SPECIFIC TRADE CONCERNS (Retirado do documento G/TBT/M/40)

New Concerns

UE x Suíça - Draft Ordinance on measures to reduce particle emissions from diesel engines

Switzerland – Draft Ordinance on measures to reduce particle emissions from diesel engines (G/TBT/N/CHE/67)

The representative of the European Communities was concerned about the above-mentioned draft measure notified by Switzerland in August 2006 to which the European Communities had directed comments in October 2006. It was the EC understanding that the measure aimed at setting stricter limits for particle emissions from diesel engines which would apply to cars, mini buses and commercial vehicles already from 1 March 2007, and for certain other vehicles, from 1 January 2009. While the European Communities shared the general objective pursued by the Swiss proposal – which was to protect human health and the environment – this needed to be done in a way which was in line with Switzerland's international obligations. There were, first of all, the obligations under the 1958 UNECE Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles to which Switzerland was a contracting party. Moreover, the proposed regulation, according to the assessment of the European Communities, did not seem to be in line with the obligations under the TBT Agreement, in particular with Article 2.2 because it appeared to be more trade restrictive than necessary. Nor was the proposed measure in line with Article 2.4 since it was not based on existing and relevant international standards. Finally it also appeared not to be in line with Article 2.12 because the date of entry into force (March 2007) did not leave a reasonable interval before entry into force: manufacturers would not be able to adapt to the proposed restrictions and limits within a couple of months. In addition, the measure appeared to run counter to the Mutual Recognition Agreement which Switzerland and the European Communities had signed in 1990.

The representative of Switzerland took note of the concerns raised and assured Members that comments received were being examined by the responsible Swiss authorities. As several Ministries were involved this procedure was not yet complete. Written replies would be provided as soon as possible.

China x UE - Proposal for a Regulation of the European Parliament and of the Council establishing a common authorisation procedure for food additives, food enzymes and food flavourings

European Communities - Proposal for a Regulation of the European Parliament and of the Council establishing a common authorisation procedure for food additives, food enzymes and food flavourings (G/TBT/N/EEC/123)

The representative of China referred to the above-mentioned EC notification regarding a proposed regulation affecting food additives, food enzymes and food flavourings. China appreciated the EC practice of providing 90 days for comments from Members and flagged that it was in the process of drafting comments; these would be provided to the European Communities in due time. A major concern to China was that the European Communities had drafted the regulation without making reference to relevant standards from the Codex Alimentarius Commission (CAC). There were several differences between the two. First, the classification of food additives differed significantly

from that of Codex. For instance, the CAC used means of propellant while the European Communities had adopted propellant gas and packaging gas. Second, the scope of application differed from the that of the Codex: some food additives were allowed by the Codex standard while the European Communities prohibited their use. Moreover, for the same food additives, Codex had different requirements compared to those of the European Communities both with respect to scope of application and conditions. The representative of China recalled that the TBT Agreement required Members to base their technical regulations on international standards where such standards existed. However, in this case, the European Communities had failed to do so. China requested the European Communities to follow the relevant Codex standard.

The representative of the European Communities noted that China's comments would be taken into account in the drafting process and that a response would be prepared upon receipt of these.

China x Japão - Revision to Enforcement Regulation for the Law Concerning the Rational Use of Energy and Ministerial Notification of the Ministry of Economy, Trade and Industry

Japan - Revision to Enforcement Regulation for the Law Concerning the Rational Use of Energy and Ministerial Notification of the Ministry of Economy, Trade and Industry (G/TBT/N/JPN/176).

The representative of China recalled that his delegation had provided Japan with comments on the above-mentioned measure. Although a reply had been provided, it had not been satisfactory. First, Japan had adopted a Top Runner Standard that certain products needed to comply with. In theory, the more stringent the standard was, the less energy was consumed. However, both the current level of technology and the capacity of manufacturers needed to be taken into account. If these elements were neglected, production and trade would be negatively affected and the measure would be more trade restrictive than necessary. Hence, China considered that Japan's current standard lacked scientific evidence and was more trade restrictive than necessary. Japan was requested to revise its new standard to accommodate the current available technology as well as the capacity of the manufacturers – especially manufacturers in developing country Members – to comply, while meeting the objective of saving energy.

Second, the representative of China noted that Japan had also mentioned that their new testing methods needed revision. However, a notification had not been made to the WTO. The representative of China stressed that these testing methods were very important to the manufacturers; without them manufacturers had no way of determining whether their products met the standard set by Japan. China urged Japan to notify the new testing methods to the WTO as soon as possible.

Third, Japan had offered no adaptation period for the new standard. This standard had been notified in September 2006 and had entered into force in the same month. This was not in compliance with Japan's obligation to leave a reasonable interval of not less than 6 months, taking into account the technical nature of the new standards. China requested Japan to offer a twelve month adaptation period for manufacturers from developing country Members so that they had sufficient time to adjust their production to meet the new requirement.

Finally, due to the complexity of the technical requirements for energy saving, the manufacturers encountered significant difficulties in adjusting their production to meet the over-stringent energy saving criteria of Japan. China requested Japan to provide the manufacturers with the relevant new technologies so that they could adjust their production to maintain market share in Japan.

The representative of Japan noted that his country was party to the Kyoto Protocol which obliged Japan to reduce emissions of Green House Gases by 6 per cent of the amount in 1990 within the period from 2008 to 2012. The measure at issue was one of the most effective ones aimed at meeting the obligations under the Kyoto Protocol. He pointed out that, in recent years, air conditioners tended to be operated in mid-range power for a long time; that was why Japan had adopted the measurement method based on the Annual Performance Factor. Regarding the measuring method, the measuring method was written in two JIS standards: C 9612:2005 for air conditioners and C 9801:2006 for refrigerators and freezers. The Top Runner Programme required the achievement of target standards in terms of weighted average within a target fiscal year, specified for each designated product. In other words, products which failed to meet relevant target standards were also allowed to be shipped and imported into Japan if the manufacturers shipped more of these products which met the standard. Therefore, Japan did not consider that the measure was more trade restrictive than necessary. China had also requested Japan to provide a one-year period to prepare to comply with the programme. It was stressed that 2010 was the target year by which air conditioners and other equipment had to meet the Top Runner Standards with their weighted average values. Finally, it was noted that there was a one-year grace period allowed for this requirement.

