

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 21 JULY 2000

Chairman: Mr. John ADANK (New Zealand)

1. The Committee on Technical Barriers to Trade held its twenty-first meeting on 21 July 2000.
2. The following agenda, contained in WTO/AIR/1341 was adopted:
 - I. **REQUESTS FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV), THE INTERNATIONAL LABORATORY ACCREDITATION COOPERATION (ILAC) AND THE BUREAU INTERNATIONAL DES POIDS ET MESURES (BIPM) 2**
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I. REQUESTS FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV), THE INTERNATIONAL LABORATORY ACCREDITATION COOPERATION (ILAC) AND THE BUREAU INTERNATIONAL DES POIDS ET MESURES (BIPM)

3. The Chairman drew attention to document G/TBT/W68/Add.3, a communication from the ILAC, informing the Committee of ILAC's decision to withdraw its application for observer status in the Committee. However, ILAC had indicated its intention to come back to it at a later stage.

4. Referring to document G/TBT/W/135 (of 15 June 2000), a request by BIPM, he sought Members' views on granting observer status to this intergovernmental organization of the Metre Convention.

5. The representative of Canada said that more time was needed to seek instruction from his capital, and requested to come back to it at the next meeting.

6. The representative of the United States (US) clarified her delegation's position on the observer status of ILAC. She explained that, currently, the WTO had no agreed procedures for observer status of non-governmental organizations, of which ILAC was one. Until such time that Members agreed on the procedures, her delegation would continue to oppose that request. She said that it had nothing to do with the work of ILAC since the US participated actively in that organization, and she welcomed the contributions ILAC made at the Symposium and Workshop of the Committee.

7. The Committee agreed to return to the requests made by BIPM and OIV at its next meeting.

II. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

8. The representative of Malaysia, speaking on behalf of the ASEAN countries, recalled that at the past few meetings, a number of delegations had raised concerns about the draft European Directive on Waste from Electrical and Electronic Equipment (WEEE); and the use of Hazardous Substances in the Electrical and Electronic Equipment (HSEEE). Despite this, on 13 June 2000, the European Commission had adopted these two Directives.

9. She believed the draft Directive was arbitrary, trade restrictive and unjustified. By adopting this proposal, the European Union (EU) had abrogated the responsibility of its member States to provide waste disposal services, and passed it on to producers, including non-EU producers. The expense in compliance with the Directive would have great negative impact on the production costs of ASEAN manufacturers, particularly small and medium-size industries. The result could be a total elimination of these producers from the EU market, and she asked if that was the intention of the Directive. She urged the European Communities (EC) to give further thought to the proposal and take into account the comments made, since the issue could be dealt with by EU member States without the involvement of non-EU third parties.

10. She sought clarification on the following questions: (i) What would be the next step of the Directive? (ii) How does EU see the practical implementation of the Directive? (iii) Does every producer have to set up its own waste disposal plants? If not, how will burden sharing among producers in the setting up of waste disposal plants be done? Would it be by market share or *pro rata*? She believed that either way would be unfair to small manufacturers. (iv)

Are there cost-effective measures and readily available technology for waste recovery? Have these measures been proven viable? Will the cost be prohibitive? Are the recovery targets realistic? (v) Is the scope of the EEE products covered under the Directive too broad?

11. Referring to the EC proposal on the restriction on the use of certain substances in electrical and electronic equipment (such as lead, cadmium, chromium, halogenated substances and certain flame-retardants), she believed that it also had potential negative trade impact, particularly on ASEAN small and medium-size producers. She asked if any replacement technology was available on commercially acceptable terms, and, if the technology was patented, would it entail higher cost? It was her experience that substitutes, if available, were expensive and would reduce the competitiveness of producers using them.

12. She felt that the draft Directives which had ramifications beyond the European Union were being propagated without due thought to the effects on third parties, in particular to SMEs of developing countries. She recalled Article 12.3 of the Agreement which stipulated that "Members shall, in the preparation and application of technical regulations, standards and conformity procedures, take account of the special development, financial and trade needs of developing country Members, with a view to ensuring that such measures do not create unnecessary obstacles to exports from developing country Members". She urged the EU to take this into account, and consider other alternatives that would not constitute obstacles to trade. She reminded the EC to notify the draft Directives under Article 2.9, so as to allow other Members, especially developing country Members, adequate time to make comments at a stage when amendments of the drafts could still be introduced.

13. The representative of Japan shared the concerns expressed by ASEAN countries. While his delegation agreed with the EC on the necessity to reduce the usage of hazardous substances, Japan had concern about the technological feasibility to comply with the two EC Directives, and would follow closely on their further development.

14. The representative of Korea associated his delegation with the concerns expressed. While Korea understood the objectives of the EC Directives, given their potential impact on trade, he felt that the matter should be addressed with careful consideration in consultation with producing countries. He was particularly concerned with the EC/WEEE Directive which shifted the responsibility of waste collection to manufacturers. He felt that foreign companies would be discriminated against, since the collection of waste would be more burdensome and expensive for producers located outside of the EU.

15. With regard to the restriction of use of certain substances, he believed that scientific risk assessment should be conducted prior to the imposition of the ban so that its justification could be provided. He felt that the ban was potentially inconsistent with the TBT Agreement, if at the time of its imposition, no alternative way to produce equivalent EEE was available. He concluded that, until scientific risk assessment was conducted and alternative technologies became available to the majority of Members, the environmental concern of the EC should be addressed in a less trade restrictive manner. He informed the Committee that his authorities had high-level bilateral consultations with the EC, and would continue to monitor the development of the Directives.

16. The representative of Canada recalled that his delegation had raised concerns about the EC draft Directives on WEEE and HSEEE as well as the one on nickel-cadmium batteries. He shared many of the points made by ASEAN. Canada supported the underlying objectives of the WEEE Directives, i.e. to prevent waste from EEE by means of increased re-use, recycling and recovery of such waste, as well as to reduce the risks of environmental impact associated with its

treatment and disposal. However, Canada would monitor closely the implementation of the Directive in order to ensure that it did not create any unnecessary barriers to trade.

17. He noted that the EC Directives had not been notified, and indicated that more information on the HSEEE Directive was needed in order to understand the rationale that led to a ban on the use of certain non-ferrous metals in a broad range of equipment. He sought the reason why the EC had determined that sound recycling and re-use policies, which were less trade-restrictive measures, could not achieve the same environmental and health objectives. He recalled that Canada had asked the EC to provide the scientific studies for the justification of the measure, but regretted that they had not been received. He made a further request for such information. He also questioned the soundness of the EU's risk assessment with respect to the use of those metals. He concluded that in the absence of such information, Canada could assume that the EC draft Directive decision had been reached without a comprehensive and scientifically sound risk assessment. He reiterated the importance of providing information in a timely manner, when a risk assessment had been done, to allow trading partners to consider the issue, i.e. how it related to environment and health protection, so that potential trade disputes could be minimized. He raised the concern that the Directive, if implemented, would create unnecessary barriers to trade. The requirement to reduce or eliminate the use of certain materials would create significant adverse trade effect on countries, such as Canada, that produced such substances. He urged the EC to consider the negative trade impact of the proposal on other Members, and to consult with the affected industries (including manufacturers of electrical and electronic products and producers of non-ferrous metals), other stakeholders, as well as interested governments to ensure consistency of the Directive with WTO Agreements, including the TBT Agreement.

18. He also believed that the EC intended to move forward with the ban on the use of nickel cadmium in batteries and accumulators in the absence of a formal risk assessment. The ban, if adopted, might create unnecessary barriers to trade for manufacturers of electrical and electronic products that rely on nickel-cadmium batteries as a power source. He urged the EC to wait for the results of the risk assessment on cadmium being conducted by the Belgium Government, in order to minimize the possibility that the proposed measure would be inconsistent with the Agreement. He recalled that OECD Members had endorsed recycling as the preferred method to deal with the environmental and health concerns associated with nickel-cadmium batteries and accumulators. He urged the EC to consult with other Members and stakeholders to consider alternatives to the ban, such as to increase the rate of recycling – a less trade-restrictive measure that would achieve the same environmental and health objectives.

