

WORLD TRADE ORGANIZATION

RESTRICTED
G/TBT/M/8
5 September 1997

(97-3564)

Original: English

Committee to Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 20 JUNE 1997

Chairman: Mr. T. H.M. Tong (Hong Kong)

1. The Committee on Technical Barriers to Trade held its ninth meeting on 20 June 1997.
2. The following agenda, contained in WTO/AIR/610 was adopted:

Contents

Page

A.	Request for Observer Status in the Committee by the African, Caribbean and Pacific Group of States (ACP); the European Free Trade Association (EFTA); and The Office International de la Vigne et du Vin (OIV)	2
B.	Technical Working Group of the Committee on ISO/IEC Guides relating to Articles 5 and 6 of the Agreement - Report on Second Meeting	2
C.	Preparation for the First Triennial Review of the Operation and Implementation of the TBT Agreement under Article 15.4	5
D.	Statements on Implementation and Administration of the Agreement	27
E.	Other Business	29

A. REQUEST FOR OBSERVER STATUS IN THE COMMITTEE BY THE AFRICAN, CARIBBEAN AND PACIFIC GROUP OF STATES (ACP); THE EUROPEAN FREE TRADE ASSOCIATION (EFTA); AND THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV)

3. The Chairman drew attention to document (G/TBT/W/35) listing the international intergovernmental organizations requesting observer status in the Committee, including the African, Caribbean and Pacific Group of States (ACP), the European Free Trade Association (EFTA) and the Office international de la vigne et du vin (OIV) whose requests for observer status were pending. He noted that the requests of those organizations would be treated on a case-by-case basis and considered against the General Council Guidelines contained in Annex 3 of document WT/L/161, "taking into account such factors as the nature of work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership ...". In relation to that, he informed the Committee of a request for observer status by the Latin American Integration Association (ALADI) (G/TBT/W/46).

4. The representative of the European Communities supported the request for observer status by ACP, EFTA and OIV. She thought that the participation of ACP in the Committee's work as an observer, might help in providing information and technical assistance to its Members. She noted that the activities of OIV in the field of wine production practices and methods was within the scope of the Agreement.

5. The representative of the United States recognized the General Council Guidelines concerning observer status, but noted that there had been on-going discussions under the Council for Trade in Goods for additional guidance which might be needed to better evaluate the requests. At this point, her delegation did not wish to take a permanent decision on additional observers. However, she would be prepared to join the consensus to grant observer status to ACP and EFTA on an ad hoc, meeting by meeting basis.

6. The representative of Norway supported the request by EFTA. He took note of the United States' position and understood that it was a general one, pending further guidelines from the Council for Trade in Goods. He noted that EFTA had been granted observer status in the Committee of Rules of Origin under the Council for Trade in Goods. The nature of EFTA's work in the development of standards and conformity assessment procedures based on international standards was closely linked to the work of the Committee. Given the importance of the current meetings of the Committee, he supported the proposal to grant observer status to ACP and EFTA on an ad hoc basis without prejudice to the decisions which would be taken under the Council for Trade in Goods.

7. The Committee agreed to grant observer status to ACP and EFTA on an ad hoc basis, pending further decisions. The Chairman concluded that further consultations would be needed for the request by OIV and ALADI. The request for observer status by the ACP, EFTA, OIV and ALADI would be included in the agenda of the next meeting.

B. TECHNICAL WORKING GROUP OF THE COMMITTEE ON ISO/IEC GUIDES RELATING TO ARTICLES 5 AND 6 OF THE AGREEMENT - REPORT ON SECOND MEETING

8. The Technical Working Group of the Committee on ISO/IEC Guides Relating to Articles 5 and 6 of the Agreement held its second meeting on 18 June, aimed at assisting the Committee to consider whether it was necessary to adopt recommendations regarding relevant ISO/IEC Guides on conformity assessment procedures. Mr. McMillan was elected as the Chairman of the Technical Working Group at that meeting.

9. He gave an oral report to the Committee. He said that in addition to an oral report to the Committee after each Working Group meeting, it had been agreed that a final or interim report would be submitted after the October meeting of the Group, so that it would be taken into account by the Committee in the context of the Triennial Review in November.

10. He said that at the meeting, a number of Members had shared their experiences in the use of ISO/IEC Guides at the national level and had explained the importance of the Guides in furthering the quality of their conformity assessment bodies and therefore contributing to international trade through the recognition of their test results and certificates. Mention had been made in particular to Guides 22, 25, 58, 61, 62 and 65. Most interventions had underlined the voluntary nature of their implementation of the ISO/IEC Guides. Some indicated that the Guides had been transposed into national standards, thus giving them more importance. Members had been invited to submit relevant information to the Secretariat, so that it could be compiled in document G/TBT/W/43 "Practical Experience of Individual Governments and International Organizations in Using International Guides on Conformity Assessment".

11. He said that the relationship between the relevant ISO/IEC Guides and the TBT Agreement had been the centre of debate. The Group had started by recognizing that the guides in general were important within the context of the implementation of the Agreement. The vast majority of the Group had agreed that it would be useful to reinforce the visibility of the guides, over and above the references which provisions of the Agreement had already made in general terms. Some Members had expressed doubts on the usefulness and consequences of any endorsement of the guides by the Committee. In response to such doubts, it had been underlined that the guides were already recognized in the Agreement and any endorsement would not go beyond the terms of the Agreement. The guides would remain as voluntary documents. However, the advantage of an endorsement would be to give a visible political signal to the economic operators that there was an advantage in having recourse to those guides voluntarily. A number of Members had expressed apprehensions about the effect of an endorsement on the provisions of Article 12 (Special and Differential Treatment of Developing Country Members). It had been underlined that an endorsement of certain guides would not change the provisions of the Agreement and Article 12 would continue to apply.

12. The need was generally expressed to restrict any endorsement of those Guides which were of a general and horizontal nature, thereby excluding sectoral/vertical guides for particular applications. The Guides which had been the most quoted as being endorsable were the following: 22, 25, 39, 43, 58, 61, 62, 65. However, the list was indicative and subject to verification by Members.

13. The discussion had thrown up two other issues: (i) the difficulty of endorsing guides which were in the process of being revised or which were out of date or which had shortcomings (e.g. Guide 39); and (ii) the question of endorsing guides which ISO/CASCO was transforming into standards (e.g. Guide 25). This underlined the need for any endorsement to be a living document which would be regularly revisited. A number of Members had requested that the WTO be more proactive *vis-à-vis* ISO/IEC, suggesting that it could/should ask ISO/IEC to investigate and report on the level of implementation of the guides by their national members, to upgrade the present guides and/or to complete the present series in view of facilitating the implementation of the Agreement.

14. Mr. McMillan concluded that without prejudice to the positions of the Members who still had apprehensions on the consequences of an endorsement of some or all of the Guides, and subject to finding appropriate wording to cover the issues relating to the evolution of the Guides and the relationship of such an endorsement with the provisions of Article 12, the group had accepted that the Chairman of the Group and the Secretariat would attempt to draw up an informal document which could form the basis of a recommendation for the Committee, using the language of the initial recommendation of the Tokyo Round TBT Committee as a starting point. It had been suggested that the

document could contain a suggestion for a list of the most appropriate guides to be endorsed, on the understanding that all Members would come to the next meeting with their suggestions on this issue. Moreover, the Group had also accepted to examine, for discussion at the next meeting, the question of the degree of proactivity that the WTO could/should exercise on ISO/IEC in this field.

15. The Committee agreed that representatives from the ISO/CASCO, ILAC and IAF would be invited to take part in the next meeting of the Group in order to help clarify some of the more technical issues.

16. The representative of Egypt explained that her delegation had been one of those that was apprehensive about the endorsement of certain ISO/IEC Guides. She thought that additional time would be needed to look into the legal implications of an endorsement, since the Agreement itself encouraged the use of international guides; and to analyze the consequences of endorsing only a number of Guides, and how it could effect the balance of all the Guides in their entirety. She said that her delegation would go along with the suggestion about the preparation of an informal document. However, she emphasized that one should not discuss the language of a recommendation before discussing the total implications of the issue.

17. The representative of Mexico thought that the recommendation taken by the Tokyo Round Committee had been a passive one. The Committee should take a proactive role in regard to ISO/CASCO activities which included not only seeking information from CASCO on the application of ISO/IEC Guides by Members, but also to make recommendations to CASCO, IAF or ILAC on issues of interest to WTO Members and on the need for setting up international systems to support mutual recognition of conformity assessment results, in particular those regarding accreditation of certifying bodies. She suggested that it might be a topic to be taken up by the Committee in the context of the Triennial Review.

18. The representative of India said that his delegation would examine the informal document and their view would be expressed at the next meeting of the Working Group.

19. The representative of Pakistan emphasized that at the next meeting, the Working Group would start discussions from the basic question of whether a recommendation of the Committee on the Guides was needed. It would depend upon the meaning and implications of such an endorsement. In this respect, expert opinion from the Secretariat and a draft text of the recommendation might be needed in order to analyze its implications. He raised the question of how to proceed to prepare for the next meeting of the Group.

20. The representative of Singapore indicated that his delegation was one of those who had questioned the advisability of an endorsement exercise. He said that it might be premature to formulate language for a recommendation before clarifying its implications. His delegation would go along with the suggestion of preparing an informal draft document. However, one should keep in mind that such a document had no status.

21. The representative of Nigeria indicated that his delegation had questioned the need for an endorsement of certain ISO/IEC Guides. He noted that Articles 2.4, 5.4 and paragraph F of the Code of Good Practice required Members to use international standards or relevant parts of them, as a basis for their technical regulations, conformity assessment procedures and standards, except when they were ineffective or inappropriate and subjected to Article 12.4 in respect to the technological and socio economic conditions of developing country Members. However, the Agreement did not make reference to any particular guide and to any monitoring mechanism for the scrutiny of those guides. He said that it was necessary to clarify the implications of such an endorsement. He thought that in order to make recommendations on specific guides, it might be necessary for the Committee to look into the details and disciplines of those guides. He raised concerns on how recommendations could be made by the

Committee without Members knowing the content of such guides. He noted that a decision had been taken by the ISO that some of the ISO/IEC Guides would evolve into standards and questioned its implications.