China x EUA - Energy Conservation Program for Consumer Products: Test Procedure for Residential Central Air Conditioners and Heat Pumps; Proposed Rule

United States - Energy Conservation Program for Consumer Products: Test Procedure for Residential Central Air Conditioners and Heat Pumps; Proposed Rule (G/TBT/N/USA/202 and Corr.1)

The representative of China informed the Committee that his authorities had studied the above-mentioned Rule and provided the United States with detailed comments in October 2006. However, no reply had been received. While China appreciated that the measure's objective was to save energy, there were technical issues which required further clarifications. First, in respect of testing methods on default equations, while it was understandable that the United States had adopted the method of default equations instead of the method of forced accumulation with a view to reducing the manufacturers' burden, necessary technical data had not been provided. It was difficult for manufacturers to implement a rule without this information. Hence, China requested the United States to publish the relevant data. Regarding the basis for testing for repeatable targets, the proposed rule gave a definition which helped with the repeatability and uniformity in tests and favoured reducing test costs. However, the repeatable target level was determined based on data from only two enterprises which, in China's view, casted doubt on how representative the data was. China requested the United States to address this issue by using data from more enterprises. Also, the definition of a pre-production unit, which was of crucial importance to the manufacturers that produced and exported products to the United States, was not clear in the proposed rule. This could lead to unnecessary misunderstandings; the United States was requested to provide a clear definition on pre-production units. Finally, regarding the issue of the adoption of international harmonized calculating units, the United States had adopted new systems which differed from international ones. The United States was requested to adopt the international system of units to fulfil its obligation under the TBT Agreement.

The representative of the United States was not in a position to provide a detailed response on the technical issues raised at the current meeting. Relevant authorities were most likely still in the

process of reviewing the comments received. She assured the representative of China that a response would be provided. The comment period had been prolonged to 9 November 2006.

UE (EUA e Coréia do Sul) x Índia - Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2006

India – Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2006 (G/TBT/N/IND/20)

The representative of the European Communities noted that his delegation had submitted comments to the above-mentioned measure in October 2006 (a reply had not yet been received). This issue was related to another specific trade concern that the European Communities had raised at an earlier meeting of the Committee. The European Communities was concerned about the burdensome requirements which the measure implied on tyre manufacturers: it involved high costs and technical series production adjustments and modifications, compared to tyre production line used in other markets. The European Communities considered that the proposed measure appeared to be more trade restrictive than necessary, in violation of Article 2.2 of the TBT Agreement. Moreover, the conformity assessment procedures provided by the Indian legislation also seemed to be more trade restrictive than necessary. For instance, it was reported that the tests on which national homologation in India were granted could only be carried out by a single laboratory (the Central Institute for Road Transport). In addition, specific marking was required and audits could not be delegated to independent third parties, etc.. This had led the European delegation to consider that the Indian legislation concerning certification of tyres was not in line with Article 5.1.2 of the TBT Agreement. In addition, there also seemed to be a discriminatory element infringing on Article 5.1.1 of the TBT Agreement in that license fees could result to be lower for domestic products compared to imported products. The European Communities encouraged India to participate actively in the international forum for the elaboration of globally harmonized specifications applicable to tyres as well as to other parts of wheeled vehicles.

The representative of United States expressed her delegation's interest in learning more about India's safety objectives, in particular with respect to the extent to which there were existing problems and how the proposed regulation would help meet India's objectives. She also asked whether India had done a cost benefit analysis and whether the analysis included looking at effects on foreign versus domestic producers. It was noted that the US Rubber Manufacturers Association had provided comments in response to the Indian notification. Among other things, they were interested in finding a way for India to recognize tyres that were already certified, e.g. to the US Federal Motor Vehicle Safety Standards. There was some concern that limited test capacity in India could lead to backlogs and even prevent India from meeting its own safety objectives. It was stressed that if there was anything that the United States could do to facilitate India's understanding of the US regulations, the United States' authorities would be happy to be of assistance. She noted that it was the US understanding that India was participating in the UNECE WP29 discussions of Global Technical Regulation for Tyres and welcomed that participation as well as encouraged continued dialogue in that forum.

The representative of Korea shared the concerns with respect to the measure at issue and noted that his delegation had already sent comments to the relevant Indian authorities. In particular, Korea asked what requirements were needed for approval for samples that had to be tested in the laboratory approved by the Bureau of Indian Standards (BIS). Also, could a laboratory outside the territory of India be eligible for approval? Korea also asked whether imported "finished" cars

would also be covered by the legislation at issue? It was Korea's understanding that in the case of finished cars, no further testing or certification activities were needed.

The representative of India noted that his authorities were engaged in a process of internal coordination and that comments would soon be provided.

UE x Filipinas - Ceramic wall and floor tiles

Philippines - Ceramic wall and floor tiles (G/TBT/N/PHL/60 and 63)

The representative of the European Communities raised a concern regarding a national standard for ceramic wall and floor tiles. The first notification (PHL/60) had informed WTO Members about the national standard; the subsequent notification (PHL/63) concerned an administrative order which rendered the specifications in the standard mandatory. All manufacturers and importers of ceramic floor and wall tiles were required to secure a Philippine Standard (PS) License and/or an Import Commodity Clearance (ICC) prior to distribution and sale. The first notification referred to the year 2005 and the administrative order, which rendered the standard specification mandatory, was signed on 6 June 2006. However, in the notification the year 2007 was indicated as the proposed date of adoption as well as entry into force. The European Communities sought clarification regarding the status of both notified texts.

The European Communities also had serious substantive concerns regarding the mandatory specifications which, *inter alia*, related to the dimensions and tolerances of tiles, their physical and chemical characteristics, sampling, testing and the marking requirements. All manufacturers, importers, distributors and retailers were obliged to comply with these requirements of the Standard. The European Communities was of the view that at least certain requirements would have a negative impact on trade and would be more restrictive than necessary, thus not in line with Article 2.2 and Article 5.1.2 of the TBT Agreement. It was also not clear what the legitimate objective was, for example, with respect to the nominal dimensions of ceramic tiles specified in the Standard.

The European Communities also asked the Philippines to explain why an existing international standard, contained in ISO13006, which included specifications for ceramic tiles, as well as ISO standard ISO10545, which described the test procedures required to determine the product characteristics of the former ISO standard, had not been used as a basis for the Philippine national standard. This appeared to be contrary to Article 2.4 of the TBT Agreement. Furthermore, according to the information at the disposal of the European Communities, many specifications of the Philippine national standard significantly deviated from international standards. This was surprising because the Philippine Bureau of Correct Standards BPS was a Member of the ISO and had accepted the Code of Good Practice for the preparation, adoption and application of standards laid down in Annex 3 of the TBT Agreement.

Finally, the European Communities was concerned with regard to the actual impact on imports which the mandatory specifications in the standard would have in conjunction with the requirements of import commodity clearance procedure applicable in the Philippines. The European Communities had been informed that imported tiles required a third party certificate for import commodity clearance certifying compliance with both the requirements of the standard as well as other rules and laws. The European Communities believed that this procedure would be

costly and burdensome and could create a technical barrier to trade that was not justified by the legitimate objectives recognized in the TBT Agreement.

