

ANNEX 1

SUMMARY REPORT OF THE FIFTH SPECIAL MEETING ON PROCEDURES FOR INFORMATION EXCHANGE

7-8 November 2007

Chairperson: Mr. R.S. SIDHU (India)

1. Pursuant to its decision to hold, on a biennial basis, "regular meetings of persons responsible for information exchange, including persons responsible for enquiry points and notifications", the TBT Committee held its Fifth Special Meeting on Procedures for Information Exchange on 7-8 November 2007.¹ The objective of the Special Meeting was to provide Members an opportunity to discuss, at a technical level, issues relating to information exchange and to review the functioning of notification procedures and the operation of enquiry points.²

2. The Special Meeting was organized in four panel sessions addressing the following topics: (i) publication practices; (ii) notification practices; (iii) the use of electronic tools; and (iv) technical cooperation and the work of enquiry points. The following is a summary of the experiences presented.³

B. SESSION 1 - PUBLICATION PRACTICES

1. An instrument of good regulatory practices for publication of proposed regulations in Chile⁴

3. The representative of Chile explained that the Chilean TBT National Commission, grouping all different agencies having responsibility for technical barriers to trade, was established in 1997 under the Ministry of Economy to address the lack of a framework to assess regulatory conformity in Chile. Through the participation of various ministerial agencies who made up the Commission, a Decree covering good regulatory practices (Number 77) was enacted to address, *inter alia*, Chile's TBT notification obligations in an effort to standardise and to ensure good regulatory practices in the country. A website was being constructed containing technical regulations and guidelines to be followed when drafting regulations in Chile – this would be operational from 2008.⁵

4. It was highlighted that the objective of Decree 77 was to ensure that regulatory bodies complied with obligations under the TBT Agreement and other bilateral agreements. The Decree contained criteria for the preparation, adoption and application of regulations to guarantee that such regulations did not constitute an unnecessary barrier to trade and facilitated trade and transparency. Article 6 of the Decree ensured transparency by making it obligatory for draft regulatory texts to be

¹ The programme for the Special Meeting is contained in G/TBT/GEN/59/Rev.1.

² The participation of ninety-four representatives from developing country Members was supported through the WTO DDA Global Trust Fund.

³ All slideshows, including audio clips, presented during the Special Meeting are available at http://www.wto.org/english/tratop_e/tbt_e/meeting_nov07_e/tbt_fifth_meeting7_8nov_07_e.htm

⁴ Presentation made by Ms. Carolina Ramirez, Ministry of Economy, Chile.

⁵ www.reglamentostecnicos.cl

published either on a website or in another national media and be available for a sixty-day comment period.

5. The representative of Chile explained that during the adoption and application of regulations, national and international comments would be taken into account. Technical regulations were expected to meet the minimum requirements of identifying the product, stating specifications and features, method for assessing conformity, degree of concordance with international standards as well as identifying the party responsible for the technical regulation and other necessary requirements. In addition, the justification for the technical regulation would need to be available in response to any requests for information. Such information could include a description of the analyzed options, processing of the observations on the perceived impact on the national market, on small and medium enterprises and the responses that were received.

6. Decree 77 did not establish that laws be notified through the Commission; rather it applied to the technical regulations generated as a result of such laws. Regulations that were considered to be in line with international standards were not notified, as the purpose of the system was to deal with regulations which were not based on international standards and which could have a trade impact on Members. In the majority of cases the notified regulations were categorized within the tariff rate classification of the Harmonised System.

7. An example of technical regulations with regard to electrical products was provided. Using the Commission's website, the representative of Chile showed all the regulations referring to electrical products as well as related disaggregated information such as a description of the applicable regulation, date of its entry into force, date of application, applicable regulatory body, and technical aspects of the regulation. The website was kept up to date through bilateral agreements with the institutions generating the technical regulations and a national library. This ensured that when a technical regulation was published it was also placed on the Commission's website.

8. It was noted that all draft technical regulations notified to the WTO could be accessed through this website, thus providing an opportunity for public consultation and ensuring transparency. A set of guidelines on good practices for dealing with comments received on notifications was also being developed and was expected to be operational in 2008. The guidelines included the requirement for each proposed regulation to show a table of comments received, particularly from WTO Members, and reactions to the comments, all of which would also be available to the public. Decree 77 also aimed at standardizing the manner in which technical regulations and the comments received on them were processed.

9. In response to questions from participants, the representative of Chile clarified that Decree 77 applied to all bodies and institutions elaborating technical regulations and conformity assessment procedures within the scope of the TBT Agreement. Furthermore, while Chile currently did not notify technical regulations that were based on international standards, the matter was under discussion.

2. Publication of proposed regulations in the United States⁶

10. The representative of the United States said that transparency applied to all regulatory processes in the United States, from the development of a proposed technical regulation to its

⁶ Presentation made by Ms. Anne Meininger, U.S. Enquiry Point, National Institute for Standards and Technology (NIST).

adoption, including subsequent amendments and possible repeal. In the publication process, transparency meant an unrestricted opportunity for wide public participation.

11. In the regulatory process, there was full cooperation among all levels of agencies and departments in the United States: at Federal level, state level, municipality/city level as well as with industry and citizens, even at an early stage. Departments and ministries were subject to careful review by the judicial, legislative and executive branches of government to hold them accountable for procedural fairness, reasonable decision-making and for working within any applicable limitations. The transparency of the process for the publication of regulations ensured a better standard of regulations and cost-effectiveness and also limited their intrusiveness while keeping the public informed, ensuring a climate of fairness. This resulted in a higher public acceptance of adopted regulations.

12. The representative of the United States explained that after laws were enacted by the Congress in the United States, the Federal regulatory bodies were responsible for creating the technical regulations that enforced the laws. The most important law that formed the foundation of the regulatory process were the Executive Order No. 12866 (1993)⁷ which described the Federal process and set out twelve mandatory procedural steps that had to be followed to draft a regulation. Another US law that promoted regulatory transparency before and during publication of the draft stage was the National Technology Transfer and Advancement Act⁸ which originated in 1995 and codified many of the policies in the Executive Order. The law established reporting requirements for Federal agencies and authorised the National Institute of Standards and Technology to coordinate all conformity assessment activities in the federal government. It further instructed Federal departments to use non-governmental, voluntary standards wherever possible, both domestically and internationally, and to encourage the use of already-existing standards rather than the government developing its own regulations. Under this Act, departments were cautioned not to use measures that created unnecessary obstacles to trade.

13. Additionally, the Administrative Procedure Act⁹ defined the system under which a department created and published draft regulations. This law enforced the use of open and transparent methods for Federal authorities to establish new regulations. Members of the public and foreign trading partners enjoyed a right to participate with the department in the drafting process and departments had to meet the same basic minimum obligations for all regulations stated in the Executive Order's steps. At its most basic level, the US process for developing regulations involved only three steps known as the "informal notice and comments procedure", which was the basis of the publication process in the United States' Federal Register.

⁷ http://www.access.gpo.gov/uscode/title5/parti_chapter5_.html

⁸ <http://www.access.gpo.gov/nara/publaw/104publ.html>

⁹ <http://www.archives.gov/federal-register/laws/administrative-procedure/>

Figure 1



14. The representative of the United States explained that the Federal Register publication was the government's main tool for communicating draft regulations to the public.¹⁰ Draft regulations published in the Federal Register were referred to as a notice of proposed rulemaking "NPRM" and signalled to all interested parties that a new draft regulation was at hand. In case of complex issues or issues of urgent public concern, an advance notice of proposed rulemaking could be issued and there could also be several advance notices before a draft was finally released. Every notice of proposed rulemaking needed to identify the problem being addressed and its significance and it had to assess any existing regulations and identify any alternative solutions to the problem, including the decision not to regulate. A cost and benefit analysis was required for every draft published in the Federal Register and a risk assessment was required to analyze alternative solutions. Each published draft regulation had clearly to state the technical details and performance objectives and contain impact statements on the economy, private markets, public health and safety and the environment. Consideration was also given to harmonization and to consistency and compatibility with state or local regulatory functions. Draft regulations also had to provide information on when, where and how comments could be submitted by domestic and international parties and include contact details in order to obtain more information.