19. The representative of Egypt associated her delegation with the statements made by the previous speakers, and requested the EC to provide answers to the questions posed.

20. The representative of the United States also associated herself with the statements made, and recalled her delegation's intervention at the previous meetings on the EC draft Directives. She expressed concern in particular with respect to the lack of transparency in their development. She sought an understanding on the rationale of the measures and their relationship to the environmental and health objectives, so that their consistency with international obligations could be better assessed. In the absence of information from the EC on risk assessments relating to the proposed ban and safety of possible substitutes, her delegation's questions remained.

21. She believed that the proposal on WEEE would impose financial and bureaucratic burdens on manufacturers, especially those that lacked a physical presence in Europe. She urged the EC to work with other stakeholders to ensure an environmentally beneficial and economically efficient approach.

22. She also recalled her delegation's concerns expressed at past meetings on the EC draft Directive on nickel-cadmium batteries and products powered by such batteries, in particular with respect to the lack of transparency in its development. She believed that the ban would have a significant impact on trade, and that the method endorsed by OECD Members on collection and recycling of nickel-cadmium batteries might be a viable, less trade restrictive alternative. She sought further clarification on the proposal, scientific basis for the ban, as well as information on the risk assessment conducted. She urged the EC to work with all stakeholders to consider alternative measures with less trade impact to achieve its environmental objectives.

23. The representative of Australia also associated her delegation with the previous speakers on the draft EC Directives, and in particular the concerns raised about their potential trade impacts. She was interested in hearing the EC's responses to the ASEAN questions.

24. The representative of the European Communities confirmed that in June, the Commission had adopted the proposals on Waste Electrical and Electronic Equipment and on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment. These two proposals would follow the procedures for discussions and adoption at the European Council and Parliament. He informed the Committee that they were still at an early stage of adoption process within the EC, and the date for entering into force was planned for the year 2008. The Commission was working on the document concerning nickel-cadmium in batteries, which had not been adopted as a proposal by the Commission. For this reason, he felt that it was too early to discuss this issue at the present meeting.

25. He believed that the proposed measures were necessary from a human health and environment perspective, since those substances, mainly heavy metals, could accumulate in waste streams and human blood. His authorities had to take certain measures to protect human health (mainly of workers) and the environment, and at the same time, not to exclude small and medium-size manufacturers. He informed the Committee that there would be a reassessment of the situation and possible alternatives at mid-term in the year 2004. He believed that the requirements did not discriminate against foreign producers, were based on scientific evidence, in proportion with the fulfilment of objectives to protect health and the environment, in line with international trade laws and TBT consistent. He informed the Committee that notifications of the drafts had just been made, and the text was available on the internet site. He invited other Members to make comments on the drafts at this early stage of adoption process when their modifications and amendments were possible.

26. The representative of Brazil drew attention to an EC notification G/TBT/Notif.00/289 related to a system for the identification and registration of bovine animals, as well as the labelling of beef and beef products. It introduced requirements to indicate on labels information related to: (i) the country of origin of the animal; (ii) the slaughterhouse; (iii) the de-boning hall; and (iv) the category of the animal from which the beef was derived. She sought clarification whether for beef exported to the Community, only the two first requirements would apply.

27. The representative of the European Communities said that he would respond after consulting his authorities.

28. The representative of Canada informed the Committee that his authorities were reviewing the EC beef labelling system with a view to determine whether an intervention would be made.

29. He recalled that at the last meeting, his delegation had raised concerns about New Zealand's ban on the importation of trout. New Zealand had explained that the ban was temporary, for conservation reasons. It was due to the fact that there was currently no commercial sale of trout in the New Zealand domestic market. There was a concern that the commercial sale of trout might lead to conservation difficulties, threatening the sustainability of wild trout fishery. However, he felt that New Zealand had not adequately explained how the importation of trout would threaten the sustainability of New Zealand's wild trout fishery. If this was a domestic enforcement issue, New Zealand should be able to deal with the matter in a way that did not prohibit trade.

30. He noted that on 28 June 2000, New Zealand had extended the ban for a further nine months, to 7 April 2001. By then, the temporary ban would have been in effect for two and a half years, with no guarantee that it would not be further extended. He considered the ban to be inconsistent with New Zealand's WTO obligations, and requested that the ban be removed without further delay.

31. The representative of New Zealand responded that the ban was a temporary one, and the Canadian concerns would be reported back to his authorities so that further explanation could be provided. He noted that his government attached high priority to resolve this issue within the next nine months, and invited Canada and other interested Members to continue consultations with them.

32. The representative of the United States raised concerns about the EU new reference standard (EN 61000-3-2) under the Electromagnetic Capability (EMC) Directive. She said that the new standard, effective on 1 January 2001, would impose mandatory limits on low frequency emissions (LFE) from information technology products and all other electronic equipment. The EC had stated that the requirement was aimed at protecting public electricity distribution networks from LFE interference. However, she felt that the new standard would impose strict requirements for information technology products.

33. She recalled that in previous consultation with the EC, US industry had challenged the scientific justification for this standard, and suggested that less restrictive and lower-cost alternative approaches should be examined. She noted that the new standard would require US companies to redesign their products for the EU market, and that would cost billions of dollars, impede transatlantic trade as well as raise costs to European consumers. The new EC standard differed significantly from other market-driven voluntary industry standards e.g., in its scope and content. It was determined by the mandate of the Commission in the context of legislative harmonization of electromagnetic compatibility among EU member States. She felt that the EC should make efforts to ensure that the standard would involve minimum overall costs and provide flexibility. Her delegation had requested the EC to delay its implementation for several years, while relevant standards could be developed within the International Electrotechnical Commission (IEC).

34. The representatives of Canada and Thailand associated their delegations with the statement made by the US.

35. The representative of Malaysia shared the US concerns on the possibility of higher costs on IT products as a result of the EC standard, especially for producers from developing countries. She requested the EC for clarification and to consider low cost alternatives that would minimize the trade impact on IT products.

36. The representative of the European Communities believed that EN61000-3-2 was based on an IEC international standard. He further explained that the standard under the EU

approach, was not mandatory, but voluntary, and there was an alternative rule, i.e. the technical file route, that could be used under the Directive to demonstrate compliance with the essential requirements. The requirements mentioned in the standard were the same for the European industry as the others. He indicated that he would come back with further clarification.

37. The representative of the United States welcomed the information provided from the EC. However, she linked this issue with the Committee's discussions on international standards, and felt that this might be the case when an international standard did not reflect the interests of all Members. The IEC standard preparation had been dominated by the European utilities, developed by CENELEC, and there was no process under way to revise it. She noted that the US industry had also concerns over the EC's suggested alternative, and indicated her intention to come back to it in the future.

38. The representative of the European Communities recalled that at previous meetings, his delegation had raised concerns on the Japanese legislation related to fishery vessel engines. He understood that the basic aim of the law was to protect fishery stocks through a control of engine power of fishery vessels, on the basis that the more powerful the engine, the more fish could be brought to shore. The engine output was linked to a certain calculation index, i.e. the engine performance index (EPI). However, he believed that over the years engine technology had developed, engines were produced with a higher output, and true engine power could no longer be shown by the EPI index, but by relevant ISO standards. He found the Japanese legislation complicated (i.e. its scope as well as its objective to protect natural resources), and that its conformity assessment procedure was difficult for manufacturers, including the European ones.

39. The representative of Japan informed the Committee that his government had established a study group because of the deregulation process in Japan, and also in response to an EC request. The study group is composed of representatives from the fishery industry, engine manufacturers (both domestic and foreign) as well as the academic world. Japan was ready to consider the comments made by European industries. For reasons of transparency, his delegation was prepared to provide further information about the study group to the EC.

40. The representative of New Zealand recalled that his delegation had raised concerns about a Japanese mandatory country of origin labelling scheme on perishable food and beverages (G/TBT/Notif.99/668) on previous occasions. The representative of Japan had indicated the willingness to take into account New Zealand's concerns on the costs for compliance, and to provide further explanation on the objectives of the labelling requirements.

