SPECIFIC TRADE CONCERNS (Retirado do documento G/TBT/M/42)

New Concerns

Nova Zelândia (EUA, Austrália e UE) x Canadá - Compositional requirements for cheese

Canada – Compositional requirements for cheese (G/TBT/N/CAN/203)

The representative of New Zealand pointed out that the proposed regulations governing new compositional standards for cheese produced and/or sold in Canada would limit the use in cheese-making of milk protein ingredients, such as milk protein isolates, in favour of using liquid milk or cream. His delegation was concerned with the proposed regulations, including in relation to their consistency with the TBT Agreement, and that concerns had also been raised bilaterally, including at the last TBT Committee meeting in March 2007.

The representative of New Zealand stressed that Article 2.2 of the TBT Agreement required that technical regulations should be no more trade restrictive than necessary to achieve a legitimate objective, and sought clarification on: how limiting the use of dairy protein ingredients widely-used in cheese-making would allow for "technological advances" in cheese production; and how "consumer interests" were enhanced by imposing requirements on the origin and minimum proportion of the protein component in varietals of cheese. Additionally, he wondered what impact Canada expected the proposed regulation would have on imports of dairy protein ingredients, and how this was consistent with the requirement that technical regulations be not more trade restrictive than necessary.

The representative of New Zealand also pointed out that Article 2.4 of the TBT Agreement required Members to use relevant international standards as a basis for technical regulations unless they were inappropriate. He noted that while the Codex Alimentarius laid down ingredient standards for some specific varietals of cheese, the general standard for cheese-making allowed the use of milk and/or products obtained from milk, without restricting the origin or proportion of the protein content. He sought clarification as to why Canada had set a standard for all cheeses inconsistent with the Codex general standard for cheese-making.

Furthermore, clarification was sought on what legitimate objective was served by requiring manufacturers and importers to provide information on the proportion of casein in cheese derived from liquid milk as a percentage of the total protein and on the amount of casein lost in whey during cheese manufacture. Canada was requested to explain how they proposed to verify this information, what standards would be used for this and what the costs of verification for cheese-makers, importers and consumers would be.

The representative of the United States pointed out that US dairy producers and processors were concerned that the prescriptive nature of the proposed compositional requirements would significantly reduce market access for milk protein concentrates to the Canadian market. In particular, the domestic industry was concerned about the introduction of ratios that prescribed the amount of protein from raw milk and protein derived from other sources that could be used in cheese-making. In industry's view, there appeared to be no rationale for the ratios used, nor why the whey and re-introduced whey deriving from domestic milk were not counted towards the percentage of protein derived from raw milk.

It was stressed that the measure, if enacted as drafted, would limit the ability of processors in Canada to use dairy ingredients. As a result, the market access for milk protein concentrates that

Canada had agreed to when it accepted its WTO obligations would be significantly reduced. More detailed comments would be submitted to the Canadian Enquiry Point.

The representative of Australia shared the concerns expressed and pointed out that her delegation had raised the issue bilaterally with Canada. Detailed comments in response to the notification would be provided.

The representative of the European Communities noted that the proposed Canadian amendments to its compositional standards for cheeses set minimum percentages of proteins to be derived from liquid milk for various cheeses, and required a detailed system of certification and import licensing. She stressed that a preliminary examination of the proposal indicated that the measure could have a negative impact on EC exports to Canada and could *de facto* ban certain cheese varieties from being exported to that market. If the proposed amendment was adopted, it could result in a decrease in the demand for basic products such as protein, casein protein and milk protein.

Furthermore, the representative of the European Communities noted that the announced measure included an additional licensing scheme for imports other than the requirement to get an import permit under Canada's tariff-rate quota regime. She sought information with respect to the meaning of "fine" cheeses for which the proposed amendments set the minimum percentage of raw milk at 98 per cent, to the treatment of import of cheeses that did not comply with these new standards, and to the proof that had to be provided by foreign suppliers that cheeses complied with the future requirements. Like others, her delegation would also submit written comments in response to the TBT notification.

The representative of Canada noted that the proposed amendments to the compositional cheese standards had been published in the Canada Gazette Part 1 on 16 June 2007 and that the corresponding notification was made on 29 June 2007. He invited interested Members to submit their comments prior to the deadline of 30 August 2007.

UE x China - Anti-theft Regulations for Vehicles

Chinese Taipei - Anti-theft Regulations for Vehicles (G/TBT/N/TPKM/45)

The representative of the European Communities raised an issue with respect to the intention of Chinese Taipei to introduce, as of 1 October 2007, the obligation to mark certain vehicle components with so-called "anti-theft vehicle identification numbers". In April 2007 his delegation had made comments, requesting that anti-theft systems based on mechanical or electronic devices, the so-called immobilisers, which were in accordance with the relevant UNECE regulations should be considered as equivalent to the devices proposed by the Chinese Taipei regulations. He appreciated the reply from Chinese Taipei which clarified that an exemption from the marking requirements for vehicles which complied with the relevant UNECE regulations had been made, provided that each car manufacturer would apply for an exemption for one vehicle model. If the anti-theft device would then prove to be effective, the exemption might be extended to other vehicles equipped with the same device.

The representative of the European Communities sought further clarification on whether the exemption would be granted on a general basis or only on an annual basis, in which case it would lead to an unnecessary administrative burden. He believed that an authorisation to use an internationally recognised mechanical or electronic anti-theft device should, in principle, be granted

without a time limitation. Additionally, he sought clarification on whether the exemption from the marking requirement was limited to one car model or if it would apply to all car models which were fitted with the same electronic or mechanical anti-theft device, the so-called "immobilisers."

The representative of Chinese Taipei took note of the questions. He pointed out that further discussion could be held bilaterally and that a response would be provided in writing in due course.

China e EUA - Flammability of Clothing Textiles

United States - Flammability of Clothing Textiles (G/TBT/N/USA/242)

The representative of China stated that comments had been provided to the Enquiry Point regarding the above-mentioned measure. While he understood the objective of protecting human life and health, he found some requirements in the current regulation to be more trade restrictive than necessary. He invited the United States to observe the principle of least trade restrictiveness under the TBT Agreement and to reduce the impact of its regulation on international trade.