The representative of the Philippines informed the Committee that his delegation was not in a position to respond at the current meeting. However, note had been taken and a detailed clarification would be provided to the European Communities, as well as to the Members of the Committee, at a future meeting.

UE x Uruguai - Decree on the enrichment of wheat flour and foods prepared with wheat flour

Uruguay – Decree on the enrichment of wheat flour and foods prepared with wheat flour (G/TBT/N/URY/2)

The representative of the European Communities referred to the above-mentioned measure regarding a ministerial decree adopted in May 2006 requiring wheat flour and its derived products to be enriched with iron and folic acid. In its notification, Uruguay had indicated that the adopted measure sought to ensure the protection of human health, in particular the health of infants between six months and two years of age. While the European Communities agreed with the efforts undertaken by Uruguayan authorities to protect child health, it was concerned about the negative impact on trade that the measure was having. Since its entry into force in May 2006, exports of several European products had been blocked at customs. For example, while pasta was not one of the most consumed products amongst children of the above-mentioned age group, it was still subject to the provisions of the decree. The decree referred to a study carried out by the National Nutritional Committee of Paediatricians, which indicated that the product which was consumed the most by 2-year old children was milk; hence, it was this product in particular which needed to be enriched to address the deficiency of iron among this population age group. The European Communities welcomed the decision of the Uruguayan authorities to suspend the application of this decree during the Christmas period in order to allow the importation of traditional European pastry products. Nevertheless, the European Communities considered that this measure was insufficient to address its concerns, in particular those of the European exporters. Uruguay was requested to take into account the comments made and to ensure, according to Article 2.2 of the TBT Agreement, that the measure was not more trade restrictive than necessary.

The representative of Uruguay took note of the statement.

UE x México - Draft regulation establishing maximum emission levels for new diesel engines

Mexico – Draft regulation establishing maximum emission levels for new diesel engines (G/TBT/N/MEX/115)

The representative of the European Communities noted that, in respect of the above-notified measure, that his delegation had provided comments during the drafting process and had been involved in numerous discussions over the last two years. The European Communities was pleased to note that its comments had been taken into account and wished to convey its satisfaction with the text of the standard which had been recently adopted in October. The European Communities wished to put on record its appreciation for Mexico's openness in discussing this issue and its efforts to address the concerns expressed by the European Communities.

UE x China - Measures on the Environmental Management of New Chemical Substances

China - Measures on the Environmental Management of New Chemical Substances (G/TBT/N/CHN/210)

The representative of the European Communities was concerned with the above-notified measure regarding measures on the Environmental Management of New Chemical Substances. She informed China that comments had been sent in October 2006 to the Chinese enquiry point and the European Communities looked forward to receiving a response.

The representative of China said that his delegation took note of the statement by the European Communities.

Previously raised concerns

Israel (EUA, Japão e Jordânia) x Suécia - Restrictions on the use of Deca-bromo diphenylether (deca-BDE)

Sweden – Restrictions on the use of Deca-bromo diphenylether (deca-BDE) (G/TBT/N/SWE/59)

The representative of Israel was concerned about the adoption, in August 2007, in Sweden of a measure concerning a ban on the use of *Deca-bromo diphyenylether* (deca-BDE). It was his understanding that the measure was due to enter into force on 1 January 2007. Israel considered the prohibition an unnecessary obstacle to international trade which infringed on Article 2.2 of the TBT Agreement. While Sweden invoked human health and the protection of the environment as justifications for the proposed technical regulation, and these were in fact legitimate objectives under Article 2.2, in the case of deca-BDA, Sweden had not demonstrated that a risk existed. As under the TBT Agreement there could be no recourse to the precautionary principle, Sweden could not claim that deca-BDA posed a potential risk to the environment and human health. Sweden was required under Article 2.2 of the TBT Agreement to consider, among other things, the available scientific and technical information in order to take account of the risk that would be created if the prohibition of deca-BDA was not enacted and implemented. The comprehensive European Union risk assessment of deca-BDA revealed that no risks had been identified. In addition, Sweden had not generated new information or risk assessments that could justify the adoption of the technical regulation. Therefore, there was no scientific basis for imposing a ban on deca-BDA.

The representative of Israel stressed that, in accordance with the principles of the TBT Agreement, when examining the necessity of the ban a Member had to consider whether there was an alternative measure that would achieve the same purpose while being less trade restrictive than a prohibition. Notwithstanding that deca-BDA posed no risk to the environment or human health, alternative measures were available to Sweden. In this regard it was noteworthy that following its comprehensive risk assessment, the European Commission had concluded that there was no need for risk reduction measures to be imposed on deca-BDA or products containing the substance beyond those which were already in place. The measures taken by the European authorities included an emissions reduction program as well as bio- and environmental monitoring. Thus, Sweden could consider the adoption of less trade restrictive measures concerning the use of deca-BDA similar to those adopted in the EC.

In addition, the representative of Israel drew the Committee's attention to Sweden's notification based on Article 2.10 of the TBT Agreement concerning "the nature of urgent problems". Israel objected to the claim of urgency; the nature of the proposed technical regulation did not concern any urgent safety, health or environmental protection issue. In fact, Sweden had not demonstrated that any risk existed, and certainly none of an urgent nature. Sweden's decision to implement measures differing from those established in the European Union derogated from the principle of harmonization of technical regulations referred to in Articles 2.6 and 2.7 of the TBT Agreement. As a member State of the EU Sweden participated in risk assessments in accordance with European Union rules and had to afford mutual recognition to the conclusions reached by those assessments. Hence, Israel objected to the introduction of a ban.

The representative of the United States associated herself with the comments made by Israel and other Members at previous meetings. It was noted that the European Commission had conducted a risk assessment on deca-BDE which had not identified any risk posed by the substance. On the basis of this result the European Communities had decided to exempt deca-BDE from the scope of the RoHS Directive (regarding the restriction of the use of certain hazardous substances in electrical and electronic equipment). Sweden was urged to consider reviewing the proposed technical regulation taking into account the concerns raised by Members; the United States was among those who had submitted written comments in response to the notification. Hence, the United States was also concerned that Sweden had decided to go ahead and restrict the use of deca-BDE in textiles, furniture and cables in January 2007. The US Environmental Protection Agency remained prepared to discuss its findings and studies with the appropriate officials of the Government of Sweden.

The representative of Japan supported the comments made by Israel and the United States. She recalled that at the last meeting, Japan had asked the European Communities, based on Article 2.5, to explain the justification for Sweden's proposed prohibition of deca-BDE. At that point, the European Communities had stated that the issue was in the internal consultation process. However, Japan remained interested in a more detailed explanation from the European Communities regarding the measure.