41. The representative of Japan said that he could not provide additional information at the moment, but reiterated that the labelling requirement had been developed as a result of consumers' demand for information on a number of commodities. The measure, designed to protect consumers' interests, was imposed on all perishable food (both imported or domestically produced), and did not give any advantage to domestic producers nor discriminate against imported products.

42. The representative of the United States drew attention to the Indonesian Consumer Protection Regulation No. 8 of 1999 that would take effect this month. She noted that even though the measure would have a significant trade impact, it had not been notified. Therefore, other Members did not have the chance to comment, and business did not have sufficient time to adjust to the new requirements. She raised concern about certain requirements of the regulation (e.g. the use of local language on labelling), and felt that there could be a simpler

way. She urged Indonesia to notify the measure, and delay its implementation pending comments made by other Members.

43. The representative of Mexico drew attention to notification G/TBT/Notif.00/5 of the US in relation to tuna product labelling. She recalled the US representative had clarified that the measure was a voluntary standard, and thus should not have been notified under Article 2.9. She sought clarification as to whether a corrigendum would be made to that notification. She indicated that her delegation was studying the issue, and would come back to it at the next meeting.

44. The representative of Japan drew attention to a Korean notification dated 13 June 2000 (G/TBT/Notif.00/284) concerning safety of electric appliances. He appreciated the change of system in Korea which would harmonize the Korean system with international practice. He sought clarification on whether the date of adoption and entry into force was on 20 August 2000 (as indicated in the notification) or 1 July 2000 (as informed in his capital).

45. The representative of Korea clarified that the date of adoption and entry into force was 1 July 2000, and a corrigendum of the notification would be circulated shortly.

46. The Committee took note of the statements made.

III. REPORT BY THE CHAIRMAN ON THE WORKSHOP ON TECHNICAL ASSISTANCE AND SPECIAL AND DIFFERENTIAL TREATMENT IN THE CONTEXT OF THE TBT AGREEMENT

47. The Chairman recalled that a Workshop on Technical Assistance and Special and Differential Treatment in the context of the TBT Agreement had been held on 19-20 July 2000. A summary report of the Workshop had been prepared by him on his own responsibility (Annex 1) and more detailed reports summarizing the discussions and proposals in the different Sessions would be finalized by moderators (paper Job No. 4849). He thanked the moderators from the delegations of, Australia, Canada, India and the Netherlands for their efforts. He found the Workshop and the information received valuable. In particular, it had provided opportunities for delegations to share experience from capitals-based representatives and technical experts of developing country Members on specific problems they faced in the implementation of the Agreement, as well as how they sought to benefit from it.

48. He was impressed by the quality of the presentations made and ideas put forward to address the specific problems faced by developing country Members in relation to the four areas of the Workshop (implementation, international standardization, conformity assessment and capacity building). He drew attention to paragraph 10 of the Workshop programme which stated that in the light of the report, Members could propose and consider further actions which might be taken up in the Second Triennial Review. He encouraged Members to reflect on the report as well as the contributions made for further discussions in the Committee after the summer break.

49. The representative of Egypt found the Workshop useful, as it had concentrated upon concrete problems as well as providing precise proposals for solutions. She noted the information provided by donor countries, financial institutions and international standardizing bodies on their efforts in technical assistance, and indicated their intention to proceed further in this regard. She suggested that the Committee should reflect on the proposals made in order to determine their feasibility, and the Second Triennial Review would be the occasion to do so. It might lead the Committee to reach a point where it could launch a practical non-duplicative technical assistance/cooperation programme, of which the Secretariat would be the focal or liaison point. She would study the various papers and proposals submitted with the target of launching such a programme, which she thought could be one of the outcomes of the Second Triennial Review.

50. The representative of Chile found the discussions at the Workshop transparent and frank. He looked forward to future meetings when delegations could draw from the Workshop suggestions on technical assistance and cooperation, as suggested by Brazil (G/TBT/W/140). Although he found the example of cooperation between standardizing bodies useful, he felt that at the coming meeting, the Committee should focus on those aspects related to better implementation of the Agreement, rather than just on standardization and conformity assessment.

51. The representative of Venezuela found that his country faced the same problems as those faced by other developing countries, and coordination as well as training of personnel were important. He supported Chile's view to follow up on the results of the Workshop at future Committee meetings.

52. The representative of Uruguay found the Workshop useful and thanked donor countries for their contributions. He recalled that issues had been dealt with in a frank and open fashion. He shared the view that the Committee should return to the outcome of the Workshop at its coming meetings and make use of it at the Triennial Review.

53. The representative of Panama noted that the problems which had been identified at the Workshop were common, and believed that the outcome of the Workshop could facilitate the planning of technical assistance programmes of the WTO and other international organizations to help solve problems faced by developing countries.

54. The representative of Malaysia found that the Workshop had produced some excellent results and lessons, and hoped that they could be used at a later stage, particularly in the Second Triennial Review. Speaking on behalf of ASEAN countries, she expressed her wish that more workshops could be conducted, especially on the implementation of the Agreement.

55. The representative of the European Communities found the Workshop useful, and that there had been a good balance between information received and time allowed for discussions to identify solutions to problems. He noted that a huge amount of information had emanated from it, and in order to move forward, he invited other Members to study the reports of the Chairman and moderators. He felt that the Committee should identify what was realistic for the WTO to get involved with, and what needed to be done by other organizations. He noted that "implementation" was an important topic in the WTO at the moment, and believed that the Committee had shown a constructive way to move forward on this difficult subject, and this could be learnt by other bodies of the organization.

56. The representative of Mexico shared the views expressed, in particular the point made by Panama that all or the majority of developing countries faced common problems, and this could facilitate the development of a strategy to tackle these problems. He found the Workshop efficient in that it also dealt with the effective implementation of Article 12 provided obligations for Members which was important for developing country Members. He thanked the organizers and participants of the Workshop for their efforts and contributions.

57. The representative of Norway thanked those who had contributed to the success of the Workshop. He found that the Workshop had not only been important to developing countries' administrations but also to delegates of the Committee. Concerning technical assistance activities, he drew attention to the following two elements: (i) the importance of developing countries deciding the priorities themselves; and (ii) the necessity of the WTO to cooperate with other international organizations which had the capacity to contribute to the execution of projects in developing countries. He also reminded Members to consider the element of funding, as he noted that within the WTO and the Integrated Framework there were no funds.

58. The representative of Senegal thanked the Secretariat, donor countries, moderators as well as the participants for contributing to the Workshop. He noted that at the Workshop, the importance of information and communication technology had been reiterated. He believed that, with the aid from the Secretariat, one could come up with ideas with respect to the use of information technology, and that would be a promising beginning for the future. He recalled the projects and proposals of technical assistance announced by the EC, Switzerland, Germany and other organizations, and emphasized the importance for all Members to pursue further liberalization of international trade, with more balanced participation from developing countries.

59. The representative of Canada joined in commenting on the outcome of the Workshop, which he felt had provided a basis for progress in the discussions on technical assistance, particularly in relation to the implementation of the Agreement. He stressed that in future, when seeking ways to implement some of the ideas, it was important to involve the relevant operational agencies in developing countries. It was also important to include the appropriate organizations which had the special expertise, since the WTO was limited in some areas. He agreed with Norway about the issue of funding, and felt that there should be a continuing

liaison within the WTO. He felt that the Committee had had a good Workshop, and its result should be made available to the General Council or the Committee on Trade and Development.

60. The representative of the United States found the Workshop constructive, and thanked those who had contributed to it. She noted that there were a lot of information as well as some interesting proposals for further reflection. The Committee would need to come back to them at its next meeting.

61. The representative of India informed the Committee that the Workshop had been commented upon favourably in the WTO. He noted that the organization was facing a difficult situation with respect to implementation, and felt that the Workshop had offered a pragmatic way out. He believed that the Committee had crossed the first hurdle in identifying the problems and suggestions for solutions. The logical next step would be to move forward to seek the implementation of the solutions. He looked forward to working with other Members on that at the Second Triennial Review. He recalled the suggestion made by the EC that delegations who had tabled relevant papers in other Committees should also table them in the TBT Committee, and indicated his delegation's intention to do so. He expected that the Committee would have a productive round of consultations and discussions which could lead to a successful conclusion of the Second Triennial Review before the end of the year.