15. The representative highlighted that after publication of a draft regulation in the Federal Register, there was opportunity for interested parties to comment. This opportunity was unrestricted and afforded the chance for foreign trading partners to submit data, views or arguments in response to a proposed regulation directly to the agencies concerned. The comment period was usually open for between thirty to ninety days, the average period being sixty days. Comments received on a draft regulation could have the effect of modifying the regulation. In such case, a supplemental notice of proposed rulemaking was published.

16. When a final regulation was published, the relevant department was required to include a statement of the regulation's basis and purpose and information on any changes that the department

¹⁰ <http://www.archives.gov/federal-register/>

had made to the draft regulation in response to comments received. The length of the publication process could vary from a few months to several years depending on the novelty, degree of controversy and nature of the regulatory action and also its complexity. On average, a draft regulation would take from six months to one year between the notice of its first draft in the Federal Register and its enactment as a final rule. Generally, rules could not be enforced if they had not been published in the Federal Register and would not become effective until thirty days following their publication.

17. In concluding, the representative of the United States remarked that the US Federal regulatory department authorities, with the input of interested parties including foreign trading partners, developed the proposed technical regulations and published them. Technical regulations were issued as final regulations only after much collaboration and discussion and careful review of the technical details. The goal of the process was to enact the most consistent, compatible and easy-to-understand regulations and to ensure no unnecessary barriers to trade were created.

18. In response to questions raised during the discussion, the US delegation noted that the impact assessment of draft regulations included a cost/benefit analysis of the proposed regulations on US business and consideration of the trade impact on third countries, mainly based on the comments received to the notification. It was also stressed that the TBT Agreement called for a reasonable interval between the publication of a regulation and its entering into force. The length of this interval depended on the regulation, but in the US case this period was often longer than thirty days.

19. Additionally, it was explained that the US Enquiry Point did not track the draft regulations and the comments thereon all the way to final enactment. However, requests could be made by trading partners to the Enquiry Point staff to follow up with the regulatory authorities on specific issues and to notify the interested party when the final ruling was released. As far as local governments were concerned, the US Enquiry Point monitored their regulatory initiatives on a regular basis.

20. In summarizing the session, the Moderator said that while the obligation to publish notices was clearly set out in Article 2.9.1 of the TBT Agreement, Members used different approaches to fulfil this obligation. The use of websites seemed to be one common element Members utilized to fulfil this obligation.

C. SESSION 2 - NOTIFICATION PRACTICES

1. The Experience of Canada: Determining the necessity to notify and completing the notification format¹¹

21. The representative of Canada said the Department of Foreign Affairs and International Trade retained overall responsibility for coordination and implementation of all WTO Agreements in Canada. Since January 1980, the Department contracted the operation of the national notification authority and the national Enquiry Point to the Standards Council of Canada (SCC).¹² SCC was responsible for fulfilling the transparency obligations of the TBT, SPS and NAFTA Agreements, distributing WTO notifications, answering enquiries and providing information to foreign enquiry points on Canadian standards, technical regulations and conformity assessment procedures.

¹¹ Presentation made by Ms. Andrea Spencer, head of the TBT/SPS Enquiry Point, SCC, Canada.

¹² See <http://www.scc.ca>

22. In determining the *necessity* to notify, SCC considered proposed technical regulations, conformity assessment procedures (CAPs) and mandatory labelling requirements in the light of whether an international standard existed or the content of the proposed measure was substantially the same as the content of an international standard, and the effect on trade of the proposed measure (Figure 2, below).

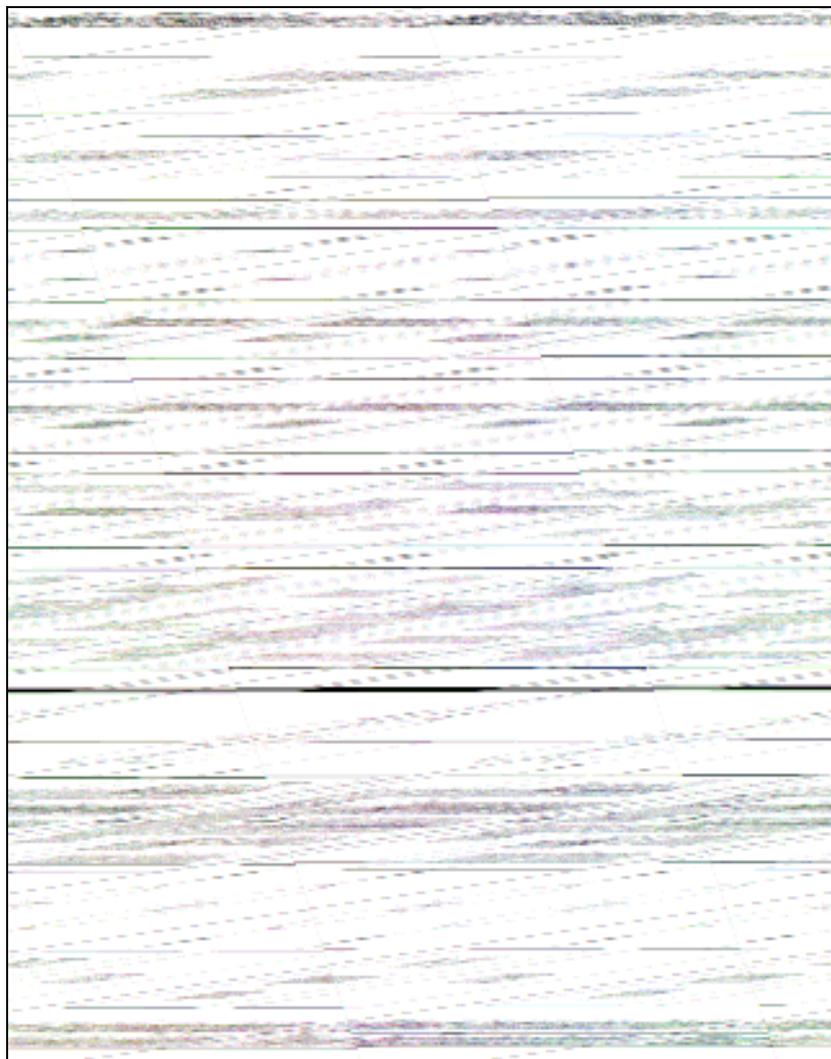
23. Four basic transparency obligations had to be fulfilled: (i) publish a notice in a publication at an early appropriate stage; (ii) notify the measure; (iii) provide copies of the regulation, and (iv) allow a reasonable time for comments. It was pointed out that it was beneficial for the notification authority staff or the Enquiry Point staff to subscribe to the country's central and local government registry of proposed legislation in order to monitor when new measures or changes to existing measures were proposed and needed to be notified.

24. In determining *when* to notify, the representative of Canada explained that SCC would notify when a draft with the complete text of a proposed technical regulation and conformity assessment procedure was available and when amendments could still be introduced and taken into account. In the case of technical regulations and conformity assessment procedures adopted for urgent reasons, the notification would be made immediately upon adoption. The agency responsible for determining whether a measure should be notified was the Canadian Enquiry Point. Regulators were legally obliged to publish regulations in the Canada Gazette. The Enquiry Point would then review the Canada Gazette to determine which measures should be notified. The Enquiry Point staff also determined whether there would be an impact on trade and when necessary staff would consult with the regulatory body to obtain additional information to determine the impact on trade.

Figure 2



Figure 3



25. The SCC also analysed whether a measure fell under the TBT Agreement, the SPS Agreement or both (Figure 3, above). If it was found that the SPS Agreement applied, the SCC would notify under the SPS. If the SPS Agreement did not apply, the SCC would check whether the measure was a technical regulation, standard or conformity assessment procedure – in which case it would be notified under the TBT Agreement.

26. Preparation of the notification format was required to be completed following the recommended procedures contained in G/TBT/1/Rev.8. Additionally, Members were encouraged to consider the recent recommendations of the TBT Committee.¹³ It was stressed that the information contained in the notification form needed to be as complete as possible and for sections that did not have information, statements of "not known" or "not stated" had to be made.

¹³ An updated overview of transparency obligations and recommendations by the TBT Committee was made available in Job(07)/139.