The representative of Jordan associated himself with the views of previous speakers and recalled that Jordan had expressed its concern about Sweden's restriction on deca-BDE at previous meetings of the Committee. Jordan was now very concerned that Sweden was proceeding to impose the prohibition. Jordan looked forward to an update on the results of the EC internal consultations and hoped that Sweden would take into consideration the concerns of Members.

The representative of the European Communities was unable to provide a substantive response at the current meeting. She noted that the measure had been the subject of bilateral discussions with Swedish authorities and was being examined by the European Commission with a view to ensuring that the measure was compatible with both EC and WTO law. A more detailed response would be provided at the next meeting of the Committee.

Japão e UE x Coréia do Sul - Proposed Act for Resource Recycling of Electrical/Electronic Products and Automobiles

Korea - Proposed Act for Resource Recycling of Electrical/Electronic Products and Automobiles (G/TBT/N/KOR/105)

The representative of Japan noted that her delegation had not received an answer to the second comment that it had submitted through the national enquiry point in May 2006 on the above-mentioned proposed regulation. Japan requested Korea to provide detailed information in this regard.

The representative of the European Communities informed the Committee that it had received replies to its comments on this matter. Korea had confirmed that the list of hazardous substances in future implementing measures would be the same as that of the European End of Life Vehicles Directive and also the EC RoHS Directive. It was also the EC understanding that Korea would be notifying the TBT Committee of future implementing measures and Korea was encouraged to take possible future comments on these into account.

The representative of Korea informed the Committee that it had received 19 comments and questions on the notification and Korea had responded to all of these; he would check the status of Korea's answer to the Japanese second comment and follow-up bilaterally. It was stressed that the proposed regulation was based on the current EC legislation and the Japanese Auto Recycling Law, as well as on existing international standards. Internal consultation were still underway and Korea would make efforts to incorporate other Members' concerns to the extent possible.

Japão x China - Administration on the Control of Pollution Caused by Electronic Information Products

China – Administration on the Control of Pollution Caused by Electronic Information Products (G/TBT/N/CHN/140 and Add.1)

The representative of Japan noted that while his delegation appreciated China's efforts to remove unclear points by posting FAQs on the webpage of the Ministry of Information Industry (MII), Japan nevertheless had outstanding concerns about the enforcement of the legislation at issue. With less than a month left to enforcement, Japan wished to know when the sectoral and national standards would be notified to WTO Members. In addition, Japan requested China to provide sufficient time for industries to be able to fully comply with the law. Although Japan recognized that China had posted a document entitled "Note on Electronic Information Products Classification" on the MII's home page (in March 2006), in the classification the terms "others" or "other devices" were used; Japan requested China to explain what products these terms referred to.

The representative of China noted, with respect to sectoral and national standards, that these were still being enacted and were only sectoral in nature. The notification was under consideration. Regarding the note referred to by Japan, it was stressed that this was only reference material.

Japão x UE - Draft Commission Decision regarding the Classification of the Reaction to Fire Performance of Construction Products

European Communities - Draft Commission Decision regarding the Classification of the Reaction to Fire Performance of Construction Products (G/TBT/N/EEC/92 and Add.1)

The representative of Japan, supported by Korea, recalled that at the last meeting of the TBT Committee, his delegation had asked the EC delegation to explain how WTO Members' comments and discussions in the TBT Committee had been taken into account. While Japan appreciated the comprehensive reply to comments raised, Japan considered that there was insufficient information regarding the use of acidity as a standard for safety. In addition, and regardless of intention, the EC decision would discriminate against PVC coated cables in trade. Therefore, Japan requested further explanations from the European Communities.

The representative of the European Communities noted, with respect to the decision at issue that this was about an *optional* classification; it was a complex and exceedingly technical issue and more detailed information relevant to Japan's query was included in the European Communities comprehensive written reply to several Members' comments. It was noted that comments, replies and the adopted decision were publicly available on the EC TBT webpage. The common classification proposed in the European Commission decision included acidity as an optional performance oriented indicator of hazardous properties of gases developed in the event of fire which compromised the ability of persons exposed. Essentially, the purpose was to prevent the incapacitation of persons exposed to fire. European member States which would make use of this optional classification would probably use it only for certain very dangerous constructions such as tunnels, where a number of serious accidents had occurred in the recent past. Regarding the alleged discrimination of PVC coated cables, if the classification used had the effect that PVC coated cables could not be used any more for certain constructions, this could not be seen as discrimination but was rather a reflection of the risk involved – justified on health grounds, and recognized by the TBT Agreement.

Cingapura (Japão, Costa Rica, China, Coréia do Sul e Outros) x UE - Regulation on the Registration, Evaluation and Authorisation of Chemicals (REACH)

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

The representative of Singapore, speaking on behalf of ASEAN members raised a concern relating to the EC REACH Regulation. He recalled that ASEAN members, both as a group and individually had expressed concerns on various aspects of the REACH Regulation at previous meetings of this Committee. He reiterated that they supported the right of Members to take measures to protect health, safety and the environment. However, in keeping with the spirit and letter of the TBT and other WTO Agreements it was also incumbent upon Members not to adopt measures that created unnecessary barriers to trade. In this connection the industry in ASEAN countries remained concerned about the adverse impact that the REACH regulation's complex and broad regulatory structure could have on international chemical and downstream trade. While ASEAN appreciated the consultations that the European Communities had undertaken with industry and other interested parties, there continued to be many outstanding questions and concerns about the REACH. In addition, apart from the ASEAN context, the REACH proposal had been discussed in the broader APEC setting, to which ASEAN members belonged. At its meeting in Da Nang, Viet Nam, in

September 2006, the APEC Chemical Steering Group consisting of industry experts and government officials from the Asia-Pacific region discussed the latest developments of the REACH regulation. That meeting had identified a number of concerns that ASEAN's industry continued to have, primarily with respect to: the mandatory substitution of substances; requirements for monomers in imported polymers; compliance determinations; and the development of REACH guidelines and procedures (G/TBT/GEN/46). ASEAN requested the European Communities to provide clarification to its industries' concerns and questions.