22. The Chairman of the Technical Working Group reiterated that the informal document to be prepared would not be a draft or proposal. It would aim at giving an indication of what an endorsement could look like. Members could, on that basis, look into the consequences of such an endorsement.

23. The representative from the ISO welcomed the Committee's decision to grant observer status to ISO in the next Technical Working Group meeting. He invited any suggestions from Members and indicated that ISO would provide any necessary information to facilitate the understanding of the existing ISO/IEC Guides and those which were under preparation. He informed the Committee that ISO/CASCO was regularly evaluating, at each of its meeting, the need to review its Guides. The General Assembly of the ISO had formally agreed that CASCO might in the future, convert certain existing ISO/IEC Guides into international standards with a view to facilitate international harmonization. A decision had been taken to convert Guide 25 (revised) into an international standard, and the target date for the completion of such a document would be in September 1998. CASCO had also decided to undertake a survey of the advisability of revising Guide 39 which was due for review, and to convert it into an international standard on the basis of an European document EN 45004.

24. The Chairman noted that the Technical Working Group and its mandate had been established by the Committee. The document to be prepared by the Chairman of the Technical Working Group would be a non-document with the sole purpose of illustrating what the outcome of a recommendation might possibly be. If there were any decision on whether to adopt recommendations for the use of relevant ISO/IEC Guides, it would be taken up by Members at the Committee itself. He suggested that before the next Technical Working Group meeting, the Chairman of that Group would hold informal consultations with interested delegations on the draft non-document, and the Secretariat would consult with relevant divisions of the WTO on the legal implications of an endorsement of certain ISO/IEC Guides by the Committee.

25. The Committee took note of the statements made.

C. PREPARATION FOR THE FIRST TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE TBT AGREEMENT UNDER ARTICLE 15.4

26. The Chairman drew attention to the fact that under Article 15.4 of the Agreement, the Committee would carry out its first triennial review of the operation and implementation of the Agreement no later than the end of 1997. The Triennial Review would be conducted at the Committee meeting of 12-13 November "with a view to recommending an adjustment of the rights and obligations of the Agreement where necessary to ensure mutual economic advantage and balance of rights and obligations, without prejudice to the provisions of Article 12. Having regard, *inter alia*, to the experience gained in the implementation of the Agreement, the Committee shall, where appropriate, submit proposals for amendments to the text of the Agreement to the Council for Trade in Goods." He said that Members had been invited to submit papers, non-papers and proposals for the purpose of the Review. Up to the present, papers had been received from the delegations of the European Communities (G/TBT/W/36), Japan (G/TBT/W/39), the United States (G/TBT/W/40), Canada (G/TBT/W/41), New Zealand (G/TBT/W/44), Switzerland (G/TBT/W/45) and Singapore (G/TBT/W/47). In addition, in response to a request by the Committee, the Secretariat had prepared a background paper on the "Restrictive Trade Effects of Standards, Technical Regulations and Conformity Assessment Procedures" (G/TBT/W/42) as part of the exercise for the Triennial Review. Delegations were welcome to submit further papers, non-papers and comments. However, in view of

the limited time available until the November meeting, he proposed that all papers be provided as soon as possible, so that there would be enough time for Members to prepare for a fruitful discussion.

27. The representative of Singapore introduced the Singapore paper and said that it was supported by the ASEAN countries. He emphasized that the Committee should not prejudge at this stage, whether adjustments to the rights and obligations of the TBT provisions would be necessary. Only with a thorough review of the status of the implementation of the Agreement, and the problems arising thereof, would Members be in a position to make such judgement. Thus, the Triennial Review should be devoted to making a thorough examination and study of status of the implementation of the Agreement.

28. The representative of Brazil introduced a paper prepared by his delegation which would be distributed shortly (G/TBT/W/48). He said that the TBT Agreement, after its first three years of existence, had yielded positive effects. However, certain countries, in particular developing countries, continued to have difficulties in complying with specific obligations. He thought that the priority objective of the Triennial Review should be to facilitate the pursuit of conditions that would permit the implementation of the Agreement. Therefore, any amendments or formal changes to the Agreement would be inopportune at this stage.

29. The representative of India indicated that his delegation was in the process of preparing a paper for the Review and it would be submitted shortly.

30. The representative of Norway supported the view that the first Triennial Review should concentrate on improving the administration and implementation of the Agreement rather than presenting proposals for substantial amendments of the Agreement itself. He said that at this stage, Norway considered the following issues important. First, the use of international standards by Members. In this regard, Norway supported a survey with the aim of understanding the degree to which Members use international standards as a basis for their technical regulations. He noted that in the case of Norway, 50 per cent of all new standards adopted at the national level represented the implementation of international standards. Second, the need for effective and efficient procedures in the administration and implementation of the Agreement - not only in the field of conformity assessment but all aspects of the Agreement. He thought that it was important that the users of the Agreement, (i.e. the competent authorities and economic operators in Members) understood the obligations under the Agreement, such as mutual recognition, the different aspects of conformity assessment, the notion of unnecessary barriers to trade and so on. Third, a need for a clearer definition of the concept of "international standard" and "unnecessary barriers to trade", as well as other central concepts under the Agreement was necessary. Fourth, the need to further clarify the obligations concerning conformity assessment procedures was also necessary. Norway, therefore, welcomed the discussions taking place in the Working Group on ISO/IEC Guides relating to Articles 5 and 6 of the Agreement.

31. The representative of Mexico suggested that the first task of the Triennial Review should be to review the implementation of existing provisions without prejudging the need for any adjustment of the Agreement. The second task would be to identify problems that might require recommendations for possible adjustment. This might relate to a future work programme of the Committee. With regard to any proposals designed for adjustment of the rights and obligations of the Agreement, her delegation proposed the following four principles: (i) they should be based on the experience learnt from the operation and implementation of the Agreement thus far; (ii) they should address issues of general interest or problems affecting all Members; and (iii) they should address horizontal issues. Because of the general nature of the Agreement providing horizontal disciplines to technical regulations, standards and conformity assessment procedures, separating disciplines for a specific sector or area, such as environmental standards, should be avoided. (iv) It would be necessary to analyze how in each proposal, one dealt with Article 12 as stated under Article 15.4. She indicated her delegation's intention to submit a paper for the Triennial Review.

32. The representative of Egypt drew attention to the fact that Article 15.4 included a phrase "without prejudice to the provisions of Article 12". She supported the view expressed by Mexico on the need to analyze in each proposal how one dealt with Article 12.

33. The representative of the European Communities thought that the objectives of the Triennial Review should be to focus on defining the immediate operational measures under the terms of the Triennial Review for the full implementation and proper operation of the Agreement; and defining a future work programme for the Committee. She noted that the implementation of the Agreement was far from satisfactory and that the first aim of the Review should be to ensure a balance of rights and obligations of all Members under the Agreement. All Members should be subject to the disciplines of the Agreement which included the areas of notification under Article 15.2 of measures taken by Members to ensure the application of the Agreement; the acceptance of the Code of Good Practice; notification procedures for draft technical regulations and procedures for conformity assessment; the implementation of ISO/IEC Guides to facilitate conformity assessments; and the use of international standards and the transparency of their use. Referring to the long term aim of defining a work programme, it should focus on technical regulations and the various concepts involved and the consequences for market access. She thought that the goal should be to facilitate trade in goods and to prevent the emergence of technical barriers to trade. In this respect, the work programme should include the following features: (i) conformity assessment procedures - in particular the consideration of manufacturers' self declarations and mutual recognition of conformity assessment; (ii) international standards - the necessary measures to reinforce the implementation of the obligations under the Agreement; and (iii) the review of the various national, regional and international standardizing bodies.

34. The representative of Switzerland said that during the Triennial Review, the Committee should try to obtain as much information as possible with respect to measures taken by Members for the implementation of the Agreement. The Committee should also try to clarify certain areas of the Agreement.

35. The representative of Nigeria said that the Agreement was important, in particular for developing countries exporting products in the global market. He noted that the Agreement was relatively new and there was variability in levels of performance and administration of the Agreement among Members. The Triennial Review was an educational and capacity building process for his country and some other Members. For this reason, it should not look into additional obligations. The priority should be placed on the implementation and administration of the existing Agreement. Attention should be paid to the issues of international standards, technical assistance and changing nature of international standards. He supported the view expressed by Mexico of highlighting the issues that had systemic implications and horizontal importance for the Agreement. He asked the Chairman on how work might be organized in the future months relating to discussions on all the issues put forward by Members for the Triennial Review.

36. The Chairman drew attention to the fact that the Committee would have less than five months for the preparation of the Triennial Review and to finalize its report to the Council for Trade in Goods. He urged Members to hold discussions aimed at achieving a positive result for the Review. He said that in order to facilitate discussions, an informal compilation of issues put forward by Members to-date had been prepared, and suggested that the Committee proceed with its discussions, following the sub-items listed in the informal list. He reiterated that the indicative list which had no formal status would be updated and revised regularly to include all proposals and comments made by delegations.

(1) Implementation and Administration of the Agreement relating to Article 15.2

37. The Chairman drew attention to Article 15.2 which states that "each Member shall, promptly after the date on which the WTO Agreement enters into force for it, inform the Committee of measures

in existence or taken to ensure the implementation and administration of this Agreement." This is a one-time notification by each Member of the legislative, regulatory and administrative actions it has taken to ensure that the provisions of the Agreement are applied. The Committee has adopted Decisions and recommendations regarding the statements (G/TBT/1/Rev.4).

Relevant proposals:

- (i) Submission of statements by Members; and
- (ii) evaluation of the measures taken to ensure implementation and administration of the Agreement by Members.

