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**Committee on Technical Barriers to Trade**

**MINUTES OF THE MEETING OF 1 JULY 2004**

Chairperson: Mr. Sudhakar Dalela (India)

Note by the Secretariat<sup>1</sup>

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

## **I. ADOPTION OF THE AGENDA**

1. The Committee adopted the agenda contained in WTO/AIR/2318, dated 26 May 2004.

## **II. ELECTION OF CHAIRPERSON**

2. Pursuant to Article 13.1 of the TBT Agreement, the Committee elected Mr. Sudhakar Dalela (India) as the Chairperson of the Committee.

## **III. IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT**

### **A. STATEMENT FROM MEMBERS UNDER ARTICLE 15.2**

3. The Chairman drew the Committee's attention to a revised list of statements under Article 15.2 contained in document G/TBT/GEN/1/Rev.1, dated 15 June 2004.<sup>2</sup> He also noted that the latest list of enquiry points under Article 10.1 could be found in document G/TBT/ENQ/24, dated 9 March 2004.

4. The representative of Mexico announced the publication of the National Standardization Programme for 2004, which included information on technical regulations, sanitary and phytosanitary measures and standards, which would be developed in Mexico throughout the year.<sup>3</sup> Mexico considered this communication a reasonable measure in line with Article 10.3.1, and an early notice under Article 2.9.1 of the TBT Agreement.

### **B. SPECIFIC TRADE CONCERNS**

5. The Chairman, referring to the Annotated Agenda<sup>4</sup>, encouraged Members, when raising a new specific trade concern, to inform the Secretariat, as well as the Member concerned, of their intention to do so in advance of the meeting, in order to facilitate the discussion and enable the responding Member to come better prepared. This was meant as an encouragement from the Chair and did not create any new obligations.

#### **1. New Concerns**

(i) *Argentina: MERCOSUR Regulation on Definitions Relating to Alcoholic Beverages Other than Fermented (G/TBT/N/ARG/159)*

6. The representative of Jamaica drew the Committee's attention to a MERCOSUR technical regulation on definitions relating to alcoholic beverages, other than fermented, notified by Argentina in G/TBT/N/ARG/159, dated 16 April 2004. She was concerned that this measure could have a significant negative effect on the trade in distilled spirits, such as rum, by Jamaican and other Caribbean distilled spirits producers. Together with the delegations of the Dominican Republic, Barbados, and Trinidad and Tobago, Jamaica had presented comments to Argentina and to its enquiry point. Jamaica expected that these comments would be taken into account and amendments introduced to the technical regulation. Of special concern were the definitions of alcoholic beverages derived from sugar cane under the first paragraph of point XVIII of the Regulation, which defined those beverages as being derived from "simple alcoholic distillates or from the distillation of fermented musts of sugar cane juices or molasses or syrups derived from sugar cane". In the view of Jamaican experts, the production of alcoholic spirits of any kind by a single distillation alone, without prior fermentation, was impossible. The MERCOSUR definition was therefore inaccurate. Jamaica

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<sup>2</sup> A corrigendum to this list was issued on 13 July 2004 as document G/TBT/GEN/1/Rev.1/Corr.1.

<sup>3</sup> More detail is contained in G/TBT/GEN/7, dated 7 June 2004.

<sup>4</sup> The Annotated Draft Agenda was circulated on 16 June 2004 as document JOB(04)/76.

requested that the reference to simple alcoholic distillates should be deleted from this paragraph and also where it was mentioned in the first paragraph of point XIX on rum. Likewise, the definition of rum in the first paragraph of point XIX as being "aged in whole or in part" was inaccurate, as Jamaica, along with other Caribbean producers, had a long tradition of producing, selling locally and exporting high quality rums that were not aged. Longstanding and generally accepted rum definitions, such as those of the European Communities, the United States, CARICOM countries, Australia and South Africa did not specify a requirement for aging. Jamaica therefore requested that the reference to aging be deleted from the definition, as well as the reference to minimum and maximum congener levels that did not find any parallel in other rum definitions of a longstanding and generally accepted nature either. Finally, Jamaica stressed that its technical experts were willing to engage in further dialogue with the MERCOSUR technical experts who were drafting the regulation.

7. The representative of Barbados fully endorsed the concerns raised by Jamaica and believed that the MERCOSUR technical regulation could have a significant negative effect on trade from members of the West Indies Rum and Spirits Producers Association, of which Barbados was a member. Of special concern was the characterization of alcoholic beverages derived from sugar cane as being derived from simple alcoholic distillates and the regulation's reference to rum as being aged in whole or in part. Barbados also requested the deletion of those references and indicated that their technical experts remained at the disposal of the MERCOSUR technical working group.

8. The representative of Trinidad and Tobago also supported the comments made by Jamaica and Barbados. The inaccuracies in the description of the distillation process for the production of alcoholic beverages and the definition of rum would have a negative effect on the trade of distilled spirits by Caribbean producers. Trinidad and Tobago was looking forward to receiving the response of Argentina to its concerns and would welcome a dialogue between experts on this matter.

9. The representative of Mexico shared the comments made by previous speakers. The definition of tequila was of particular concern; it did not correspond to Mexican legislation, which could be tracked back to the 16<sup>th</sup> century, when the preparation of tequila was first regulated. Moreover, Mexico considered that this technical regulation did not meet the requirements of the TBT Agreement's Article 2.2, namely serving the purpose of the protection of consumers' health or the prevention of deceptive practices. Mexico had sent its comments to Argentina within the foreseen time period. However, a reply was received from the enquiry point that its comments had not been examined by its Technical Group 3 of MERCOSUR, which would be meeting again in October. Mexico urged Argentina to fulfil its obligation under Article 2.9.4 and drew attention to the fact that as this was a MERCOSUR regulation, it would be implemented also by Brazil, Uruguay and Paraguay. Therefore, those Members should consider the comments presented to Argentina as an advance notice to other MERCOSUR countries as well.

10. The representative of the Dominican Republic supported the statements made by previous speakers and voiced concern that the regulation could have a detrimental and significant effect on the trade of spirit beverages which were distilled from the Caribbean producers. He also requested Argentina to provide answers to the concerns raised.

11. The representative of the United States associated herself with the previous comments and pointed out that the United States had also provided comments. Although this was a MERCOSUR regulation, she asked why Argentina was the only MERCOSUR member to have notified it. She further wondered whether the notified regulation would have any effect on the previously notified regulation by Brazil, G/TBT/N/BRA/135, on which concerns had already been raised.

12. The representative of Cuba asked whether the proposed regulation was based on international standards and suggested that Argentina review it accordingly.

13. The representative of the European Communities associated herself with the concerns expressed and stressed her delegation's willingness to pursue discussions on this matter.

14. The representative of Argentina stressed that notification G/TBT/N/ARG/159 was only on a *draft* regulation (No. 01/04) of the Common Market Group and that it was a revision of the Common Market Group Resolution No. 77/94. It only altered the scope of distilled spirits of sugar cane, so rum, liquors and tequila would not be affected by what was actually covered by Regulation No. 77/94. During the 19<sup>th</sup> ordinary meeting of working subgroup N°3 of MERCOSUR held in June 2004, the national coordinators had considered the various comments relating to the draft made by MERCOSUR States Parties and by the delegations which had intervened today. This group had decided to continue looking at the draft at the October meeting. Therefore, the Argentinean representative stressed that the regulation was still in the draft stage and that the comments made by delegations would be given careful attention and consideration. Also, Argentina was ready to contact all the delegations and their technical experts in order to discuss any technical questions which might arise.

(ii) *European Communities: Directive on the Type-Approval of Motor Vehicles with Regard to their Re-Usability, Recyclability and Recoverability (G/TBT/N/EEC/61)*

15. The representative of Korea pointed out that he understood the objectives of the proposed Directive on the recycling and recovery of vehicle components and materials notified in G/TBT/N/EEC/61. However, he felt that the burden on industry to comply with this directive was too heavy, as it covered not only new but also used cars. Also, he requested the use of more concrete criteria to calculate the recyclability and asked for an extension of the period for comments.

16. The representative of the European Communities would report this request back to Brussels.

(iii) *Switzerland: Ordinance on the Emission Level of Passenger Cars with Compression Ignition Engines (G/TBT/N/CHE/39)*

17. The representative of the European Communities recalled that on 3 June 2004 it had submitted comments on the Swiss notification G/TBT/N/CHE/39 of a regulation on the determination of the particle number emission level of passenger cars with compression ignition engines. The European Communities considered that the measurement methods for ultra-fine particles were not established with the necessary levels of accuracy and pointed out that the Swiss measure gave no time for the industry to install, calibrate and become familiar with these new measurement methods. Also, the UNECE Group of Experts on Pollution and Energy was working on a reliable system for measuring ultra-fine particles; therefore, unilateral action to define such measurement methods would only result in trade distortion and uncertainty. The European Communities reminded Switzerland of its obligations under Articles 2.2. and 5.1.2, according to which technical regulations and conformity assessment procedures must not be more trade restrictive than necessary. Switzerland was invited to accept the results of conformity assessment procedures carried out in other states and to provide answers to its comments.

18. The representative of the United States associated herself with the comments made by the European Communities and pointed out that the United States had also provided comments on the Swiss notification. She shared the assessment by the European Communities regarding the near term viability of the use of particle counts to determine and regulate particular emissions from diesel powered vehicles and noted that the United States did not support this approach, due to the absence of sound scientific theories on the repeatability and reliability of such measurements. There was also no supporting evidence at this time to make decisions on particular emission controls for public health improvements using a particle number system. Therefore, she encouraged Switzerland to take the United States' comments into account.