62. The representative of Japan thanked the Chairman, participating Members and those who had contributed to the Workshop, which he found had provided useful information and suggestions, in particular for the Triennial Review.

63. The observer of UNIDO expressed thanks that her organization had been invited to participate in the Workshop. She found the Workshop valuable and had brought together practitioners from capitals and supporting institutions to identify problems faced by developing countries. It had also revealed the numerous technical assistance programmes offered. She felt that the challenge at hand would be to identify the gaps and, as pointed out by Egypt, to delineate concrete and operational programmes with the cooperation and coordination between specialized agencies.

64. She informed the Committee of an UNIDO idea to set up an internet-based global monitoring system, which would deal with the following features: (i) basic data on standards and conformity assessment bodies; (ii) baseline studies on national quality, standards and metrology (QSM) infrastructure of developing countries; (iii) an observatory of trade-related concerns experienced by enterprises; and (iv) a forum for exchange and discussion on international issues (Annex 2). The system would seek to link up existing standards related information systems. The project was still at a conceptual stage, and she welcomed any comments or suggestions from Members or other agencies.

65. The Chairman recalled that at the Workshop, one of the key themes had been the need for effective means of information dissemination which would assist national authorities to perform their work. For this reason, he found the UNIDO initiative interesting.

66. The representative of the United States said that she had listened with interest to the proposal by UNIDO, and expressed her wish to receive further information on it as it developed. However, she raised questions as to whether there would be a duplication of work with the Committee, as well as the existing network for information exchange through the TBT Enquiry Points and notification procedures. She also raised concern about the evaluation of technical trade barriers by parties other than Members, if the trade barriers were to be interpreted within the context of the TBT Agreement. She believed that trade barriers faced by enterprises should be brought back to the TBT Committee by Members. She suggested that UNIDO could

rethink its project, and move it more to the direction of the provision of information not already covered by the Agreement.

67. The observer of the ISO found that there had been a good balance between information and discussion at the Workshop, and was pleased that ISO had been invited to participate in the sessions on international standards and conformity assessment. He provided information on the development of a database within the framework of the Standards Action in the Global Market Forum (a joint venture between ISO, IEC, ITU, ITC, UNCTAD, UNIDO, WIPO and the International Chamber of Commerce), which would provide information on technical assistance programmes concerning standardization and conformity assessment. He suggested that the WTO assistance programmes could be coordinated.

68. The observer of the FAO/CODEX thanked the Secretariat for inviting his organization to the Workshop, which he found useful and constructive. He recalled that he had heard interventions concerning collaboration between WTO and the FAO/Codex Alimentarius Commission. He supported the notion for future collaboration in holding workshops related to the TBT Agreement. He informed the Committee about the databases developed within the Codex Alimentarius Commission. He indicated his interest in participating at future TBT meetings in order to update the Committee on the activities of the Codex Alimentarius Commission.

69. The Chairman noted that the above statements made by observers had all provided information on database information projects, which had also been a subject of discussions at the Workshop. He believed that would be an important theme for the Committee's future discussions, i.e. the challenge to put together the available information in a system that Members could benefit from in the day-to-day operation. The Workshop had provided the opportunity for a number of agencies to get together, so that duplication of work could be avoided in this regard. He invited Members to reflect on the report (Paper Job 4849), so that when the Committee proceeded with the Triennial Review discussions, the contributions derived from the Workshop could be drawn upon.

70. The Committee took note of the statements made.

IV. PREPARATION FOR THE SECOND TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT UNDER ARTICLE 15.4

General Statements

71. The Chairman recalled that at the informal meeting of 17-18 July 2000, progress had been made in the preparation of the Second Triennial Review. At that meeting, the Committee had held discussions on a paper prepared by the Secretariat concerning principles related to international standards development (paper Job No. 3937), as well as other international standards-related matters. The Committee had also held discussions on the following issues proposed by Members for the Review (paper Job No. 4481): implementation, notifications and procedures for information exchange, conformity assessment, technical regulations, technical assistance, special and differential treatment, equivalency of standards and labelling. The Committee had taken on board a number of the comments made and he felt this would guide the Committee as it continued its preparation for the Review. He invited Members who wished to submit new proposals to do so as soon as possible, because of the limited time available before the last meeting of the year, scheduled for November.

72. The representative of Egypt noted that paper Job 4481 made reference to a number of documents prepared by the Secretariat and Members (since January 1998) concerning issues

identified to date for the purpose of the Second Triennial Review. She felt that it would be useful if the Secretariat could prepare a paper, along the line of the non-paper Job 3937, to summarize, under each issue, the papers and proposals listed on paper Job 4481. It could serve as a basic paper for further discussions.

73. The Chairman drew attention to documents G/TBT/SPEC/11 and Revision 1, a compilation of the papers and proposals contributed by Members to date around the Triennial Review subject areas. He felt that, at this stage, it might be difficult for the Secretariat to come up with a comprehensive text in all the areas for which the Committee was still awaiting further information from Members. He did not exclude the possibility of requesting the Secretariat to prepare a paper in the future that sought to encapsulate some of the key conclusions that had emerged. However, he was doubtful that it might be premature at this stage for the Secretariat to take up this job. He, instead, requested the Secretariat to update paper Job No. 4481 and document G/TBT/SPEC/11.

74. The representative of Australia looked forward to the discussions on some of the issues that had not yet been fully discussed, e.g. equivalency of standards and labelling. She invited proponents of these topics to come forward with papers as soon as possible. She was particularly interested to see the proponents' views on how these issues related to the objectives of the Agreement or to trade.

75. The representative of Brazil introduced the Brazilian paper on the Second Triennial Review (G/TBT/W/140), and considered that the TBT Agreement was generally working well. However, she believed that the main difficulty faced was the full implementation of the provisions of the Agreement by Members. Such difficulties were further increased by the technical limitations faced by most Members when implementing the Agreement, and also the lack of clarity on certain concepts related to the Agreement. For this reason, she highlighted the importance of having coherent terms and definitions under the Agreement, as well as further discussions on the issues of international standards, technical regulations and conformity assessment.

76. The representative of Mexico found the Brazilian proposal for the clarification of certain concepts interesting. However, her delegation had a minimal stand for making amendments to the Agreement.

Implementation of the Agreement

77. The Chairman drew attention to document G/TBT/W/136 prepared by the Secretariat concerning the implementation of the Agreement by Members. He said that Members who had submitted notifications under Article 15.2 were welcome to provide supplementary information.

78. The representative of the United States noted that document G/TBT/W/136 identified the statements submitted by Members under Article 15.2 which facilitated the exchange of experience among Members on the implementation and administration of the Agreement. She recalled that at the First Triennial Review and also the Workshop on Technical Assistance, Members were encouraged to further exchange information in this regard. She drew attention to document G/TBT/2/Add.2, the statement made by the US, and said that her delegation had submitted its statement with a view to providing assistance to those Members who had not yet made their statements. She noted that although the statements were summaries in nature, they were intended to provide a picture of how Members would ensure initial and ongoing compliance with the Agreement.

79. For the US, the implementation of the Uruguay Round TBT Agreement had been an opportunity to take stock of existing legislations as well as relevant institutions that would assist her government meeting the obligations of the Agreement, i.e. to prevent discrimination and the creation of unnecessary obstacles to trade in the development of mandatory technical regulations, conformity assessment procedures, as well as voluntary standards. The US Trade Representative (USTR) had communicated the obligations of the Agreement to other government agencies, local government authorities and private bodies. Other government agencies had been asked to identify any specific regulations, laws or procedures which they thought might be in conflict with the TBT obligations. Her authorities then took actions to implement the Agreement and to fulfil the US' WTO obligations.