38. The representative of the European Communities said that notifications under Article 15.2 were important and that Members should submit them at the latest by November 1997 when the Triennial Review would take place. For Members who had not yet done so, technical assistance should be provided to enable them to overcome any difficulties they might encounter in notifying the measures. With respect to the evaluation of the notifications, she thought that in addition to those requirements contained in the Committee's Decision (G/TBT/1/Rev.4), it would be useful to identify further requirements that might be needed. She drew attention to the fact that the Agreement provided an obligation to limit the number of authorities entrusted with notification obligations. For this reason, Members should designate an authority responsible for applying notification procedures. She suggested that such information should appear in the statement under Article 15.2 and notifications under Articles 2.9 and 5.6.

39. The representative of Egypt suggested that before finding ways and means to ensure the submission of statements under Article 15.2, or evaluate the measures taken by Members, the Committee should first look into why the results of implementation had not been satisfactory, the difficulties encountered by Members and how such difficulties, if any, could be addressed.

40. The representative of the United States drew attention to document G/TBT/W/40 which contained her delegation's priorities for the Triennial Review and reaction to certain proposals introduced by other Members, including that proposed by New Zealand on approaches to regulatory policy. In respect to the submission of statements by Members under Article 15.2, she shared the view that the result had not been satisfactory. Only 49 of the 131 Members had submitted their statements, although they had been reminded of their obligations on separate occasions. She supported the suggestion by Egypt that the Committee should seek the reasons as to why some Members had not submitted their statements and the difficulties faced by them. She said that it might be due to the fact that they were uncertain about the kind of information that should be provided. She noted that the United States had been a Signatory of the Tokyo Round Agreement and during the entering into force of the WTO TBT Agreement, her delegation had submitted a brief statement providing information on implementation. It made reference to the statement made under the Tokyo Round. While that was convenient for earlier Members to avoid reproducing documents with detailed information, some of the understanding of the statements might have been lost. For this reason, and to avoid the burden of additional paper work, her delegation had suggested that it would be useful for Members to give oral presentations to help further elaborate what was behind their submissions. The process might also be instructive for those Members who had not yet submitted their statements, clarifying what information was needed.

41. The representative of Mexico, referring to proposals on Article 15.2, thought that the first step should be to assess and evaluate what had been achieved so far in terms of Members submitting their statements. She noted that a fair number of Members had not yet submitted their statements and supported the Egyptian proposal that the Committee should identify the problems faced by those Members. She took note of the proposals made by the United States and the European Communities

with regard to the assessment of measures. However, she thought that they would have the effect of new obligations, as the Agreement did not contain any provisions for the assessment or evaluation of measures taken by Members to ensure the implementation and administration of the Agreement. She thought that after identifying problems faced by Members in discharging existing obligations, a second step might be to look into whether such a recommendation was possible.

42. The representative of India thought that technical assistance was most important. Without adequate technical assistance, Members, in particular developing countries, would not be able to fulfil their obligations on the implementation and administration of the Agreement, including those relating to notifications.

43. The representative of New Zealand placed importance on the obligations under Article 15.2 and thought that Members could treat the occasion of the Review as a learning and information exchange process. He supported the point made by Egypt that it was necessary to understand why the result of notifications under Article 15.2 had not been satisfactory. He suggested that it might be due to the fact that delegations felt uncomfortable with presenting their views on the full range of implementation issues under the Agreement. For this reason, he thought Members should use any opportunities available to learn from each other the different steps taken at the national level to implement the Agreement by regulation makers, standardizing bodies and other relevant agencies. He saw value in the proposal by the United States regarding exchanges of national experience, and thought that it might not focus on particular legislation, but rather on the various administrative and regulatory processes in place in different Members. He indicated that his delegation would, at an appropriate time, share with other Members steps taken by his country during the entering into force of the Uruguay Round TBT Agreement, including to provide information to relevant agencies to ensure that the disciplines of the Agreement were fully respected by the regulation making system and standardizing bodies in New Zealand.

44. The representative of Columbia reiterated the importance of Article 15.2 and supported the view that the Triennial Review should focus on ensuring notifications by Members. He shared the Egyptian view on identifying problems faced by Members in this regard. In respect to the proposals on the evaluation of measures, he questioned what should be evaluated and whether the Triennial Review would provide enough time for such assessment. He suggested that it could be looked at, at a later date.

45. The representative of the United States clarified that her delegation's proposal with respect to Article 15.2 was simply to exchange information and experience among Members on a voluntary basis with the intention of further understanding and developing possible good practices that could serve as models for delegations who might be seeking assistance. It was not intended to be an evaluation. She thought that Members had opportunities in on-going meetings to draw the attention of the Committee to specific problems in this respect.

46. The representative of Canada emphasized the importance of the obligations under Article 15.2 and supported the view that in order to improve compliance with the provisions, the Committee should identify difficulties faced by some Members to comply with Article 15.2. He supported sharing national experience as a way to identify possible problems and technical assistance needs.

(2) Notification Procedures under Articles 2, 3, 5 and 7 of the Agreement

47. The Chairman drew attention to the fact that under Articles 2.9.2, 2.10.1, 5.6.2 and 5.7.1 of the Agreement, Members should notify other Members through the Secretariat of draft technical regulations or conformity assessment procedures not in accordance with relevant international standards or guides, and if the regulations or procedures might have a significant effect on trade of other Members. The notification obligations apply also to local governments on the level directly below that of the central

government (Articles 3.2 and 7.2). He noted that those periodic notifications of changes in technical regulations and conformity assessment procedures by central governments and local governments provided opportunities for comments by other Members, to discuss the comments upon request, and to take those comments and results of discussions into account.

Relevant proposals:

- (i) Notification obligations of Members and local governments on the level directly below that of the central government in Members; and
- (ii) notification procedures to ensure opportunities for comments by other Members.

48. The representative of the European Communities drew attention to the fact that few notifications had been made under Articles 3 and 7 of draft technical regulations and conformity assessment procedures prepared by local governments in Members. She thought that it would improve the understanding of the situation if Members would indicate to the Committee any local government bodies in their territories which were authorized to adopt regulatory provisions.

49. She stressed the importance of notifying technical regulation at the draft stage before adoption to ensure opportunities for comments by other Members. She suggested that it would be appropriate for the text of the draft regulation and the translation or translated summary (in one of the WTO languages) of relevant documents to be attached to the notification sent to the Secretariat, so that the deadline laid down for comments could be respected. She recalled that the Committee had recommended a 60 day period for comments, and suggested that the 60 days should be counted from the date of the publication of notifications by the Secretariat.

50. The representative of Switzerland said that the 60 day comment period should be counted following the publication of a notification by the Secretariat within 10 days of its receipt. Concerning the notification format, she proposed the following additional information to be provided by Members: (i) under item 6, a more detailed summary describing the draft technical regulation or conformity assessment procedure, including the main points of the draft; and (ii) in addition to the name of the authority responsible for notification, the name of the authority responsible for the draft, if different, and addresses of all relevant authorities. She said that the right to raise questions or make comments should be accompanied by the right to receive replies to those questions or comments from the notifying Member before the draft was adopted. The Committee should also investigate how a procedure would operate (similar to that under Article 18.7 of the Agriculture Agreement) so that other Members could issue a counter-notification when a Member failed to fulfil its notification obligation. She thought that decisions and recommendations for notification procedures should be arrived at within the framework of the Triennial Review.

51. The representative of Egypt thought that it would be necessary to have a stock taking exercise to obtain an overview of how Members were implementing the existing notification obligations. She supported the proposals that the translation or translated summary of a draft regulation be attached to the notification when sent to the Secretariat. She thought that it would ensure transparency and facilitate other Members wishing to make comments.

52. The representative of Japan recalled that his delegation had raised their concern with the increasing number of notifications providing a period for comment shorter than what was stipulated in the Agreement or recommended by the Committee. He thought that before taking any additional steps, it would be better for the Committee to seek ways to ensure the proper observation of the existing obligations. Referring to the proposal on the "attachment of text to notification", he said that the Committee should look into it carefully, since there was no information on how many notifications were actually looked into and with requests being made for further information by other Members, it was

difficult to evaluate the cost effectiveness of such a proposal. In addition, the proposal related to translation problems which could be a sensitive issue for his delegation.

53. The representative of the United States supported the comments made by Japan questioning whether it was necessary to add to the recommendations already made by the Committee on 60 days of comment period. She thought the Committee should be prudent when considering additional recommendations. However, she stressed the importance of notifications being submitted and issued as quickly as possible so that the time available for comments would not be shortened. She drew attention to the relevant recommendations made by the Committee (page 13 of G/TBT/1/Rev.4) that "a notification should be made when a draft with the complete text of a proposed technical regulation or procedures for assessment of conformity is available and when amendments can still be introduced and taken into account".

54. The representative of Singapore said that as notification obligations in the TBT Agreement were among the most extensive of all WTO Agreements, the Committee should not seek to introduce more transparency provisions. Instead, the focus should be to ensure the proper and full implementation of the existing transparency provisions. Timely notification of proposed technical regulations, standards and conformity assessment procedures at their drafting stage was essential to ensuring transparency. The Committee should give impetus to such timely notification.

(3) Code of Good Practice for the Preparation, Adoption and Application of Standards - Annex 3 of the Agreement

55. The Chairman noted that it was an obligation under Article 4 for central government standardizing bodies to accept and comply with the Code of Good Practice. Members shall take such reasonable measures as may be available to them to ensure that local government, non-governmental and regional standardizing bodies accept and comply with the Code.

Relevant proposals:

- (i) Acceptance of the Code of Good Practice by standardizing bodies;
- (ii) coordination of activities among standardizing bodies at various levels; and
- (iii) provision on equivalence parallel to that of Article 2.7 of the Agreement.

56. The representative of Egypt said that Egypt was one of the first countries which had accepted the Code of Good Practice and would encourage other Members to do so. However, she added that the acceptance of the Code should be without prejudice to Members' views on the coverage of the Agreement on non-product related processes and production methods. She thought that coordination of activities among standardizing bodies at various levels was important and supported the proposal concerning equivalence of standards. She said that the Committee should look into extending the applicability of Article 2.7 to the Code of Good Practice and thought that it would serve as a good basis for better coordination and harmonization of activities among standardizing bodies.