19. The representative of Switzerland thanked the European Communities and the United States for their comments and assured them that these would be transmitted to the responsible authorities in capital. However, a response would not be provided before the autumn sitting of Parliament, due to the national decision-making procedure, as the outcome of that sitting would have to be taken into account.

(iv) *Mexico: Standard for Glazed Pottery Ware, Glazed Ceramic Ware and Porcelain Ware (G/TBT/N/MEX/69)*

20. The representative of the European Communities reminded Mexico that comments concerning notification G/TBT/N/MEX/69 had been submitted on 10 November 2003. He expressed his country's concern with regard to the lead and cadmium limits introduced by the notified draft measure. These were more stringent than those laid down in the relevant international ISO standards (ISO 6486-1/2), which were not being used as the basis of this measure, contrary to the TBT obligation to use international standards as a basis for technical regulations. The European Communities hoped that the Mexican authorities would accept the results of conformity assessment procedures of ceramic tableware produced in the European Communities in compliance with ISO standards and invited Mexico to provide answers to the comments sent.

21. The representative of Mexico thanked the European Communities for its comments and recalled that, as indicated by Mexico on 1 August 2003, this regulation had been published for public consultation. During the course of the last five years, the regulation had been revised in its entirety. In the near future, the Official Bulletin would publish all comments and replies, given that the working group had completed its work. He further stressed that the regulation was partially based on the ISO 6486-2 and 7086-2 standards of 1981. Also, the draft regulation had been subject to a regulatory impact study that had established that the benefits were actually higher than the costs.

(v) *United Arab Emirates: Conformity Assessment System and Halal Certification*

22. The representative of the United States indicated that it had seen Press reports according to which the United Arab Emirates was planning to launch a new conformity assessment system, which would take effect in August. She wondered whether these reports were accurate and whether the United Arab Emirates would notify the proposal as required under the TBT Agreement. Furthermore, she had become aware of a new requirement for Halal certification: as of October, the United Arab Emirates' authorities would have to accredit directly centres located in other countries and would not recognize those previously accepted. She further noted that the United States had recently tried to use the enquiry point of the United Arab Emirates, but its e-mail contacts did not seem to function. Therefore, she urged the United Arab Emirates to update its contact details and requested the Secretariat to transmit the above-mentioned concerns to the delegation of the United Arab Emirates.

## **2. Concerns Previously Raised**

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

23. The representative of the United States recalled a concern raised at the last meeting by China on a regulation of the US Consumer Product Safety Council (CPSC) concerning refillable lighters. China had requested a notification of the measure and a scientific justification for setting a relationship between the price and the safety of lighters. On 14 April 2004, the CPSC had published a notice in the Federal Register to clarify that the figure in its safety standard for cigarette lighters had been adjusted for inflation. The Regulation, which was in force since 1993 and had been preceded by the publication of a draft and an opportunity for comments (which had been considered), was therefore neither new nor amended. The recent announcement had not increased the scope of products covered by the Regulation. The only change was the adjustment of the way disposable

lighters were defined in terms of customs valuation or an ex-factory price of under US\$ 2. The adjustment had occurred in November 2003 and the CPSC had only provided a notice – first as a press release on 5 January 2004 and then in the Federal Register – as it had been concerned that there might be confusion about the timing in the increase without a specific notice. The United States officials had since then met with their Chinese counterparts bilaterally and had provided further details of the rationale for the original Regulation. The United States remained of the view that it did not need to notify the adjustments.

24. The representative of China informed the Committee that China had held bilateral meetings with the United States. She appreciated the documents provided by the United States on the drafting of the standard and the rationale for a relationship between safety and price for lighters. These documents would be brought back to capital and studied. However, even assuming that the rationale for the measure was scientific, in China's view the change of price for lighters in the safety standard of the United States meant the change of coverage of the regulation, which would be an amendment of a significant nature within the scope of TBT Article 1.6, and hence requested the United States to make a notification. Furthermore, the international standard ISO 9994 for lighters had become available last year and she asked why this standard could not meet the objective of the United States.

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

25. The representative of Barbados reiterated his concerns regarding Brazil's Decree. Of particular concern were: the definition of rum and similar spirits; the need for any such definition to explicitly recognize that rum and similar spirits could be produced exclusively from sugar cane; and the reference concerning the production of different alcoholic spirits by a single alcoholic distillation or by the distillation of fermented mash. Barbados was still awaiting a response from Brazil.

26. The representative of the United States supported the comments of Barbados and recalled that her country's concerns had been expressed at the last meeting. Brazil had yet to notify the measure and to provide a substantive response to the concerns raised.

27. The representative of the European Communities recalled that her delegation had submitted comments on 18 January 2004 concerning the definition of rum and *cachaza* and the minimum alcohol content for rum, which could create problems of classification when imported into the European Communities. She requested Brazil to provide answers to the comments sent.

28. The representative of Jamaica reiterated her concerns as raised in previous meetings and in writing. Jamaica was still awaiting replies, while remaining open to informal discussions.

29. The representative of the Dominican Republic requested Brazil to respond to the concerns expressed in a communication sent in February 2004 to the national enquiry point and to the Permanent Mission of Brazil.

30. The representative of Brazil thanked the delegations of Barbados, the United States, the European Communities, Jamaica and the Dominican Republic for their comments, which would be conveyed to capital. Brazil was considering the possibility of amending Decree No. 4851, whose objective was to establish rules for *cachaza* and not to distort trade from the Caribbean to other markets. As work was still in progress, Brazil was not in a position to provide further details, but remained open to holding technical consultations with interested countries.

*(iii) India: Homologation of Vehicles (G/TBT/N/IND/9)*

31. The representative of the European Communities had raised concerns at the last meeting on the issue of the importation of vehicles and vehicle components into the Indian market. His concerns were about the practical problems linked to the importation of components and aggregates for vehicle

production and the fact that the Indian type approval test agency (ARAI) did not seem to have appropriate test facilities for large engines. Manufacturers had to establish their own facilities or use those of competitors, which created problems of unfair competition. Those procedures were considered to be excessively burdensome, and he requested India to solve the problem.

32. The representative of India had previously responded to some of the issues and had explained the rationale of the measure on second-hand vehicles. On the issue of ARAI facilities in Pune, he emphasized that the upgrading of facilities in any country was a continuous process. He understood that ARAI had been accepting certification from officially authorized and recognized testing agencies in Europe for those items and components for which there were no commensurate facilities in India; however, he could not comment on it at the moment. He would inform the authorities in capital of the concerns and he expressed a willingness to engage in bilateral discussions to arrive at a better understanding of the measure.

(iv) *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.)*

33. The representative of Singapore drew the attention of the Committee to the fact that, at its last meeting, some ASEAN countries had indicated their intention to look at the REACH proposal and comment on it, which they had done in writing in the meantime. On behalf of the ASEAN countries, Singapore supported the rights of its trading partners to take measures to protect health, safety and the environment. While Singapore welcomed the improvements in the revised draft REACH regulation, it remained concerned about the potential adverse impact of such a complex and broad regulatory initiative on international chemical and downstream trade. Singapore was particularly concerned that the requirements under REACH, though non-discriminatory in appearance, could be discriminatory in practice, as non-EU producers and suppliers would face greater difficulties in complying with the complex requirements as compared to their EU counterparts. Moreover, compliance in itself was seen as so onerous as to constitute a significant trade barrier, particularly for developing countries and Small and Medium-Sized Enterprises (SMEs), which might not have sufficient resources and expertise to meet the proposed requirements. The current scope of coverage would have an impact on a wide range of downstream producers, many of whom would not be able to comply at a reasonable cost. Of further concern were the issues of retrospective liability, lengthy waiting periods for authorization, and on-the-spot trade that could negatively affect traders in the ASEAN region.

34. In order to minimize the negative impacts of REACH, especially on SMEs and developing countries, Singapore requested the European Communities, on behalf of ASEAN countries to: (i) reform its current legislation on sharing of information to ensure that smaller and non-EU companies had easier access to the necessary information; (ii) explicitly state that all substances need only be tested once; (iii) adopt a risk-based approach founded on prioritization and sound science; (iv) streamline the various processes in a single agency; (v) reduce the scope of REACH and allow for broader, clear-cut exemptions, thereby reducing the burden of downstream producers and traders; and (vi) address any other specific concerns raised. It was also important that the European Communities incorporate special and differential treatment, as well as technical assistance programmes for developing countries and in particular their SMEs. Taking into account these concerns, Singapore suggested that the timeframe for the implementation of REACH be extended for five years.

35. The representative of Thailand raised concerns about the scope of REACH, applying both to the manufacture and import of all chemicals as well as any finished products that contained chemicals, for which producers and importers would be held liable. Even the revised proposal remained largely unclear, too complex, overly expensive, burdensome as well as costly and had the potential of causing unnecessary obstacles to international trade, especially for developing countries, disrupting international chemical markets and downstream manufacturers, adversely impacting trade, inhibiting innovation and limiting global competitiveness. As areas of special concern that were likely to incur excessive costs and difficulties and thereby disadvantage industries competing in the EU market, she

pointed at: (i) the test to identify the type and quantity of substances contained in articles, which was complicated and expensive; (ii) registration fees to cover the administrative costs of the Agency; (iii) the need to appoint a representative in the EU to fulfil the obligations on importers; (iv) the preparation of data (CSA and CSR) if the substance had not been registered or the substance manufacturer refused to do so; (v) the negotiation with the substance manufacturer to include identified uses in the registration; (vi) the mandatory data-sharing principle allowing the first registrant, who would be likely to reside in the EU or other developed countries, to charge 50 per cent of the cost from each of the subsequent registrants upon their property rights, which could make it unfeasible for developing countries to export, especially downstream products; and (vii) the rules on the substitution for less hazardous chemicals or changing the current production process or method. She also pointed out that each stage of REACH was extremely time-consuming.