80. She recalled that her country had been a signatory to the Tokyo Round TBT Agreement, and for this reason, not a lot of new actions had to be taken. Specific responsibilities had been established, i.e. the USTR had overall managing responsibilities, the Department of Commerce as well as the Department of Agriculture had been given specific responsibilities for information exchange, and the National Institute for Standards and Technology had been assigned as the US enquiry point and point of dissemination of information. The Statement of Administrative Action had stated that the US agencies were prohibited from creating unnecessary obstacles to trade. The agencies had also been called upon to use relevant international standards, if considered to be effective and appropriate for meeting the legitimate regulatory objectives, as a basis for the measures. She drew attention to the Executive Order 12866 which guided federal agencies in the development of regulations. It contained a number of provisions, including regulatory impact analysis overseen by the Office of Management and Budget.

81. The Administrative Procedures Act was the chief vehicle for assuring transparency in the development of US regulations, the consideration of comments, the responsibilities of agencies to respond to the comments in the federal register, and points for appeal in the event of dissatisfaction with the final outcome. She noted that in terms of trade policy development, the USTR had the Trade Policy Staff Committee, and there existed a sub-committee involving key US agencies interested in the TBT Agreement. It would act as an ongoing vehicle for discussing issues related to the implementation of the Agreement, and evolving positions on trade irritants. There existed also a group of private sector advisors, a committee devoted to advising her government on the implementation of the Agreement and concerns with foreign governments.

82. She noted that there were a large number of bodies developing voluntary standards in the US, and for the purposes of the implementation of the Code of Good Practice, her government relied on a notification by the American National Standards Institute which had signed the Code of Good Practice on behalf of all the standard bodies accredited for consensus procedures. Regarding notifications of proposed regulations, it was done on the basis of identifying the proposals published in the Federal Register; for this reason, her authorities did not have to rely on the relevant agencies to inform of the proposals.

Notification and Procedures of Information Exchange

83. The representative of Thailand raised concern that lately, the period provided for comments on notifications was short. She encouraged Members to allow 60 days for comments, as recommended by the Committee, and proposed that the period should be calculated starting from the date of circulation of the notification.

84. The representative of Mexico had reservations on Thailand's proposal to specify the reasonable time-period for comment.

85. The Chairman recalled that during informal consultations, the Committee had held useful discussions on a number of proposals on notifications and procedures for information exchange. He proposed to request the Secretariat to prepare a paper compiling the relevant proposals and comments made to date, with a view to facilitate discussions that might lead to the Committee's agreement on certain proposals to improve the notification and information exchange procedures. He invited Members to provide the Secretariat with any further comments and proposals in this area as soon as possible.

International Standards and International Standardizing Bodies

86. The Chairman recalled that during the informal meeting on 17 July, the Committee had held extensive discussions on the issue of international standards and standardizing bodies, starting with a focus discussion on the Secretariat paper (Job number 3937) on principles for international standards development. The Committee had also touched upon a number of other issues regarding, for example, the use of international standards and the status of international standardizing bodies.

87. The representative of the European Communities welcomed the work done by the Secretariat and contributions made by Members on the subject. He felt that paper Job 3937 had encapsulated many views and was useful in identifying the common elements for the process of international standards development. However, he believed that this was not enough on its own, and there was a need for discussion on the scope and purposes of international standards as a basis for technical regulations, and in this context, the coherence of international standards was an essential point. Paper Job 3937 dealt with issues such as openness, transparency, impartiality, efficiency and relevancy, which were important. These principles could be applicable to any standards development process. However, these principles should not remain abstract, but should be related to the constitution/status of the body that applied them, in order to develop coherence in international standards.

88. He believed that an international standardizing body which developed international standards to be used as a basis for mandatory technical regulations, should guarantee national representation. Only this way, could a commitment to use these international standards in every country be reinforced. A body that developed standards used for technical regulations must exclusively be constituted and act as an international body, otherwise conflicts and incoherence would arise if bodies other than that were to act as if they were international in the same field. If there was a proliferation of bodies developing standards on the same matter, it would create a situation whereby countries, when preparing technical regulations, had to choose between several relevant international standards. The effect of such a choice would create unnecessary barriers to trade and impact negatively on the implementation of the Agreement.

89. He gave an example that if countries A, B and C were preparing technical regulations in the same field, and had chosen different international standards in this particular field as the basis for their regulations, they were, in fact, all complying with Article 2.4 of the Agreement. However, the market would remain fragmented since these countries were using different standards as the basis for their regulations. He believed that this would not be in line with the spirit and purpose of the Agreement to facilitate trade and reduce fragmentation. For this reason, in addition to the principles of the standards development process as set out in the paper Job 3937, international standards should also be coherent.

90. He reiterated the importance attached to the constitution/status of an international body. He welcomed the IEC and ISO paper (G/TBT/W/131) which he thought had provided useful information on this. Both organizations had emphasized the role the constitution of a body played in international standards development. They claimed that international bodies

had to respect the same principles of membership and due process that form the basis for WTO membership, otherwise their standards should not be recognized as international standards in the WTO context. His delegation believed that the status of treaty organizations such as the ITU and the Codex Alimentarius Commission were exclusively international, based on national representation and could also be considered as developing international standards.

91. He concluded that a large number of standards could be developed following the principles of transparency, openness, impartiality, effectiveness and relevancy (as stated in paper Job 3937). However, standards which the EC believed to be truly international, were just a subset of that group, i.e. they were to be developed by treaty organizations with international status.

92. The representative of Brazil shared views with the EC on a need to avoid duplication of standards. She recalled that at the Workshop of 19-20 July, a number of representatives from developing countries had expressed difficulties in this regard. If countries did not know what international standards were, it would be difficult to use them as a basis for their technical regulations.

93. The representative of the United States welcomed the Secretariat paper Job 3937, and emphasized the importance of stakeholders' involvement and consensus process which underpinned the development of international standards. She found that the EC's point on international standards was limited to the aspect when they were used as a basis to technical regulations. She agreed on the need to facilitate trade and reduce fragmentation and duplication of international standards. However, she raised questions on the EC's view that an international standardizing body, developing standards to be used as a basis for mandatory technical legislations, must guarantee national representation. She thought that it was not for the bodies *per se* to decide whether their documents should be used as technical regulations. It was up to a Member to decide, when looking into the bodies for documents that might be relevant to the technical regulation required. She recalled that at the Workshop, the Committee was informed by the Codex Alimentarius (an intergovernmental body) that their documents were voluntary, although they might be used by Members as basis for mandatory technical regulations. She noted that recently, the UN/ECE Working Party 29 had agreed on a "Global Harmonization Agreement", and that seemed to her to be a body trying to produce documents for mandatory technical regulations. She raised questions on that, and indicated her wish to come back to it in later discussions.

94. Referring to the paper submitted by the ISO and IEC (G/TBT/W/131), and without prejudice as to whether she agreed with its content, she raised concerns about non-Members, such as the ISO and IEC, making interpretations of the Agreement.

95. The representative of Japan welcomed the Secretariat's paper (Job 3937). He felt that the paper, focussing on international standards development process, covered only one aspect of the broader issue of international standards. He believed that the WTO should not automatically take any standard as an international standard under the TBT Agreement, just because the standard had emanated from certain international standardizing bodies. Japan supported the strengthening of procedures for international standards development, such as transparency, openness and impartiality. Strengthened procedural requirements would improve the relevancy of standards emanating from such processes. However, as stated at the Workshop by certain speakers, some international standards could be regionally biased or obsolete. He felt that strengthened procedural requirements could reduce the possibility of creating such standards, but would not completely eliminate the possibility. The WTO should retain its right to question such standards, especially when a dispute arose in relation to Articles 2.4 and 2.5 or Annex 3 of the Agreement. With respect to the WTO's viewpoints on the

relevancy of international standards, he proposed the following element: universality, in terms of regionally non-biased and technological neutrality, so that they would not be trade restrictive. This would preserve Members' right to question inadequate international standards, and enhance the dynamic between the WTO and international standardizing bodies, thereby indirectly encouraging them to produce better and more universal standards. He would elaborate it further at the next meeting.