57. The representative of the European Communities said that her delegation placed importance on the acceptance of the Code of Good Practice by standardizing bodies. She thought that it related to the balance of rights and obligations among Members. She said that up until the present time the results had not been satisfactory, and substantial progress should be made in the context of the Triennial Review. She suggested that in the course of the exercise, it would be useful to hear explanation from Members on why standardizing bodies within their territory had not yet accepted the Code as required under Article 4. She quoted from the Canadian paper which stated that standards although voluntary in nature,

could have trade restrictive effects. In the light of the situation, she thought that the priority of the Committee should be to ensure the acceptance of the Code as widely as possible, before holding discussions on possible new provisions on equivalence of standards.

58. The representative of Switzerland supported the European Communities' proposal on Members providing reasons for non-acceptance of the Code. She suggested that in order to help ensure the acceptance of the Code, Members could provide a list including all standardizing bodies within their territories, so that the list could be compared with the one containing bodies which had accepted the Code. She thought that such decisions and recommendations of the Committee should be arrived at within the framework of the first Triennial Review.

59. The representative of India supported the view expressed by Egypt concerning the Code of Good Practice. As regard equivalence, he thought that while equivalence was a precursor to mutual recognition, ISO standards could not ipso facto be considered for the purpose, due to their lack of international character (few developing countries, especially small and medium size enterprises exporters, could participate in the standard making process) and the absence of "consensus" as understood in the WTO.

60. The representative of New Zealand supported the proposals on greater encouragement for the acceptance of the Code of Good Practice by standardizing bodies, and for the communication among standardizing bodies at various levels. He suggested that the Committee could consider how it would encourage strengthening cooperation and coordination of activities among all standardizing bodies, including international standardizing bodies, in this regard.

61. He supported the idea of equivalence of standards and suggested two situations where the concept could be applied: (i) in the case where a domestic standard derived from, or in part from, international standards, there should be procedures at the national level to recognize that the domestic standard and that of other countries' were seeking similar objectives because of the common derivation as set out in the international standards; and (ii) in case where no relevant international standard existed, there should be procedures for a country to recognize and accept that a standard/standards applied in another country/other countries could meet their own national objectives. In order to accept other Members' standards as equivalent, it would be necessary to establish streamlined procedures in each Member allowing for the identification of instances where national objectives could be achieved by different standards of other Members.

62. The representative of Mexico said that the Code of Good Practice was a part of the Agreement and it was important for Members to accept it. She shared the statements made by other delegations on coordination of standardizing bodies. She expressed her delegation's interest in the Canadian proposal on equivalence of standards. She said that further considerations would be given to it and would be reflected in the forthcoming Mexican paper. The Mexican View on the issue was not just a matter of transferring Article 2.7 to the Code of Good Practice, but rather to look into revising the wording of the provision.

63. The representative of Singapore thought that it would be useful for the Committee to contemplate formulating provisions similar to Article 2.7 (equivalency for technical regulations) for inclusion in the Code of Good Practice.

64. The representative of Brazil, referring to the issue of equivalency under Article 2.7, thought that in the case of technical regulations, equivalency was an adequate form of harmonization, if similar objectives existed. However, in the case of standards which normally consisted of technical aspects, compliance with international standards should always be pursued. In the case of eco-labelling programmes/schemes, the Committee could explore ways to address the issue of equivalency as a way of preventing the use of those practices as trade barriers.

65. The representative of Canada said that his delegation realized the importance of the acceptance of the Code of Good Practice. However, he thought that there was no need to qualify the acceptance as suggested by Egypt, given that the Code was generic to the Agreement rather than the issue raised by Egypt. This was both with respect to the formal aspect of accepting the Code of Good Practice as well as the substantive aspects of implementing the provision of the Code. Concerning "equivalence of standards", he said that his delegation's position contained in the Canadian paper was clear on the need for a parallel provision to that contained in Article 2.7. He took into account the Brazilian comment that equivalency was a second best solution next to the use of international standards. However, in some situations, a second best solution might be needed.

66. The representative of Japan stressed the importance of acceptance of the Code of Good Practice by standardizing bodies and that standard development processes should reflect opinions of interested parties. Coordination of standardizing bodies at various level, including international, regional and national levels, was useful to eliminate duplication of work and shorten the duration of standard development. He added that transferring standardization work from one standardizing body to international standardizing bodies should be, in principle, preferable.

67. The representative of the European Communities supported the Japanese proposals with respect to international standards and the role of international standardizing bodies, and suggested that the issue should be treated as one of the items in the future work programme of the Committee. Improved coordination of standardizing bodies would strengthen the standardizing role as a whole. She drew attention to a cooperation formula developed in Europe with international standardizing bodies (the European standardizing bodies CEN and CENELEC with ISO and IEC) and said that it should provide a basis for working out a harmonized solution to problems at the world level. She suggested that it would be useful to obtain information on how those international standardizing bodies cooperated with other regional standardizing bodies. Improved coordination of standardizing bodies should aim not only to avoid duplication of activities, but also to respect the hierarchical situation on standards worldwide.

68. Referring to the concept of equivalency, she thought that the suggestion was tempting. However, in reality it might be contentious and difficult to implement. She drew attention to the European Communities' experience and said that in order to ensure harmonization, the European Communities did not base itself on national equivalence, but rather sought to develop a harmonized approach with a view to eliminating divergences in national provisions. She thought that in a multilateral context, it would be difficult to achieve what had not been possible at a regional level. Her delegation gave priority to international standards rather than perusing equivalence of standards.

69. The representative of Argentina recognized the need to encourage the acceptance of the Code of Good Practice. However, he thought the proposals made by the European Communities and Switzerland, by way of posing questions to standardizing bodies which had not accepted the Code as to their reason for non-acceptance, would create additional burdens to those bodies. He suggested that before posing such questions to standardizing bodies, the Committee should seek to explain to standardizing bodies the benefits they would gain from joining the Code. That could be taken up in the form of a document prepared by the Secretariat or by delegations. He expressed interest in the Canadian proposal on equivalence of standards and said that his delegation did not have a strong opinion on that, while recognizing that equivalence was the second best solution.

70. The representative of the United States supported the suggestion made by Argentina to inform standardizing bodies of the advantage of accepting the Code so as to provide them the incentive to do so. She noted that no standardizing bodies in the United States had accepted the Code, although there was no problem for them to comply with the obligations under the Agreement and there had been extensive

discussions in her country on the obligations under the Agreement and the obligations for standardizing bodies to notify their acceptance of the Code.

71. The representative of Singapore thought that the proliferation of voluntary standards could have a potential adverse impact on trade, and suggested that the Committee could ascertain ways to enhance the transparency of standards applied by non-governmental standardizing bodies.

(4) International Standards

72. The Chairman drew attention to Articles 2.4 and 5.4 of the Agreement and paragraph F of the Code of Good Practice which states that Members should use relevant international standards and guides, if they existed or their completion was imminent, as a basis for their technical regulations, conformity assessment procedures and standards, except when such international standards or their relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, or otherwise (under Article 12.4) not appropriate to the development, financial and trade needs of developing country members.

Relevant proposals:

- (i) Strengthening and monitoring the use of international standards by Members;
- (ii) procedures and activities of international standardizing bodies;
- (iii) definition of international standards;
- (iv) potential trade distorting impact of certain international standards; and
- (v) coordination and cooperation of the WTO/TBT Committee and international standardizing bodies.

73. The representative of Japan noted the importance of promoting the alignment of national standards with international standards. However, there existed a number of international standards with which national standards could not be aligned due to the fact that they did not reflect up-to-date technological information, nor did they appropriately meet the real market needs. He said that such international standards should be revised and suggested that it was necessary to develop a mechanism so that Members, when recognized the existence of inappropriate international standards, could proactively request their national standardizing bodies to inform relevant international standardizing bodies of the need for revision. He drew attention to a list prepared by his delegation containing 20 international standards which had been recognized to be out-of-date. He said that the Japanese Industrial Standards Committee (JISC), the Japanese national body of ISO/IEC, had proposed the revision of those standards to the ISO and IEC.

74. The representative of Mexico expressed interest in the proposals and comments made regarding the definition of an international standard. She thought that the Committee should start by clarifying the definition of an international standardizing body, before moving on to review what it meant by an international standard in WTO language. A definition of an international standardizing body should be made in the nature of effective participation of WTO Members in both decision making and in drawing up standards in that body.

75. With respect to reviewing the procedures and activities of international standardizing bodies, her delegation would seek measures providing all WTO Members better proactive access to participate in discussions and the elaboration of international standards. Concerning monitoring the use of international standards by Members, she proposed that the Committee should first have an exchange of

views on the extent on which Members were using existing international standards, not with a view to scrutinizing other Members' legislation, but to identify possible problems encountered by Members, their authorities, national standardizing bodies and industries in using international standards. This might help finding solutions so that international standards could be properly applied.

76. The representative of the European Communities said that the Triennial Review would provide Members with opportunities to look into international standards because of their importance, their role in the Agreement and in strengthening future work of the Committee. Her delegation's proposals contained in document G/TBT/W/36 aimed at improving transparency in this field. They also included the advisability of developing the relationship between the WTO and international standardizing bodies, and to establish certain requirements with respect to standardization at the international level so that international standards could be properly implemented by Members. These requirements related to priority and transparency of work in international standardizing bodies. Concerning the use of international standards by Members, her delegation proposed to introduce provisions for monitoring procedures based on experience gained in the framework of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS). Regarding the definition of an international standard, she suggested that, in view of the complexity of this issue, it could be dealt with in the Committee's future work programme, probably with a special working party being established.

77. The representative of Singapore noted that technical regulations established in accordance with international standards were "rebuttably presumed" not to create unnecessary obstacles to international trade. In other words, technical regulations based on international standards were presumed to be trade neutral. Nevertheless certain international standards could have adverse effects on trade. The Committee should, therefore, be cautious about the proposals to incorporate such standards into the TBT Agreement. He proposed that a thorough study of the potential trade distorting impact of these standards should be undertaken before any decision be made to incorporate them into the Agreement. While recognizing the utility of using international standards for the purpose of harmonization, the Committee should be cognisant of the difficulties that developing countries could have in implementing these standards. In this connection, Committee Members should take note of Article 12.4.

