for the Pacific Island region.⁹ 34 government officials from 13 Pacific Island Forum Countries participated in this workshop, as well as 9 officials from the Forum Secretariat. The issues addressed in the Workshop included the benefits resulting from the implementation of the Agreement at the national level as a means of improving market access opportunities for the Pacific Island Countries. Participants, at the end of the workshop, emphasized the need to, *inter alia*, notify the statement on implementation and administration of the Agreement, and to establish and notify the existence of an Enquiry Point. In this regard, the Secretariat pointed at the recently circulated Statement from Papua New Guinea under Article 15.2 (G/TBT/2/Add.77, dated 5 March 2004).

125. Also in 2003, the Secretariat attended the Codex Alimentarius Committee on Food Import and Export Certification Systems (the "CCFICS") which met in **Brisbane**, Australia on 1-5 December 2003. The Secretariat took advantage of this occasion to conduct an information session for the 100 plus participants to give an overview of current developments in both the SPS and TBT Committees. More specifically on the issue of judgement of equivalence for technical regulations, the Secretariat informed participants that the issue of equivalency had been discussed by WTO Members in the TBT Committee at a number of regular meetings as well as in the context of the Second and Third Triennial Reviews of the TBT Agreement. Attention was drawn to the fact that different views existed among Members on this issue. The Secretariat also recalled the recommendations arising from the Third Triennial Review whereby WTO Members would engage in a process of experience sharing in the area of equivalency.

126. A regional workshop in **Muscat**, Oman, for six Gulf countries was held on 14-15 February 2004. This workshop was held in response to a specific request from GCC countries. The six participating countries were: Oman (host country), Bahrain, Kuwait, Saudi Arabia, Qatar and the United Arab Emirates. At this workshop, some 41 officials responsible for TBT-related issues participated. This included officials from national standardizing bodies, regulatory authorities, ministries of commerce, industry, economy, health and agriculture. Like the other workshops, the event was designed to facilitate the understanding of the provisions, principles and definitions in the TBT Agreement, and to update capital-based officials on current discussions in the TBT Committee. Particular emphasis was given to the issues of conformity assessment.

127. The Secretariat also participated in a national workshop on the "Role of Standards in Promoting Industry and Trade" held in **Cairo**, Egypt from 23-25 February 2004. This event was organized by the United States Commercial Law Development Program (CLDP), in co-operation with the Egyptian Organization for Standardization and Quality Control (EOS) and funded by the US Agency for International Development (USAID).¹⁰

128. Turing to future events, the Secretariat informed the Committee that on the 20-22 April 2004 it would hold a regional workshop in **Lusaka**, Zambia organized in co-operation with COMESA (the Common Market for East and Southern Africa).¹¹ The workshop was aimed at COMESA Members and East African Countries. The objective of this workshop was to assist participating countries in their understanding of the main principles and provisions of the TBT Agreement. In particular, the Lusaka programme was designed to raise awareness on the importance of the implementation and administration of the Agreement and to update capital-based officials on the current issues in the TBT

⁹ Fiji Islands Republic, Papua New Guinea, Solomon Islands (WTO Members); Samoa, Tonga, Vanuatu (countries acceding to the WTO); Cook Islands, Federated States of Micronesia, Kiribati, Niue, Palau, Republic of the Marshall Islands and Tuvalu (non-WTO Members).

¹⁰ The programme of the national workshop on the "Role of Standards in Promoting Industry and Trade" held in Cairo is available at http://www.wto.org/english/tratop_e/tbt_e/tbt_tech_list_memberactiv_e.htm

¹¹ The following countries had been invited: Angola, Burundi, Comoros, DR of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

Committee, in particular with regard to the recent recommendations arising from the Third Triennial Review. Particular emphasis would be given to providing guidance on notification procedures and the functioning of Enquiry Points.¹² A second regional workshop would be held in **Hanoi**, for Asian countries, on 4-5 May 2004.¹³ This workshop would take place back-to-back with a UNIDO national workshop specifically on TBT. The Hanoi workshop (the WTO event) would focus on a sub-group of 12 countries in the Asian Pacific.

129. The Secretariat was still in the early phase of planning three more regional workshops to be held in the year and which were included in the 2004 Technical Assistance Plan. These would cover French-speaking West Africa, Latin American and Central Eastern European / Central Asian countries. More information would be forthcoming at the next meeting of the Committee. Moreover, a number of requests for national workshops in the TBT area had been received. The Secretariat was still looking into the possibility of fitting these into its schedule of activities.¹⁴

130. The representative of India wished to place on record India's appreciation with the WTO Secretariat for the national activity organized in November 2003, and particularly the team that had travelled to India from the Trade and Environment Division. Participants had found the activity very useful and productive.

131. The representative of UNIDO recalled the signature of a Memorandum of Understanding (MoU) in Cancún, to enhance cooperation and to implement a joint technical cooperation programme between the UNIDO and the WTO. He noted that this programme aimed, *inter alia*, at achieving an increase in developing country exports by removing supply side constraints. Among other issues, he informed the Committee that UNIDO and the International Laboratory Accreditation Cooperation (ILAC) have recently launched a publication on "Laboratory Accreditation in Developing Economies, Tested Once - Accepted Everywhere". He also drew the Committee's attention to the fact that UNIDO has been submitting to the OECD/WTO database comprehensive information on its trade related technical assistance. The representative of UNIDO listed several activities of relevance to the TBT Agreement. The full statement was circulated separately in G/TBT/GEN/3.