96. The representative of Egypt, referring to the Secretariat paper Job 3937, believed that it had dealt with a number of concepts and principles for international standards development. However, she had reservations about some of the terms used in the paper, such as "meaningful opportunities" and "tangible ways", as well as part E on "Development Dimension" which needed to be strengthened. She noted that the Workshop had come up with a number of proposals and solutions, and in the light of that, she suggested that the paper should stay open until practicable language was encompassed. She believed that this could easily be done at a later stage, in informal meetings with the final proposals and solutions being forwarded.

97. Regarding the Japanese proposals on market relevancy of international standards, she understood the Japanese concept that certain standards could not be considered as international. She reiterated her concerns about using market share as a criterion, in particular to define a specific percentage of market share for certain products. This could damage the interests of developing countries, especially in the case when a developing country produced a product which consisted of, for example, 80 or 90 per cent of its exports, but did not represent a visible share in the global market. She noted also that the Japanese concept dealt with the technological content of standards, whether they were outdated (a period of 25 years had been suggested) or too advanced for international adoption and usage. She felt that this concept did not take into account the interests of developing countries, due to the technological gap between developing and developed countries. She concluded that the Japanese proposal could lead to a difficult debate in the Committee on criteria such as: "what is an outdated standard", "what are the most advanced ones" or "which standard fits certain technologies".

98. The representative of Australia introduced the Australian paper on international standards (G/TBT/W/139), and said that it was based on the Secretariat paper with an attempt to move it forward. However, in the light of the discussions in informal meetings, she might put forward an updated position in the future. She found that "the development of international standards", "international standards as used in technical regulations" and "what constitutes an international standards writing body" were three separate issues that might need further in-depth discussions. She also indicated her intention to come back to the Japanese statement.

99. The representative of Chile reiterated his delegation's position that by ensuring openness, impartiality and transparency in the development of international standards, there would automatically be a convergence of international standards which were not duplicated and were relevant to the market. He understood the concerns raised by Japan on market relevancy, as well as the EC on coherence related to technical regulations. He agreed to work on these issues, but stressed that it was important to find a way which served the Agreement, but was not too rigid nor over disciplined.

100. The representative of Malaysia welcomed the Secretariat paper Job 3937 and found the guidelines useful to ensure that international standards were developed in such a way that would obtain wide acceptance by Members. She noted the comments made by Japan and EC. She appreciated the EC's view that international standardizing bodies should guarantee national representation in these bodies, and hoped that the EC could come up with ideas on how this could be achieved.

101. Regarding the principles for standardization bodies, she felt that the principles for standards development, as elaborated in paper Job 3937, would be reflective of the conduct of international standardizing bodies. She agreed that there should be procedures for openness, impartiality and transparency. She felt that there was a need for changes in policy-making procedures in international standardizing bodies, as well as the need for the participation of the majority of Members in these bodies at both the operational and policy levels. She proposed to add the following point at the end of paragraph 11 of the paper: "the operation of the policy development committees", so that openness for participation at every stage of standards development could be ensured. She was also ready to consider the Japanese proposal that there should be additional requirements.

102. The representative of Indonesia said that his country relied on the importance of international standards (e.g. those developed by ISO, IEC, CODEX) to assist in improving the quality of its products and strengthening its industry. He believed that standards, technical regulations and conformity assessment procedures which conformed to international systems would not create unnecessary obstacles to trade. However, the use of international standards by a number of regulatory authorities, as the basis of technical regulations was still unsatisfactory due to lack of understanding of the issue. For this reason, the WTO should retain its right not to automatically accept any standard as an international standard under the TBT Agreement. He supported the notions of universality and neutrality.

103. The representative of Thailand felt that in the international standards development process, the interests of developing countries were not fully taken into account. In most cases, it turned out that international standards were not suitable for the use of developing countries. For this reason, Thailand supported the principles of transparency, openness and impartiality in the international standards development process, in particular that the constraints of developing countries were considered and that all international standards were based on consensus principle. She also proposed that the Committee adopt guidelines for equivalency of technical regulations and standards.

104. The representative of Mexico reiterated that a definition of an international standard was important to the Committee. In the light of the discussions at the Workshop, she believed that the principles of openness, transparency, impartiality and efficiency might not be enough to guarantee the effective participation of many countries in international standardization work. She noted that most secretariats of technical committees in international standardizing bodies were not held by developing countries; a point she felt worth further reflection after the summer break. She also expressed interest in further discussion on the Japanese proposal.

105. The representative of Canada supported the Secretariat paper, in particular part two of the paper on guidelines for international standards development. He found that it had developed into what he thought the final document should look like, and might not require much further work. He added that the following two elements would require some thought: (i) the proposal by the US related to consensus as part of the process for standards development; and (ii) the proposal of Japan, as explained at the present meeting. Referring to the EC proposal, he raised concern that the Committee might be heading towards building too much rigidity into the system. He recalled comments made by the ISO Secretary General at the Workshop on 19-20 July, saying that he was conscious of the fact that international standards were developed by all kinds of bodies, including a number of American organizations; and in his view, good international standards were unlikely to be challenged under the WTO, regardless of their origin.

106. The representative of Hong Kong, China felt that the EC's proposal related to the constitution/status of an international standardizing body and the role of the Committee in

relationship to international standardizing bodies deserved further thoughts. She shared the Japanese concern that WTO should not automatically take any standard as an international standard in the context of the Agreement simply because it had been developed according to the principles of international standards development. Her delegation would study the papers submitted by Members for further discussion at the next meeting.

107. The representative of Thailand supported the use of electronic transmission for information exchange and for the purpose of preparation of international standards. However, she stressed that since most developing countries did not have the same technology as developed countries, (e.g. the software of computers used in Thailand is Windows 96 and those of developed countries is Windows 2000), it could be difficult to communicate. This should be taken into consideration.

Conformity Assessment Procedures

108. The representative of Australia introduced the Australian paper (G/TBT/W/138). That paper was built on previous Australian papers on acceptance of results of conformity assessment, taking into account comments made by other Members. She reiterated that the Australian proposal did not impose additional obligations on Members, but was aimed at assisting Members to ensure that the mechanisms they put in place for the acceptance of results were consistent with their obligations under the Agreement. The paper did not prescribe which mechanism should be used, but had identified the mechanisms commonly used. Members might wish to choose one or more of those mechanisms. She noted that while the mechanisms outlined might be appropriate and valid, they could be implemented in such a way that they did not comply with the TBT rules. The paper sought to outline the principles needed to ensure that the TBT obligations were met.

109. The representative of Egypt welcomed the papers prepared by delegations on conformity assessment. She noted that Brazil had emphasized the importance of adopting common rules in order to achieve progress in mutual recognition. Canada had emphasized the notion of one standard, one test, one certification (as stated at the First Triennial Review), and Australia had outlined certain principles for acceptance of results (including MRAs between regulatory authorities of different countries). She found that the difficulties developing countries faced in this area included the lack of sound national bodies (e.g. accreditation bodies) to match the sophisticated and advanced conformity assessment system in developed countries. In addition, supplier's declaration of conformity was not often feasible, due to the lack of a legal framework and difficulties in determining liability in cases of non-conformity, particularly in the absence of a unified definition of suppliers.

110. The representative of Japan welcomed the Australian paper (G/TBT/W/138) which he believed was helpful and had taken into account the comments made by Members. He raised the question of why Australia had changed the scope of its proposal from what he understood as a set of basic rules for conformity assessment bodies (i.e. a guidance for the implementation of Article 5) to a tool for central governments to accept the results of conformity assessment activities (i.e. a codification of Article 6).

111. He noted the phrase "Member governments should encourage all bodies ..." (paragraph 5, page 1 of G/TBT/W/138), and sought clarification on the meaning of "all bodies", whether these included all the central government, local government or private bodies. Referring to point (d), page 2 of that paper, he sought clarification and made comments on the following: (i) the meaning of "different mechanisms"; (ii) "the provision of arrangements" (first bullet) - what would those arrangements be, whether they be assessment bodies, such as the IEC; (iii) "recognition that different standards and regulations ... can achieve the same outcomes"

(second bullet) - whether it was too much; (iv) "cross border accreditation of conformity assessment bodies where accreditation does not exist" (third bullet) – whether this might lead to a division of international markets. Referring to the first bullet of point (e) "playing a full part ... in the preparation of international standards", he believed that standardization should be done on the basis of national standards bodies, e.g. in the ISO, it would be the participation of national standardization bodies, and national accreditation or certification bodies would participate only when they represented the national body.