27. Drawing from Canada's experience with respect to notification forms, both in terms of preparation and receipt of such forms, it was pointed out that the work of the Enquiry Point could be frustrated at times when email addresses or contact details of the agency were either not monitored regularly or information was incorrect or inadequate. The representative encouraged Members to provide accurate contact information on notification forms. In addition, listing the exact number of pages of the regulation under section five of the notification form could assist other enquiry points to confirm that they had received the entire regulation, particularly if they had requested a translated version.

28. The representative stressed that the description of content contained in section 6 of the notification form was key. It was noted that a clear and comprehensible description stating the main features of the proposed technical regulation or conformity assessment procedure was important for delegations and translators to understand the notification and would reduce requests for full texts. In section 7 of the notification format (objective and rationale of the proposed regulation), reference could be made to the nature of urgent problems which were applicable to the proposed regulation. In the section indicating where Members could obtain the full text of the proposed regulation, it was emphasized that the agency responsible should provide a direct link to the text and not just to the general site of the relevant organisation and that, if possible, a central mailbox could be established which could be monitored in the absence of the main officers responsible for the handling of enquiries. Including the URL links to the full text in the notification format had significantly reduced the number of requests for full texts.

29. Canada prepared its notifications in English and French and sent them by email to the WTO Central Registry of Notifications (CRN)¹⁴, copying the Canadian authorities, their NAFTA counterparts and other key trading members, thereby encouraging cooperation and coordination in a transparent manner with relevant stakeholders. The representative of Canada also clarified that the decision to notify was determined by the Enquiry Point in consultation with the relevant regulatory agencies and that the Enquiry Point also undertook an analysis of the potential impact of the regulation on trade of other countries.

2. Experiences in making TBT notifications in China¹⁵

30. The representative of China explained that China's WTO Notification and Enquiry Centre, organized under the Ministry of Commerce (MOFCOM), had overall responsibility for notifications and enquiry issues in China. The Centre also housed the TBT Enquiry Point, which was administered by the General Administration for Quality Supervision Inspection and Quarantine (AQSIQ). At the national level, coordination among government departments was achieved through a bi-annual inter ministerial coordination conference on technical measures to trade, consisting of 18 ministries that had developed guidelines for the notification and enquiry point work related to the TBT Agreement.

31. The regulatory agencies in China determined when a draft technical regulation needed to be notified and were responsible for completing the notification forms both in Chinese and English. The Enquiry Point checked the translation of the notification forms and referred any problems back to the regulatory agency, until the notification was correct. Thereafter, the Enquiry Point would submit the notification form to the notification authority under MOFCOM for further review.

¹⁴ crn@wto.org

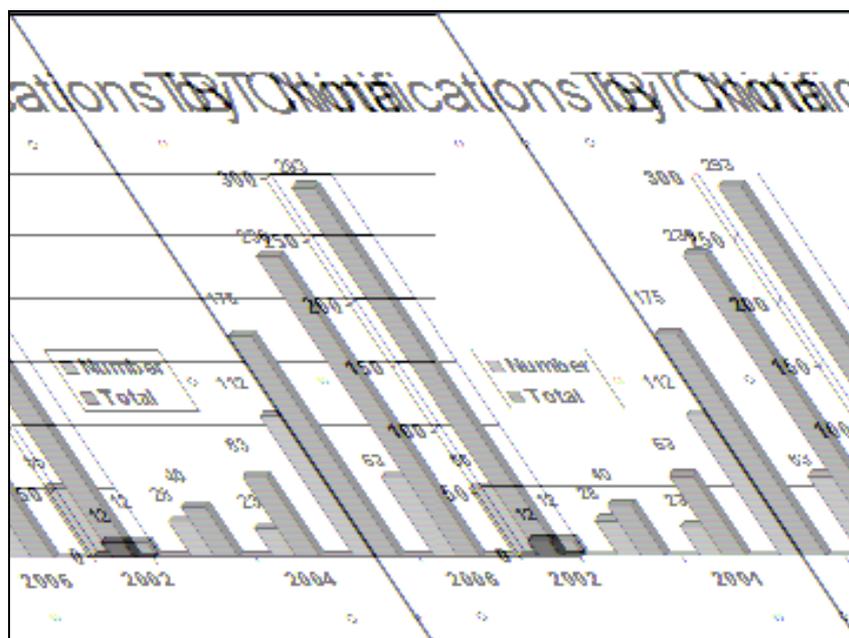
¹⁵ Presentation made by Mrs. Lisheng GUO, Deputy Director General, China WTO/TBT Notification and Enquiry Centre.

MOFCOM conveyed the notification form to the Chinese Permanent Mission to the WTO in Geneva which then submitted the final English version to the WTO Secretariat.

32. The representative of China explained that the regulatory agencies identified whether the notifications needed to be notified to the SPS or TBT Committee, or both. In the event of an urgent notification, particularly when safety, health, environmental protection or national security problems needed to be addressed, a measure might be adopted but was immediately notified to the WTO Secretariat, granting an opportunity for Members to provide comments. The representative pointed out that China followed the notification format as recommended by the TBT Committee, giving particular attention to the final date for the receipt of comments which was no less than sixty days from the date of circulation of the notification by the WTO Secretariat. As for the proposed date of adoption of the measure, this was normally 90 days after distribution by the WTO Secretariat. The proposed date of entry into force of the measure was normally six months after the adoption of the measure.

33. The representative said that the notification information was uploaded on a website which was open to the public.¹⁶ Upon request, the full text of the notified measure was provided in pdf format. Comments received were translated into Chinese and addressed in consultation with the regulating body. Replies to comments were prepared in Chinese and English and submitted to the Enquiry Point which conveyed the response in English to the WTO Member who had made the comments. Since its accession to the WTO, China had submitted approximately 300 TBT notifications.

Figure 4



34. In response to questions raised during the discussion, it was clarified that notifications from other WTO Members were also posted on the Chinese website, while the texts of the notified measures were provided only to those Members who requested them. Both the representatives of Canada and China highlighted that very few measures had been notified as urgent measures under Article 2.10 or 5.7 of the TBT Agreement.

¹⁶ www.tbt-sps.gov.cn

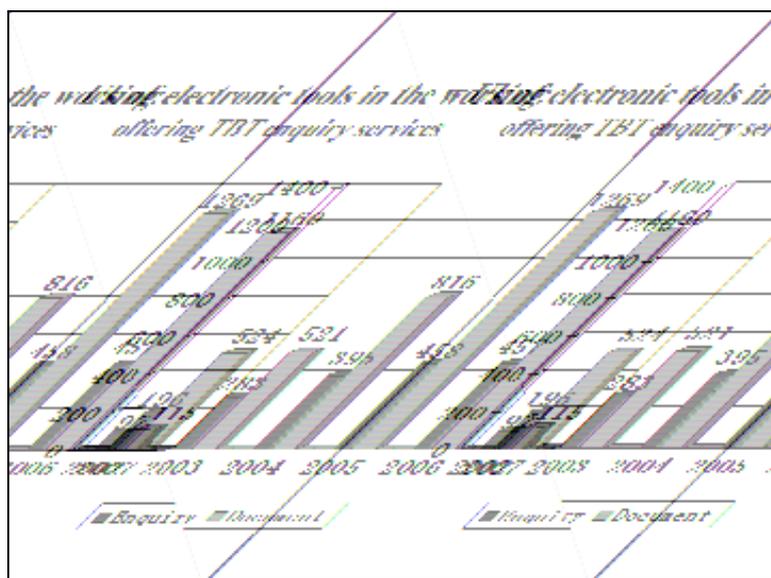
35. In summing, the Moderator noted the importance of correctly filling in the notification format and providing all the necessary information. Some points stressed during the discussion included that the notification format should include the possibility to identify Members affected by the notifications and that, a clear and detailed description of the content of the measure in Box 6 of the notification format, especially when the notified text was not in one of the WTO official languages, was crucial. The importance of ensuring full access to texts of notified measures was also stressed. Furthermore, the importance of coordination between the Enquiry Point and the regulatory authorities was emphasized.

D. SESSION 3 - THE USE OF ELECTRONIC TOOLS

1. **China: The use of electronic tools in WTO/TBT enquiry point work¹⁷**

36. The representative of China explained that a marked increase in the use of electronic tools had been experienced since China's accession to the WTO. In particular, China's National Notification and Enquiry Centre, headed by the General Administration of Quality Supervision Inspection and Quarantine (AQSIQ), used electronic tools in the publication of technical regulations, processing of TBT notifications, provision of TBT enquiry services (Figure 5, below) and as a vehicle for commenting on TBT notifications of other WTO Members. Electronic tools were also used to deal with comments received on draft Chinese regulations and to provide comments to other WTO Members' measures.