36. As Thailand was not a chemical manufacturer but a chemical importer, these chemicals were only used as minor ingredients or in a small quantity, so that the article producers had no bargaining power to demand further information from suppliers if they refused to provide such data. Thailand was concerned that the REACH system was neither WTO consistent nor harmonized with the UN Globally Harmonized System of Classification and Labelling of Chemicals (GHS), and other criteria set by the IFCS and the Stockholm Convention on Persistent Organic Pollutants (POPs). Thailand suggested that the accreditation of recognized institutions in other countries, such as EPA in the United States, could save time and costs to the downstream users on evaluation. The legislation on chemicals should be justified and transparent and must not create discrimination among countries or regions. Due to the far-reaching impacts on a wide range of industries, the timeframe for the registration of products should be extended for five years and possibly longer to allow developing countries such as Thailand to adapt their production methods before the regulation was strictly enforced. Thailand also suggested that the "identified uses", as mentioned in Articles 3(25) and 29(6-7), be a heading in the data sheet, which the chemical manufacturer would be obliged to supply to the chemical users without having to be so requested, to avoid obstacles to chemical users. Also, the scope of Article 6 should exempt substances in articles (such as polymers) from registration, as developing countries would either have difficulties controlling or be unable to control and already have to bear the costs for testing. Furthermore, Article 22, allowing the notifier of substances under Directive 67/548/EEC to automatically become the first registrant under REACH and to charge 50 per cent of the registration costs on subsequent registrants, was unfair to subsequent registrants. In addition, there seemed to be a lack of correspondence between Article 26(2)(b) referring to phase-in substances manufactured or imported in quantities of 1 ton or more per year and Article 21(2), which referred to 100 tons or more per year.

37. The representative of the United States commended the European Communities for its notification of the REACH proposal before the adoption of the common position by the European Council, which allowed for a more meaningful opportunity to provide comments, in consistency with TBT obligations. The United States had provided comments and reiterated its interest in the proposal.<sup>5</sup> She noted that the scope of the REACH regulation was still unclear and that it could affect the majority of US exports to the EU of over a US\$ 150 billion in 2003. With the recent expansion of the EU to 25 countries, the potential impact would be even greater. She was still concerned that the proposal appeared to adopt a particularly costly, burdensome and complex approach, which could prove unworkable in its implementation, disrupt global trade and adversely impact innovation. It also discounted substantial resource constraints facing governments and industry. Furthermore, some uncertainties remained regarding: (i) the decision-making process, involving member State authorities, the European Commission and the new Chemicals Agency, such as the question of which chemicals and which uses would be subject to restrictions once REACH was implemented; and (ii) unclear and imprecise regulatory standards, i.e. whether or not industry could

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<sup>5</sup> Comments are available on the website of the United States Mission to the European Union at [www.useu.be](http://www.useu.be).



"demonstrate that the risk from the use of the substance can be adequately controlled or that the socio-economic benefits outweigh the risk".

38. The United States encouraged the European Communities to: (i) reduce the scope of the regulation to better focus on substances that were likely to pose the highest risk and ensure robust, science-based regulation; (ii) to develop an EU approach, which supplemented rather than supplanted international cooperative efforts to effectively address the risk posed by existing chemicals; (iii) to clarify, simplify and enhance transparency concerning the process by which regulatory decisions would be made; and (iv) to ensure that the regulation's impact, both positive and negative, was fully and transparently assessed. As the European Council and Parliament would consider and revise the Commission's proposal, these institutions should also ensure that the approach was fully consistent with the EU's WTO obligations. In view of the scope, the far reaching implications and the global interest in this extensive regulation, the United States urged the European Communities to provide for meaningful consideration of the comments received and requested that the TBT Committee be kept informed as the draft regulation continued to move forward through the EU's decision-making process.

39. The representative of Malaysia raised two specific concerns in addition to common concerns of the ASEAN countries. He noted that the chemical preparations formulated or manufactured in the EU were exempted from registration requirements according to Article 5 of the regulation, which was believed to be inconsistent with GATT Article III. Also, according to Article 6a, non-EU-based suppliers were required to appoint an EU-based representative to whom they had disclosed their formulations for purposes of registration, which could compromise the protection of their intellectual property rights. He requested the European Communities to give due consideration to these concerns.

40. The representative of Australia noted that on 18 June 2004 Australia had submitted comments on the REACH regulation. He welcomed the changes in the proposal but remained nonetheless concerned that the draft regulation was more restrictive than necessary to fulfil a legitimate objective and threatened to have disproportionate negative effects on like products originating from third countries, including Australia. Therefore, he supported the concerns of many of the preceding speakers and was looking forward to a response from the European Communities.

41. The representative of Japan appreciated the European Communities' efforts to consider his country's comments on the proposed REACH regulation, which had improved in comparison to the previous version. However, Japan was still of the view that further improvements were needed in order to avoid negative impact on trade and investment. As a response to the European Communities' notification of 21 January 2004, Japan had submitted comments explaining that: (i) the REACH system should not impose excessive burdens of compliance on broader industrial sectors in light of its objectives; (ii) it should not impede exports to the EU market nor create unnecessary obstacles to international trade; (iii) it should be consistent with international harmonization activities, like those of the OECD and other international organizations; and (iv) it should ensure standardization, transparency and fairness in its application in each member State. He stressed the need to introduce a mechanism to avoid duplication of risk assessments and hazard assessments for the registration of chemicals, in order to ensure that REACH did not impose excessive obligations or burdens, or create unnecessary obstacles to international trade. In the APEC Chemical Dialogue held in May, many economies raised concerns about the costs and burdens of complying with REACH. Furthermore, at the June Meeting of APEC Ministers Responsible for Trade, Ministers expressed continuing concern over REACH's adverse trade implications as a result of its complex regulatory system. While Japan appreciated the transparency and openness of the process followed by the European Communities, it requested that it address the concerns of its trade partners, including Japan.

42. The representative of Uruguay reserved his country's right to continue its as yet unfinalized technical examination of the new draft regulation and its possible negative effects on trade in the sectors involved.

43. The representative of Mexico reiterated his concerns with respect to the REACH system, on which Mexico had submitted comments within the time-limit and was still awaiting a reply. Mexico wished to keep in contact with the European Communities in order to find alternatives to this system, as the burden of the proposed system would, in certain cases, be insurmountable for Mexican industry.

44. The representative of Canada reminded the European Communities of its written comments submitted on 21 June 2004 and expected them to be taken into account. Canada shared the goals of REACH to protect human health and the environment, promote competitiveness of the chemical industry, increase transparency and increase integration with international efforts. Canada also believed that international cooperation was essential to achieve those goals, as the assessment and management of chemical risk was a global challenge. The ongoing consultation was seen as a clear signal of the European Communities' willingness not only to benefit from the experience of other jurisdictions but also to fulfil its obligations under the TBT Agreement. In its written comments, Canada outlined specific provisions that might require rethinking in order to reduce the risk of creating unnecessary barriers to trade, such as the following seven items: (i) the registration process was seen as unnecessarily costly, burdensome and too complex; (ii) the criteria and procedure for including a substance in Annexes II and III lacked clarity; (iii) the possible anti-competitive behaviour of manufacturers resulting from voluntary consortia; (iv) the use of production volume thresholds instead of an incremental approach to information submission; (v) the apparent unwillingness of the European Communities to accept the use of data generated outside the EU in an importers' registration; (vi) the absence of clear rules for the fair allocation of costs by consortia members; and (vii) the extra-territorial application of the EU's policy on animal testing. Canada wished to continue the ongoing dialogue on chemical policy with the European Communities, including on regulatory cooperation.

45. The representative of China stated that the Chinese Government fully understood the legitimate objectives of the European Communities to protect human health and environment, but was interested in knowing how the European Communities would guarantee that the REACH proposal would not impose restrictions beyond what was necessary to fulfil these objectives. Having submitted comments on the REACH notification on 21 June 2004, she believed that the definition of "manufacturer" in REACH would accord less favourable treatment to manufacturers outside the European Communities and their intellectual property rights would not be properly protected. Also, the payment of 50 per cent of the total cost for sharing information with relation to tests on vertebrate animals was not in all cases justified by an animal protection objective, deprived foreign enterprises of a competitive advantage, was too high and would seriously restrict the production and export to the European Communities of relevant products of SMEs in developing countries.

46. Furthermore, China considered it unnecessary to have all chemicals subjected to the REACH regulation, especially those substances whose characteristics and performance were already clear through their long-term use. It would seem a waste of resources to ask countries to undergo the registration, evaluation, authorization and restriction procedures again. Also, Article 6.1 of REACH, which required registration of chemicals where they were present in articles in quantities totalling over 1 ton per producer or importer per year, would bring heavy burdens to all chemical-using enterprises, as the importers would be required to prove that the chemicals in their products did not pose a risk, rather than the authorities having to show the presence of a risk. China wondered why such a reversal of the burden of proof, also with respect to chemicals that had long been used without any known risks, was necessary to meet a legitimate objective. China also asked how the 1 ton threshold would be calculated in practice and how the concept of "product type" would be defined and interpreted. In addition, China believed that the REACH regime should not be based simply upon the volume of production and/or import of chemicals, but their potential risks should be considered as well. In accordance with the TBT Agreement, the European Communities should also accept the testing data provided by non-EC laboratories fulfilling ISO/IEC 17025 General Requirements for the Competence of Testing and Calibration Laboratories and further shorten its registration timeframe.