First, the representative of China noted that the draft standard stipulated that "all samples shall be dry-cleaned before they undergo the laundering procedure", which meant that refreshing methods included both dry-cleaning and water-cleaning. Since dry-cleaning was suitable for some fabrics and water-cleaning was suitable for others, he suggested that the United States should make a revision to require that only one refreshing method be set in this step. Second, he understood that there had been reports of fire accidents and agreed that some fabrics might be controlled. He suggested that the United States make a "suspicious fabric list", which included only those fabrics with high potential risk, rather than restricting all fabrics.

Third, the representative of China noted that the draft standard did not apply to hats, gloves and footwear, while scarves were not mentioned. His delegation was not clear whether the standard would apply to scarves and suggested that the United States should clarify that it did not apply to them. Finally, he noted that the notification did not indicate the proposed date of adoption and entry into force. Taking into account the difficulties of the manufacturers to adapt their production to the new standard, he suggested that the United States should offer developing Members at least one year for adaptation, so that the industry could have sufficient time to implement the new requirements.

The representative of the United States stressed that the Consumer Products Safety Commission (CPSC) was not intending to amend the substance of the Standard for the Flammability of Clothing Textiles, but was updating the language of the regulation, the text of which had been unchanged since the 1950's. As such, China's comments did not pertain to new provisions but to requirements that had been part of the regulation for over 50 years. Nevertheless, he pointed out that CPSC was considering carefully China's comments in its review of the updated regulation.

China x EUA - Volatile Organic Compound (VOC) Emissions

United States - Volatile Organic Compound (VOC) Emissions (G/TBT/N/USA/249)

The representative of China appreciated the notification made by the United States and understood the efforts of local authorities to protect the environment and human health by amending the

requirement for the control of volatile organic compound (VOC) emissions for use in consumer and commercial products. However, his delegation was concerned with some of the limiting values for VOC, which were set at a level more stringent than the US Code of Federal Regulations (40CFR Part 59). This would greatly increase the cost of production and testing, make the procedures more complicated and impose an additional burden on manufacturers. He believed that such limiting values were more trade restrictive than necessary and therefore not in line with the principle of least trade restrictiveness under the TBT Agreement. He invited the United States to justify the stringent limiting value, in accordance with Article 2.5 of the TBT Agreement.

The representative of China further pointed out that the draft requirement adopted US EPA methods and SCAQMD methods rather than existing and prevailing international standards, such as ISO 11890. Additionally, the proposed definition of VOC was not in line with the definition contained in ISO 11890. He believed that this was not in line with Article 2.4 of the TBT Agreement, which provided that Members should base their technical regulations on international standards, and invited the United States to bring its measure into conformity with international standards. Finally, he noted that the draft requirement differentiated the limits of VOC for different types of coatings, i.e. coatings of aqueous type and solvent-based coatings. As the difference between these two types of coatings was significant, and consistent with international practice, he believed it was necessary to set different limits and invited the United States to do so. He pointed out that his delegation had also sent detailed comments to the US Enquiry Point.

The representative of the United States took note of the comments made and said that a response would be provided. He cautioned Members with respect to Article 23.2(a) of the DSU, which provided that Members were not permitted to make unilateral determinations of non-compliance with WTO rules outside of the procedures of the DSU. He also stressed that nothing in the TBT Agreement required Members to use a particular standard from a particular standard-setting body, and that the Decision of the TBT Committee that set out the principles to be used in development of international standards did not make any mention of any particular standardising body.

EUA x Israel - Infant Formula

Israel – Infant Formula

The representative of the United States raised concerns with respect to Israeli Ministry of Health regulations governing the sale of infant formula. He pointed out that the US TBT Enquiry Point had sent two separate requests on 10 April and 15 May 2007 for copies of all relevant Israeli Ministry of Health regulations on the sale of infant formula, as well as related information on infant formula laboratory testing, renewal of infant formula product licences and administrative fees, but Israel had not provided a response. He noted that US industry had alleged that Israel's regulations on infant formula unfairly discriminated against imports, that the documentation requirements for imported infant formula frequently changed without prior notice or publication to importers, and that no public written criteria governing the approval of infant formula existed.

The representative of Israel took note of the concerns raised.

UE x China - Plastic trays and packaging

Chinese Taipei – Plastic trays and packaging (G/TBT/N/TPKM/43)

The representative of the European Communities was concerned that, under the terms of the notified draft proposal, some retailers would have to reduce the use of plastic containers at an annual rate of 25 per cent. While sharing the objective of the protection of the environment through conservation of resources and waste reduction, her delegation had expressed concerns in writing that the proposal might lead to unfair competition, as only hypermarkets and supermarkets would be subject to this limitation, while convenience stores would not have to comply with it.

The representative of the European Communities noted that, in their reply, Chinese Taipei had argued that the measure was not discriminatory because it targeted both national and international supermarket or hypermarket chains. However, the EC delegation remained concerned that it would have a different impact on domestic and imported goods, as it would particularly effect the foodstuffs that were manufactured abroad, and shipped to Chinese Taipei. She thanked Chinese Taipei for extending the implementation period, but believed that the proposed timetable was still too short to comply with. Finally, she wondered whether the Chinese Taipei authorities were considering extending the measure to other types of distribution chains, to comply with Article 2.1 of the TBT Agreement concerning national treatment.

The representative of Chinese Taipei recalled that his delegation had been in contact with the European Communities several times on this issue, and that a written response had been provided. He took note of the concerns raised.

EUA (Turquia, Austrália, Argentina, Malásia e Outros) x UE - Dangerous Chemical Substances - Draft Commission Directive amending Council Directive 67/548/EEC

European Communities - Dangerous Chemical Substances - Draft Commission Directive amending Council Directive 67/548/EEC (G/TBT/N/EEC/151)

The representative of the United States raised concerns about the possible adverse impacts of the European Communities' proposed classification of borates as a Category 2 dangerous substance under EC Directive 67/548 on Dangerous Substances. His delegation was of the view that the proposal was disproportionate and could restrict trade. He stressed that borates had been used for hundreds of years and were a key ingredient in several products produced in Europe and throughout the world. They gave flexibility to glass, enabling it to be used as energy-saving insulation and for long lasting ceramics. They were also added to fertilisers to correct for boron deficiencies in the soil and could significantly increase crop yields. Borates also improved the performance of detergents and cleaners and could also be used as household pesticides. Most people's greatest exposure to borates was through a normal diet.