Figure 5



37. Electronic tools were used extensively in the work of technical cooperation with other partners in order to improve the TBT work. Technical study tours to the enquiry points of other Members had been conducted and electronic tools played an important role in the exchange of experiences with other Members. Moreover, in order to disseminate information on TBT, the Chinese notification and Enquiry Point liaised with the major media sectors in China such as the central TV station and national and international newspapers.

¹⁷ Presentation made by Mrs. Lisheng GUO, Deputy Director General, China WTO/TBT Notification and Enquiry Centre.

38. China's TBT/SPS website¹⁸ was a tool to inform and educate about TBT matters; it contained a complete set of TBT notifications (in bilingual forms) and provided timely information to exporters and importers on domestic and other Members' measures.

39. In the event of an important regulation being promulgated or drafted by other WTO Members, the Enquiry Point would collect relevant information, translate it into Chinese and upload it on the website. The website further provided the *Risk Alert* information related to Chinese exports, which also allowed for online enquiries and information retrieval. The *Risk Alert* mechanism collected information on any problems experienced with a particular exported Chinese product and provided feedback to Chinese producers so that applicable technical regulations, standards and conformity assessment procedures of the importing country were clarified. The *Risk Alert* mechanism also operated with respect to imported products when there was some problem with a given product. In this case, information would be collated, analyzed and the border agencies informed so as to control the import of the product. The *Risk Alert* system was therefore used both for public information-sharing purposes and for internal customs control purposes not open to the public.

40. The representative noted that in China the use of electronic tools was given full attention and support by the central government through a commensurate budget allocation. Furthermore, a solid infrastructure was required such as the local area network to share data internally and gain quick access to the internet at all times.

2. Chinese Taipei: Use of electronic tools for the dissemination of comments¹⁹

41. The representative of Chinese Taipei explained that the TBT Enquiry Point in Chinese Taipei had, with effect from October 2006, redesigned its website²⁰ to better serve domestic stakeholders' need to access technical regulations of other WTO Members and foreign stakeholders' requests for related information in Chinese Taipei. It was noted that the new design included three features: (i) notifications could be searched by country, by sector and by keyword; (ii) manufacturers could provide feedback on the technical barriers that they encountered when exporting their products to foreign countries; and (iii) manufactures could request notified documents for certain notifications. The website listed seventy-four Members with whom Chinese Taipei had significant trade volumes and for which notifications could be accessed. The same functions were also applied to the product sector. Products were classified into fourteen categories based on their HS code.

42. One of the functions of the website included the possibility for users to be automatically informed of the available comment period for each notification posted. Other functions included the submission of comments on-line and the possibility to make requests for notified documents and reports on technical barriers to trade. Translations were available for important notifications. Regarding comments received on Chinese Taipei notifications, these were transmitted to the relevant regulatory authority for response. Replies were provided by email within a period of two weeks to two months. Thirteen comments had been received in the past two years.

43. Queries on product regulation or standards were answered (by email) in a period between two days to three weeks. Thirty-one requests had been received within the past two years and companies had confirmed the usefulness of the Enquiry Point's response to product queries. The

¹⁸ www.tbt-sps.gov.cn

¹⁹ Presentation given by Ms. Ying-Ching SU, TBT Enquiry Point of Chinese Taipei.

²⁰ www.bsmi.gov.tw

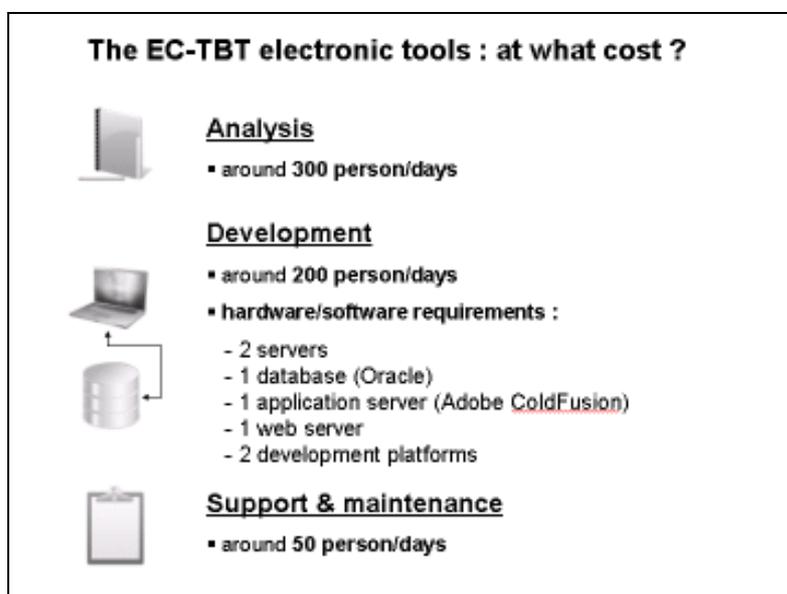
representative stressed that enquiry points needed to provide information on product regulations and standards, in addition to information on notifications, as required under Article 10 of the TBT Agreement. The system showed potential to be a powerful tool for use by industry.

44. In concluding, the representative of Chinese Taipei stressed that industry needed to benefit from the services provided by the Enquiry Point and that awareness-raising seminars for the industry were planned for this purpose. Information resources related to technical regulations, standards and conformity assessment procedures was not coordinated. Therefore, in order to make the system a useful tool for industry, a project was planned to integrate such information into the notification distribution system. This would help Chinese Taipei better implement Article 10.1 of the TBT Agreement.

3. European Communities: Use of electronic tools to enhance transparency and to ease the management of notification procedures²¹

45. The representative of the European Communities said that the EC TBT Enquiry Point had a number of specific functions, namely to: (i) transmit EC notifications to the WTO Secretariat; (ii) analyze, with the help of experts and stakeholders, draft measures notified by third countries; and (iii) follow up of comments made by the European Communities and its member States. The Enquiry Point also answered requests for information on notified draft measures and was the contact point for exchange of information within the Community. The EC TBT Enquiry Point had implemented its electronic system in June 2004 in response to the increasing volume of notifications and the difficulty of tracking them. The public site was launched soon after to improve transparency and the participation of economic stakeholders.

Figure 6



46. Improved document management was a priority and electronic storage meant a reduction in paper files. The system had an automated procedure which operated twice a day to find the latest notifications and enter them into the database so that they would automatically appear on the

²¹ Presentation by Mr. Cyril Hanquez, European Commission, DG Enterprise and Industry.

website.²² The site provided an alert system for economic operators and other interested parties and allowed for privileged access to member States of the European Communities. The activity of TBT enquiry points in EC member States was reviewed monthly and a summary of the EC TBT Enquiry Point activities was posted on the site on a monthly basis.

47. The website also provided a library of documents related to TBT issues. The mailing list on the site made it possible for economic stakeholders to be recorded for a particular sector or particular country, so that they received an email advising them of new notifications in their sector, as well as the text of the draft measure. The accuracy of the contact information provided on the site was emphasized. The possibility of providing a direct and precise link to the location of the texts of the notified texts was being looked into. Wherever possible and if the Enquiry Point decided to further analyze a notified text, the EC TBT Enquiry Point made unofficial translations of notified texts and made them accessible on-line.

4. Brazil: The Brazilian Export Alert System: An electronic tool for improving SME's knowledge on WTO countries regulations²³

48. The representative of Brazil presented the Brazilian Enquiry Point's experience of providing information to domestic companies, especially SMEs, through its Export Alert System. He noted that the Brazilian National Institute of Metrology Standardization and Industrial Quality, referred to as INMETRO, was the accreditation body responsible in Brazil for the country's legal metrology and conformity assessment policies. It also served in the role of Brazil's TBT Enquiry Point. INMETRO's objective was to instil confidence in Brazilian measurement systems and product standards and also promote harmonization, consumer relations, innovation and competitiveness through metrology and conformity assessment.