47. China considered that the European Communities had not conducted a sufficient impact assessment of the negative effects of REACH on the chemicals industry in developing countries, given the huge gap between the European Communities and developing countries in production technology and production level of chemicals. The new regulation could trigger the transfer of many raw material-type industries, characterized by low added value but high pollution, to developing countries, hence confronting developing countries with the risk of "chemical pollution". Therefore, China requested that the European Communities explain how the process of preparing the REACH regulation complied with the TBT Agreement and in particular Article 12.3. Finally, she stressed that eleven ministries, trade associations, large enterprises and research institutes had participated in comments on the proposal. She therefore hoped that the European Communities would take them into consideration and provide a written response.

48. The representative of Chinese Taipei thanked the European Communities for its flow chart specifying actions to be taken and requirements to be met in relation to different provisions of the REACH proposal and associated herself with the concerns previously raised. Of special concern were the registration requirements of substances in articles and the volume based-approach of management. Chinese Taipei believed that not only finished articles, but also chemical substances with low or no risk concerns should be exempted from REACH. A risk-based approach to management instead of a volume-based approach should be adopted, considering the legitimate objective pursued. She hoped that the comments would be taken into account and looked forward to being informed of any changes.

49. The representative of Chile indicated that his country had already made comments to the European Communities on REACH and discussed them. He still had many concerns with respect to the increase in transaction costs. Chile was likely to be most affected by the volume-based, and not the risk-based, approach of the regulation. Also, different compositions of the same product might require separate registrations in the case of complex chemicals, which could become repetitive and bureaucratic. He was also concerned about aspects of the operation and the sanctions applied to countries and their uniform application. Moreover, the effect of the regulation on Chilean products, using these chemicals but not releasing them into the environment, was unclear. He sought further clarification on the issue of whether tests needed to be carried out in the European Union or outside. He requested the European Communities to continue to simplify the proposal.

50. The representative of Korea associated himself with the previous statements. Korea had submitted comments bilaterally and requested that, in the case of chemicals with simple physio-chemical characteristics, the EU authorities accept data from internationally accredited regulatory bodies such as the ILAC (International Laboratory Accreditation Cooperation).

51. The representative of Brazil indicated that comments on the REACH regulation had been sent on 21 June 2004 to the European Communities' enquiry point and requested a response.

52. The representative of Colombia reiterated the concern of the Colombian pharmaceutical industry and supported the request made by some delegations that the European Communities make a general presentation on REACH in the TBT Committee, in addition to providing answers to comments.

53. The representative of the European Communities noted that it had received written comments from Australia, Brazil, Canada, China, Japan, Singapore, Chinese Taipei, Thailand and the United States on the REACH Proposal. The European Communities would provide written answers to all comments and a response would also be published on the new web page of the European Commission dedicated to the TBT notification procedure.

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

54. The representative of New Zealand once again raised concerns over Regulations 753/2002 and 316/2004 on wine labelling, which had been implemented since 15 March 2004. New Zealand had commented in detail on Regulation 753/2002 and the potential impact of EC policies in this area that stretched back to 1998. At the last meeting, New Zealand had supported the amendments made to Regulation 753/2002 through Regulation 316/2004 and in particular the acknowledgement that traditional terms or expressions were not Geographical Indications (GI) and should not be treated as such. She also supported the amendment allowing alternative regulatory approaches to be used, but remained disappointed that they did not go further. New Zealand had submitted detailed written comments in August 2002, both on substantive and procedural concerns. On substance, New Zealand was concerned that the limitation on the use of terms relating to vine varieties, production methods, and vintage to wines carrying a GI disregarded fundamental TBT requirements, as it might prevent accurate consumer information. On procedure, New Zealand was concerned that the notification and consultation of Regulation 753/2002 fell short of TBT requirements. While New Zealand welcomed the delay provided for the implementation of the Regulation, it was disappointed at the short time period between publication and notification of the amending Regulation 316/2004 and its implementation, which was not sufficient for Members' comments to be taken into account in accordance with Article 2.9 of the TBT Agreement. Furthermore, many of New Zealand's concerns had not been addressed by Regulation 316/2004 and a written response had never been received. New Zealand reiterated its request to receive a response in light of the promise given by the European Communities at the last meeting to get back to all interested Members. The EC's overall approach to wine labelling and regulation as reflected in Regulations 753/2002 and 316/2004 was in conflict with TBT principles, and in particular with the obligation not to create unnecessary barriers to trade and to ensure that technical regulations are not more trade restrictive than necessary to fulfil a legitimate objective contained in Article 2 of the TBT Agreement.

55. The representative of Mexico was disappointed that his country's comments regarding Regulation 753/2002 had neither been responded to nor taken into account. Moreover, the special conditions of a developing country, like Mexico, to comply with the regulations, and elements of special and differential treatment had not been considered. He believed that Regulation 753/2002 violated a number of fundamental procedural and substantive provisions of the TBT Agreement: it did not have a legitimate objective, violated the principle of proportionality, and introduced an unnecessary technical obstacle to international trade. Even the revised regulation did not address Mexico's concerns. He hoped that Mexico's comments would be taken into account.

56. The representative of Australia supported the comments made by Mexico and especially New Zealand, which reflected many of Australia's concerns raised at a number of meetings. He was concerned that the European Communities, wine labelling regulation was not TBT consistent and requested a written response.

57. The representative of Uruguay supported the comments made by New Zealand, Mexico and Australia, given that the Regulation would also affect the wine-producing sector in Uruguay. Uruguay also reiterated its concern about EC Regulation 316/2004, which went beyond the disciplines established by the TRIPS and TBT Agreements. The approach taken by the European Communities on traditional expressions and varieties of vine and grapes implied the imposition of significant trade barriers. He stressed that traditional expressions - or generic expressions - were not linked to geography. "Traditional expressions" were not provided for in the TRIPS Agreement, nor did they meet the characteristics of geographical indications. They did not refer to a quality which identified a product as coming from a territory of a Member or a region of this territory and, therefore, could not be attributed to a specific geographical origin. He concluded that, while geographical indications were linked to the specific geographical area where the product came from, traditional expressions were, by definition, terms that had become, through use and custom, part of the wine-growing world.

They had been used systematically by all countries having a wine-growing culture and tradition. It was, therefore, difficult to determine who had been the first to use a specific expression and had the right to regulate its use. He felt that regulating the use of such expressions by third parties not only went beyond TRIPS, but also ran counter to other fundamental WTO provisions, notably the obligation under the TBT Agreement not to create unnecessary obstacles to international trade. Similarly, with regard to grape varieties, he asserted that the names of grapes and their synonyms could not be linked with the term "geographical indications" and, therefore, could not be protected for reasons linked to geographical origin. The designations of various forms of grape responded to general technical criteria, which were of universal use. They had also been part of wine-growing traditions and continued to be used as technological and scientific terms. He concluded that legislation could not go beyond the strictly technical area of labelling, excluding reference to specific traditional expressions. He announced that his comments would be submitted to the relevant EC authorities in Brussels.

58. The representative of the United States associated herself with the comments made and reminded the Committee that this item had been the subject of several notifications, written comments, bilateral and plurilateral discussions. The United States continued to have serious substantive and procedural concerns with the wine labelling regulations. At the last meeting, the United States had asked the European Communities to suspend the enforcement of its regulation to leave an opportunity for comments, to take them into account before the final adoption, and in order to have a reasonable interval of time before the entry into force as required under the TBT Agreement.

59. The representative of Argentina shared the views expressed so far and felt that the modified regulation was still inconsistent with WTO Agreements and, in particular, constituted an obstacle to the exports of wines to EC markets in breach of the TBT Agreement.

60. The representative of the European Communities explained that amendments to Community labelling rules had been adopted on 20 February 2004 through Commission Regulation 316/2004, which took into account comments relating to Commission Regulation 753/2002 raised in the TBT Committee, in the two rounds of informal consultations and also submitted in writing. Further written comments had been received subsequent to this regulation from Uruguay, and the European Communities would reflect on all comments, including those raised orally in the TBT Committee and would be pleased to pursue explanatory discussions with interested delegations in the near future.

*(vi) Korea: Average Fuel Economy Standards for Passenger Cars*

61. The representative of the United States associated herself with a concern raised by the European Communities at the last meeting on Korea's average fuel economy programme. She reminded Korea of its notification obligation under the TBT Agreement and indicated that the United States had been in contact with Korean authorities bilaterally and had submitted comments.

62. The representative of Japan supported Korea's efforts to reduce greenhouse gas emissions and its commitment to improve the fuel efficiency of automobiles in the lower transportation sector, but remained concerned that Korea's new fuel efficiency standard might lead to an excessive technical regulation to imported car manufacturers. He requested that Korea make a TBT notification at an early appropriate stage when amendments could still be introduced and comments taken into account in accordance with Article 2.9.2 of the TBT Agreement.

63. The representative of Korea explained that the rationale behind the introduction of the average fuel economy standard was for environmental and energy saving purposes. Nevertheless, the drafting of the regulation and the consideration of comments from industry and major trading partners was not finished. In spite of the stated concerns, Korea saw no discrimination between domestic cars and imported cars, but intended to provide a longer grace period for imported cars to address these

concerns. He suggested continuing the consultations with Japan, the United States and the European Communities.

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

64. The representative of the European Communities reminded India of its comments on notification G/TBT/N/IND/1 on 9 March 2002 concerning the two texts notified under the same code and reiterated the request to receive answers thereto.

65. The representative of India pointed out that India had discussed these measures bilaterally in an attempt to clarify their rationale. He emphasized that the same requirements were also applied to domestically manufactured products. In the case of new regulations, equivalent conditions would immediately be ensured for imported products. As a result of the review of the regulations on some steel items listed in the certification list of the Ministry of Steel, the mandatory requirements for imports of all of these items had been dispensed with. He also expressed India's willingness to continue discussion with the European Communities.