78. The representative of Egypt noted that there was a general recognition of the importance of international standards. However, she questioned if there was a common view of what it meant by an international standard and thought that it was important to first clarify its definition. Regarding monitoring the use of international standards by Members, she questioned if there were any monitoring requirements under the Agreement or if it would constitute additional obligations and burdens for Members. She supported the proposals made by Singapore concerning the adverse trade effects of certain international standards, and on closer cooperation and coordination of the Committee with international standardizing bodies. Her delegation recognized the importance of a proactive WTO involvement in international standardization, and in this regard, she suggested that the Committee could look into the possibility of developing proactive procedures. She thought that international standardizing bodies should take into account the on-going discussions in the WTO on this matter.

79. The representative of India supported the proposal to develop a more articulate definition of international standards. He said that, in that respect, it was necessary to take into account their effectiveness or otherwise for the fulfilment of legitimate objectives pursued, like climatic and geographical factors, or fundamental technological problems. It was necessary to take into account that the purpose of standardization was to improve the efficiency of production, to facilitate international trade, to ensure that unnecessary trade barriers were not created, and to transfer technology from developed to developing country Members. He noted that in the WTO, standardization processes had to be restricted to standards as applicable to products or related processes and production methods.

80. The representative of Canada supported the suggested approach to bring concrete examples of international standards with which Members encountered problems. He welcomed the Japanese

delegation's contribution of bringing their experience to the attention of the Committee. He thought that these discussions would provide the Committee with the relevant knowledge of Members' national practices and how international standardizing bodies developed standards.

81. Regarding procedures and activities of international standardizing bodies and coordination and cooperation of the Committee with international standardizing bodies, he thought the first step would be to invite relevant international bodies to meetings of the Committee in order to increase Members' awareness of activities in those bodies. He also stated the importance of promoting coordination and cooperation at the national level. He pointed out that his delegation benefited from the presence of experts from the Standards Council of Canada so that it could be informed of the Canadian system and practices. He encouraged other delegations to do the same and benefit from their national experts.

82. Referring to the definition of an international standard, his experience with the Canadian business communities demonstrated that industries knew what international standards were. He noted that most international standardizing bodies comprised the same Members as the WTO. He thought that the Committee should be careful when discussing this matter so that it would not appear to be questioning the work of some other national bodies, including those in the voluntary sector. He recognized that delegations had a role in providing general policy direction and advice. However, a fine line could be drawn between providing such general policy direction and advice, and questioning the work of other national bodies that the Committee should respect.

83. The representative of Pakistan, referring to the definition of international standards and international standardizing bodies, thought that the definition of an international body or system as contained in Annex 1 of the Agreement: "Body or system whose membership is open to the relevant bodies of at least all Members" might not be enough, and that the notion of effective participation should be included in the definition.

84. The representative of the United States supported the importance of effective participation and transparency in international standardizing bodies. She agreed that the definition of international standardizing body as contained in Annex 1 might not be sufficient. However, she reiterated the importance of the basic obligations under the Agreement for using international standards.

85. The representative of Brazil noted that the Agreement acknowledged the importance of the use of international standards to facilitate international trade. Therefore, it would be important to find ways to encourage and to strengthen their use. More Members should be encouraged to accept and comply with the Code of Good Practice for the Preparation, Adoption and Application of Standards. This would help strengthen the process of international standardization.

86. The representative of New Zealand agreed that it was important to consider the definition of international standards. He noted the existence of a number of standards which were not recognized as international standards because they had not been adopted by international standardizing bodies, although they were commonly used in international trade.

87. He expressed interest in further proposals concerning the notion of effective participation in international standardization. He suggested linking discussions on the sub-items of "Strengthening and monitoring the use of international standards by Members" and "Potential trade distorting impact of certain international standards". He expressed interest in the Japanese proposal, listing out-dated international standards, and thought it useful for focusing discussions in this area. He suggested that it might be useful to adopt a negative listing of international standards which were not used so as to highlight where the problems were in this regard.

88. He recalled paragraphs 33-35 of the New Zealand paper which recognized the significant trade impact in using international standards as technical regulations in certain contexts. He noted that

Article 2.4 of the Agreement encouraged Members to adopt international standards or the relevant parts of them as the basis for a technical regulation. He emphasized that in order to minimize trade barriers, only the part of an international standard which was necessary to achieve legitimate objectives should be used to establish a technical regulation. Voluntary standards provided an important foundation for technical regulations in many sectors. However, because they reflected a wide range of perspectives and needs, they might contain requirements not essential to fulfil the legitimate objectives of technical regulations. For this reason, calling up the entirety of voluntary standards in mandatory technical regulations could have the effect of imposing unnecessary costs on businesses and creating unnecessary obstacles to trade.

89. The representative of Nigeria shared the view expressed by Singapore and New Zealand that a connection of the utility of international guides and standards as a basis for technical regulations, conformity assessment procedures and standards of Members should not be automatic. He noted that under Article 2.4, Members were encouraged to adopt international standards or their relevant parts when they would be effective. As pointed out by Mexico, the obligation was subject to the exceptions laid down under Article 12.4 for developing country Members. He welcomed the experience sharing by the Japanese delegation and supported the view that it could be inappropriate to adopt international guides or standards under certain national circumstances or due to the fact that some of them were obsolete.

90. The representative of Singapore said that the Committee should consider procedures to provide for closer coordination and cooperation of the Committee and international standardizing bodies.

91. The representative of ISO, responding to comments made by the Japanese delegation concerning obsolete international standards, noted that each of the 10,500 ISO standards and the 3,000 IEC standards was submitted every five years (more frequently, if needed) to a review by their members to determine whether it should be confirmed, revised or withdrawn. However, it could happen in some cases, that ISO members had a lack of interest and did not answer the enquiries. This could result in obsolete standards remaining in the ISO portfolio. The ISO Technical Management Board supervising the technical programme of ISO welcomed the Japanese Industrial Standards Committee's list of outdated standards. An investigation was being conducted in the Technical Committees responsible for the preparation and updating of those standards and the results would be reviewed at the meeting of the Technical Management Board in September 1997. He invited WTO Members to provide further information on ISO standards which they considered obsolete.

92. Referring to the definition of terms concerning standardization and related activities, he drew attention to ISO/IEC Guide 2 which contained the definitions of international standardizing organizations and an international standard. He noted that ISO/IEC Guide 2 (edition 1991) which was referred in Annex 1 of the TBT Agreement had been revised in 1996. The definition of an international standard given in Guide 2 concerned only voluntary consensus standards. However, the definition given in the TBT Agreement concerned both consensus and non-consensus standards. He would provide copies of ISO/IEC Guide 2 and further information to interested Members, if needed.

(5) Technical Regulations

93. The Chairman recalled paragraph 22 of the Committee's Report for the Singapore Ministerial Conference (G/L/122) which stated that "It is felt important to ensure that a thorough examination of all aspects of the TBT Agreement relevant to technical regulations, standards and conformity assessment procedures can be carried out at the triennial review in order to strengthen implementation of the existing disciplines and further the Agreement with the aim of facilitating trade through more efficient and effective regulation."

Relevant proposal:

Guidelines for the preparation, adoption and review of technical regulations.

94. The representative of New Zealand considered the issue of good regulatory design for the development of technical regulations a key priority of the Triennial Review. He drew attention to the New Zealand paper which attempted to provide practical guides, aiming to assist all those involved in designing and implementing technical regulations at the national level to fulfil their obligations under the Agreement, while achieving national legitimate objectives. He thought those guides would help develop a better understanding among Members of the practical steps needed in the preparation, adoption and review of technical regulations in accordance with the requirements of the Agreement. They would provide the key for developing least trade-restrictive technical regulations and substantially assist effective implementation of the Agreement.

95. His delegation supported the strategies under the Agreement, encouraging harmonization and recognition as equivalent technical regulations of other Members to facilitate world trade. Those strategies were of most use when differences in conditions of countries involved were not significant. However, when conditions were different, it could be difficult to pursue harmonization and recognition of equivalence. Under such circumstances, the requirements under the Agreement for the preparation, adoption and application of technical regulations would have much to offer. Furthermore, harmonization and recognition of equivalence would be more effective if national regulatory approaches reflected the requirements of good regulatory design as set out in the Agreement.

96. He suggested the following two stage process for regulatory authorities to consider when contemplating the introduction of a technical regulation. First, to consider whether a regulation was needed to address the problem at hand. This involved a consideration of the nature and magnitude of the problem, and of the options which could offer most effective and least trade-restrictive approaches to achieving the objectives. The options included: maintenance of the status quo; reliance on general law; educational programmes; economic instruments, such as taxes or tradeable property rights; insurance and liability laws; codes of conduct/practice; industry self-regulation; or technical regulations. Second, if a regulation was required, and a technical regulation was deemed to be the most effective form of regulation, the technical regulation must be developed in accordance with all disciplines outlined in the Agreement. It must reflect the principles of national and most favoured nation treatment; it must be no more trade restrictive than necessary; it must be monitored and reviewed as necessary; it must reflect international standards where appropriate; it must be performance based (and recognized as equivalent other means of achieving the desired outcome); its development must be transparent and consultative; and the compliance procedures adopted must not create unnecessary obstacles to trade and must be the minimum necessary to provide confidence.

97. The representative of Japan welcomed the New Zealand paper. He thought the paper provided comprehensive and systematic approaches for the preparation of technical regulations in the least trade restrictive way. He said that the implementation of Article 2.4 concerning harmonization of technical regulations through the use of international standards, while important, could be difficult, taking into account the cost and effectiveness. In order to promote harmonization, the coordination between government authorities preparing technical regulations and national standardization bodies was essential. It was recognized that different authorities might prepare different technical regulations with similar technical contents. This situation was a typical example of duplicating work among government authorities and was not preferable. If national standards were aligned to relevant international standards and covered the technical contents required by technical regulations, technical regulations could use the relevant national standards as reference. In other words, national standards could be used as a soft infrastructure commonly used by technical regulations.