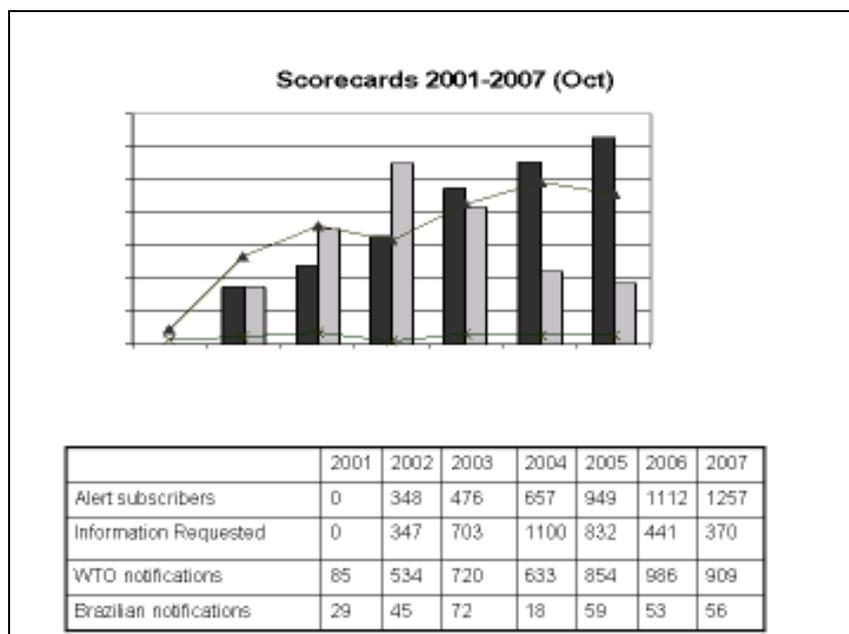
49. INMETRO provided an Export Alert System and free services on its website²⁴ to Brazilian exporters with the purpose of creating awareness about TBT issues; more than 5000 users had already subscribed. The services included: (i) information on technical requirements; (ii) identification of comment periods on TBT notifications; (iii) frequently asked questions; (iv) technical requirements classified per country and per product; (v) consultation on notifications; and (vi) the provision of full texts of technical regulations. The system also allowed INMETRO to assist Brazilian exporters who requested information on technical regulations or conformity assessment procedures by liaising with the enquiry points of trading partners. In some cases, an amendment or a suspension of a draft technical regulation could be requested.

²² <http://ec.europa.eu/enterprise/tbt/>

²³ Presentation by Mr. Rogeiro de Oliveira Correa, INMETRO, Brazil.

²⁴ www.inmetro.gov.br

Figure 7



50. The representative of Brazil explained that when new notifications were received, the system sent an alert by e-mail to subscribers based on their profiles. Brazil had provided technical assistance for the establishment of export alert systems in some MERCOSUR countries.

5. WTO Secretariat: Electronic tools available in the Secretariat

51. The representative of the SPS section of the WTO Secretariat provided information on the SPS Information Management System (IMS) which had been created in an effort to manage information and changes generated by increasing numbers of notifications and documentation with respect to SPS matters.²⁵ The SPS IMS, which was made available to the public in October 2007, was a tool that allowed Members and other interested parties to track SPS notifications and other SPS information, including specific trade concerns raised in the SPS Committee, according to their specific needs.

52. The SPS IMS contained information on all SPS notifications entered into a predefined template and enabled Members and the Secretariat to conduct electronic searches on any of the items contained in the notification. The synchronization between the SPS IMS, the Documents Online system and the CRN had facilitated inhouse harmonization and consistency of data. The system was also linked to the FAO's international portal on food safety, animal and plant health. Hence, it constituted a comprehensive source of official SPS information from not only the WTO but also other international organizations in the SPS area. The SPS IMS also permitted analysis of previously inaccessible data such as the level of implementation of transparency provisions of the SPS Agreement.²⁶

53. The representative of the TBT section of the Secretariat recalled that information had been provided to the TBT Committee at an early stage of the development of the SPS IMS.²⁷ Work had

²⁵ <http://spsims.wto.org/>

²⁶ G/SPS/GEN/804.

²⁷ Job(05)/33.

started on exploring options to adapt the SPS application to the TBT-specific characteristics with the aim of setting up a similar system. Members would be kept advised of developments.

54. In response to a request made by the TBT Committee at the Fourth Triennial Review of the TBT Agreement,²⁸ the representative of the Documents Online section of the Secretariat presented a proposal for an interim solution to attach regulatory texts to TBT notifications.²⁹

55. In summing up, the Moderator noted that electronic tools were used extensively in a wide range of transparency-related activities, for instance in preparing and submitting TBT notifications, handling of comments received and performing other duties in enquiry points. In particular, the use of alert systems for exporters had increased, even though it was at times difficult to engage industry in subscribing alert systems if costs involved were significant. He also stressed that developing country Members might face special difficulties in making use of electronic tools, both for lack of resources and technical expertise. Problems related to translations of regulatory texts remained and reference had been made to discussions taking place in the TBT Committee about exploring ways to enhance the sharing of unofficial translations.³⁰

E. SESSION 4 - TECHNICAL COOPERATION AND THE WORK OF ENQUIRY POINTS

1. **Colombia: The work of the Colombian Enquiry Point and technical cooperation**³¹

56. The representative of Colombia presented the work of the Colombian Enquiry Point as well as its experience in receiving technical cooperation. The Colombian Enquiry Point housed the central database on conformity assessment procedures, trade agreements, technical regulations and sanitary measures that were notified. It was also liaised with the regulatory bodies in Colombia in the event that WTO Members had comments or questions on technical regulations generated in Colombia.

57. The Colombian Enquiry Point had experienced difficulties when requesting draft regulations from Members based on technical standards and requirements developed by private entities and to which the Enquiry Point was not permitted access. The standards body in Colombia was ICONTEC, which was a private, non-governmental organisation and elaborated voluntary standards. The private sector participated in drafting technical standards and rules through various committees. Both standards and technical regulations in Colombia were notified so that Members could provide comments. In Colombia, both draft and adopted technical regulations were published in the national official gazette.

58. The Colombian Enquiry Point had benefited, along with other Andean Community countries such as Bolivia, Ecuador and Peru, from EU technical cooperation with regard to its quality programme and also on commercial practices. A technical regulatory department which

²⁸ G/TBT/19, para. 68(c)(ii).

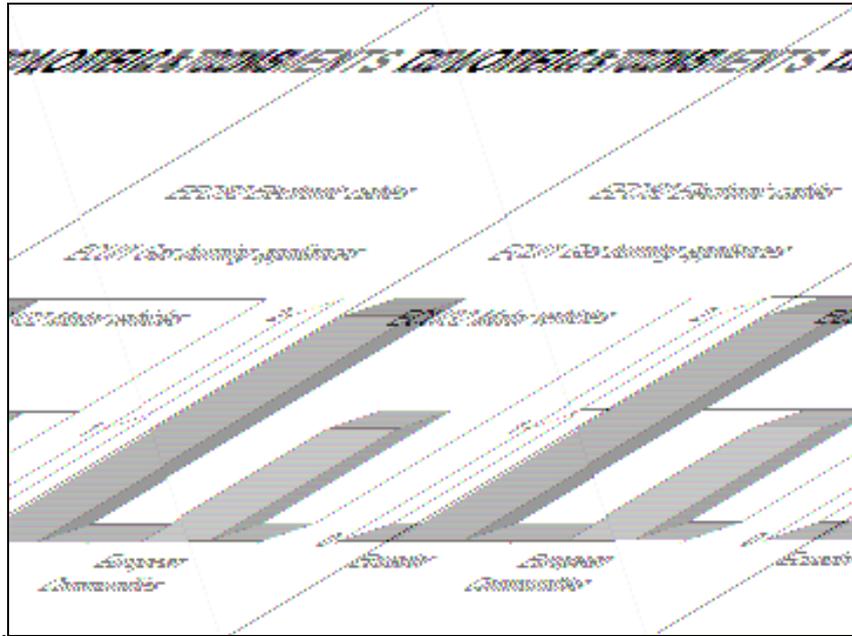
²⁹ At its regular meeting on 9 November 2007, the TBT Committee agreed to establish a facility whereby Members may, on a voluntary basis, provide the WTO Secretariat with an electronic version of the notified draft text (attachment) together with the notification form. Guidelines for the use of the facility are contained document G/TBT/GEN/65. See paragraph **Erro! A origem da referência não foi encontrada.**, above.