(viii) *Korea: Import of Fish Heads*

66. The representative of New Zealand reiterated her country's concerns, for the fourth time, on the issue of fish head imports to Korea. She was disappointed that, despite specific requests, Korea had not provided legal justification for its measure banning imports of edible fish heads. The concerns had not changed since the last meeting and, as set out in a follow-up written statement provided to Korea, New Zealand continued to believe Korea's measures to be in violation of GATT Article XI.1 or the relevant provisions of the TBT Agreement. She announced that New Zealand was now actively working with other interested exporting countries and would like to have a discussion with Korea on principles for quickly removing restrictions on trade in line with Korea's WTO commitments.

67. The representative of the European Communities shared the concerns expressed by the delegation of New Zealand and invited Korea to address these issues.

68. The representative of Norway associated himself with the statements made and the concerns previously expressed. He hoped that Korea and the other concerned Members would find a mutually satisfactory solution as soon as possible.

69. The representative of Korea explained that Korea's main objective concerning the regulation of hake head imports was health protection, which was articulated under several relevant WTO Agreements. As stressed at the last meeting, this issue needed to be dealt with very cautiously, taking into account its social and political impacts. Korea was willing to discuss with New Zealand how to work out the legitimate standards and requirements to guarantee consumers' health protection, and the relevant Korean authorities remained open for bilateral consultation. Korea had also sought to accommodate the concerns raised by the European Communities and Norway and hoped for some more detailed consultations.

(ix) *Netherlands: "Vos" Bill on Wood Products (G/TBT/N/NLD/62)<sup>6</sup>*

70. The representative of Canada was pleased to see the direction of the recent amendments brought forward on the "Vos" Bill covering forest products, notified in G/TBT/N/NLD/62. However, she was still concerned with a number of provisions within the revised proposal that Canada believed

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<sup>6</sup> Concerns were raised for the first time on this regulation in November 1998 (G/TBT/M/13, para. 5) in relation to notification G/TBT/Notif.98.448).

were discriminatory and trade restrictive. She thanked the Netherlands for the opportunity to provide written comments on its draft legislation and indicated that formal comments would be submitted to the Dutch enquiry point by the end of July 2004 upon completion of the legal assessment of the revised bill. She expected the Canadian comments to be taken into account.

71. The representative of the European Communities informed Canada that the draft notified by the Netherlands was being examined at the European level to assess its compatibility with Community law and that a dialogue on the draft was in place between the European Commission and the Dutch authorities. The European Communities further pointed out that, as yet, no comments had been received from third countries. However, written answers would be provided to all comments received, once the examination of the draft had been carried out at the EC level.

*(x) New Zealand: Ban on the Importation of Trout*

72. The representative of Canada recalled his country's concern regarding the New Zealand ban on the importation of trout based on an order entitled "Customs Import Prohibition (Trout) Order 1998". The ban was put in place, as stated by New Zealand, on a temporary basis. Canada had made several high level representations to New Zealand on that issue since 1998 and had raised the issue at several meetings of the TBT Committee, including those of October 2001 and March 2002. Prior to the October 2001 meeting, Canada was informed of the extension of the ban until 7 November 2004. The ban had now been in place since 7 December 1998. Canada was disappointed by the measure and by the fact that it had never received science-based evidence in support of the ban. Canada sought confirmation from New Zealand that the ban would expire this year.

73. The representative of New Zealand pointed out that, as she had not been given advance notice that Canada intended to raise this issue, she was not in a position to comment in detail, but would report back to capital and speak with the Canadian delegate on this issue.

*(xi) European Communities: Traceability and Labelling of Biotech Food and Feed Products (G/TBT/N/EEC/6-7 and Add.1-3; G/TBT/N/EEC/53 and Add.1)*

74. The representative of Canada recalled that at the March 2004 meeting, Canada had raised concerns regarding the European Communities traceability and labelling of biotech food and feed products (G/TBT/N/EEC/6-7 and Add.1-3; G/TBT/N/EEC/53 and Add.1). Canada remained concerned that the Regulations, which entered into force on 18 April 2004, were overly burdensome and created unnecessary barriers to trade for Canadian exporters. Canada would continue to monitor implementation to ensure that Canadian exports were not delayed. She stressed that the labelling and traceability measures created uncertainty for exporters and that the European Commission had not been forthcoming in clarifying the application of these Regulations. In the absence of clear guidance, it was unclear how Canadian exporters, especially small manufacturers of value added products, would be able to comply with these measures. Regarding the recent notification G/TBT/N/EEC/53 including Add.1 of the Commission Recommendation regarding sampling and detection, Canada remained concerned as to how traceability and labelling would be implemented, given the absence of segregation systems and internationally accepted testing methodologies to validate the presence of GMOs.

75. The representative of the European Communities pointed out that the measures concerning traceability and labelling of GMOs were notified in G/TBT/N/EEC/6-7 plus the addenda, to keep Members informed. Likewise, the draft Commission recommendation on technical guidance for the sampling and detection of genetically modified organisms and material produced from genetically modified organisms had been notified in February 2004 in G/TBT/N/EEC/53; an addendum with an updated version taking into account the comments received had also been notified. Therefore, a highly transparent approach had been pursued at every stage. The regulation relating to the traceability and labelling of GMOs was intended to facilitate product withdrawal in the case of

unforeseen adverse effects on human health or the environment after product authorization. It was also intended to facilitate the implementation of risk management measures such as post-market monitoring, thereby reassuring the European consumer. In addition, the measures served the better functioning of the EU market and facilitated trade by evening out differences between member States' legislative and administrative rules on traceability of biotech products. However, it remained the responsibility of EU member States to ensure that inspections and control measures were carried out to ensure compliance with the relevant regulations. The technical guidance on the sampling and testing of GMOs should facilitate a coordinated approach for those inspections and assist the proper functioning of the market in this area. It had to be kept in mind that the EU traceability rules for GMOs and derived products were primarily based on a "paper trail"; testing was therefore expected to be used only to monitor compliance or if a suspicion of non-compliance existed.

#### C. OTHER MATTERS

76. The representative of the United States drew the attention of the Committee to the United States' intention to make a notification of the Mutual Recognition Agreement (MRA) with the European Commission on marine equipment, signed on 27 February 2004 and that entered into force on 1 July 2004.<sup>7</sup> The European Communities and the United States maintained similar requirements for marine equipment based on conventions of the International Maritime Organization. The MRA's product scope was based on a detailed product-by-product determination of the equivalency of US and EU marine equipment requirements and only products facing identical requirements in each market were included in the initial product scope. Therefore, if a party changed its requirements, the MRA obligations with respect to those products would be suspended. The MRA was already available on the USTR's website.

### IV. TRIENNIAL REVIEW

#### A. ISSUES ARISING FROM THE THIRD TRIENNIAL REVIEW

##### 1. Good Regulatory Practice

77. The Chairman recalled that at the Third Triennial Review Members agreed on three recommendations aimed at furthering the Committee's work on good regulatory practice (contained in paragraph 14).<sup>8</sup> 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 also reminded the Committee that the outgoing chairman had invited both Member country delegations and Observers to come up with submissions for this meeting in order to help move the Committee's discussions forward in this regard. He was therefore pleased to note that the delegation of Colombia had submitted a paper contained in G/TBT/W/239, dated 24 June 2004, which reflected Colombia's experience in the area of good regulatory practice. Also, the delegation of Chile had provided a room document which pertained to the 6<sup>th</sup> workshop of the APEC and OECD on cooperative initiative on regulatory reforms.

78. The representative of Colombia explained that the submitted document served a dual purpose: first, to share information on the regulatory process in Colombia and the Andean community; and second, to put forward a few suggestions for the considerations of the Committee. In implementing the TBT Agreement, Colombia paid particular attention to regulatory practices. As a member State of the Andean Community, it also applied Decision 562, in force since July 2003, which contained

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<sup>7</sup> The MRA was subsequently notified in document G/TBT/10.7/N/46, dated 21 July 2004.

<sup>8</sup> Unless otherwise stated, paragraph numbers refer to those of the Third Triennial Review (G/TBT/13).



mandatory directives for the drafting, adoption and application of technical regulations in the Andean Community and vis-à-vis third countries. This decision had become a tool for trade facilitation because: it promoted transparency by promoting a harmonized structure of technical regulations, both at the national and the Andean Community level; it provided information on registration, on conformity assessment procedures, and on the regulatory authorities; it provided for a notification and counter-notification procedure, which had enabled the building of "mutual confidence" between the national regulators; and it created an "Andean Centre for Information on Standards, Technical Regulations, and Conformity Assessment Procedures" grouping together the five national enquiry points and the Community enquiry point, located in the General Secretariat of the Andean Community. The interconnection of these enquiry points would be the basis for the "export alert" system, which would enable trading agents to become aware of the mandatory technical requirements for the product exported to another Andean country, thereby helping to improve the utilization of the expanded market.

79. The representative of Colombia underlined that the national regulatory bodies had become increasingly aware of the importance of cooperating with business to comply with the TBT Committee's recommendation on the minimum period of six months between the publication of a draft technical regulation and its entry into force. The implementation of Decision 562 had also served to enhance transparency by the publication of a number of draft regulations, standards and conformity assessment procedures on the web pages of the national regulatory bodies. It had also led to an improved coordination between the regulatory bodies and the highest authority, the Ministry of Trade, Industry and Tourism, in defining national quality and standardization policies.