112. On page 3, concerning the definition of "conformity assessment" and "accreditation body", he raised the question as to whether it duplicated the definition contained in ISO/IEC Guide 2. He noted that the Australian paper put accreditation bodies above all conformity assessment bodies, and expressed doubts if this was appropriate.

113. He recalled the Japanese proposal on conformity assessment which related to a clarification on: (i) what were the guides and recommendations for conformity assessment under Article 5 (similar to the issue of a definition on international standards); and (ii) what were the international and regional systems for conformity assessment under Article 9. He believed that these international and regional systems should follow disciplines related to, for example, openness, transparency, impartiality, access to MRAs, use of international standards and the development dimension.

114. The representative of Malaysia welcomed any approach that could reduce trade barriers and would promote non-discriminatory acceptance of conformity assessment results. She welcomed the Australian paper which had been delivered to this end, i.e. the principles to ensure that procedures for acceptance of tests results were not burdensome and costly; as well as the attachment of an indicative list providing options for Members to select the mechanisms for acceptance of results. She noted the involvement of the private sector in the provision of conformity assessment services, and felt that private bodies should also recognize conformity assessment results conducted by domestic conformity assessment bodies in exporting countries. She pointed to cases when developing countries had not been granted recognition by other countries' testing and certification bodies, as well as the situation of private certification bodies undertaking conformity assessment activities in exporting countries. In this regard, she emphasized the importance of complying with Article 8 of the Agreement related to non-governmental conformity assessment bodies.

115. The representative of Chile welcomed the Australian paper, and said that he would come back to it at future meetings. He recalled that at the Workshop, it had been recognized that one of the important obstacles to trade for developing countries concerned conformity assessment procedures. India had emphasized the need for further work in this area in light of the Workshop.

116. The representative of the United States welcomed the Australian contribution, and indicated that she would come back to it with more detailed comments. She associated her delegation with the questions and comments made by Japan and Chile. She sought clarification on how "government designation" (point C of the Indicative List) related to Article 6.4 of the Agreement.

117. The representative of the European Communities found the Australian paper useful to advance discussions on the subject of conformity assessment. It had outlined the principles which were important in this field. He felt that at this stage, there was a great deal of substance and information on the table, and the discussion was maturing. He noted the point made in the Brazilian paper on adoption of common rules, which he believed, if achieved, could eliminate barriers in this area. He thought that the presentation of India at the Workshop, together with

the Canadian paper as well as the Japanese intervention, contained good ideas for further discussion at the next meeting.

118. The representative of Switzerland welcomed the Australian paper, and shared the view that the Committee should find a way to give more emphasis to international standards for conformity assessment. Even Switzerland, as a small country, could not participate fully in the international standardization work; this should not prevent it from making use of international standards in the voluntary field, as well as the area of technical regulations. If a regulatory authority wished to refuse imports complying with international standards, it had the burden of proof to show that the products could be a danger to public health, the environment or consumers. She believed if this principle had been followed more in the past, there would have been less claims of potential trade disputes.

119. The representative of India took note of the statements made, and indicated that he would come back to them in future meetings.

120. The Chairman recalled that a number of speakers had pointed out the fact that the discussions on conformity assessment had advanced, and a number of key points and themes had been identified which could serve as foundation to build on in the future. He noted that the issues which had been discussed under the Triennial Review were also raised at the Workshop, for example, the issues of international standards and guides, principles for conformity assessment, as well as the different conformity assessment procedures. For this reason, he felt that the outcome of the Workshop could be used as discussions proceeded. He recognized the need for further bilateral, plurilateral and multilateral consultations on all of these issues.

Technical Regulations

121. The representative of Brazil considered technical regulation issues as one of the important parts of the Agreement, since barriers to trade usually arose from them. She stressed that efforts should be made to prepare, adopt and apply technical regulations according to the principles under Article 2 of the Agreement, especially the one on equivalency of technical regulations to facilitate trade, as stated in Article 2.7. The objectives of Article 2 could be more easily achieved if technical regulations were restricted to the essential elements related to the legitimate objectives. These essential aspects did not depend on technological progress, but, in most cases, established the performance requirements. For this reason, she believed that it was desirable to establish an interrelation between technical regulations and standards.

Technical Assistance and Special and Differential Treatment

122. The representative of Egypt welcomed the Brazilian proposal on technical assistance (G/TBT/W/140) related to the establishment of a Triennial Cooperation Programme to be financed by several international sources, followed up by the Committee and evaluated annually with regard to its implementation and results. She expressed interest in further discussions to explore the means of achieving such a programme, which she thought could go side by side with the work of exploring the technical and financial assistance required.

123. The representative of Senegal said that the issues of technical assistance and special and differential treatment were subjected to all WTO Agreements, not only the TBT Agreement. This included the element of ensuring greater participation of developing countries in international trade. He noted that there were two relevant items for Members as well as the Secretariat in the work programme of the First Triennial Review. The first one related to the implementation of Article 11, and Members had been invited to communicate information in this regard. He asked if any such information had been received. The second one related to

special and differential treatment; the Secretariat had been requested to prepare a study to establish the state of knowledge concerning the technical barriers to the market access of developing country suppliers, especially small and medium-sized enterprises. The Secretariat had also been requested to consolidate and circulate a list of relevant international guides and recommendations relating to conformity assessment procedures. He raised a question about the status of such works. In relation with Article 12, he asked if there had been any exchange of information on special and differential treatment.

124. The Secretariat replied that the paper related to the state of knowledge concerning the technical barriers to the market access of developing country suppliers had been prepared (G/TBT/W/103) and circulated on 25 January 1999; the list of relevant international guides and recommendations relating to conformity assessment procedures had been prepared, updated (G/TBT/W/72 and Rev.1) and circulated on 24 June 1998 and 29 September 1999. Any communication received concerning information exchange on technical assistance and special and differential treatment, would be reflected in paper (Job 4481) and G/TBT/SPEC/11 and Add.1.

125. The representative of Panama informed the Committee of a Workshop held recently in Panama related to the needs of the eight governments of Central America and the Dominican Republic on the implementation and the Second Triennial Review of the Agreement (G/TBT/W/142). She thanked the WTO, ISO, World Bank and OAS for supporting the Workshop.

Labelling

126. The representative of Egypt, referring to the EC proposal on labelling (G/TBT/W/133), reiterated that the issue of labelling was a sensitive subject for developing and least-developed countries, because labelling requirements could affect trade flow to certain markets. Although she acknowledged the right of Members to raise any issue under the Review, she insisted that the issues had to lie within the framework of the Agreement, and that there should not be any intention to widen the scope of the Agreement. She emphasized that discussion on the issue of labelling was one thing, the proposal on developing multilateral guides on labelling was another.

127. The representatives of Malaysia and the Philippines supported the Egyptian's view that there was no need to formulate guidelines on labelling, which had already been covered under the Agreement.

128. The Chairman concluded that the Committee had had a useful discussion on the issues raised to date. He believed that the discussions would be intensified after the summer break, when the Committee would aim at preparing a document for the Second Triennial Review by November.

129. The Committee took note of the statements made.

V. OTHER BUSINESS

130. The representative of Egypt recalled that at the last meeting, she had associated Egypt with the concerns expressed by a number of delegates on a UN/ECE project for "An International Model for Implementing Good Regulatory Practice for the Preparation, Adoption and Application of Technical Regulations via the Use of International Standards (G/TBT/W/129). The UN/ECE had informed the Committee that the document was in a draft form, and that on 7 June 2000, an informal meeting was to be organized by UN/ECE for experts from industry and international organizations to discuss the concept of the model as well as the

feasibility of its use in particular sectors. She requested the UN/ECE to update the Committee on this.