The representative of Japan supported the statement by Singapore and drew the Committee's attention to the fact that REACH Regulation was undergoing the European Union Parliament's Second Reading, and was on the verge of adoption. Yet, Japan had remaining concerns. In particular, Article 6.3 of REACH required registration of monomers in polymers which did not harm the environment. The reacted monomers were not adverse to the environment and the monomers in polymers hardly existed. Therefore, the obligation to register the reacted monomers in polymers was not appropriate and might, according to Japan, not be in line with Article 2.2 of the TBT Agreement. A simple notification should be required if the agency needed to understand the material composition of polymers for reference. Industries in APEC had the same concern. It was also pointed out that at the previous Committee meeting, the European Communities had noted that once the common position was adopted, an amendment to the original notification would be submitted to the Committee explaining some provisions, for instance Article 6.3 of REACH. Japan requested answers to the specific questions contained in document referred to by the previous speaker (G/TBT/GEN/46).

The representative of Costa Rica supported the previous speakers and asked for more detail about the new agency that would be established under the REACH regulation. For instance, how would this agency operate as a depository for information regarding dangerous substances? Would it have representatives in the various entry points into the European territory or would there just be *one* agency with centralized information?

The representative of China supported the previous speakers and noted that, taking into account the complexity and wide scope of REACH, the Chinese industry was concerned that the new registration system would have a significant impact on the production and trade of the products concerned. It was recalled that China had expressed its concerns at different occasions to the European Communities; hence, China wished to know whether the European Communities was considering any plan or arrangements to accommodate the concerns of industry from developing country Members, for instance in terms of technical assistance or special and differential treatment. Since REACH was in the process of adoption, these concerns were becoming increasingly urgent.

The representative of Korea supported the comments made by previous speakers and asked for clarification on the meaning and scope of Article 7 of REACH regarding "substances intended to be released under normal and reasonably foreseeable conditions of use".

The representative of Canada supported the health and environmental objectives of REACH and expressed appreciation for the opportunities for consultation provided by the European Communities during the development of REACH. Moreover, Canada supported several of the recently proposed amendments. One of these amendments provided an exemption for ores and concentrates from authorization. This would compliment previous exemptions for ores and concentrates as well as those for cellulose pulp from registration. Canada believed that these exemptions would significantly reduce the administrative burden without jeopardizing environmental or human health in any way. Nevertheless, based on Canada's analysis of the proposed REACH regulation, Canada remained concerned that there were several provisions which

would hamper the effective operation of REACH if not addressed. These included issues such as monomers and polymers, authorization and substitution, and substances in articles. Canada also had additional concerns regarding the proposed regulation of intermediates and the proposed approach to the listing of substances of very high concern.

The representative of the United States joined previous delegations in expressing concern about REACH. Like others delegations, the United States shared the objectives of protecting human health and the environment, but remained concerned that the revised proposal was overly expansive and could be made more effective. The United States was concerned that the economic implications of the proposed approach to industry, governments and consumers would not be adequately assessed. There continued to be a number of outstanding questions and the United States had identified a number of priority areas for attention: the REACH Implementation Projects (RIPs), harmonization, coverage of articles, registration of monomers and polymers in the authorization process. It was noted that the paper circulated by Singapore on behalf of the ASEAN (G/TBT/GEN/46) raised a number of questions that also the United States was raising in the TBT Committee. Among other things it was noted that REACH guidelines and procedures were being developed through a process which was not fully open to direct participation by non-EU firms; questions were also raised about how non-EU firms would be assured that their unique viewpoints would be taken into account in the development of this guidance.

The representative of Chile supported previous speakers and noted that her delegation had closely followed the development of the REACH regulation and had used all opportunities to provide comments; she expressed appreciation for the transparency of the process. Now that the regulation was about to be adopted in the European Parliament, it was of importance to Chile that certain exclusions from the scope of the regulation were approved regarding ores and metals. Other concerns related to the fact that the regulation extended its requirements beyond the borders of the European Communities through the wide concept of "duty of care" and the establishment of a quality mark for articles. Chile was also concerned that the obligatory substitution system could, in certain cases, entail that certain substances were substituted with less dangerous substances although the substances being substituted had actually been rigorously controlled. Chile emphasized the need for European authorities to make available technical assistance to facilitate the understanding of this regulation for partners in developing countries.

The representative of Cuba and Chinese Taipei associated themselves with the concerns expressed by previous speakers.

The representative of the European Communities noted that he was not in a position at the current meeting to reply to the specific questions raised. Nevertheless, he would take note and report back to experts. In respect of the current state of play, the Council's Common Position had been adopted in late June 2006 and this had been communicated to WTO Members by means of a second addendum to the original notification; the main changes compared to the original proposal were outlined in an appendix to this addendum (G/TBT/N/EEC/52/Add.2). The second reading had taken place on the basis of the Council's Common Position and since these proposals had not yet been adopted it was difficult to go into detail in respect of some of the questions raised as the issues were still under discussion. Moreover, the final text was needed before guidance material could be finalized. Members were assured that the text would be made available to all stakeholders, interested parties, domestic or foreign in the same way. Guidance, capacity building and technical assistance would be provided, in particular to manufacturers in developing countries. It was noted that REACH could still be adopted in 2006 (subsequently, REACH was adopted in December 2006 and will enter into force on 1 June 2007).

Japão (UE e EUA) x China - Revision of list of toxic chemicals severely restricted in the People's Republic of China in the regulation for environmental management on the first import of chemicals and the import and export of toxic chemicals

China - Revision of list of toxic chemicals severely restricted in the People's Republic of China in the regulation for environmental management on the first import of chemicals and the import and export of toxic chemicals

The representative of Japan recalled that his delegation had previously addressed the above-mentioned Chinese measure regarding toxic chemicals. His delegation considered that the measure could be inconsistent with the TBT Agreement and requested a rational explanation for it. It was pointed out that the system was restrictive in nature because foreign exporters to China would be required to obtain a Registration Certificate from SEPA (costing USD$10,000) and a Clearance Notification for import. This could be inconsistent with the TBT Agreement, especially Articles 2.1. and 2.2. Moreover, the State Environmental Protection Administration (SEPA) had announced the revised list on 28 December 2005 and enforced it only four days later. This could also be inconsistent with Article 2.9. Japan asked China to clarify the schedule for the implementation of the new regulation: although SEPA had released, in 2002, a draft of "Import and Export Registration Regulation of Dangerous Chemicals" this regulation had not been implemented. According to the draft, the current regulation for environmental management on initial imports would be abolished once the draft was adopted. Japan strongly welcomed the immediate implementation of this new draft and asked the Chinese delegate to clarify the schedule for this process. In addition, Japan was aware that SEPA had added 158 chemicals selected from the chemicals listed on the "Regulation of Dangerous Chemicals" to the "Highly Restricted Imported and Exported Toxic Chemicals" list. Japan asked China whether it had a plan to add any other chemicals to this latter list.