80. Colombia was currently drafting a guide to good regulatory practices so that the different regulatory bodies could soon be provided with mandatory guidelines. This guide: identified the national technical and international standards related to the subject-matter before the regulatory proposal; facilitated conformity assessment procedures, taking into account the least costly and least trade restrictive alternatives to achieve the objective pursued; enabled the private sector to provide regulatory alternatives at the first stage of the proposal in order to secure its essential input; designed a "systematic follow-up" mechanism to monitor the implementation of technical regulations; and determined the capacity of countries' laboratories and certifying entities. Furthermore, as foreseen in the Second and Third Triennial Review, Colombia, together with the other Andean countries and with the help of the Secretary General of the Andean Community and with the technical cooperation received from the European Communities, had launched a process of standardization at the Andean Community level to achieve equivalence of some voluntary standards, which would serve as a basis when initiating a technical regulation procedure in the procedure in the Andean Community.

81. Concerning these projects, Colombia requested the support of the TBT Committee to improve the process of technical regulations. Colombia also called for the establishment of parameters to define when a standard should be considered as international according to Article 2.4 and to ensure that such standards were used in a process of national regulation. The majority of the international community needed to be able to participate effectively in the process of drafting an international standard, which went beyond the assumption that all standards drafted by a single international body automatically represented international standards for the purposes of Article 2.4. There was a need to facilitate the access of developing countries to the process of drafting international standards in international organizations through, for example: (i) the creation of regional chapters; (ii) the use of teleconferencing; (iii) a significant reduction in financial contributions; (iv) the promotion of internships with the participation of the academic sector; and (v) the creation of mechanisms which would enable countries to be informed of the specific reasons underlying the results of a particular process with the possibility of the establishment of forums of experts. Regulators of developing countries should be able to use international standards in a flexible and economical manner, without this necessarily implying high levels of copyright protection, which were implicit in such standards. The exchange of documents and opinions of international standardization organizations should be facilitated, so as to raise awareness of the background and the analysis of a standard with a view to

enabling developing countries to adopt a more economical and flexible standardization process. Finally, the Committee should design a procedure to facilitate the equivalence of regulations between WTO Members, or to establish a procedure that shed light on the shortcomings in the regulatory process, and make it possible to begin working towards mutual adjustment.

82. The representative of Mexico believed that the Colombian document provided a good starting-point for a debate about good regulatory practice and noted that a similar contribution would be provided by Mexico. The Mexican system of good regulatory practice, which was contained in the Federal Law on Standardization and in the regulations thereto, was based on seven principles, which were key elements of good regulatory practice. The first principle was transparency, which related to the possibility that any party concerned was able to make comments and intervene in the preparation of any regulation or standard. Also, the Mexican system was consensus based, so that any technical regulation had to be the result of consensus of the various sectors involved and interested in the scope of the regulation. Another element was the notion of representativity in the preparation of technical regulations, which meant that at any point in the procedure, there should be consultations with all sectors interested; and it should be those instances who decide what should be included in any regulation of a technical nature. This way, the preparation of a technical regulation became a shared responsibility with the government's word as additional weight in the preparation process, but with the participation of all interested sectors. Other elements were the reviewability of any technical regulation or components thereof and the notion of regulatory improvement, which ensured that measures were accompanied by statements of the regulatory impact to justify the technical, economical and legal feasibility. Another important component was the principle of non-duplication, implying a tendency towards centralization to facilitate the preparation and implementation of regulation, and the uniformity of the procedure. This entailed using the same approach by the government each time it prepared a technical regulation. While not suggesting that the Committee should adopt guides on good regulatory practice, the representative of Mexico felt that the principles mentioned could add to a useful discussion on the direction the Committee should take in this area.

83. Concerning the requests of Colombia, contained in paragraph 12 of its paper, on the establishment of parameters for defining when a standard should be considered international in terms of Article 2.4, Mexico understood that as a result of the Second Triennial Review, the Committee had adopted a Decision on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the TBT Agreement (G/TBT/9, Annex 4), which should be observed in the process of international standardization, and wondered why Colombia considered those principles insufficient. Mexico also pointed out its interest in the idea of equivalence, which, however, required some further thought.

84. The representative of Peru thanked Colombia for its document that stressed the importance of Decision 562 of the Commission of the Andean Community. Peru shared with Colombia an integration project, which was in a fairly advanced form. He saw the document as a good starting-point to open discussion on the issue of good regulatory practice and announced that Peru would also like to share its experience in the field of good regulatory practice.

85. The representative of Colombia thanked Mexico and Peru for their statements and indicated that Colombia would add to Mexico's proposals later. With regard to Mexico's concerns, Colombia currently applied the Committee Decision referred to by Mexico (Annex 4 of G/TBT/9), which was considered to be an important guide as to when to use a standard as an international reference, but in light of the emergence of new standardizing bodies, it was felt that Committee Decision Annex 4 concentrated on international bodies producing standards rather than on the actual procedure of setting a standard. This made it more complicated to decide whether or not a regulation by one country was equivalent to that of another country for the purpose of trade facilitation. The Colombian proposal, therefore, suggested not going further into the question of whether the body setting the standard was international, meeting the requirements of Annex 4 of G/TBT/9, but instead looking at the

participation in the standardizing process, which might facilitate the application by developing countries of the most relevant standards.

86. The representative of Chile informed the Committee of the 6<sup>th</sup> Seminar on Regulatory Reform, which was part of a joint initiative of APEC and the OECD, held on 24-25 May 2004 in Chile. The joint initiative was designed to provide a forum for discussion on issues concerning good regulatory practice, so that all countries could improve their regulatory systems in areas such as regulatory policies, competition policies and open market policies. Participants in this seminar were representatives of the OECD. A specific part of the conference was intended to work on a checklist as a tool for the implementation of APEC and OECD principles in good regulatory and competition policy. The overall topic of the seminar was the improvement of market openness through regulatory reforms and the removal of distortions which occur at frontiers as well as through regulations and practices in domestic markets. Points discussed in connection with trade policy were transparency, decision-making processes, non-discrimination, unnecessary obstacles to trade, the use of internationally harmonized measures, the recognition of equivalence of other countries' regulatory measures and the application of competition principles. In addition to the proposed checklist, the Conference intended to further the ideas developed in a seminar held in Vancouver in October 2003 and a seminar held in Paris in December 2003. The underlying idea was to share experiences, and to improve regulations in all APEC countries. Chile was preparing a detailed working document that would incorporate the said checklist. Finally, the representative of Chile noted two events to be held at the end of September in Santiago within the context of APEC: first, the Third Conference on Good Regulatory Practice and second, the Fifth Conference on Standards and Conformity Assessment under the aegis of the APEC sub-committee on standards and conformity.

87. The representative of Japan thanked Chile for its introduction to APEC activities on good regulatory practice and announced his intention to introduce the activities of ASEM, the Asia-Europe Meeting, with regard to good regulatory practice. ASEM had set guidelines for best regulatory practices in April 2000, which took account of the fulfilment of WTO obligations by ASEM partners. After setting these guidelines, there had been a successful survey among ASEM members on the situation of regulatory practices. The representative of Japan also mentioned a seminar on best regulatory practices at the end of 2004 in Tokyo, Japan.

88. The representative of New Zealand stressed the importance of the questions raised by Colombia on the subject of equivalence as an element of good regulatory practice and indicated that New Zealand would share its experiences, particularly in regard to how the concept of equivalency was implemented in New Zealand. New Zealand's first submission on equivalence of standards highlighted the example of the Trans-Tasman Mutual Recognition Arrangement (TTMRA), which emerged out of the Closer Economic Relations Agreement between New Zealand and Australia. This had provided a useful platform for the pursuit of equivalence, as it had allowed regulators to share experiences and establish mutual confidence. While it was not New Zealand's intention to detract from the formulation of international standards, it did not see any conflict between the use of equivalence and the development and recognition of international standards, as the former could be an important stepping-stone towards the latter. Nor was equivalence necessarily perceived as being the same as harmonization of standards. Making use of equivalence could remove unnecessary barriers to trade by achieving the same regulatory outcome through different means. Therefore, New Zealand continued to believe that an exchange of national experiences on equivalence in action and on what the concept entailed would help Members to better understand the circumstances in which such an approach was likely to work. New Zealand would think further about ways to inform the Committee about its relevant experience.

89. The representative of Colombia referred to the statement of Mexico regarding regulatory impact assessment. She was of the view that this was one of the best elements of good regulatory practice. She welcomed further elaboration on what this concept consisted of.

90. The representative of the European Communities welcomed the presentations by Colombia and Chile, which gave the Committee food for thought. He was interested to have more details on the mechanism to select the most appropriate conformity assessment procedure mentioned by Colombia. Also of further interest were the issues raised with regard to international standardization bodies, participation and IPR issues. Finally, he was of the view that the issue of equivalency of regulations deserved further examination by the Committee. With regard to the presentation by Chile, the European Communities remained interested in follow-up in respect of the checklist.

91. To conclude, the Chairman thanked the delegations of Colombia and Chile for sharing their experiences on good regulatory practices, as well as for the work being done in the context of APEC and the OECD Cooperative Initiative on Regulatory Reform. He invited other Members to also share their experiences on various elements of good regulatory practice, bearing in mind paragraph 14 of the Third Triennial Review.

## **2. Transparency Procedures**

92. The Chairman recalled that the Committee would be holding a Special Meeting on Information Exchange of persons responsible for information exchange, including persons responsible for Enquiry Points and notifications, on 2–3 November 2004, back-to-back with the next meeting of the TBT Committee. As the event 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.

93. The Secretariat introduced the draft programme.<sup>9</sup> The issues to be discussed were divided into two parts: one on notifications and the other on enquiry points. The meeting would be set up in panel sessions and Members were invited to provide input on the programme, as well as ideas for the panel members on the various items.

94. The representative of the United States suggested, for the section prior to notifications, adding the use of electronic databases of public or private stakeholders to facilitate transparency, including discussion of newsletters, alerts or web alerts, which was foreseen for the next section but might be of interest in the first section as well. On the preparation and submission of notifications, she also suggested including a discussion on the possibility of sharing translations and whether this could be done electronically, which had been discussed in the past.