131. The chairman of the UN/ECE Working Party on Technical Harmonization and Standardization Policies reported that the informal expert consultations in June 2000 with UN/ECE member states, international organizations as well as industry had been useful, and the comments made would be taken into account for the furthering of the draft model. He would come back to the Committee with further information. He believed the model linked with the work of the Committee on how to formulate technical regulations and to use international standards.

132. The representative of Japan agreed that Article 2.4 of the Agreement provided disciplines for Members to use international standards as the basis for technical regulations. However, he found that the consideration of creating a mechanism in UN/ECE, in addition to the WTO/TBT Agreement, for the preparation, adoption and application of technical regulations was a duplication and unnecessary.

133. The representative of Latvia informed the Committee of the change of address of the Latvian enquiry point; the information could be found in document G/TBT/ENQ/16.

134. The representative of the European Communities introduced the EC paper on the precautionary principle (G/TBT/W/137). Considering that the paper had been distributed just before the meeting and that it was still under reflection within the EC, he would present it in detail at the next meeting.

135. The Chairman announced that the next Committee meeting was scheduled to be held on 4-6 October 2000, and the following one on 13-17 November 2000. He envisaged a number of informal consultations between these two meetings. He indicated that the annotated agenda would be circulated to delegations before the meetings.

136. The Committee took note of the statements made.

ANNEX 1

WORKSHOP ON TECHNICAL ASSISTANCE AND SPECIAL AND DIFFERENTIAL TREATMENT IN THE CONTEXT OF THE TBT AGREEMENT

Summary Report of the Chairman

John Adank (New Zealand)

1. A report of the Workshop is under preparation with the assistance of the four moderators and will be made available to delegations next week. In the meantime, I would briefly summarize my view on some of the main points emerging from the discussion at the workshop.
2. The two-day Workshop provided a valuable opportunity for exchange of information and ideas on the problems faced by developing countries in respect to the implementation and operation of the TBT Agreement. The discussion was practical and solution-oriented. The discussions on each of the four themes: Implementation; International Standards; Conformity Assessment; and Capacity Building highlighted the real world challenges that developing countries face in regard to pursuing both their rights and meeting their obligations under the Agreement. If I had to indicate one clear theme arising from the discussion it would be "Identifying Specific Strategies and Solutions to Address Common Challenges".
3. All countries have specific technical assistance needs and requirements. It was noted that there was no one single model bureaucratic or administrative structure that all countries should follow. A number of speakers highlighted the importance of ensuring that solutions were targeted at the specific priorities and needs identified by individual or groups of developing countries that would allow them to effectively implement as well as benefit from the Agreement. This calls for an assessment at the national level - an assessment which some speakers pointed out might need to be assisted by guidance from outside - including through bilateral cooperation or cooperation at the regional or international level. However, it was emphasized that any solutions must be carefully tailored to take into account the specific situation of each country. The discussions also highlighted a range of common challenges faced by developing and least developed countries in the four subject areas discussed.
4. In regard to implementation, effective coordination at the national level (among all relevant agencies and departments) and achieving increased awareness of TBT requirements were emphasized. The importance of securing political commitment to support the contribution that could be made at the technical level was underlined in this regard. The value of training opportunities, including internships, "in house" experts ("twinning" arrangements), as well as arrangements involving personnel from other developing countries who had faced similar challenges in the past (south-south cooperation) was highlighted. In addition, it was suggested that involvement of all interested parties, including the private sector, was important to further understanding the benefits of the TBT Agreement and to support implementation by national authorities. It was noted that minimizing the use of mandatory technical regulations and utilising international standards, rather than preparing separate national standards, could reduce the regulatory burden and open up market access opportunities.
5. International standardisation was recognized as an area where developing country participation was still limited and constrained as a result of technical capacity, the location of Secretariats and meetings as well as other constraints in the areas of financial and human resources which impeded participation in meetings. This was an area for ongoing attention

within international and regional bodies. Regional cooperation was recognized as a useful way to influence the international standardisation process. The useful role that internet and video-conferencing could play in facilitating the negotiations and discussions within international standardizing bodies was underlined by a number of speakers, as well as the importance of working to secure greater participation among developing country participants to act as Chairs or secretariats in various technical committees. Prioritising key areas of interest in participating in international standardizing bodies was seen as essential. Securing effective translation arrangements for international standards was also seen as an area in which progress needs to be made.

6. On conformity assessment the discussions highlighted the importance of effective capacity building and technical assistance through enhanced regional and international cooperation, as well as the use of relevant international guides and recommendations. A coordinated strategy at the national level to identify relevant infrastructural requirements and needs was important, given the limited human and financial resources, as well as training opportunities in developing countries. It was recognized that technical assistance in this area was an evolving process, given the need to nurture skills and institutional development over a long time-frame.

7. In regard to capacity building more generally, the need for more effective human resource development as well as information and knowledge dissemination were highlighted. The importance of supporting the capacity building process through effective coordination at the national level was also emphasized – lack of effective national coordination could seriously impede the capacity building process. A number of speakers emphasized the need to sensitise industry about the importance of standards, quality and metrology. Needs assessment and identification were seen as an essential first step in devising effective strategies and solutions. Regional seminars, involving participation from countries with similar needs, as well as relevant international and regional agencies were considered useful ways of exchanging experience and identifying solutions.

8. The important role that information technology and the internet could play in assisting national bodies, both in the domestic sphere as well as the context of regional and international cooperation, was emphasized throughout the two days of discussions. A number of developing country participants drew attention to their need for basic computer resources in this regard. Finally, the need to look for ways to achieve more effective coordination of technical assistance activities was very much highlighted, with a specific proposal made to establish a centralized mechanism relating to coordination of TBT-related technical assistance activities. It was considered useful to keep this idea under review, taking account of the initiatives under way to collect data on technical assistance in various bodies, as well as the relationship that such a proposal might have in regard to the Integrated Framework.

9. The donor countries - the European Communities, Japan, the Netherlands, Norway and the United Kingdom – were thanked for their generous contribution in funding the participation of speakers from developing countries and participants from least developed countries.

10. It was suggested that there should be further reflection at the national level and in the context of the ongoing discussions of the TBT Committee on the report of the Workshop. In the light of the Workshop, regional and international bodies should also reflect further on the contribution that they could make in the area of TBT-related technical assistance.

ANNEX 2

THE UNIDO PROPOSAL

1. The proposal emanates from a survey on trade implications that UNIDO carried out few years ago, together with a number of regional workshops. It has revealed that developing countries lack access to comprehensive sources of standards-related information, allowing them to keep up-to-date and benchmark themselves. Developing countries are also increasingly experiencing technical requirements as obstacles to international trade, yet information on actual enterprise concerns in the area of technical requirements is not easily available. What is therefore urgently needed in the developing countries is the establishment of coordination mechanisms to ensure the effective assessment and monitoring of constraints in this area.

2. The proposal would build on the national enquiry points, and assist them in conducting the base-line studies on their national QSM infrastructure. They would also be assisted to survey the trade-related problems faced by their domestic enterprises and record these constraints in the form of databases. Both the United States as well as the EU have on their respective web pages a site that lists barriers encountered by their industries. These national databases will then be combined into a global information system that would allow for a consistent presentation of the constraints faced and help to raise awareness and provide a unified position on TBT at regional and international fora, such as the WTO.

3. At the national level, the idea is to set up consultation mechanisms between the enquiry points, enterprises, standardization bodies as well as other relevant stakeholders to discuss problems, monitor trends and identify and coordinate technical assistance. At the global level, this would provide an idea about the common problems countries faced which would then, in a second phase, be translated into specific technical assistance initiatives, targeting the respective institutions together with the enterprises concerned.

4. UNIDO is considering to start the programme with a pilot group of countries, before spreading out gradually for a global coverage. Although UNIDO is not a financing agency, consideration is given to contribute some seed money from its own resources to get the programme started. Other donors may come on board as the programme developed, and UNIDO welcomes other technical agencies to join force.