The representative of the European Communities shared the concerns expressed by Japan and informed the Committee that it had recently sent comments to China on this issue. It was pointed out that while China had notified the list of several EU restrictive toxic chemicals (SEPA Announcement 65/2005) it had not notified the list of toxic chemicals which were banned in China (announcement 116/2005). The European Communities asked for more information concerning the rationale behind the list of chemicals covered and further clarification regarding the way the relevant risks had been assessed. Finally, the European Communities sought clarification regarding the legislative and operational requirements, especially with respect to the rules on mixtures and articles.

The representative of the United States recalled that at both previous meetings in the year (March and June 2006) her delegation had expressed concern about the new requirements that China had imposed as of 1 January 2006, five days after the measure had been announced. China had been asked to notify the regulations to the TBT Committee and provide an opportunity for comment, as well as a reasonable period of time to comply. However, despite the repeated requests both bilaterally and in the Committee, China had notified the measure on 12 June 2006, with no opportunity for comment and no transition period. The United States referred to the detailed questions posed in the context of China's Fifth Annual Transitional Review.

The representative of China stressed that the objective of the regulation at issue was to protect the environment and human health from pollution, or poisoning by toxic chemicals. Moreover, it was stressed that the measure was not import-restrictive in nature and both domestic and foreign exporters were required to follow the rules.

UE e EUA x Índia - Regulation on Medical Devices

India – Regulation on Medical Devices (in part relevant to G/TBT/N/IND/19)

The representative of the European Communities asked India to explain the rationale for classifying certain medical devices as drugs; why was it necessary to submit these types of medical devices to the rules applicable to drugs instead of submitting them to a regulatory regime for medical devices? This appeared to run contrary to global practice. Furthermore, the European Communities regretted that despite her delegation's request at the last two TBT Committee meetings – which other delegations had joined in on – India had still not notified the so called guidelines for import and manufacture of medical devices which had been issued in October 2005 by India's Ministry of Health and Family Welfare. These *guidelines* appeared to set mandatory requirements and were thus to be considered as technical regulations as well as conformity assessment procedures under the TBT Agreement. Moreover, a number of concerns had been raised at the last meeting of the TBT Committee regarding the implementation of the guidelines. Hence, the European Communities asked India to update the Committee in respect of the current regulatory situation applicable to medical devices and also to give its commitment that the rules applied would be in conformity with the TBT Agreement, notably Articles 2.1, 2.2, 5.1 and 5.2. In addition, where relevant international standards or guides existed, India was invited to use these as a basis, in line with Articles 2.4 and 5.6 of the TBT Agreement.

The representative of the United States welcomed the above-mentioned notification (G/TBT/N/IND/19) and noted that, in March 2006, India had stated that it would take into account the work of the Global Harmonization Task Force in regulating medical devices. Moreover, she informed the Committee that, at India's request, the United States had provided information on the work of the Task Force as well as information on US regulations, and relevant international standards.

The representative of India noted that it was his understanding that the only pending issue was the non-notification of the medical devices by the Drug Control General of India. He took note of the statements made and confirmed that replies would be provided to the concerned Members before the next meeting.

Japão (EUA e Malásia) x UE - Directive 2005/32 of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products ("EuP") and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council

European Communities – Directive 2005/32 of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products ("EuP") and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council

The representative of Japan noted that because the above-notified measure was called a "framework directive", product categories and the detailed regulations were to be described in the *implementing measures* based on EuP Directive Article 15. The implementing measures stipulated concrete numerical criteria which could be more trade restrictive than necessary. Japan requested that the European Communities provide updated information regarding the present status of the implementing measures.

The representative of the United States supported Japan's request for more information. It was noted that the United States had been provided with information to the effect that the implementing measures were under development but that these were not likely to be notified until 2007. Hence, the United States asked if there was a way to provide input into the development process at the current stage and to have some consideration give to other standards and criteria. Also, the United States asked whether at some point there would be published criteria for evaluating the equivalence of other standards especially where the other standards could achieve or improve the level of performance.

The representative of the European Communities reaffirmed that the framework directive did not set any product requirements; these were usually included in the implementing measures to be adopted under Article 15 as well as Article 16 of the Directive. Currently fourteen studies were being carried out regarding the eco-design requirements for specific products and product groups. Hence, the European Communities was not in a position to notify the Committee of any implementing measures as no draft for an implementing measure existed. Nevertheless, interested stakeholders – including from outside Europe – would be able to provide input to the contractors which were carrying out the studies. In this regard, the attention of the Committee was drawn to two websites where update information on the ongoing studies was available.

The representative of Malaysia noted that his delegation shared the concerns raised by the United States and Japan on this issue. He stressed that the issue of how non-EU Members could provide input into the ongoing processes was important.

Canadá e Noruega x Bélgica e Holanda - Seal products

Belgium and The Netherlands – Seal products (G/TBT/N/BEL/39 and G/TBT/N/NLD/68)

The representative of Canada recalled that at the last meeting of the TBT Committee his delegation had emphasized the view that the proposed Belgian and Dutch measures to ban the importation of seal products were inconsistent with the Belgian, Dutch and EC obligations under the WTO Agreements. The seal hunt was of significant economic importance to remote coastal communities and aboriginal peoples in Eastern and Northern Canada; it was part of their traditional way of life. Canada had gone to great efforts to provide factual information on the seal issue including information on the fact that the Canadian seal population was neither endangered nor was the trade in those seal products regulated under the Convention on International Trade in Endangered Species (CITES). Canada had also explained that the harvesting methods used in the seal hunt compared favourably to those employed to hunt other wild animals as well as those used to slaughter domestic livestock.

Canada had hoped that by providing the above-mentioned factual information the concerned countries, as well as other members of the European Union, would realize that their efforts, while perhaps well intentioned, were both unnecessary and inconsistent with the trade obligations under the WTO agreements. However, the German Bundestag had recently adopted a declaration that called for a domestic ban on the import and use of seal products until such time as a new EU-wide ban was in place. Canada was also concerned with the declaration by the European Parliament calling on the European Commission to legislate a ban on the trade in seal products throughout the European Union. As Canada had done with the proposed ban by Belgium and the Netherlands, Canadian authorities would review any similar legislation tabled by other EU member States for WTO consistency. Canada appreciated that the European Commission had publicly stated in May

and June 2006 that there was no need for further EU level conservation measures on seal products beyond Council Directive 83/129/EEC. Canada hoped that the European Communities would restate this position when it responded to the European Parliament and member States and encouraged the European Commission to take stronger steps to discourage member States from proceeding with bans on seal products.