95. The representative of Brazil expressed his delegation's willingness to share their experience on the functioning of his country's enquiry point at the Special Meeting.

96. The representative of China expressed his delegation's willingness to share China's experience with regard to the functioning of national enquiry points at the Special Meeting and supported the United States' proposal on the possibility of sharing translations electronically.

97. The representative of Mexico emphasized that the session on the benefitting from transparency measures was of the utmost importance and should be given emphasis. He suggested that some Members' representatives could talk about good practices in this area, including persons from the private sector. Mexico was also willing to share its experience with respect to its early warning system for exporters.

98. The representative of Colombia supported the United States' and Mexico's proposals. Colombia was very interested in learning about experiences in the private sector and how the information received was used in order to respond in a timely manner to the notifications made in other countries, which was the ultimate objective of the presentations on enquiry points.

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<sup>9</sup> The draft programme which was circulated at the meeting has been issued as Job(04)/90.

99. The representative of Chile offered to make a contribution on experiences of coordination at the national level, drawing from its own national TBT Commission.

100. The representative of the European Communities also supported the United States' proposal to discuss the possibility of sharing translations of notified drafts and informed other WTO Members that the European Commission had opened a new web site on the TBT notification procedures.<sup>10</sup> The new application stored all the notification messages and all the available draft texts in their original language, plus any translations available. A searchable database facilitated the consultation of these documents and site users wishing to follow notifications in their field of interest were offered the possibility of subscribing to a mailing list. Following the recommendation under paragraph 26 of the Third Triennial Review to disseminate WTO Members' comments and responses by means of national web sites, all comments sent and received by the European Communities would be posted on the new web site; a more detailed presentation would be given at the Special Meeting.

101. On the matter of sharing translations, the representative of Egypt referred to the practice in the SPS Committee of issuing supplementary notifications informing delegates that official translations existed. He suggested that the SPS Secretariat brief Members on that matter. Likewise, he asked whether comments on notifications could not be shared the same way between Members, on a voluntary basis, through the Committee. He suggested that the Committee encouraged Members to do so.

102. The representative of Malaysia supported the proposal of the United States to include the sharing of translations and indicated Malaysia's willingness to share its experience on transparency obligations under the Code of Good Practice.

103. The representative of Canada said that since the meeting would be attended primarily by technical experts to whom the issues of sharing of translations and comments were particularly important, she wondered whether it would not be helpful for those who actually operate the enquiry points to explain the role of the enquiry point and the functioning from an overview perspective, as this meeting might result in the guidelines for those operators. This overview of the functions of an enquiry point should comprise notifications, as the enquiry point's primary function, but also other activities. There was a need for operators to better understand the role that enquiry points played in ensuring that their Member country actually met their obligations. To follow that, with certainly a focus on notifications, there should be an explanation of the role of the enquiry point prior to a notification being made and its relationship with other parties domestically, which included the preparation and submission of notifications. The use of electronic tools, where appropriate, should be considered under each of these points. As the programme suggested, this should be followed by a section on the processing and circulation of notifications, which was the next logical step, and then the whole issue of handling comments, which was clearly an important function of the enquiry point, from the perspective of making the notification, receiving the comments, distributing the comments domestically and also in forwarding comments from the stakeholders of one country to another who had made a notification. She welcomed the addition of transparency obligations under the Code of Good Practice. Finally, she asked whether Members were offering their full experience with respect to the operation of their enquiry points or just with respect to individual elements.

104. With regard to the suggestions by Canada, the Secretariat understood that one of Canada's concerns was that several of the issues covered in the first day were also relevant to the functioning of an enquiry point. However, the programme had been designed to reflect that the notification authorities might not always be the same as the enquiry points, and this could especially be the case in developing countries.

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<sup>10</sup> <http://europa.eu.int/comm/enterprise/tbt/>.

105. The Chairman thanked Members for their comments on the draft programme and suggested that they should contact the Secretariat with additional comments in order to fine-tune the programme and make it as complete as possible. He also reminded Members to indicate names of participants to the Secretariat, who would soon be sending an invitation letter to all developing country Members.<sup>11</sup> Also, he invited Members to suggest names for the panellists of the various sessions and noted the offers from Members in terms of sharing experience on various elements of this meeting. A revised programme would be made available in early October.

### 3. Conformity Assessment

106. The outgoing Chairman, Mr. Dorantes Sanchez, reported on the Special Meeting dedicated to Conformity Assessment Procedures, held on 29 June 2004.<sup>12</sup> He recalled that this Special Meeting had been held bearing in mind the recommendations contained in paragraph 40 of the Third Triennial Review and the need to advance the Work Programme in this area. The objective of the meeting was to exchange information and experiences on conformity assessment procedures and practices and he was of the view that this had been achieved. On the issue of Supplier's Declaration of Conformity (SDoC), presentations and experiences on its implementation were given by Brazil, Chinese Taipei, the European Communities, New Zealand and Australia. In his view, this debate was useful, as it provided concrete examples of how SDoC was used as one alternative for conformity assessment, in certain sectors, and as it emphasized the need for "balancing" the advantages and disadvantages of using SDoC. It was pointed out during this debate that there might be some scope for a clearer definition of the concept of SDoC. He stressed that those points should be considered in the upcoming workshop on SDoC, tentatively scheduled in March 2005.

107. On the issue of accreditation, presentations were given on relevant work at the international level from the IAF, ILAC and ISO/IEC CASCO. The Committee's attention was drawn, *inter alia*, to a new ISO/IEC standard in the area of accreditation (ISO/IEC 17011), which had been approved by ISO Member Bodies and IEC National Committees (to be published before the end of 2004). As an example of accreditation work at a regional level, the European Cooperation for Accreditation (EA) was introduced.

108. Following this debate, the Committee had heard useful in-depth presentations from Jordan and the European Communities on their approaches to conformity assessment.<sup>13</sup> In addition, the Committee was briefed on the work of organizations relevant to conformity assessment, as demonstrated in the IEC's presentation on Systems for Conformity Testing and Certification of Electrical Equipment (IECEE); presentations on legal metrology by both the OIML (International Organization of Legal Metrology) and the BIPM (*Bureau International des Poids et Mesures*); and on the work of the OECD in this field. The presentations and discussion were informative and substantive and a large number of facts and figures came out of that debate, which could help to clarify the universe of conformity. The Secretariat would make a summary of that meeting so that those delegations, in particular developing country delegations that had not been able to attend would also be able to benefit from it.

109. The Chairman thanked the outgoing Chairman for his report. He noted that at the informal meeting on 30 June 2004 the Committee had considered a draft programme for the March 2005 workshop on SDoC contained in Job(04)/70 and that several delegations had made comments on it or had proposed case studies. Any additional proposals or comments received before 20 September 2004 would be reflected in a revised version of the programme to be circulated in advance of the meeting in

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<sup>11</sup> An invitation from the Chairman was sent to developing countries on 22 July 2004. The deadline for submitting names is 3 September 2004.

<sup>12</sup> The report of this meeting will be circulated in G/TBT/M/33/Add.1.

<sup>13</sup> A document containing references to all relevant TBT documents dealing with this subject since 1995 was issued as Job(04)/91.

November. Regarding the recommendation contained in paragraph 40, fourth *tiret* of the Third Triennial Review whereby the Committee agreed that, as part of its work programme on conformity assessment, it would hold a workshop on "*different approaches to conformity assessment, including on the acceptance of conformity assessment results*", the Chairman considered that there was a general sense among Members at the informal meeting on 30 June that it would be useful for the Committee to organize this second workshop in the autumn of 2005. He proposed that the Committee agree to request for necessary funding to hold such a workshop with the participation of capital-based officials from developing countries in the second half of 2005. It would be included in the TA Plan, which the Committee on Trade and Development would adopt in the second half of 2004. It was so agreed.

110. The representative of the International Organization for Standardization (ISO) supported the TBT Committee's focus on this area and noted that the ISO would be willing to assist, when asked, in terms of any presentations, particularly as the area of conformity assessment procedures was fraught with misunderstanding and sometimes technically very difficult to penetrate.

#### **4. Technical assistance**

111. The outgoing Chairman, Mr. Dorantes Sanchez, reported on the informal consultations on technical assistance held on 30 June 2004. He recalled that the topic of the Informal Consultations on the "Information Coordination Mechanism" (ICM) had been the subject of a recommendation contained in paragraph 54 of the Third Triennial Review and that the discussion at the previous meeting in March 2004 had largely been based on his Communication of 17 March 2004. In order not to duplicate work done elsewhere, both in-house and in other organizations, as had been emphasized by several delegations, he had asked the Secretariat to report on other activities of relevance to this subject as a basis for further discussion. He pointed out that at the informal consultations, Mr. Maarten Smeets, of the WTO Institute for Training and Technical Co-Operation, had provided an overview of the Doha Development Agenda Trade Capacity Building Database (TCBDB), which had been established by the WTO jointly with the OECD in 2002 and was accessible on the Internet.<sup>14</sup> He explained how this database provided information on trade-related technical assistance and capacity building activities. Mr. Smeets also noted that the period of coverage for the database at the moment was for the years 2001, 2002 and partially 2003, but was being updated, even though only a few countries or agencies were able to report on future activities. Although the present database grouped together SPS and TBT activities in one single category, he emphasized that these two areas were currently being separated, so that as from next autumn it would be possible to conduct a search on TBT activities only.