98. He introduced the Japanese government action plan for economic structure reform which was recently adopted by the Japanese Cabinet. The action plan expressed that existing Japanese industrial standards (JIS) would be reviewed in order to meet the needs of national standardization body, relevant ministers and agencies. This would promote harmonization between JIS and technical regulations, in other words, to promote the reference of JIS by technical regulations. In this context, his delegation proposed the following recommendation for the consideration of other Members: "In order to promote the implementation of Article 2.4 of the TBT Agreement, coordination between governmental authorities and national standardization bodies is essential. In this regard, authorities should use national standards as reference to technical regulations as far as possible when such national standards are regarded as being based upon relevant international standards."

99. The representative of Australia supported the New Zealand paper and recalled that it was largely based on discussions that took place at an APEC Standard and Conformance Sub-Committee meeting held in May 1997. She noted that the principles set out in the paper were consistent with Australian government policy.

100. The representative of the United States supported the New Zealand paper. She thought that the paper gave a broad, comprehensive and practical perspective to the obligations under the Agreement. It had been endorsed within the APEC and reflected the discussions that had taken place in the OECD on the benefit of regulatory reform to reduce technical barriers to trade. She thought that it was important to implement the Agreement and to ensure that domestic regulators, standard-developers and trade policy officials understood the Agreement. In this context, the paper was considered useful as it outlined in a practical way, a number of items which were considered to be good practice for users of the Agreement. She invited other Members to consider the proposals.

101. The representative of the European Communities welcomed the New Zealand paper. She thought that the paper was thorough and could assist and facilitate better understanding and implementation of the Agreement.

102. The representative of New Zealand welcomed the comments made concerning his delegation's paper and invited interested delegations for discussions before or at the next meeting. He noted the importance of implementing the Agreement, in particular in the area of technical regulations, given their mandatory nature which could have significant effects on trade.

103. The representative of Switzerland supported the promotion of harmonization of technical regulations. Her delegation suggested that the Committee should consider the following issues: (i) identify the various existing types of harmonization, while benefiting from the experience of private-standard harmonization; and (ii) determine the types of harmonization which would best meet the needs of Members, while avoiding duplication of the work in other bodies.

(6) Conformity Assessment Procedures

104. The Chairman noted that under Article 5.1.2 of the Agreement, Members should ensure that their conformity assessment procedures were not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. This means, *inter alia*, that conformity assessment procedures shall not be more strict or be applied more strictly than is necessary to give the importing Members adequate confidence that products conform with the applicable technical regulations or standards. The Agreement also encourages the use of relevant international guides or recommendations for conformity assessment procedures (Article 5.4); to enter into negotiation for the conclusion of agreements for mutual recognition of results of each other's conformity assessment procedures (Article 6); and to formulate and adopt international systems for conformity assessment (Article 9).

Relevant proposals:

- (i) Effective and efficient procedures;
- (ii) guides or recommendations issued by international standardizing bodies;
- (iii) international and regional systems for conformity assessment under Article 9 of the Agreement;
- (iv) mutual recognition agreements under Article 6 of the Agreement, including the transparency of such agreements under Article 10.7; and
- (v) unilateral/Autonomous recognition.

105. The representative of the United States drew attention to Article 6.4 of the Agreement and suggested that the Committee should make reference and have a full discussion on that provision. She thought that it might fall within the scope of unilateral recognition and could be developed into a concept similar to that of mutual recognition.

106. The representative of India said that with respect to conformity assessment systems, it was important to provide technical assistance to developing countries to develop operational procedures. Before portability of certification was considered and could be successfully engendered, the operation of Article 12 should be discussed.

107. The representative of Hong Kong noted the growing concerns about the restrictive trade effects resulting from multiple testings and conformity assessment procedures. He suggested that Members should review the following practices for trade facilitation: (i) when situations allow, manufacturers' self declarations should be accepted; (ii) if external assessment was deemed inevitable, Members should consider arrangements for recognizing results of conformity assessments performed by trading partners; and (iii) that unilateral recognition of test results and certificates would be an efficient option.

108. He noted the emerging interest in concluding mutual recognition agreements (MRAs) among Members on a bilateral basis which were relevant to Article 6 and other provisions of the Agreement. He thought that Members might wish to consider and agree on certain working criteria which could give effect to those provisions. He drew attention to paragraph 38 of the Secretariat paper (G/TBT/W/42) and said that there were useful bench-mark criteria suggested. His delegation supported the proposal to explore the idea of drawing up voluntary guidelines for MRAs and suggested that the following should be included: (i) there should be objective criteria for the purpose of recognition; (ii) bilateral MRAs should not be inward looking. They should pave the way for a more open arrangement that other interested parties be given sufficient opportunity to conclude such agreements on a non-discriminatory basis; and (iii) such agreements or arrangements should not exclude products of third party origin because what was at issue should be the quality and competence of the assessment services rather than the origin of the products. He thought that this was particularly useful for developing countries where conformity assessment services might not be adequate.

109. The representative of Singapore recognized that further clarification of the concepts of mutual recognition and equivalency could facilitate the elimination of trade distortive effects of technical regulation, standards and conformity assessment procedures. He concurred with the Canadian delegation's concerns on the portability of certification. He noted that the provisions for the conclusion of MRAs in the existing Agreement was weak and merely encouraged countries to conclude MRAs on the results of conformity assessment procedures. Given the costs associated with the negotiation of bilateral MRAs, he suggested that it would be useful if the Triennial Review could attempt to strengthen the provisions on MRAs in the following two possible ways: (i) review of Article 6 with a view to

addressing the problems highlighted above; and (ii) as in the case of the Working Party on Professional Services (WPPS), the Committee could attempt to draw up voluntary guidelines for MRAs.

110. The representative of Switzerland referring to effective and efficient procedures for assessment of conformity, said that a manufacturer's declaration of conformity should be the rule rather than the exception because it could circumvent the problems of some conformity assessment procedures which industry felt did not provide satisfactory protection for trade secrets. She noted that at present, the conditions did not seem right for a generalized introduction of manufacturer's declarations. However, an examination of conditions necessary for the use of a manufacturer's self declaration in the sectoral legislation could be helpful. The study should avoid duplication of work with other bodies and should include the question of why manufacturers' declarations were possible in certain sectors and not in others. The following issues could be explored: (i) the submission by manufacturers of documentations required by national legislation to demonstrate measures taken to guarantee the conformity of products; (ii) an effective system of product liability; and (iii) adequate supervision of the market, including independent monitoring of products marketed to ensure that relevant requirements had been met. She thought that the study could be taken up as the future work programme of the Committee.

111. She drew attention to Article 6.1 which required Members to ensure, whenever possible, that the results of conformity assessment procedures of other Members were recognized, provided that they were satisfied that those procedures offered an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures. She said that in order to make autonomous recognition possible, the technical competence of the conformity assessment bodies in exporting Members must be accepted. Such competence should be assessed in accordance with international standards. For this reason, the maximum possible use of, or reference to, international standards/guides for qualifying conformity assessment bodies should be encouraged. This would call for a two-phase procedure: (i) the identification (within the ISO/IEC Guides Technical Working Group) of the pertinent international standards/guides in the various sectors and the existing solutions; and (ii) the Committee encouraging the recognition of competence of bodies - and hence the certificates they issued - when this had been demonstrated on the basis of international standards/guides. The Committee should consider the extent to which the activity of such bodies might benefit from a presumption of conformity, and relevant decisions and recommendations should be arrived at within the framework of the Triennial Review.

112. The representative of Japan said that self declaration of conformity by suppliers was in general considered to be the least trade restrictive conformity assessment procedure and should be considered as first choice for Members. He suggested that ISO/IEC Guide 22 should be respected when suppliers conducted self declaration.

113. His delegation considered international harmonization of conformity assessment procedures, including the use of relevant ISO/IEC Guides (Guides 22, 25, 39, 58, 61, 62 and 65), was important to reduce technical trade barriers. He noted that his government recognizing the importance of the Agreement, had revised the Japanese Industrial standardization law. Decisions had been made to use ISO/IEC Guide 65 in Japanese Industrial Standards (JIS), and ISO/IEC Guides 25 and 58 in the newly created laboratory accreditation system.

114. He introduced to the Committee the Japanese Certification System and the JIS Mark operated under JIS Law which would be effective on 26 September 1997. He said that JIS mark was a reliable tool for manufacturers, especially small and medium sized enterprises (SMEs), to demonstrate that their products satisfied specifications of JIS and as a result improve purchasers' confidence. The JIS Marking System was operated by responsible ministers and the licence of JIS Mark could be granted when a factory completed successfully the assessments of each minister. The assessment procedures included evaluations on both the factory's quality system and the product. Third party private certification bodies

would be introduced into the JIS Marking System and could licence JIS Marks on their own responsibility. Relevant ministers would designate certification bodies, including foreign bodies, if they met necessary the requirements based upon ISO/IEC Guide 65. He added that in order to facilitate a producer's declaration on non-designated JIS, competent testing laboratories would be accredited by responsible ministers and the criteria would be based on ISO/IEC Guide 25. Foreign testing laboratories could be accredited if they fulfil the criteria.

115. The representative of New Zealand supported the view that a manufacturer's declaration based on ISO/IEC Guide 22 was a preferred option for conformity assessment procedures compared to the more comprehensive third parties certification or testing, and higher level intervention. However, this kind of self declaration would still require certain action. He noted that there existed practices which would allow products having met the relevant requirements of regulations to be put in the market place and it was up to the regulators to undertake the necessary surveillance to ensure compliance.