132. The representative of UNCTAD informed the Committee that, since early 2003, UNCTAD had been implementing a UK-DFID funded project for six developing countries in Asia and seven in Central America and the Caribbean, whose activities focused on issues of environmental requirements, market access and export competitiveness for various specific sectors. More than 20 country-case studies were being prepared on four different sectors: leather and footwear; electrical and electronic goods; horticultural products; and organic produce. For each product group, sub-regional workshops and national policy dialogues had been held. The analysis focused on four critical areas: (i) the level of awareness on environmental requirements in key export markets; (ii) effectiveness of information gathering, analysis and dissemination; (iii) current national adjustment measures for meeting the new requirements; and, (iv) elements of more pro-active adjustment policies in developing countries. It was noted that the 7th Session of UNCTAD's Commission on Trade in Goods and Services and Commodities, held in Geneva, in February 2003 had requested the UNCTAD secretariat to launch exploratory activities for the possible creation of a Consultative Task Force on Environmental Requirements and Market Access for Developing Countries. The UNCTAD secretariat and the National Institute of Metrology, Standardization and Industrial Quality (INMETRO) of the Brazilian Ministry of Development, Industry and Foreign Trade were jointly organizing a workshop, as a pre-UNCTAD XI event, on 7-8 June 2004 in Rio de Janeiro that would review the preliminary results of the exploratory phase of the Consultative Task Force. The full statement was circulated separately in G/TBT/GEN/4.

¹² The full programme of this workshop is posted on the TBT TA webpage at http://www.wto.org/english/tratop_e/tbt_e/tbt_act_list_activ_e.htm

¹³ Bangladesh, Bhutan, Cambodia, Fiji, Laos, Maldives, Mongolia, Myanmar, Nepal, Papua New Guinea and the Solomon Islands and Viet Nam (host).

¹⁴ More information WTO TBT technical co-operation is on the WTO website (footnote 12, *supra*)

133. The representative of Brazil stressed that her Government was very pleased to work with UNCTAD, through INMETRO on the issue of environmental requirements and market access which was a very important issue for developing countries, in particular with respect to the participation of developing countries in the pre-regulation and pre-standard setting processes. The workshop that would be held in Rio de Janeiro, in June 2004, would also deal with the launching of the Consultative Task Force mentioned by the representative of UNCTAD. All Members were invited to participate in the Rio meeting as well as UNCTAD XI to be held in Sao Paulo a week later.

134. The representative of the ITC reminded the Committee about a series of joint studies being carried out with the Commonwealth Secretariat (in Jamaica, Malaysia, Kenya, Uganda, Namibia, and Mauritius) in the area of TBT and SPS. These studies had been completed and a publication entitled "Influencing and Meeting International Standards, Challenges for Developing Countries" had been published (Volume One). The publication was currently available in English (French and Spanish would follow) and had been sent to the TBT/SPS Enquiry Points, the missions to the WTO in Geneva, and to the national standard bodies. Later in 2004, the ITC and the Commonwealth Secretariat intended to organize a workshop to discuss the proposals contained in the publication. Copies were available from the ITC upon request.

VI. OBSERVERS

A. REQUESTS FOR OBSERVER STATUS

135. On the issue of requests for observer status, the Chairman drew the Committee's attention to document G/TBT/GEN/2 which set out the situation with respect to observership by inter-governmental organizations in the Committee. There were still four organizations whose requests for observer status were still pending: 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). The Chairman noted that, to his understanding, differences remained among Members at a horizontal level and further consultations were still needed on the issue of observership. For this reason he proposed that the Committee revert to the requests at the next meeting.

B. UPDATING BY OBSERVERS¹⁵

136. The representative of the OIML referred to the Committee's previous discussion on the proposed establishment of an information coordination mechanism (ICM) and drew the Committee's attention to the activities of the Joint Committee on the Coordination of Assistance to Developing Countries for Metrology, Accreditation and Standardisation (JCDCMAS). This Joint Committee grouped together the activities of the BIPM, OIML, ILAC, IAF, ISO, IEC, ITU and UNIDO. The JCDCMAS was currently working on the completion of the information obtained in the WTO survey of technical assistance needs and activities, as well as developing information modules for awareness raising activities in metrology, accreditation and standardization. The JCDCMAS would be holding its fourth meeting on 25 March 2004, in Geneva. More information from the OIML is contained in G/TBT/GEN/5.

VII. ELECTION OF CHAIRPERSON

137. With regard to the election of the new Chairperson, the Chairman informed the Committee that consultations were currently being carried out on the selection of Chairpersons under the Council on Trade in Goods, and that these had not been complete. Therefore, he was obliged to suspend this agenda item and revert to it at the next meeting of the Committee.

¹⁵ While the Secretariat of the Codex Alimentarius Commission did not take any statement at the meeting, information on relevant activities has been made available in G/TBT/GEN/6.

VIII. OTHER BUSINESS

138. No issues were raised under this agenda item.

IX. DATE OF NEXT MEETING

139. The Chairman confirmed that the next regular meeting of the Committee would take place on 1 July 2004. He would shortly circulate a communication confirming the dates of the Dedicated Session on Conformity Assessment (29 June 2004) as well the date of the informal meeting (30 June 2004).¹⁶

¹⁶ This Communication from the Chairman was faxed to all Members on 30 March 2004.