The representative of the United States stressed that a classification under Category 2 of the EC Directive would require downstream products containing borates above a certain concentration to carry a skull and crossbones label, which could result in automatic bans on the use of borates in certain products and add greatly to handling costs for others. He believed that this was a disproportionately restrictive classification for borates, which would unnecessarily narrow the choices available and raise costs for producers seeking to develop more energy-efficient products.

Additionally, it could generate other unintended consequences such as utilization of substances that could potentially pose greater hazards.

Furthermore, the representative of the United States noted that a recent study conducted by the Centre for Economics and Business Research showed that the Category 2 classification would cost industry approximately 400 million US Dollars in new plant and equipment to make the necessary production changes. The US and other borate-producers had estimated potential commercial losses from a Category 2 classification at approximately 200 million US Dollars annually by 2009. The representative of the United States hoped that the European Communities would classify borates in a manner that was less trade restrictive than its current proposal and more proportionate to the risks posed by normal handling and use.

The representative of Turkey appreciated that dangerous or toxic substances should be carefully handled in order to prevent any risk to humans, animals or the environment, and had no objection on measures to this aim that were put into force in line with the principles set down in the Council Directive 67/548 EC. Her delegation also recognised the importance of the objectives of the protection of human health and safety in the TBT context. However, she expressed doubts about the legal basis of the EC's proposal to classify these substances as toxic to the human health.

It was Turkey's view that the criteria for normal handling and use on which classification decisions should be based were not applied properly. In particular, the representative of Turkey noted that studies on animals were not relevant to human exposure to borates. The adverse effects on animals had only been observed at very high doses, which could not be reached by humans under normal handling and use of sodium borates and boric acid. Additionally, in the context of the TBT Agreement, her delegation believed that this classification was not based on available scientific and technical data, and that it did not consider the end use of borates. Therefore, it was Turkey's view that the proposed draft regulation classifying sodium borates and boric acid as dangerous substances did not serve to protect human health or safety, and had the effect of creating unnecessary obstacles to international trade. She invited the European Communities to amend the regulations in light of its WTO obligations. Detailed comments had been sent to the EC TBT Enquiry Point.

The representative of Australia shared the concerns expressed and sought more information on the draft measure from the European Communities.

The representative of Argentina echoed the views expressed and noted that comments and questions on this measure had been sent to the European Communities.

The representative of Malaysia recognized the rights of any WTO Member to introduce regulations to protect the environment and the health and safety of its citizens, but was of the view that the proposed measure would affect Malaysia's trade in timber products, in particular, borate-treated rubber wood products.

Malaysia's concerns mainly related to three aspects: first, there was no adequate justification for recommending a Category 2 classification, as it was not based on any proven result that borates were toxic to human reproduction under normal handling and use. She noted that there was a shift in focus from oral ingestion to a justification based on the occupational hazard from inhalation of borate dust. Exposure levels from inhalation were unscientifically assumed to have equivalent effects as exposure levels from ingestion. In addition, listing borates under Category 2 had been done before the results of the Austrian Risk Assessment study had proved conclusively that there was risk to human fertility from exposure.

Second, her delegation was concerned about the effect of such regulations on borate-treated timber products. Despite assurances received from the European Communities that the proposed measure would not lead to the banning or severe restriction of borate-treated timber, she expressed concerns as to whether the Marketing Use Directive (76/769/EC) or REACH could result in the ban of timber treated with borates; or that labelling of such products with cautionary statements would convey a negative perception among consumers. She pointed out that, as a result of the classification, EC member States might unilaterally sanction further restrictions, as had been experienced in the past. She stressed that the rationale for the restriction on use of borates and the labelling requirements had nothing to do with the products itself, but with the production process. Hence, there was no justification to regulate trade of the products. Rather, any risk should be addressed through health and safety protection rules and measures for workers.

Third, the representative of Malaysia believed that, under normal handling and use, products such as furniture that were treated with borates would not pose a danger to the user. Therefore, her delegation was of the view that the proposed EC measure was more trade restrictive than necessary to protect health, safety and the environment or to meet any other legitimate regulatory objectives, and was inconsistent with Article 2 of the TBT Agreement. The measure would result in trade restrictions which could impair Malaysia's ability to market one of its major export items, products made of rubber wood and this could have significant socio-economic implications. Finally, she noted that written comments had been submitted and invited the European Communities to reconsider the proposal to list borates under Category 2 of the Directive 67/548/EEC.

The representative of Chile pointed out that her country was reviewing the list of the 896 substances whose classification would be modified under the proposed measure, and that included borates. Their classification would be changed to Category 2 "toxic for reproduction". While her delegation recognised the right of the European Communities to protect health and the environment, the proposed modification would be more restrictive than necessary to achieve the desired objective. She noted that comments on the proposed amendment had been submitted and hoped that they would be taken into account. She also believed that bilateral contacts on this matter would be useful.

The representative of Japan echoed the concerns expressed.

The representative of China sought additional information from the European Communities on this measure. He explained that comments from industry and relevant stakeholders were being solicited in China, which would then be transmitted to the European Communities.

On the same notification, but on a different product, the representative of Canada stressed that Canadian industry stakeholders had expressed concerns regarding the proposed classification of nickel carbonates contained in the proposed EC measure, which was believed not to be based on science, a concern which also applied to the classification of borates. He was concerned that the classification would be used as a reference for assessing additional nickel substances and that the approach utilised might then be used as a model for future assessments under REACH. His delegation had an interest in ensuring that assessments of substances, including those made under REACH, were scientifically based and conducted in an appropriate manner.

The representative of Canada stressed that his country, as a major producer and exporter of nickel and related substances, had a major trade interest in ensuring that this measure did not represent an unnecessary barrier to trade. He said that comments would be submitted to the European Communities and looked forward to receiving clarification on this issue.

The representative of Australia was also concerned about the proposed classification of nickel carbonates, which would imply that these products – and products containing them – would have to carry a label indicating that they presented serious health and environmental risks. In particular, her delegation's concerns related to the process used to assess the hazards associated with nickel carbonates. Her understanding was that the European Communities had used a non-testing methodology referred to as the "read-across methodology". While her delegation was not opposed to this methodology in principle, concerns were raised with the way it had been applied in this case, in particular with respect to the fact that the classification of nickel carbonates might be based on a derogation which would not be scientifically valid. She noted that the European Communities did not appear to have verified that nickel carbonates and the reference chemicals were sufficiently comparable when it took its decision.