³⁰ At its regular meeting on 9 November 2007, the TBT Committee agreed to set up a mechanism to facilitate information-sharing by Members on the availability of unofficial translations on the Internet. This would be done through the circulation, by the Secretariat, of a supplement to the original notification submitted by a Member. More information on this mechanism is contained in G/TBT/GEN/66. See paragraph **Erro! A origem da referência não foi encontrada.**, above.

³¹ Presentation by Mr. Daniel Hector Rico, Head of Colombia's TBT Enquiry Point

facilitated document searches, commented on draft regulations and included an export alert system had been developed for the Andean Community countries and was open for use by other Members or the public. Each of the countries within the Community was responsible for updating its technical regulation and notification information. The Colombian Enquiry Point had also receiving assistance from the United States development agency, USAID.

Figure 8



59. Some areas where technical assistance was needed were identified. In particular, the Colombian Enquiry Point experienced difficulties in processing information and in analyzing and commenting on other Members' notifications (Figure 8, above). These were areas where technical cooperation was considered important.

2. Paraguay: The experience of the National Enquiry Point in Paraguay³²

60. The representative of Paraguay said that the national Enquiry Point and notification authority in Paraguay, referred to as SNIN, had been established by Decree in 2005 as part of a project funded by the European Union – with the aim of promoting and strengthening the competitiveness of Paraguay's export sector. Upon completion of the project in 2008, SNIN would become a department of the Ministry of Trade.

61. The general objective of SNIN was to establish a trade information database system for Paraguay in the context of technical regulations, standards and conformity assessment procedures – so as to comply with the transparency requirements of the TBT Agreement and other international agreement obligations such as the agreements under MERCOSUR.

62. Specific activities of the Enquiry Point included: (i) to inform both rural and industrial producers, exporters and importers about regulations and requirements applied in export markets;

³² Presentation by Mr. Bruno Lemont, Director General International Trade, Ministry of Industry and Trade

(ii) to implement an information system based on notifications from WTO Members; and (iii) to provide assistance to the private sector in order to facilitate integration into international trade. Such assistance included the establishment of a database on national regulations generated by regulatory bodies in Paraguay and notifications submitted by WTO Members. The strategy of SNIN was to monitor and provide training in these areas. Monthly meetings held with the regulatory bodies had served to inform them of the importance of the Enquiry Point and to encourage inter-departmental cooperation to achieve good regulatory practices and transparency in the notification process.

63. The representative explained that the regulatory and notification procedures in Paraguay started with the regulatory bodies elaborating a draft technical regulation. This draft would be forwarded to the coordinating unit in the Ministry of Industry and Trade where it was analysed and disseminated. The Enquiry Point was working towards setting up a National TBT Committee to work on drafts and reach agreement on texts. During the period 2006-2007, Paraguay had submitted 14 TBT notifications to the WTO.

64. The process in Paraguay for reviewing notifications by other WTO Members started with the coordination unit of SNIN receiving from the WTO notification of draft technical regulations. The SNIN analyzed the text and disseminated the information to the regulatory entities; the private sector was also kept informed.

65. Paraguay was in the process of establishing a public website to create a link with its national notification system and the international sector. The website would contain national standards, standards of other countries as well as conformity assessment procedures, a sub-page on MERCOSUR, an export alert function as well as general information on the system. Another web-portal was under development. This website would give more detailed information to targeted users. Through this website, it would be possible to define users and institutions and their roles; define categories and sub categories for products; manage documents and handle comments made and received.

66. In response to questions raised with respect to the export alert system of the Andean Community, the representative of Colombia clarified that information was updated by each member country and background documents referenced in the notifications were also posted. Additional information on the work of the Colombian standardizing body and its link with the domestic industry was also provided. In particular, it was clarified that industry participated directly, through the work of technical commissions, in the elaboration of voluntary standards.

3. South Africa: South Africa's experience in assisting other members set up their Enquiry Points³³

67. The representative of South Africa explained that the South African Bureau of Standards (SABS) was the national Enquiry Point and the body responsible in South Africa for TBT notifications. SABS provided various types of technical assistance to African countries, particularly in the SADC region. For instance, in the textiles field, SADC countries were granted sponsored access to South Africa's commercial textile testing laboratories and obtained responses to technical questions regarding testing of the textiles. Training was also provided in textile, leather and footwear standards. On metrology, training had been provided through workshops held in various

³³ Presentation by Mrs. René Heydenrich, head of TBT Enquiry Point, SABS, South Africa.

African countries on non-automatic weighing instruments, mechanical counter scales and more recently on the Trade Metrology Act and regulations.

68. The South African Enquiry Point also provided free of charge specific training to enquiry points in various countries in Africa. Training courses offered by SABS were adapted to the level of experience of the requesting countries. In the case of very inexperienced countries, training would start from the point of how to write a national standard, participating in international standardizing bodies' meetings, standards editing, effective committee meetings and setting up standards information centres. Training would then be provided on how to set up a WTO enquiry point and countries' responsibilities under the WTO TBT Agreement (Figure 9, below).

69. The training courses had proved invaluable in the setting up of standards organisations in the SADC region and also included demonstrations on the electronic tools available and a step-by-step completion of the notification form. It was found that in completing the notification form the enquiry points often experienced difficulties in identifying the responsible regulatory body, listing the relevant articles and distinguishing between technical regulations and conformity assessment procedures. The training also covered dissemination of notifications from other WTO Members to national interested parties, handling of comments, compiling and analysing statistics and reporting to trade ministries.

Figure 9



70. The representative of South Africa informed the Committee that challenges identified in the last ten years for developing countries in the SADC region were mainly linked to: lack of background knowledge about the role of the notification authority and the enquiry point under the TBT Agreement; lack of awareness in the regulatory departments of the responsibilities of WTO Members in general; lack of support from the relevant ministries; non-transparent development of technical regulations; and lack of distinction between voluntary standards and compulsory technical regulations. Workshop participants were often at a level higher than the persons responsible for the day-to-day activities of the enquiry points and in many cases there was no knowledge transfer to the responsible officers. Establishing electronic notification systems was identified as an urgent area to be addressed by developing countries. However, South Africa did not have the resources to provide the technical input on developing the necessary databases to organise and manage the information.

Training by peer countries, knowledge transfer, government awareness and appreciation of the importance of enquiry point work were considered crucial to the challenges faced by developing countries. In addition, it was suggested that the WTO could conduct awareness sessions with regulatory bodies.

4. Tunisia: Establishing a TBT National Enquiry Point in Tunisia³⁴

71. The representative of Tunisia explained that the National Institute for Standardisation and Intellectual Property in Tunisia (INNORPI) was set up in 1982 under the Ministry for Industry, Energy and Small and Medium Enterprises. Its main activities were related to standardisation, certification, promotion of quality, training and intellectual property. Additionally, in 1996, INNORPI was designated the national TBT Enquiry Point for Tunisia.

72. INNORPI was a member of the ISO, IEC, CODEX, Arab Standardisation organisation (AIDMO), African Regional Organization for Standardization (ARSO) and European Committee for Electrotechnical Standardization (CENELEC). Since the start of INNORPI's certification and management activities in 1985, the organization had issued 293 certificates of conformity with Tunisian standards. INNORPI was also working with the European Union on a programme to modernise industry in Tunisia. The Tunisian Enquiry Point had entered into more than 20 cooperative agreements with its neighbours and French-speaking Southern Sahara countries on TBT matters and assistance in establishing and operating enquiry points.

73. Since the establishment of the TBT Enquiry Point at INNORPI, several workshops and information sessions had been organized in Tunisia to increase awareness of the TBT Agreement and the work of enquiry points. In 2005, a project for the development of the Tunisian Enquiry Point financed by the International Bank for Reconstruction and Development (IBRD) had been launched, which involved a loan of US\$1 million. Performance indicators were established in the context of the project: (i) reducing delays in WTO notifications from five-six months in 2004 to two months; (ii) reducing time for access to texts of notified measures having an impact on Tunisian exports to two months (from an average of five to twelve months in 2004); (iii) digitalizing Tunisian standards and put them on-line; and (iv) disseminating information about regulations and standards which could have an impact on exporters.