The representative of Norway shared the view expressed by Canada that the notified measures by Belgium and the Netherlands to ban the importation of seal products were inconsistent with obligations under the WTO TBT Agreement. Norway was also concerned with declarations in other European countries and the European Parliament calling on legislation to ban trade in seal products. Norway intended to review the possible actions and plans for trade remedies in light of WTO consistency. Article 2.2 of the TBT Agreement made specific reference to available scientific and technical basis for the risk assessment performed by a Member. However, from the notifications at issue, it was not possible to tell how the Belgian and Dutch proposals had ensured that the barrier to trade was no more trade restrictive than necessary as required under Article 2.2 of the TBT Agreement. Furthermore, Norway noted that invoking the protection of public morality and reasons of public opinion and animal suffering as arguments for prohibiting imports of Hooded Seal and Harp Seals was difficult to reconcile with the requirements of the TBT Agreement. Also Norway had provided factual information regarding this issue to Belgian and Dutch authorities, as well as to the European Communities. It has been pointed out that the Norwegian seal hunt was strictly controlled and had proven to be sustainable and humane; it had been demonstrated that the harvesting methods used compared to those used on domestic livestock. Seal quotas were set on the basis of scientific advice and the state of the seal stocks were well within the boundaries of sustainable management.

The representative of Norway was of the opinion that GATT Article XX could not be applied to justify trade restrictions on seal. The fact that seals were not listed under the CITES, which regulated trade in endangered species, was highly relevant. To ban imports of seal products would set a dangerous precedent for trade in animal products that were harvested in a sustainable and humane manner. Hence, Norway was concerned by the declaration of the European Parliament which called on the European Commission to implement a ban on trade in seal products throughout the European Union as well as the European Parliament's move to put in place similar legislation in a number of member States individually. Also the representative of Norway drew the Committee's attention to the fact that the European Communities had publicly stated that there was no need for further measures on seal products than those included in Council Directive 83/129/EEC.

The representative of the European Communities informed the Committee that several meetings with the countries concerned (Belgium, the Netherlands, Canada and Norway) over the past months had enabled the parties to reach a better understanding of each other's concerns. The European Communities was still discussing the matter internally, including with Belgium and the Netherlands. Hence, it was not possible to provide more detail at the current juncture. Both Canada and Norway had referred to the recent European Parliament Declaration of September 2006 which requested the Commission to take measures to ban the import of seal products into the European Union. The Committee was informed that the European Commission was currently finalizing its response and it would be made public with a few weeks time. The European Commission assured both Canada and Norway that it was giving careful consideration to the concerns voiced and would ensure that the Belgian and Dutch draft measures were compatible both with Community and WTO law.

Israel - Connection Boxes for Electrical Installations

Israel – Connection Boxes for Electrical Installations

The representative of Israel recalled that at the last meeting of the TBT Committee the European Communities had expressed concerns regarding certain requirements in Israel's Standard SI 145 with respect to connection boxes for electrical installations. It was noted that the relevant IEC international standard covering boxes for electrical installations did not set out requirements on the box shape or dimensions. In fact, he noted that each country could treat these parameters according to its own specific circumstances. Moreover, within the European Union various box shapes and dimensions were accepted among member States. The issue of Israel Standard SI 145 was brought before Israel's High Court of Justice by an importer of connection boxes manufactured in an EC member State. After having studied experts' opinions and the decisions of the Technical Committee responsible for the SI 145, the Tribunal ruled, two years ago, that the requirement of a mechanical partition contributed to safety. In light of the views expressed by the importer of the European connection boxes, the matter was again subject to discussion in the relevant Standards Committee responsible for SI 145. In its deliberations of 21 June 2006, the Public Standards Committee decided to revise the standard, with respect to the partitions.

As discussed with the European Communities in a bilateral meeting which had recently taken place, Israel would provide a copy of the second draft of the revised 145 Standard on socket boxes once the Technical Committee had given its approval and shortly before a public review. Israel confirmed to the European Communities that the second draft of SI 145 would allow one-circuit boxes to be marketed without partitions. Public review of the revised standards was expected to be completed by March 2007; it would then be published in the official journal and notified to the WTO Committee on Technical Barriers to Trade.

With respect to the glow wire test value, which had also been a point of concern, relevant authorities in Israel had examined the standard and were of the opinion that it was for the most part identical to the international IEC standard. Notwithstanding this, the authorities had expressed their willingness to re-examine the EC interpretation of the standard requirements, and, if necessary, would call the attention of the Technical Committee to eventual discrepancies to be resolved in the revision of the standard in question. In any event the representative of Israel stressed that there was no justification to refer to any discrimination with respect to this issue, since the conformity requirements for this standard were identical for imports and local manufacturers.

The representative of the European Communities noted that bilateral meetings had been very productive and that the outcome, as laid out by the Israeli delegation, looked positive. The European Communities was looking forward to receiving the second draft.

Japão (EUA e México) x Arábia Saudita - International Conformity Certification Programme (ICCP)

Saudi Arabia – International Conformity Certification Programme (ICCP)

The representative of Japan noted that as of 28 August 2004, Saudi Arabia had cancelled the monopoly of its International Conformity Certificate Program (ICCP), in order to comply with WTO rules. This cancellation was in line with the Minster's Decision No. 213 of 3/8/1424H. It was Japan's understanding of Ministerial Resolution No. 6386 that an entity authorized by a competent

official agency in the country of origin could issue the conformity certificate until such time that a new conformity certificate program will be established in the near future. Japan asked the representative of Saudi Arabia about the content of the new program (as opposed to the current transitional one), and when it would be enforced. Would it, for instance, include the definition of accreditation body for conformity assessment bodies in the country of origin, as well as requirements for the conformity assessment bodies under the new program?

The representative of the United States recalled that it had made a statement on this point at the March 2006 TBT Committee meeting. Her delegation was frustrated by Saudi Arabia's failure to abide by its accession commitments. As had been previously noted, Saudi Arabia had agreed to publish detailed guidance on how to comply with the new certificate of conformity requirements in English on the Ministry of Commerce website. The Ministry had oversight authority for this program. When the United States had met with Saudi Arabia in March 2007, and as had been reported to the TBT Committee, it had been the US understanding that the information on the website was imminent; however that had not been the case. In early November, the Ministry of Commerce had made its website available in English and it had recently put on an official announcement concerning the ICCP. However, the information contained in that announcement was insufficient for companies to understand how to comply with the requirements and was not as detailed as the information that Saudi Arabia had agreed to in its accession process. More specifically, paragraph 197 of its accession document (WT/ACC/SAU/61), noted that new mechanism allowed entity submitting the Conformity Certificate (i.e., a conformity assessment body, an accredited body, an independent third party or a manufacturer) to declare compliance with the appropriate technical regulation or standard. Such and entity was responsible for the information contained in the Certificate and, moreover, the mechanism recognized technical regulations or standards that were in conformity with an approved SASO technical regulation. In addition, the document stated that in the absence of a relevant, approved SASO technical regulation, information should be provided to identify whether the product met a technical regulation of another government authority, SASO standard or relevant international standard, or other standard. The representative of the United States believed that Saudi Arabia needed to make the information on its website clearer so that suppliers and its own authorities could understand the new system. There no longer appeared to be a link to the document which showed what the conformity certificate looked like and the United States recommended that Saudi Arabia link its announcement with this information as well.