Furthermore, the representative of Australia pointed out that the draft Directive was more trade restrictive than necessary to fulfil the legitimate objective and that over-classification of some nickel compounds might result. Her delegation, like others, was concerned that the European Communities might be considering this process as a model for future classification decisions under REACH. She noted that comments had been submitted and hoped that they would be taken into account in the finalisation of the EC's legislation.

The representative of the United States associated his delegation with many of the comments made by Canada and Australia with respect to the classification of nickel carbonates and expressed the hope that the European Communities would classify nickel carbonates in a manner that was less trade restrictive than its current proposal.

The representative of the European Communities explained that the Draft Commission Directive notified on 4 May 2007, introducing and modifying the EU harmonised classification and labelling requirements for 896 substances, sought to ensure the protection of human health and of the environment. He noted that the comments received were being examined by experts and invited interested delegations to submit comments within the deadline, which had been extended to 11 July 2007. He informed the Committee that the adoption of the measure had been postponed from the end of July until September 2007.

UE x Catar - Motor Vehicles Tyres

Qatar – Motor Vehicles Tyres (G/TBT/N/QAT/11)

The representative of the European Communities pointed out that comments on the above notification had been made in September 2006, but that no reply had been received. He noted that there was a specification concerning tread wear, traction and temperature resistance of tyres, which required the marking of these specific indications on all tyres, and no exemption was provided for off-road tyres which were used, for example, for industrial vehicles in the desert. The current practice in the United States, the European Communities and other markets was that the off-road tyres were normally exempted from the marking requirements regarding tread wear, traction and temperature resistance. He stressed that not having an exemption for off-road tyres would lead to obstacles to trade and would imply considerable costs for industry and invited the authorities of Qatar to consider the introduction of an exemption clause for off-road tyres in order to avoid unnecessary obstacles to trade.

EUA x Índia - Drugs and Cosmetic Rules 2007

India – Drugs and Cosmetic Rules 2007

The representative of the United States drew the Committee's attention to the above measure, which further amended the Drugs and Cosmetic Rules of 1945. It was his delegation's understanding that the proposed amendment introduced a new registration system for cosmetic products that would be overly burdensome, unreasonably costly and cause unnecessary delays in bringing such products to the market. In addition, the registration system appeared to be targeted only at imports.

On 22 May 2007, an enquiry had been sent to India through the US TBT enquiry point, requesting that India consider notifying the proposed amendment and delay enforcement so as to allow a reasonable time for all interested parties to make comments and to afford suppliers a reasonable interval to comply with any requirements. However, India had not responded to the request, and the status of the measure was unclear.

The representative of India took note of the concerns expressed.

EUA x Turquia - Product-tracking system for alcoholic beverages and other products

Turkey - Product-tracking system for alcoholic beverages and other products

The representative of the United States raised concerns on the above proposed product-tracking system for alcoholic beverages and other products, originally planned to enter into force on 19 June 2007 but whose effective date had been extended to 24 July 2007. The measure would ban the sale of certain products unless strip-stamps with encoded security features were affixed to the products. He appreciated that, as a result of a productive dialogue between Turkey and interested industries, several constructive changes had been made to the proposed strip-stamp regime. However, concerns remained with the regulation's potential impact on trade, as it appeared to discriminate against imported products. For example, strip-stamps for imported spirits that were applied in Turkey appeared to cost six times as much as the same stamps for domestically produced spirits.

The representative of the United States noted that the proposed regulation appeared to be an applicable administrative provision with respect to certain listed products, with which compliance was mandatory. Therefore, he requested Turkey to notify the measure to the TBT Committee and provide an opportunity for WTO Members to make comments. He also sought assurance that the system would be implemented in a non-discriminatory fashion, and invited Turkey to provide a further extension of the effective date to ensure that the system was fully operational from a technical perspective before any strip-stamp requirement was enforced, so as not to disrupt trade.

The representative of Turkey explained that the proposed product-tracking system for alcoholic and other products aimed at ensuring that these products were imported legally into Turkey, and the use of strip-stamps was based on financial considerations. She confirmed that the General Communiqué had been amended following consultations with industry, and noted that the dialogue with industry and interested Members was ongoing.

With regard to the TBT notification, Turkey was of the opinion that the Communiqué did not lay down any product characteristics or their related process and production methods, nor did it include or deal exclusively with terminology symbols, packaging, marking or labelling requirements.

Instead, it was exclusively based on financial purposes. Thus, it was her delegation's understanding that it did not fall under the TBT Agreement and that a notification to the TBT Committee was not necessary. Finally, she expressed her delegation's willingness to continue bilateral consultations on the issue.

UE x Hong Kong - Energy Efficiency Labelling Scheme

Hong Kong – Energy Efficiency Labelling Scheme (G/TBT/N/HKG/26 and Add.1)

The representative of the European Communities raised an issue with respect to the proposed mandatory energy efficiency labelling scheme, which would require that test results submitted by manufacturers be issued by a laboratory accredited by the Hong Kong authorities, or by a facility in a country with which Hong Kong had concluded a Mutual Recognition Agreement. This measure would force EC manufacturers to have the products tested in external laboratories, and would transform this requirement into a mandatory third party certification requirement. She believed that this measure would be more trade-restrictive than necessary to achieve the objective pursued, in light of Article 5.1.2 of the TBT Agreement. She expressed her delegation's request that Hong Kong reconsider the need for having third party involvement in this proposal.

UE x Índia - Mandatory Certification of Ceramic Tiles

India - Mandatory Certification of Ceramic Tiles (G/TBT/N/IND/28)

The representative of the European Communities raised concerns regarding ceramic tiles exported to India, which would be subject to a mandatory certification procedure carried out by a laboratory approved by the Bureau of Indian Standards. The European Communities wished to obtain information from the Indian authorities as to whether the Indian standard BIS 15622 was based on an international standard as required by Article 2.4 of the TBT Agreement, such as ISO 13006. The European Communities were furthermore concerned by the labelling and marking requirements which apparently differed from international practices.

The representative of India took note of the concerns expressed.