74. The Tunisian Enquiry Point provided support services to exporters, including: (i) an "Information and Documentation Centre", operational since 2006; (ii) service for the supervision of standards and technical regulations with some 35 subscribers; (iii) the development of an export alert system; and (iv) consultancy to small and medium enterprises (SMEs) on standardization issues.

75. Visits to foreign enquiry points and standardization institutes such as the enquiry points of South Africa, Canada and France and had been used to carry out studies and adopt best practices. Tunisia had decided to adopt the French model of the AFNOR for standardization activities and the Canadian model for dissemination of information.

76. The export alert system was being developed with the aid of the World Bank. It would alert Tunisian exporters when new draft measures were introduced, provide access to full versions of draft regulatory measures and afford opportunity to formulate comments on other Members' measures. The export alert and supervision services were expected to assist Tunisian SMEs with

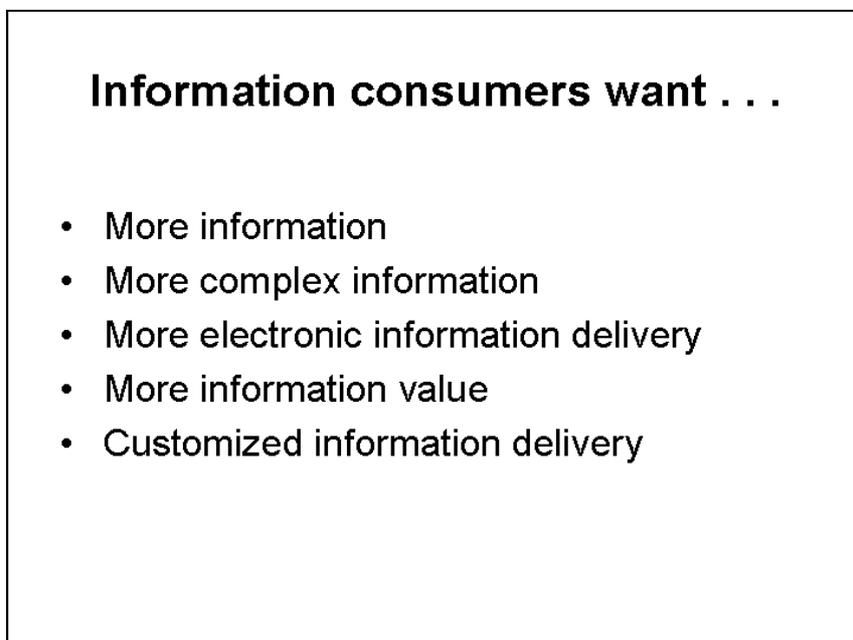
³⁴ Presentation by Mr. Amara Zayani, Head of TBT Enquiry Point, INNORPI, Tunisia.

the practical implementation of standards and technical regulations so as to prevent negative trade impacts as a result of technical regulations.

5. USA: National Enquiry Points - Preparing for the 21st century³⁵

77. The representative of the United States stressed that the staff of the US Enquiry Point were, essentially, information professionals who used technology and electronic tools to create or manage information resources and services. Customers needs were increasingly sophisticated, comprehensive and complex in their quest to obtain a competitive edge. As most of the relevant information was freely and publicly available, the Enquiry Point was being approached to answer only the complex issues that interested parties could not research easily for themselves. The US Enquiry Point was increasingly being held accountable to its senior management for proving, assessing and analyzing the value of the information that it provided as there was a strong emphasis on assessing customer needs and requirements and continually improving the customer satisfaction rate.

Figure 10



78. The trend was moving towards more electronic delivery of information at a faster rate with the ability to independently obtain customised information, without charge. To meet this need, the US Enquiry Point was in the process of converting its paper records, CD Rom and microfilm resources into electronic delivery, increasing its internet services and making available an online interactive standards specialist.

79. It had become apparent that there was an increased need for the enquiry points to actively promote their products and services, to maintain a high visibility and expand their customer base. The core competencies for information professionals to achieve the required "market presence" had been identified as having expert knowledge of the subject content, thinking critically, analyzing and

³⁵ Presentation made by Ms. Anne Meininger, U.S. Enquiry Point, National Institute for Standards and Technology.

evaluating information and information resources, thinking creatively in order to anticipate what information the consumer would need next and the ability then to produce a new product to meet that anticipated need.

80. Remaining abreast of emerging technology, building relationships and exchanging information were also key elements for enquiry points to achieve their objectives. The US Enquiry Point extended an invitation to WTO Members to register and use its "Notify US" service, which was a fully developed alert service.³⁶

6. Brazil: Exchanging Information on WTO countries' regulations: A technical cooperation experience among Portuguese and Spanish language countries³⁷

81. The representative of Brazil presented the experience of the Brazilian Enquiry Point, INMETRO. The objectives of the INMETRO were: to provide confidence to society concerning measurements and products and to promote harmonization in consumer relations as well as innovation and competitiveness through the use of its metrology and conformity assessment procedures. Brazil's Enquiry Point was particularly focussed on the needs of SME's and cooperated with Portuguese and Spanish language countries. In its effort to provide and exchange technical assistance, the Enquiry Point also made use of triangular cooperation, meaning the inclusion of a third party such as UNIDO in its efforts to assist countries, for example Mozambique, in the establishment of its enquiry point.

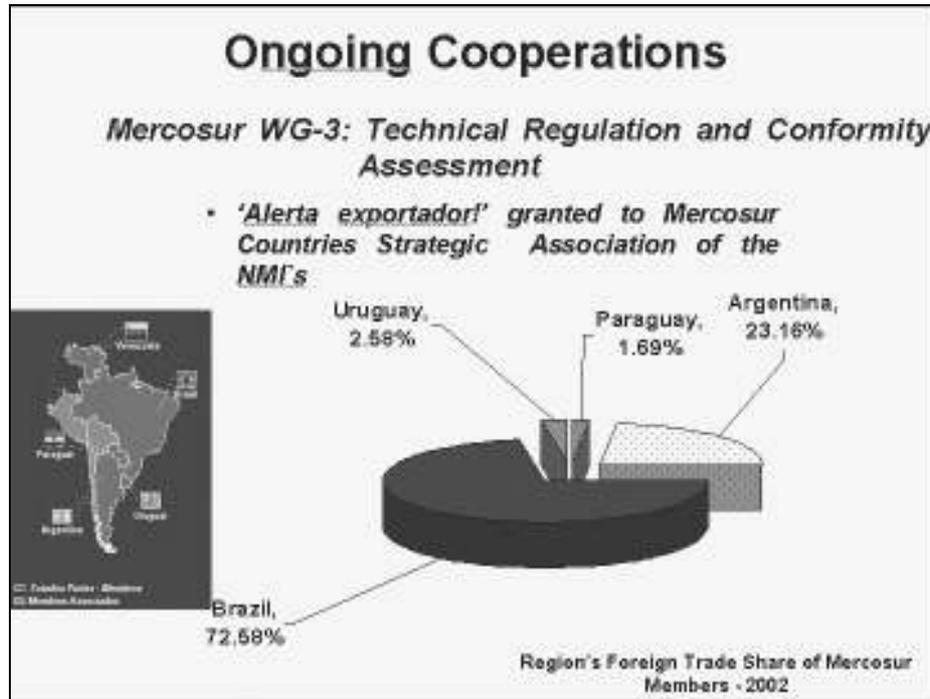
82. The Brazilian Enquiry Point had as a result of visits to US and Canadian counterpart institutions, updated its alert bulletins to exporters into an electronic modular *Alerta Exportador!* system oriented to provide services to SME's via the internet.

83. The representative of Brazil highlighted some of the projects carried out by Brazil. For example, the MERCOSUR Agreement, signed in 2003/4 to promote trade cooperation among the signatory countries, included an undertaking to circulate domestic export alerts amongst the MERCOSUR members. Assistance was also being provided to the standardizing body in Cuba on the principles of the TBT Agreement and to Mozambique on the *Alerta Exportador!* system.

³⁶<http://tsapps.nist.gov/notifyus/data/index/index.cfm>

³⁷ Presentation by Mr. Rogeiro de Oliveira Correa, INMETRO, Brazil..