112. Mr. Dorantes Sanchez also drew attention to the presentation by Mr. Michael Roberts, of the Agriculture and Commodities Division, on work of relevance in the SPS area that covered the Standards and Trade Development Facility (STDF), which was a joint initiative of the FAO, OIE, World Bank, WHO, and WTO. This facility had arisen from the Doha Ministerial Conference and had been launched in 2002 to assist developing countries enhance their capacity to meet international SPS standards, improving their human health, animal health and phytosanitary situation, and thus gaining and maintaining market access. The outgoing Chairman stressed that the STDF was both a financing and a coordinating mechanism. One of the first projects undertaken under the STDF had been to establish a database on technical assistance activities in the SPS area, which was a "clone" of the existing WTO/OECD database but contained additional information from other international organizations specific to SPS issues, and was sub-divided into SPS categories (such as plant health, animal health and food safety). The STDF had its own web site<sup>15</sup>, and more information on this programme was available in document G/SPS/GEN/486, dated 21 April 2004.

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<sup>14</sup> <http://tcbdb.wto.org>.

<sup>15</sup> <http://www.standardsfacility.org>.

113. Mr. Dorantes Sanchez reminded the Committee of the discussions held after those presentations and was of the view that Members needed more time to digest the information received on the OECD/WTO Database and the SPS STDF mechanism in order to consider the relevance of this work to the Third Triennial Review mandate. He recalled that Members stressed the need for simplicity, low cost and minimal duplication when considering any action to take. While some delegations wanted the Committee to focus on existing databases to see what additional work could be undertaken to add value from a TBT perspective, for which a first step could be to identify categories that could be used as search tools in the TBT area, other delegations referred to previous proposals, which remained on the table. He concluded by encouraging Members to submit further proposals on possible ways to advance work in this area.

114. The representative of China appreciated the discussions held on how to implement the technical assistance issues mandated by the Doha Ministerial Declaration and agreed that they were fruitful. However, in China's view, the availability of funds was more important than the Internet facilities discussed, as any substantial technical assistance would be restricted if there were no funds available. China, like most other developing countries, had identified its technical assistance demands two years ago by responding to the survey questionnaire prepared by the Secretariat (G/TBT/W/178). The representative of China voiced her concern about the fact that while technical assistance within the WTO was understood to be demand driven, the Committee was still discussing how these demands could be managed. She wondered whether this was because demands were not sufficient to drive any specific action or too much for any action to be taken. She also pointed out that she had been impressed by the fact that the SPS STDF facility had fundings of US\$ 300.000 per year, three years in total and a 100.000 CHF contribution from the Doha Development Global Trust Fund and suggested that the TBT Committee should also attract funding. As to the recommendation of the Third Triennial Review regarding the voluntary update of responses to the survey questionnaire, she further suggested that Members updated their responses regularly, as China would do shortly.

115. The representative of the European Communities recalled the suggestion made at the 30 June meeting by the United States on the categorization of issues, so that the search function could be made more effective.

116. The representative of Egypt supported the statement by the Chinese delegation, especially on the problems of delivering efficient technical assistance. Regarding China's concern with regard to the management of the demands, his view was that management was the recipe for success and that the Committee should establish a management approach, so that technical assistance programmes could be crafted to truly assist developing countries.

117. The Chairman drew the Committee's attention to paragraph 54 of the Third Triennial Review, according to which the survey questionnaire could be a dynamic tool to maintain information on developing country Members' needs, and encouraged Members, on a voluntary basis, to update their response to that survey. He thanked the outgoing Chairman for his report and invited Members to reflect further on information received on the WTO/OECD database as well as SPS/STDF and also various observations made by Members at the informal and regular Committee meetings. He remained at the disposal of Members to receive and discuss any new ideas to move this process forward, and he intended to be in contact with delegations to see how there could be further progress on this issue, bearing in mind the recommendations contained in the Third Triennial Review.

## **5. Other Elements**

118. No other elements arising from the Third Triennial Review were raised.



B. PREPARATION OF THE FOURTH TRIENNIAL REVIEW

119. The Chairman recalled that it had been agreed that the Chairperson would develop a procedural "road-map" for the Committee's consideration before the end of 2004. He indicated that he would like to share his ideas with the Committee at the next meeting.

V. TECHNICAL CO-OPERATION

120. The Chairman asked the Secretariat to report on its recent technical assistance activities.

121. The Secretariat informed the Committee that since the last meeting in March 2004, it had held two regional and two national workshops, and participated in the Third WTO Regional Trade Policy Course in Nairobi. The first regional workshop was held on 20-22 April 2004 in Lusaka, Zambia and was aimed at participants from East Africa and other COMESA Members.<sup>16</sup> Each country was invited to nominate three capital-based officials from: (i) the government agency responsible for the implementation of the WTO/TBT Agreement; (ii) the national TBT Enquiry Point; and (iii) the national standardizing body. The second regional workshop held in Hanoi, Vietnam, in May 2004 was aimed at a sub-set of countries at the same level of development in the Asia and Pacific Region. In May 2004, the Secretariat also held a national seminar for Vietnam on TBT issues, together with the UNIDO National Workshop. A second national workshop was held in Ukraine on 14 June 2004, organized by the State Committee of Ukraine for Technical Regulations and Consumer Policy.

122. The Secretariat informed the Committee that three regional workshops would be held during the summer. The first one, organized jointly with the IDB/INTAL, would take place in Panama City, Panama, on 20-22 July 2004 and would address a group of 19 Latin American countries to emphasize the exchange of information and issues related to accreditation and legal metrology. A second regional workshop, covering mainly Western African countries, would be held in Dakar, Senegal, on 17-18 August 2004, with officials from enquiry points and those responsible for the focal points. There would be some 30 African countries present at this event, which would also be followed by a back-to-back national workshop. The last regional workshop for 2004 would be held in Istanbul, Turkey, on 22-23 September, covering Central and Eastern Europe, Central Asia and the Caucasus, where officials responsible for the implementation of the Agreement, representatives of the national standardizing bodies and officials from the enquiry points, coming from some 20 countries, would be invited. This workshop would be organized in cooperation with the Black Sea Co-operation Council and followed by a national seminar on both TBT and SPS Agreements in Ankara on 27-29 September, at the request of the Turkish Government.

123. The representative of the United Nations Conference on Trade and Development (UNCTAD) informed the Committee of a joint UNCTAD/INMETRO (National Institute of Metrology, Standardization and Industrial Quality, Ministry of Development, Industry and Foreign Trade of Brazil) workshop held as a pre-UNCTAD XI workshop in Rio de Janeiro on 7-8 June 2004, which examined, *inter alia*, the modalities of a Consultative Task Force on Environmental Requirements and Market Access for Developing Countries.<sup>17</sup> The Consultative Task Force would provide a framework for dialogue and networking on relevant issues at the interface of environmental requirements and market access for developing countries. UNCTAD was planning to hold the first substantive meeting of the Consultative Task Force back-to-back with the next meeting of the TBT Committee on 5-6 November 2004 in Geneva, with the objective of developing the work programme of the Task Force for 2005.

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<sup>16</sup> The programme for the workshop was posted on the TBT TA website.

<sup>17</sup> The full text of the UNCTAD statement has been circulated as G/TBT/GEN/9, dated 1 July 2004.

## VI. OBSERVERS

### A. REQUESTS FOR OBSERVER STATUS

124. 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 intergovernmental organizations in the Committee. There were still four organizations whose requests for observer status were 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). He pointed out that the CBD had, in a recent letter, renewed its request for observer status in the TBT Committee. However, the Chairman noted that, in 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. It was so agreed.

### B. UPDATING BY OBSERVERS<sup>18</sup>

125. The Chairman drew the Committee's attention to a recently circulated document from the Codex Alimentarius Commission, contained in G/TBT/GEN/8, dated 25 June 2004, setting out issues of interest arising from Codex work.

126. The representative of the OIML highlighted four areas of interest to the Committee concerning the OIML's work involving developing countries.<sup>19</sup> He indicated that, subject to a decision by a conference to be held in October 2004, the existing OIML Development Council would be replaced by a permanent working group on developing countries set up as a small advisory group, which would hopefully enable the OIML to concentrate on practical action in favour of developing countries. Also, he pointed to the OIML forum to be held in October 2004 in conjunction with that conference to highlight the importance of metrology as a trade facilitator.<sup>20</sup> Furthermore, to help developing countries with practical, day to day metrology issues, the OIML had decided to begin producing a series of reports by experts under contract with the OIML, not representing its views but rather an international consensus on the issue to enable practical advice to be produced more quickly. Finally, again subject to a decision by a Conference in October 2004 approving the budget, the OIML intended to provide its publications free of charge as from next year, except where these are published jointly with other organizations because of copyright issues. This was intended to help developing countries to have access to international standardization documents and to promote the use of international recommendations produced by the OIML, when member countries or even non-member countries were producing national or regional legislation concerning legal metrology.

## VII. DATE OF NEXT MEETING

127. The Chairman confirmed that the next regular meeting of the Committee would take place on 4 November 2004 and would be preceded by a one-an-a-half day Special Meeting on Information Exchange, on 2-3 November 2004. If there was a need to hold an informal meeting, this would take place on the afternoon of 3 November. He indicated that the Secretariat had distributed a list of tentative dates for TBT meetings in 2005 (G/TBT/GEN/11, dated 8 July 2004) and suggested that Members take note of these dates; they would be subject to confirmation prior to each meeting.

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<sup>18</sup> While the Secretariat of the Codex Alimentarius Commission did not take a statement at the meeting, information on relevant activities had been made available in G/TBT/GEN/6.

<sup>19</sup> The full text of the OIML statement has been circulated separately as G/TBT/GEN/10, dated 2 July 2004.

<sup>20</sup> Further information regarding this forum could be found on the OIML's web site at [www.oiml.org](http://www.oiml.org).