Japão x China - Nature of "recommended standards

China - Nature of "recommended standards"

The representative of Japan sought clarification about the status of the so-called "recommended standards". For "recommended standards", he meant those which had a "T" at the end of the standard symbol (for example GBT as opposed to GB and JST as opposed to JS). In particular, could there be cases where these standards *de facto* functioned as mandatory standards? For example, if a regulation such as China's Administration of the Control of Pollution caused by Electronic and Information Products" (Chinese RoHS), stipulated that certain goods must conform to the recommended standards, then a TBT notification should be made, especially if the standard in question was not internationally harmonised. He wondered whether it would be correct to assume

that, when a "recommended standard" was not notified under the TBT Agreement and was not internationally harmonized, it would not be used as a basis for any mandatory measures.

Furthermore, the representative of Japan noted that when a regulation stipulated that a "recommended standard" must be adhered to, often it did not specify which individual standard must be met. For example, in the case of the Chinese RoHS, Article 3.3.4 prohibited the import of electronic and information products that did not meet the national or industrial standards pertaining to the restriction of hazardous substances in electronic and information products. He believed that this was vague and difficult to comply with, especially for foreign firms. He requested that China established a clear distinction between technical regulations and standards, as per Annex 1 of the TBT Agreement.

The representative of China explained that in his country there were national standards, sector standards, local standards and enterprise standards. He clarified that mandatory standards, according to the Law on Standardization were considered as technical regulations and therefore complied with the TBT Agreement. He took note of the questions raised by Japan and stated that additional information would be provided.

Previously Raised Concerns

México (Canadá e Nova Zelândia) x EUA - Country of Origin Labelling (COOL)

United States – Country of Origin Labelling (COOL) (G/TBT/N/USA/25, G/TBT/N/USA/83 and Corr.1, G/TBT/N/USA/281)

The representative of Mexico was concerned that the US regulation on country of origin labelling could pose an unnecessary barriers to trade and stressed that Mexican exports of live animals and meat would be affected. He wondered whether the introduction of this measure was consistent with WTO obligations. His country would continue internal consultations to identify which sectors would be affected by this measure.

The representative of Canada recalled that his delegation had raised concerns on this measure at several TBT Committee meetings and pointed out that the United States had not yet responded to these concerns. He noted that on 20 June 2007 the US Department of Agriculture had re-opened the comment period for its proposed rule for mandatory country of origin labelling for beef, lamb, pork, perishable agricultural commodities and peanuts. Simultaneously, the USDA had also re-opened the comment period for its interim final rule for mandatory COOL for fish, shellfish and shellfish-covered commodities which had been implemented in April 2005. He stressed that the US mandatory country of origin labelling requirements implemented for fish and shellfish had created significant costs and was a burden for Canada's fishing industry and that there were trade problems relating to labelling of live lobsters that had yet to be rectified. His delegation was disappointed with the apparent plans to implement mandatory country of origin labelling provisions for imported beef, pork and various other commodities.

The representative of Canada noted that the stated intent of the measure was to provide consumers with additional information on which to base their purchasing decisions. He believed, however, that the United States had yet to provide evidence that mandatory country of origin labelling would benefit consumers as a retail-labelling programme. On the contrary, domestic support for the programme appeared to be producer-driven. His delegation also found it confusing that in the latest

notification on the subject (G/TBT/N/USA/281), the United States had indicated that the intent of the measure was also to protect human health even though the measure had been notified to the TBT Committee and had not been characterized as a food safety measure. In particular, he found this inconsistent with the proposed rule for beef, lamb, pork perishable agricultural commodities and peanuts where the USDA had stated: "Country of origin labelling is a retail-labelling programme and as such does not address food safety or animal health concerns." In his delegation's view, further implementation of the requirements as currently drafted would create an unnecessary technical barrier to trade and would be inconsistent with the United States' obligations under the TBT Agreement, particularly since voluntary alternatives existed. He asked that the current requirements for fish and shellfish be repealed and that plans for mandatory country of origin labelling for remaining commodities be abandoned.

The representative of New Zealand recalled that his delegation had made three bilateral statements to the United States on this issue, in 2002, 2003 and 2004. His delegation was opposed to the imposition of mandatory COOL on the basis of its likely trade-restrictive effects, its irrelevance to food safety requirements and the high implementation costs involved. He stressed that Article 2.2 of the TBT Agreement required that technical regulations be no more trade-restrictive than necessary to fulfil a legitimate objective and believed that there were questions about the consistency of mandatory COOL with this requirement. He noted that the stated intent of the measure was to provide consumers with information on which to base their purchasing decisions and pointed out that the provision of consumer information was not identified in Article 2.2 as a legitimate objective for the use of mandatory technical regulations. Even if consumer information was a legitimate objective, the imposition of mandatory COOL would impose high implementation costs that would be disproportionate to the risks. Ultimately, COOL would not benefit consumers as it would add costs to all stages of the production process.

Like Canada, the representative of New Zealand noted that the United States had indicated the protection of human health as an objective of the measure and believed that mandatory COOL would have no effect on human health. Existing US laws which did not include mandatory COOL ensured that all imported and domestically produced food met high sanitary standards and were safe to eat. Another objective of the measure was the prevention of deceptive practices, and his delegation believed that this could be achieved more effectively and in a less trade-restrictive manner through use of domestic legislation aimed at protecting consumer rights. Examples of such legislation included the Fair Trading Act in New Zealand and the Fair Labelling and Packaging Act in the United States.

With regard to the second part of Article 2.2, the representative of New Zealand stressed that mandatory COOL would be more trade-restrictive than necessary as it would impose a significant cost burden on the targeted food industries, which would eventually be passed on to consumers. For blended products sourced from many countries, the cost of listing the countries of origin were significant and this could lead to *de facto* discrimination towards sourcing from domestic products so as to ease the administrative burden. His delegation was of the view that voluntary country of origin labelling requirements would be a better option and that if consumers distinguished between goods based on country of origin, strong commercial incentives existed for firms to act without the need for government intervention.

The representative of the United States took note of the concerns expressed. He pointed out that, on 20 June 2007, the US Department of Agriculture had published proposed regulatory actions in the US Federal Register which provided interested parties with an opportunity to comment on a mandatory COOL programme for the commodities covered under the 2002 Farm Bill. The comment period deadline was 20 August 2007. He explained that USDA was required to

implement the COOL provisions of the Farm Bill in accordance with US law, and in a manner that provided credible country of origin information to consumers with the least possible cost and burden to the production and marketing infrastructure. He further stressed that the United States was committed to implement COOL in a fair and balanced manner.