Figure 11



7. New Zealand: How do we measure effectiveness and operational improvement in National Enquiry Points?³⁸

84. The representative of New Zealand pointed out that Article 10 of the TBT Agreement required that Members establish enquiry points but did not specify how they should operate; nor did it set performance levels. He noted that there were over 90 enquiry points located within national standards bodies, and there were almost 80 enquiry points located in non-standard bodies such as government ministries. The majority of Members had established only one enquiry point while some other Members had up to four enquiry points. The enquiry point in New Zealand was located within its national standards body, Standards New Zealand, which was a state-owned enterprise.

85. The New Zealand representative suggested that it would be of benefit to subject enquiry points to performance measurement in order to assess whether they fulfilled the objectives of Article 10. Areas that could be statistically monitored could be the number of enquiries, response times and complaints received about service. Members could monitor the performance of their own and their counterparts' enquiry points with regard to the extent and frequency of dialogue with other enquiry points, requests for advice, offers of assistance to fellow Members and comparing experiences.

86. It was noted that the Special Meetings on Procedures for Information Exchange were of particular assistance to enquiry points if relevant officials were able to attend. Additionally, the triennial reviews of the TBT Agreement and background notes on transparency provided useful information to enquiry points. The Secretariat and other parties had performed a number of surveys

³⁸ Presentation by Mr. Craig Radford, Standards New Zealand.

over the years that could form the basis of a structured information resource. The information was not, however, organised in a central database.

87. It was suggested that enquiry points implement a form of voluntary benchmarking adapted to different levels of development in countries. Comparative analysis of the benchmarking results could be used to identify which enquiry points performed better and why. It would help capacity building through more effective processes, improved use of resources, improved performance and stakeholder service.

88. It was also suggested that a working group be established, which could look at identifying areas for improvement and collating and storing information about the current situation in a standard format – so that it would be easily accessible and used to identify best practices in each activity. Open communication with a view to assisting one another would be required from participating enquiry points. The exercise could be repeated every two years to measure improvements.

8. ITC: Assistance provided to National Enquiry Points³⁹

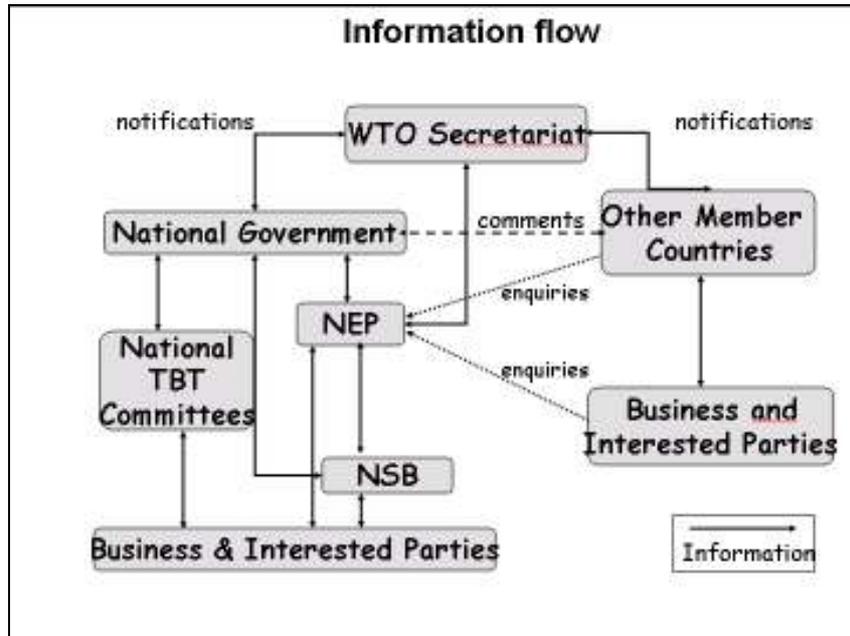
89. The representative of the International Trade Centre (ITC) explained that his organisation's strategic objectives were to strengthen international competitiveness of enterprises, develop the capacity of trade service providers such as enquiry points, support businesses, and support policy makers in integrating the business sector into the global economy. The ITC had published a book titled "Export Quality Management" in response to questions frequently asked by SMEs in various countries on standards and conformity assessment in trade. ASEAN countries and Brazil had published similar books for their enquiry points to provide information to their stakeholders. The ITC also issued several bulletins, a relevant one being the information retrieval on standards, technical regulations and conformity assessment which provided information on how exporters could obtain information on current and future technical requirements and export markets. The bulletin could be downloaded from the ITC website.⁴⁰

90. The ITC had recently prepared a manual of model procedures and guidance notes for the implementation of the WTO TBT Agreement (due to the fact that staff turnover at enquiry points often left a gap in knowledge and experience). The manual provided five model procedures which could be used to: (i) respond to enquiries; (ii) respond to notifications made by other WTO Members; (iii) submit notifications to the WTO Secretariat; (iv) establish and operate a national consultative committee to coordinate and oversee implementation of the TBT Agreement; and (v) communicate and promote the activity of the enquiry point and notification authority.

³⁹ Joint presentation by Mr. Shyam Gujadhur, Senior Trade Adviser, and Mr. Bertrand Monrozier, Senior Trade Adviser, ITC.

⁴⁰ www.intracen.org

Figure 12



91. The ITC had also developed training material which could be used to disseminate information about standards and conformity assessment and which were focussed on how the WTO Agreements could benefit business. The main purpose of the project was to enhance the awareness and capacity of the private sector to cope with international quality standards and TBT and SPS issues.

92. The ITC was of the view that countries should have a national TBT committee, a national enquiry point and standards body with whom business-interested parties could interact. The ITC, in collaboration with TBT enquiry points, provided assistance to enhance the capacity of organisations in the private sector to obtain and disseminate information about current and future standards, technical regulations and conformity assessment procedures.

93. The ITC highlighted its "Coaching Programme on Information Management for Staff of National Enquiry Points". The coaching programme was intended for the staff of enquiry points in charge of delivering information services to their clients, in developing countries and in economies in transition. The emphasis was on "learning by doing" and customising the coaching approach for the relevant enquiry point. The training courses were at the initial stages and would be conducted in response to demand received from enquiry points. Examples of coaching sessions included: (i) identifying the target users of the enquiry point; (ii) preparing / submitting TBT notifications to the WTO; (iii) disseminating TBT notifications issued by other countries; (iv) finding the latest news in areas covered by the enquiry point; (v) identifying the best international sources on technical regulations and standards; (vi) developing a structured list of favourite links (bookmarks); (vii) developing simple databases; (viii) creating a web catalogue of publications; (ix) organizing and managing a website for visitors; and (x) preparing answers to Frequently Asked Questions (FAQ).

94. The ITC had found in its dealings with national enquiry points that the nature of the work needed to extend beyond monitoring of technical barriers to quality aspects, including familiarity with major information sources. A need identified was for the staff in charge of enquiry points to

be able to develop and shape practical and simple services that would allow them to reach end users. The ITC was of the view that to improve efficiency and the effectiveness of national enquiry points, staff of the national enquiry points in developing countries and economies in transition, should have an opportunity to work together to identify their main limitations, objectives and priorities and to then modify their services to become more effective and to reach end users.

95. It was noted that the ITC webpage on trade information had a manual available for performance measurement of information centres which could be used to identify and develop performance criteria benchmarks and measure progress of institutions such as enquiry points.⁴¹

96. In summing up the session, the Moderator stressed that "peer-to-peer" cooperation was seen as a useful way for Members to gain experience of other Members' implementation of the TBT Agreement in general, and of the work of enquiry points in particular. The point was made that technical cooperation should be targeted to the people involved in the day-to-day operation of enquiry points. It was noted that the cooperation and coordination between the national standardizing bodies, where enquiry points were often located, and the regulatory bodies was essential and it was suggested that awareness sessions could be conducted for regulators to sensitize them about the notification procedures and the importance of the work of the enquiry points.

97. Technical cooperation needed primarily to assist Members to comply with the obligations to the TBT Agreement, but it went further: Members needed also to cope with growing demands to obtain information from various economic operators. This had an impact on the functioning and the role of the enquiry points which was steadily evolving. It was clear from the presentations in several sessions that the use of electronic tools, especially export alert systems, was spreading.

98. Regarding the performance of enquiry points, it was suggested that the Committee could explore identifying performance indicators for the functioning of enquiry points as a way of improving services provided.

⁴¹ <http://www.intracen.org/tis/>