116. Regarding reducing trade barriers created by third party certifications, he thought that the common practice of unilateral/autonomous recognition was preferable to mutual recognition agreements (MRAs). One should not create too much expectation with respect to MRAs between governments because of the intensive work and time needed for their negotiation and of the fact that not many of them had yet been concluded. He informed the Committee that his government as a result of an almost six year long negotiation with the European Communities had concluded an MRA. This was expected to be signed and would create benefits for both parties. However, there existed both useful and less useful features, including the one concerning rules of origin as indicated by Hong Kong.

117. In the context of competent bodies, he noted that there existed in the private sector, numerous national, regional or international bodies and accreditation systems (such as ILAC and IAF) which accredited conformity assessment bodies and recognized their competence. He questioned the reason for additional confidence requirements by individual government for those bodies which had already demonstrated their competence and had been accredited by different accreditation systems. He thought that a government should do the minimum over and above what had already been in place under the accreditation systems.

118. The representative of Brazil said that different forms of conformity assessment procedures might be used as long as their results could be accepted by other parties. He noted the different technological background and development in Members and thought that it was more important for the Committee to look into the possibility of the acceptance of results by different conformity assessment procedures rather than to define the kind of conformity assessment procedures to be used. In order to reduce costs and facilitate trade, the principle of "one standard, one test, one time" should be pursued to facilitate trade. This principle implied complex conditions concerning mutual reliance and confidence between Members which, in most cases, demands high levels of technical competence. As a result, the use of common procedures such as relevant ISO/IEC Guides would be necessary to achieve confidence between Members. He thought that it would be useful for the Committee to make recommendations for the use of ISO/IEC Guides, as in the case of the Tokyo Round Committee. He noted the existence of different forms of Conformity Assessment procedures, including manufacturers' self declarations of conformity. However, it would demand a high level development of conformity assessment systems and would depend on the means available to ensure effective and adequate liability of suppliers that would be difficult at the international level. He noted that Article 6.1.1 and Annex 1 of the Agreement referred to accreditation of certifying bodies and laboratories as part of conformity assessment procedures. He thought that the Committee could initiate a deeper analysis of this issue, taking into account the increasing importance of accreditation systems at the national and international level.

119. The representative of Mexico said that her delegation considered conformity assessment procedures an important issue and would submit detailed proposals on it. She broadly agreed with the concerns expressed and several of the proposals made by other Members, in particularly those which would provide solutions to the problems of certification. She said that it was important to ensure that

existing standards and national standards adopted on the basis of international standards were useful in certification. She expressed interest with the input from the ISO and ISO/QSAR and how they could contribute to solving the problems of certification, in particularly with respect to small and medium size enterprises.

(7) Technical Assistance under Article 11

120. The Chairman recalled that at the Committee's fifth meeting, the Chairperson had expressed the view that implementation of the TBT Agreement was proceeding slower than would be desirable in relation to the submission of statements under Article 15.2, and the number of standardizing bodies that had accepted the Code of Good Practice. To the extent that this was due to real technical difficulties or a lack of awareness of the obligations under the Agreement, the Secretariat had been encouraged to redouble its technical assistance work in this area.

121. The representative of Brazil thought that it was necessary to increase technical assistance activities to meet the needs of developing countries so that the Agreement could be fully implemented. In this context, special attention should be given to the development and training of human resources.

122. The representative of Egypt said that the Secretariat should be encouraged to redouble its technical assistance work in order to overcome the technical difficulties of Members and to create the awareness of obligations under the Agreement. He shared the view expressed by Brazil that training of human resources was an important area of technical assistance. Developed country Members could contribute by sharing their experience in the application of the Agreement.

123. The representative of Nigeria recalled that a briefing session by experts on the Agreement and related issues had been organized by the Chairman and the Secretariat in April. He questioned if a seminar or symposium of that kind could be elaborated again, preferably back to back with the next meeting, so that his delegation and several others could profit from it.

124. The representative from the Secretariat recalled that at the briefing session in April, representatives from the ISO and the World Bank had been invited to address interested Members. He said that at this stage, there was no plan for future exercise of that nature. However, if Members thought it useful, the Secretariat and the Chairman could look into the possibilities for having another briefing session.

(8) Special and Differential Treatment under Article 12

125. The representative of Egypt recognized Article 12 as an important element of balance in the Agreement and appreciated any effort to enhance and activate its provisions in order to help developing countries to better implement their obligations under the Agreement.

(9) Definition of Proportionality and Least Trade Restrictive Measures Possible

126. The representative of Egypt underlined the importance of the definition of proportionality and least trade restrictiveness measures, not only to ensure the consistency in the application of the Agreement, but also to enhance the stability in its application.

127. The representative of the United States said that to her delegation, a shorthand definition of proportionality and least trade restrictive measures would not adequately or accurately capture the obligations under Article 2.2. She noted that under the Agreement, a technical regulation should not be more trade restrictive than necessary to fulfil the legitimate objectives. It included the following: the existence of reasonably available alternatives, taking into account technical and economic feasibility, the

alternatives which would be significantly less trade restrictive and at the same time would fulfil the government's legitimate objectives. She recalled that some relevant points had been made in the New Zealand paper and said that her delegation would come back to the issue at future meetings.

(10) Environmental Standards

Relevant proposals:

- (i) Eco-labelling; and
- (ii) ISO 14000 standards for environmental management systems.

128. The representative of Canada said that his delegation did not intend to hold in depth discussions on eco-labelling in the context of the Triennial Review. He drew attention to para. 185 of the Report of the Committee on Trade and Environment to the Singapore Ministerial Conference which stressed the importance of Members' notifying eco-labelling programmes without prejudicing Members' position on the coverage of non-product related PPMs.

129. Referring to the Canadian proposal to initiate discussions on ISO 14000, he noted that a number of delegations had indicated their interest in the issue, but more time would be needed for its analysis. He drew attention to the information provided by the representative of ITC with respect to an upcoming report, and to an expert meeting of the UNCTAD to be held on 3-5 November on ISO 14000. He encouraged active participation of delegations from both Geneva and capitals and thought that it would provide an important occasion for education and analysis. He suggested that it might be useful for UNCTAD to provide relevant background papers.

130. The representative of India said that India's position on eco-labels was well known through its interventions in the Committee on Trade and Environment. He reiterated that only standards on products and their related PPMs were covered under the TBT Agreement. He noted that ISO 14000 eco-labelling standards had not been fully developed and thought that it would be premature to look at them in the WTO. He said that even if it was possible to treat non-product-related PPMs in a trade neutral manner, acceptance of the concept in the WTO could result in some Members presuming consistence of such PPMs with WTO disciplines, in their application *vis-à-vis* their market access commitments.

131. The representative of the European Communities, referring to the scope of the agreement in relation to eco-labelling programmes based on product life-cycle and involving criteria relating to non-product related PPMs, said that her delegation's position as contained in a document presented to the Committee on Trade and Environment (CTE) remained unchanged. She said that the Committee should continue examining this question, in particular in the context of the Committee on Trade and Environment and suggested that it might be useful for the two Committees to hold joint meetings. She shared concerns expressed by a number of Members, including those to ensure the transparency of development and operation of eco-labelling schemes. With respect to standards on environmental management systems, she did not think they would fall within the scope of the Agreement, since they were used to improve the global environmental performance of companies and had no direct link with products manufactured by the companies in question.

132. The representative of Nigeria said that in respect of eco-labelling programmes, his delegation had a well established position in the Committee on Trade and Environment. He shared the view expressed by India that non-product related PPMs were excluded from the scope of the TBT Agreement. He supported the proposal made by the European Communities for joint meetings of the Committee with the Committee on Trade and Environment to avoid having discussions on the issue in different

forum. He said that his delegation had made a similar proposal in the Committee on Trade and Environment which was still under consideration by that Committee.

133. The representative of Mexico reiterated that given that the Agreement applied to all types of technical regulations and standards in general terms, the Triennial Review should not follow a vertical approach and look at specific sectors. She questioned whether it was the appropriate time for Members to discuss the specific issue of eco-labelling. Her delegation's view was that all labelling requirements were covered by the disciplines of the Agreement and its Annex 3 (Code of Good Practice on the Preparation, Adoption and Application of Standards) regardless the information included on the labels. It was another issue that dealt with the legitimacy or the legality of the information on the label itself. Her delegation was going to have a close look at the coverage of the Agreement and its applicability to eco-labelling with respect to non-product-related PPMs. She thought that at this stage, it would be premature for the Committee to hold joint meetings with the Committee on Trade and Environment to consider the issue of eco-labelling. In the light of experience of the last two years, she felt that it might be better for the Committee to move further in the substantive debate on the issue and then consider what to do next.

134. The representative of Singapore referring to the issue of eco-labelling, emphasized that due recognition should be accorded to the negotiating history of the TBT Agreement and to the concerns that had been expressed on the issue of non-product-related PPMs, particularly their potential trade distorting effects and impact on the WTO legal system.

135. The representative of Indonesia reiterated the need to continue discussions on the issue of environmental standards. He said that there should be greater transparency with those standards and that they should not become a disguised restriction to trade as faced by developing countries.

(11) Changing Nature of Standards

ISO 9000 and ISO 14000 - standards for quality and environmental management systems

136. The representative of Canada drew attention to the Canadian paper containing proposals on the subject matter and noted that some of the points under this item would fall into the areas of technical regulations and regulatory reform. His delegation would come up with further ideas in the coming months.

137. The representative of Brazil suggested that the Committee should analysis the trade impact of systems management standards - such as ISO 9000 and 14000 - in order to determine how to deal with the issues involved.

138. The representative of Nigeria said that the Committee should look into the issue with care. It is important to know what it intended to do and how discussions would be managed because the issue linked to PPMs and GATT jurisprudence which had its resonance over a two-year period discussions in the Committee on Trade and Environment.

139. The representative of the IIC informed the Committee that a study on the trade impact of ISO 9000 and 14000 standards was under preparation by UNIDO in corporation with ISO and the English Organization Resource. Preliminary results might be available in September 1997.