The representative of Mexico endorsed the concerns expressed by Japan and the United States. While his authorities had obtained information from the Saudi Arabia government on this particular issue, they still had doubts about how to comply with the conformity assessment program. One particular point that Mexico was considering was that it appeared that Saudi Arabia recognized those certificates that were issued by authorities in the country of origin. In the case of Mexico, these were usually issued by accredited certification bodies, which could be non-governmental bodies. Mexico was concerned that this particular set of circumstances represented a barrier for its companies, hindering their exports to Saudi Arabia.

Nova Zelândia (Noruega e EU) x Coréia do Sul - Import of Fish Heads

Korea – Import of Fish Heads

The representative of New Zealand recalled that the essence of her delegation's concern was that edible hake heads which were caught in New Zealand waters and processed by New Zealand boats were prohibited from entering the Republic of Korea while, at the same time, those same hake heads also caught in New Zealand waters but processed by Korean boats were allowed entry into the Korean market. The issue had been raised in the TBT Committee over a period of five years. Hence, New Zealand was pleased to inform the Committee that Korea had recently indicated willingness to establish workable import conditions for New Zealand hake heads. New Zealand welcomed this initiative and looked forward to cooperating with Korea with a view to solving the issue as soon as possible. Nevertheless, as New Zealand remained of the view that it should be possible to allow imports to commence immediately, the issue was once again drawn to the attention of the Committee.

The representative of Norway shared the concerns expressed by New Zealand; his authorities had also raised the issue at previous meetings, as well as bilaterally. While Norway would continue to pursue discussion on a bilateral basis, it also hoped that Korea and concerned Members could come together to discuss all aspects of the issue in order to find a mutually satisfactory solution as soon as possible for all involved.

The representative of the European Communities informed the Committee that, with regard to trade in edible cod heads, good progress had been made under the ongoing bilateral discussions, and, as a result, a Memorandum of Understanding was almost finalized. The European Communities hoped that both parties would be able to sign the agreement in the coming weeks.

The representative of Korea thanked Members for their understanding of the difficulties Korea was facing in terms of national sensitivities and the protection of human health. Relevant authorities had made great efforts to address this issue in manner consistent with the TBT Agreement. As both the European Communities and New Zealand had mentioned, the parties were now engaged in the final stages of reaching a satisfactory agreement.

Japão x China - Wireless Local Area Network Products with WAPI functions

China - Wireless Local Area Network Products with WAPI functions (G/TBT/N/CHN/189)

The representative of Japan noted that her delegation remained concerned with the technical regulation for wireless LAN (WAPI) in terms of consistency with the TBT Agreement. This was because WAPI was not currently recognized as an international standard. Therefore, Japan was of the view that China's WAPI might be inconsistent with Article 2.4 of the TBT Agreement. Moreover it had been reported that China's relevant authority would disclose to domestic manufacturers the technical content of WAPI six months *before* foreign manufacturers could obtain the same information. If this information was accurate, Japan believed this was inconsistent with the principle of national treatment. Japan asked China to explain its view on these points. Japan also asked China to provide information on the technical content of WAPI and the relevant website.

The representative of China pointed out that it was the ISO/IEC Standard 8802.11 that had marked security concerns. Since WAPI addressed all the security problems – a fact that was deemed

important by the Chinese government, particularly in respect of China's own national security – WAPI could not be seen as inconsistent with Article 2.4 of the TBT Agreement. Moreover, China was not aware that information would be disclosed to the domestic manufacturers six months before foreigners.

Japão x Noruega - Restrictions on the Use of Deca-bromo diphenylether (deca-BDE)

Norway - Restrictions on the Use of Deca-bromo diphenylether (deca-BDE) (G/TBT/N/NOR/6)

The representative of Japan recalled that the issue of Norway's deca-BDE. At the last meeting of the TBT Committee, Japan had requested Norway, based on Article 2.5 of the TBT Agreement, to explain the justification for its proposed prohibition of deca-BDE. Norway's explanation had been that this draft regulation was based on scientific evidence and public hearings. Norway was requested to show the risks based on scientific data. Japan also asked about the nature and content of the discussion that had been held during the public hearings.

The representative of Norway noted that the Norwegian Ministry of Environment was still assessing the proposal and had not yet finalized the decision regarding the regulation of deca-BDE. The ban had not yet entered into force.

UE x China - Domestic Gas Cooking Appliances

China – Domestic Gas Cooking Appliances

The representative of the European Communities raised a concern regarding a Chinese standard applicable to domestic gas cooking appliances. He recalled that at the March 2006 meeting of the TBT Committee the Chinese delegation had confirmed that once the drafting phase would be accomplished the final draft would be made available to the Members. The Chinese delegation was requested to respond to the concerns raised at the March meeting and update the Committee in respect of the measure at issue. He stressed the usefulness of technical bilateral contacts at the drafting stage, even before notification – by inviting interested parties to express their views.

The representative of China reported that the standard at issue was still in the drafting process and that the final draft would be notified. Regarding the technical issue, China noted that the Chinese way of cooking was different: for example, quick-heat requirements were quite different from western style cooking.

Follow-up on TBT Specific Trade Concerns

OBS

The representative of Mexico noted that his country had made several interventions in the TBT Committee in respect of STCs and although these were not reverted to at each meeting of the TBT Committee, interest and concerns remained – an example of this was the case of the EC regulation on wine labelling which had been raised in the Committee on several occasions. The representative of Mexico referred to G/SPS/GEN/204/Rev.6 which contained a document that had been produced

by the SPS Secretariat (and that was regularly revised) on specific trade concerns and requested the Secretariat to prepare a similar background note for the TBT Committee. This document was a useful track record of all specific trade concerns raised in the Committee.

The representative of the United States supported Mexico's request and noted that the document could be particularly useful for Members that were new to the Committee as it provided and easy reference to information on issues previously discussed; gave an indication of how long these had been discussed and what the nature of the discussions were.

The representative of the European Union referred to the table on pages 19-22 of document G/TBT/18 (Annual Review of 2005) which was updated on an annual basis and pointed out that if this information was regularly updated ahead of each Committee meeting this could be a way of meeting the suggestion made by Mexico.

The Chairman said that the Committee would revert to this matter.