The representative of the United States noted that comments had been received from several parties, including Canada, on the requirements for fish and shellfish during previous comment periods. As a result of those comments, USDA had made changes to the interim final rule, including more flexible labelling requirements with respect to blended products from multiple origins.

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

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

The representative of Japan reiterated her delegation's concerns about the above measure. It was her delegation's understanding that China's regulation on the "Administration of the Control of Pollution Caused by Electric Information Products" (Chinese RoHS) stipulated that electronic and IT products listed in the "Heavy Control Catalogue for Pollution Caused by Electronic and Information Products" must undergo mandatory conformity assessment through the CCC scheme. She requested that China use an international standard as a basis for the mandatory testing methods, and that a notification with a 60 day comment period be made to the TBT Committee.

The representative of China took note of the concerns raised and said that a response would be provided.

EUA x Tailândia - Labelling Requirement for Snack Foods

Thailand – Labelling Requirement for Snack Foods (G/TBT/THA/215)

The representative of the United States recalled that his delegation had raised this concern regarding Thailand's proposed labelling regime at the previous meeting of the Committee and noted that comments had also been submitted to Thailand's Enquiry Point although a reply had not yet been provided. In particular, his delegation continued to have questions about which criteria Thailand used to regulate some products and not others and about the colour scheme approach, including the basis for classifying products as green, yellow or red.

The representative of Thailand stated that relevant authorities in capital had been informed of the issue and that they had taken into account the comments made by the United States and Australia. As a result, the notification was being re-drafted and was in its final phase.

Japão x UE - Fire Performance of Construction Products

European Communities - Fire Performance of Construction Products (G/TBT/N/EEC/92 and Add.1)

The representative of Japan had some remaining concerns regarding the above EC Decision, in particular about the evidence of the acidity criteria in the scope of the buildings involved. He pointed out that, prior to the meeting of the TBT Committee, his delegation had sent a document outlining these concerns to the representative from the European Communities, and requested that a response be provided.

The representative of the European Communities informed the Committee that the notified Decision had been adopted in October 2006 as Commission Decision 2006/751/EC. The comments from Japan had been forwarded to experts and a reply would be provided. He invited Japan to inform the European Commission of any specific problem encountered by industries and stressed that no problems had been reported to the Commission since the entry into force of the Decision which was, he noted, a voluntary classification for member States.

China x UE - Ecodesign requirements for energy-using products ("EuP")

European Communities – Ecodesign requirements for energy-using products ("EuP")

The representative of China was concerned with recent developments regarding the above-mentioned "EuP Directive", which required EC member States to adopt relevant domestic regulations for its implementation no later than 18 August 2007. He was concerned that, in the process of implementing the Directive, member States could adopt regulations which might differ from one to another, including with respect to product coverage. He requested the European Communities to fulfil its transparency obligations under the TBT Agreement and notify WTO Members of new developments, especially with respect to disparity in regulations adopted by member States. He further stressed that Article 2.4 of the TBT Agreement required Members to use international standards as a basis for their technical regulations.

The representative of China also pointed out that developing country Members faced special difficulties in meeting the EC member States' regulations, and invited the European Communities to provide enough time to developing country Members to comply with the measure, so that their industry had the necessary time to make appropriate adjustments to minimize the negative impact of the regulations on international trade. He also invited the European Communities to consider arrangements to provide technical assistance to developing Members.

The representative of the European Communities informed the Committee that the implementation phase for the EuP Directive had started and that studies were being carried out by independent consultants to identify the categories of products for which specific requirements for energy efficiency should be set. For the moment, the EC member States were only obliged to implement international legislation, as the EuP Directive was a framework Directive. The attention of the Committee was drawn to the relevant websites.

Canadá (Japão, Coréia do Sul, EUA, Chile e Outros) x UE - Regulation on the Registration, Evaluation and Authorisation of Chemicals (REACH)

European Communities - Regulation on the Registration, Evaluation and Authorisation of Chemicals (REACH) (G/TBT/N/EEC/52, Add. 1-4 and Add.3/Rev.1)

The representative of Canada recalled that, at the previous meeting of the Committee, his delegation had requested that the European Communities notify the draft technical guidance documents that had been developed under REACH implementation projects in a manner similar to the notifications provided on REACH legislation. He welcomed the notification made on 11 June 2007 (G/TBT/N/EEC/52/Add.4) which provided the website where technical guidance documents were available, but was disappointed that the draft versions of these documents had not been notified. Canada would review these documents and provide comments or questions as appropriate. He wondered whether other technical guidance documents were being developed or expected to be developed and reiterated his delegation's request that these be notified at the draft stage so as to provide an opportunity for Members to submit comments.

The representative of Canada further noted that the European Communities were developing a draft regulation regarding the fee structure for registration under REACH for adoption and publication in early 2008. He sought confirmation that this regulation would be notified at the draft stage with adequate opportunity for Members to comment. He stressed that Canada, both as a regulator and a trading partner, had an interest in seeing a workable REACH in Europe and looked forward to continued cooperation and dialogue with the Commission authorities as REACH moved into implementation.

The representative of Japan thanked the European Communities for the comprehensive explanation of REACH that had been provided at various TBT Committee meetings, and invited the European Communities to fully take into account the concerns raised by his delegation. With respect to the technical guidance documents, he stressed that some issues remained to be clarified, such as: (i) the concrete operation of the "Substance Information Exchange Forum" (SIEF); (ii) the definition and practical application of the concept of "article"; and (iii) the classification regarding substances to be registered. He noted that the technical guidance documents needed be clear and easy to use for foreign companies and hoped that the European Commission would complete the remaining guidance documents as soon as possible.

The representative of Korea was concerned that industries were still facing uncertainty, especially with respect to substances in articles and noted that some of the technical guidance documents which could enhance understanding had not yet been completed. He invited the European Communities to complete these documents as soon as possible and to provide other Members with more information-sharing opportunities at the development stage of these documents.