(12) Effect of the Agreement on SMEs

140. The representative of Singapore noted that the *raison d'être* of the TBT Agreement was to facilitate the elimination of technical barriers to trade. Whether the Agreement had fulfilled this goal could only be ascertained with empirical data showing the effect that the TBT Agreement had on export opportunities and market access. Case studies focusing on the effect of the Agreement on small and medium sized enterprises (SMEs) would be useful. He suggested that the Secretariat could undertake such a study.

(13) Annex 1 Terms and their definitions for the purpose of the Agreement

141. The representative of Brazil thought that it was important to prevent differences in understandings and interpretations between Members, e.g., the concept of legitimate objectives of technical regulations under Article 2.2. It was useful to harmonize the concept and scope under the Agreement and ISO/Guide 2.

142. The Chairman suggested that for the purpose of moving forward the discussion of the Triennial Review, an informal catalogue could be developed by the Secretariat compiling views, suggestions, proposals and comments made. He invited input from Members to be submitted to the Secretariat by 4 July so that the first version of the catalogue could be made available before the end of the Summer break. He added that further proposals and comments would be welcomed and would be included in the catalogue. In additional to the two formal meetings in October and November, he proposed to schedule two open-ended informal meetings around the middle of September and end of October.

143. The Committee ~~took note~~ of the statements made.

D.STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

144. The Chairman reiterated Members' obligations to submit their statements under Article 15.2 on Measures taken to Implement and Administer the Agreement. He noted that currently, 49 Members had submitted their statements (G/TBT/2/ and Add.1-33). He recalled that in May, he had sent reminders to Members who had not yet submitted their statements and urged them to do so as soon as possible.

145. The representative of Turkey informed the Committee that Turkey had submitted its statement under Article 15.2 and it would be circulated to Members shortly.

146. The representative of the European Communities raised their concern with new regulations on tyres imported into Egypt. The assessment procedures adopted since November 1996 had created difficulties on the companies concerned. She said that the permit licences needed for imported tyres to be put on market were not delivered, or delivered after a lengthy period. She questioned if similar procedures existed for the assessment of local production. Her delegation had submitted comments and contacted the Egyptian authorities since March 1997. However, there had been no improvement in the situation. She requested Egypt to provide information on the measures taken, in particular those relating to the assessment of domestic production. She asked if there was any intention to speed up the issuing of permit licences for imported tyre.

147. The representative of Egypt noted that there had been on-going bilateral consultations between the European Communities and his authorities on the issue of Egyptian regulations on tyres and hoped that satisfactory results could be reached soon. He requested the delegation of the European Communities to transmit its intervention in writing so that it could be accurately conveyed back to his capital and that answers could be provided in the near future.

148. The representative of Canada said that further to the intervention by Norway at the meeting of 14 February, regarding Canadian technical regulations for marine cables, a response to the concerns raised had been provided to Norway and to the Secretariat for interested delegations. He noted that the real issue at hand was the acceptance of IEC 92-353 and the withdrawal of IEC 92-3, and not whether Canada adhered to international IEC standards. He said that the status of IEC 92-3 was currently being addressed by IEC/TC128/SC18A of which Canada was a member. Given the technical nature of the issues involved, his delegation had agreed to hold discussions bilaterally with Norway.

149. The representative of Norway welcomed the answer provided by Canada and Canada's reassurance of its willingness to use international standards as a basis for its regulatory work. He said that his authorities would consult bilaterally with Canada at the expert level and reserve its rights to pursue the matter further within the Committee, should the outcome prove to be unsatisfactory.

150. The representative of Canada drew attention to a French ban on asbestos and noted that in response to the Canadian request at the last meeting, technical justification on the French measure had been received from the European Commission. The justification stated that the prohibition was based on the preliminary report of the *Institut National de la Santé et de la Recherche Médicale* (INSERM Report). He recalled that the French ban was announced shortly after the release of the draft INSERM Report before it had been finalized. He thought that the findings of the Report did not provide an adequate scientific basis for the prohibition of asbestos and products containing asbestos. A Dunnigan-Gibbs study commissioned by the Government of Quebec considered the Report as lacking the scientific rationale for banning all

types of asbestos and all of its applications. He said that under the Agreement, technical regulations must not be more trade restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. In assessing those risks, a Member must consider available scientific and technical information. In reviewing the INSERM Report, the international group of experts established by the Royal Society of Canada considered that it overestimated the real threat to the population of France and might have underestimated the differences between fibre types. The mortality statistics cited in the Report were primarily related to past practices and lack of current data on exposure, especially concerning low level exposure. The justification stated that the INSERM Report came out in favour of the "most plausible hypothesis of uncertainty". He sought clarification of that formula and asked if it referred to the precautionary principle.

151. He said that Canada and a number of countries, both producers and consumers of asbestos and asbestos products, shared France's concern for the health of the general population, workers in the construction industry and other occupational groups. However, Canada believed that the ban was more trade restrictive than necessary to achieve the objective of protection of human health and safety. He suggested that the policy of controlled-use of asbestos, based on recognized scientific principles and long-standing international consensus, was an adequate way to fulfil the objective and that there was no scientific reason to abandon the policy on controlled-use of chrysotile asbestos. He thought that the French measure was a disproportionate reaction and would not solve the long-standing problem resulting from the past use of products containing friable asbestos in older buildings. The ban would not appropriately address the issue of health and safety of workers on construction and demolition sites because workers would still have to work with in-place non-friable asbestos products. His authorities would continue to pursue the matter in all available fora.

152. The representative of Colombia shared concerns of Canada with respect to the French ban on the import of asbestos and asbestos products. He recalled that the Colombian Minister of Foreign Trade had made comments following the notification of the French measure. Questions had been raised on why the ban was based only on the INSERM Report while other institutions and international studies had established that the use of asbestos could be safe if properly handled. He thought that an import ban was not justified for the purpose of protecting workers and consumers. In order to minimize any risk incurred in handling asbestos, proper industrial safety measures should be taken.

153. The representative of South Africa recalled that at the meeting of 14 February, his delegation had associated itself with concerns expressed by Canada with respect to the French ban on the importation of asbestos products. He welcomed the justification received from the European Communities. However, his delegation continued to have questions and reservations regarding the justification. He supported the views expressed by Canada and Colombia and requested the French authorities to consider imposing less trade-restrictive measures.

154. The representative of Mexico shared the concerns raised by Canada, Colombia and South Africa regarding the French ban on asbestos and endorsed the position that such measures should be withdrawn.

155. The representative of the European Communities said that the justification provided by her delegation concerning the French ban on asbestos had demonstrated that the legislation in question conformed with the provisions of the Agreement. She said that a similar reply had also been recently sent to the delegation of Colombia. The justification provided by the French authorities was based on the carcinogenic characteristic of the fibres, in particular the fibre chrysotile. There was no exposure threshold beyond which there would be no risk of asbestos

linked disease. The legislation was based on the fact that controlled use of asbestos was not possible, particularly in professions other than asbestos using professions where people concerned were dangerously exposed to asbestos intermittently. The ban was based on the precautionary principle that was considered possible to eliminate the exposure risk with respect to asbestos. She requested delegations who had taken the floor on the subject to provide information regarding the quantity of asbestos produced and used in their country and the quantity which was exported.

156. The representative of Canada drew attention to a failure by the European Communities to notify technical regulations relating to genetically-modified organisms (GMOs). He noted that both the Novel Foods regulation (EC 258/97) and the Amendment to the Directive on the Deliberate Release of GMOs (EC 90/220) had been implemented without notification under Article 2.9.2 of the Agreement. The Novel Foods Regulation specified the rules for the approval and labelling of genetically altered food imports at the European Union level. Labelling of food or ingredients as genetically altered would thus be mandatory if it was considered to be significantly different from conventional food or food ingredients. The Amendment to the Directive specified that products containing GMOs would have to be identified as such on their packaging. While his delegation had been having bilateral discussions with the European Commission on the mandatory technical regulations, he noted that those technical regulations were covered by the Agreement and subject to its disciplines. He asked the European Communities when those regulations would be notified.

157. The representative of the United States associated her delegation with the comments made by Canada.

158. The representative of the European Communities replying to the Canadian question, noted that the relevant notifications had been made in TBT/Notif.92.355 (12 November 1992) and in G/TBT/Notif.97.151 (21 April 1997) on Regulation EC 258/97 adopted in January 1997 concerning the labelling of food products produced from genetically modified soya and maize.

159. She drew attention to a Thai bill which had been adopted in April 1997 on the disclosure of ingredients in cigarettes and cigars. The bill related to the Tobacco Control Act adopted in 1995 which was in breach of the TBT Agreement. She questioned if the Thai regulation had already been published and would it be notified under the Agreement. She said that since the content of the regulation was not known, her delegation could not yet judge whether it was relevant to other international agreements.

160. She recalled that at the last meeting, her delegation had raised concerns about the Israeli regulation on tableware. She regretted that no satisfactory result had been achieved since then.

161. The representative of Thailand took note of the statement made by the European Communities on the Thai cigarette bill and said she would refer it back to the authorities concerned for answers.

162. The Committee ~~took note~~ of the statements made.

E. OTHER BUSINESS

163. The representative of the ~~United States~~ informed the Committee of the work under way in the UN/Economic Commission for Europe, Working Party on Technical Harmonization and Standardization Policies. She noted that at its May 1997 Meeting, the Working Group had adopted, on an ad hoc basis, a proposed inter-governmental agreement on technical harmonization. It would be considered for approval by the Committee for Trade, Industry and Enterprise Development at its December 1997 meeting. The purpose of the Agreement was to extend the commitments undertaken by WTO Members under the TBT Agreement to ECE Member countries of which approximately 50 were not yet WTO Members. She understood that it was not intended to have any effect on the rights and obligations of WTO Members. Her delegation was currently reviewing the document.

164. The Committee ~~took note~~ of the Statement made.

165. The Committee ~~agreed~~ to hold the next meetings of the TBT Technical Working Group and of the Committee back to back on 2-3 October. The last Committee meeting of 1997 would be held on 12-13 November at which the Committee would carry out its First Triennial Review. In addition, two open-ended informal meetings would be held around the middle of September and the end of October for discussions of the Triennial Review.