The representative of Korea stressed that, regarding the implication of the REACH to non-EC manufacturers and the discriminatory effect, it was more difficult for non-EU manufacturers to comply than for EU manufacturers, especially in the case of producers of articles and manufacturers of polymers. It was his understanding that even though the manufacturers outside Europe registered the basic substances, non-EU manufacturers in the same supply chain were also responsible for the registration of that substance, whereas EU manufacturers in the same supply chain did not have any responsibility for registration. He requested that the European Communities find ways to reduce the registration burden for non-EU manufacturers in the same supply chain.

The representative of the United States noted that questions and concerns with regard to REACH implementation remained, including the potential for differential enforcement across the EC member States, uncertainty regarding the scope and applicability of the provisions relating to articles and the potential trade ramifications caused by the limits in existing capacity of laboratory facilities. His delegation urged the European Communities to provide more information on the implementation of the regulation, including efforts to educate the business community outside Europe.

The representative of Chile stressed that it was difficult to follow the discussion regarding the implementation of REACH on the internet. In particular, she wondered which laboratory tests were not necessary and her delegation was still unclear about the definition of "articles". She also pointed out that concerns remained about the possible differences in implementation of REACH across Europe. In addition, the list of substances subject to authorisation as per Annex 14 had not been completed. She also wondered about the proposed modification of the Council Directive 67/548/EEC which would be used as a basis for the list of substances subject to authorisation and which would include borates and nickels moving to Category 2 level of production risk. She expressed her delegation's interest in participating in training activities in order to facilitate the implementation of REACH.

The representative of China thanked the European Communities for the detailed information provided at the previous meeting of the Committee but stressed that, as the implementation of REACH progressed, concerns remained among Chinese stakeholders, especially with respect to registration procedures, which were considered complicated and discriminatory for non-EU enterprises. He pointed out once again that developing country Members faced special difficulties in the implementation of REACH and wondered whether the European Communities had foreseen any special or transitional arrangements for developing country Members.

The representative of Australia was interested in receiving more information on the implementation of REACH which caused concerns to her delegation. In this respect, she referred to the comments made on the classification of borates and nickel under the Draft Commission Directive on dangerous chemical substances. She stressed that if the problems that industries were experiencing were not addressed at the beginning of the implementation phase, not only would REACH not achieve its objectives, but it would have serious implications on trade.

The representative of the European Communities noted that the REACH regulation had entered into force on 1 June 2007, and that the European Agency for Chemicals was responsible for its implementation. He recalled that at the previous meeting of the TBT Committee, the relevant experts had provided a detailed explanation on REACH. With respect to Canada's comments on the lack of notification of the technical documents, he stressed that these were technical guidelines, and not regulatory acts. Therefore, there was not an obligation to notify them in accordance with the procedures set out in the TBT Agreement. Also, it would have been difficult from a practical point of view to notify guidance documents as technical regulations and to provide a time period for comments.

The Committee's attention was drawn to the website of the European Agency for Chemicals, which already contained more than twenty technical guidance documents. These were freely accessible and covered numerous issues, including guidance on registration; guidance for monomers and polymers; and guidance on requirements for substances and articles. He stressed that these documents could be adapted if stakeholders found them incorrect and confirmed that more guidance documents would follow.

With respect to a related regulation on fees, the representative of the European Communities stressed that this would be communicated to the TBT Committee at its draft phase, so that Members were informed at an early stage. It was still to be decided whether this would be done as an addendum on the original notification on REACH, or as a separate notification.

The representative of the European Communities noted that the outstanding concerns would be reported back to experts, and stressed that the European Communities was doing its utmost to ensure that REACH would be implemented in a non trade-restrictive manner. He further stressed that the regulation was not discriminatory and that the provisions of REACH had been elaborated in such a way so as to apply equally to both European and third country manufacturers. On the issue raised by Korea regarding monomers, he noted that these had to be registered by a third country if they were contained in polymers, but that in principle this provision applied to all manufacturers in the same way. His delegation would continue this dialogue in the TBT Committee, bilaterally as well as in other *fora.*

Japão e Jordânia x Noruega - Restrictions on the use of Deca-bromo diphenylether (deca-BDE)

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

The representative of Japan was grateful for a report received by Norway and took note that the Norwegian Ministry of Environment was still assessing the proposal and had not yet finalised the decision. He trusted that Norway would wait until a court decision was reached on the legal action taken by Denmark and the European Parliament regarding non-inclusion of deca-BDE in the RoHS Directive. He sought information on the scientific evidence for the proposal, as well as on the results of the public hearing, and how views expressed had been incorporated in the Norwegian proposal.

The representative of Jordan, supported by Israel and the United States, sought an update from Norway with respect to their internal assessment of the proposed measure.

The representative of Norway recalled that a public hearing on the Norwegian draft regulation proposing to ban deca-BDE had been established in the Spring of 2005. He pointed out that deca-BDE was a chemical substance of high concern and restrictions of its use were needed to reduce or avoid risks to the environment and to human health. He further recalled that the prohibition of deca-BDE was supposed to enter into force on 1 July 2006 and that the draft regulation had been sent to both the national and the international hearing and it had been duly notified to the TBT Committee. However, the regulation did not enter into force on 1 July 2006 as originally proposed as it was being scrutinised before a final decision was made.

Regarding the results of the public hearing, the representative of Norway informed the Committee that the proposal had been supported by environmental and consumer organizations as well as by trade unions; however, opposition had been expressed by industry. He took note of the question from Japan on the scientific evidence and said that more information would be provided.

Japão x Suécia - Restrictions on the use of Deca-bromo diphenylether (deca-BDE)

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

The representative of Japan, supported by Jordan, Israel and the United States sought information on the status of the discussions between the European Communities and Sweden regarding the proposed measure on the restriction on the use of deca-BDE.

The representative of the European Communities noted that the Swedish proposal prohibiting the marketing of deca-BDE in Sweden had entered into force on 1 January 2007 and informed the Committee that consultations between the Swedish authorities and the European Communities were still ongoing. She stressed that careful consideration was being given to the concerns expressed by WTO Members.

UE x Filipinas - Ceramic wall and floor tiles

Philippines - Ceramic wall and floor tiles (G/TBT/N/PHL/77, PHL/63 and PHL/60)

The representative of the European Communities drew the Committee's attention to the issue concerning the standard on ceramic wall and floor tiles and noted that, since the previous meeting of the Committee, a dialogue had been established with the Philippine authorities. He welcomed the decision of the Philippines to revise the national standard by adopting the ISO standard 13006 on ceramic tiles and was also pleased that second quality tiles would be allowed into the Philippine market. He pointed out that certain testing methods prescribed in an international standard would be replaced by Philippines testing methods and encouraged the Philippine authorities to notify this revised standard to the TBT Committee.

UE e EUA x Suíça - Measures to Reduce Particle Emissions from Diesel Engines

Switzerland – Measures to Reduce Particle Emissions from Diesel Engines (G/TBT/N/CHE/67 and CHE/39)

The representative of Switzerland informed the Committee that, further to the comments received by WTO Members, the Swiss authorities had decided not to proceed with the introduction of the above mentioned draft ordinance, but to introduce the Euro 5 emission limit values of the European Union standards for diesel engines.

The representative of the European Communities thanked Switzerland for the update and welcomed the decision of the Swiss authorities.

The representative of the United States invited Switzerland to notify these developments to the TBT Committee and to provide an opportunity for comments.

Nova Zelândia (Noruega e UE) x Coréia do Sul - Fish Heads

Korea - Fish Heads

The representative of New Zealand informed the Committee that some progress on this issue had been signalled by Korea with the announcement of their intention to add hake heads to their national food code and the notification of such intentions to the SPS Committee. He understood that the announced changes to the food code would come into effect before the end of 2007.

The representative of Norway echoed the comments made by New Zealand and recalled that the concern was not only related to hake heads but also to edible fish heads in general. He noted that bilateral consultations had taken place and hoped that Korea would continue to act constructively to resolve this longstanding issue.

The representative of the European Communities was disappointed that there had been no progress in the signature of a Memorandum of Understanding with Korea on this issue and that trade on edible fish heads was still not possible.

The representative of Korea informed the Committee that the provisional draft on the sanitary regulations concerning fish head had been notified to the SPS Committee and hoped that this issue would be resolved soon. He would report back to the authorities in capital the comments made by Norway and the European Communities and hoped that the issue would be resolved on a bilateral basis.

Canadá e Noruega x Bélgica e Holanda - Seal products

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

The representative of Canada reiterated his delegation's disappointment regarding the above measures by Belgium and The Netherlands, which his delegation considered to be inconsistent with the European Communities' obligations under the TBT Agreement and the GATT. He expressed strong concerns about declarations made by member States of the European Union and the European Parliament calling for legislation to ban trade in seal products. With regard to the measures adopted by Belgium and the proposed measures by the Netherlands and Germany, Canada was concerned that appropriate assessments based on all available scientific and technical evidence had not been made and that the requirement that barriers to trade be no more restrictive than necessary as stated in article 2.2 of the TBT Agreement, had not been fulfilled.

The representative of Canada stressed that the Canadian seal population was neither endangered nor was it regulated by the Convention on International Trade in Endangered Species (CITES). The humane hunting methods used in seal hunts compared favourably to those employed to hunt other wild animals and those used to slaughter domestic livestock in the European Union. For sealing communities in Atlantic Canada, the hunt could contribute up to 35 per cent of their annual income. For these communities, as well as for Aboriginal communities in Canada, it was a 500 year-old way-of-life.

It was the Canadian delegation's understanding that the European Commission was planning to examine all available information and take necessary measures to ascertain the use of humane hunting standards. In its efforts to conduct a humane, conservation-based, well-regulated hunt, the

Government of Canada had facilitated independent studies of the hunt and gathered information itself. Canadian officials were prepared to work with the European Commission in this upcoming examination.

The representative of Canada encouraged the European Commission to take stronger steps to discourage member States from proceeding with bans on importation of seal products until the European Commission's examination of humane hunting standards was completed and fully analysed. His delegation reserved its right to take any appropriate action necessary to defend this case under the TBT Agreement and other relevant WTO Agreements.

The representative of Norway considered the measures to ban imports of seal products by Belgium and the plans to impose measures by several other EU member States, including specific plans in the Netherlands and Germany, to be inconsistent with these Members' obligations under the WTO TBT Agreement and the GATT. Norway, like Canada, was also strongly concerned by declarations made by the European Union and the European Parliament calling on legislation to ban trade in seal products across the board in the Community. His delegation would review any such legislation with regard to its WTO consistency.

Norway could not see how and to what extent the appropriate assessments regarding available scientific and technical evidence had been made, nor how the requirement that barriers to trade should not be no more restrictive than necessary as stated in Article 2.2 had been fulfilled. Furthermore, arguments invoking the "protection of public morality" and "reasons of public opinion and animal suffering" when prohibiting imports of products from hooded seals and harp seals were regarded as difficult to reconcile with the requirements of the TBT Agreement.

The representative of Norway stressed that his delegation was of the opinion that GATT Article XX could not be applied to justify restrictions on trade in seal products. A ban on the importation of seal products would set a dangerous precedent for trade in animal products that were harvested in a sustainable and humane manner. He recalled the information provided to Belgian and Dutch authorities, as well as to the European Communities, to the effect that Norwegian seal hunting was strictly regulated and had proven to be both sustainable and humane.

The representative of Norway further noted that the European Commission had given the European Food Safety Authority (EFSA) the task to review the methods used in the seal hunt and that the EFSA had established a working group and contacted all the national scientific committees, including the Norwegian Scientific Committee for Food Safety (NSCFS).

The NSCFS attached great importance to contributing to the work on the seal issues and qualified Norwegian experts in this field had been selected for this purpose. The focus of the Norwegian study would be on killing methods used in the seal hunt. The representative of Norway explained that once the Norwegian report had been forwarded to the EFSA, Norway would invite the EFSA working group to Oslo to present the Norwegian results. His delegation was not informed of other scientific committees that had undertaken work related to this specific task and was confident that the EFSA would have the best information available before submitting their report to the Commission by 15 December 2007.

Finally, the representative of Norway stressed that seal quotas were set on the basis of scientific advice and that of seal population was well within the boundaries of sustainable management. In fact, the seal populations were not endangered and therefore not listed under the Convention on International Trade in Endangered Species (CITES). Additionally, the humane harvesting methods used in Norwegian seal hunting compared favourably to those used on domestic livestock. He

encouraged the European Commission to take stronger steps to discourage member States from proceeding with bans on the importation of seal products while this assessment was being conducted. Norway continued to reserve its right to take any appropriate action necessary to defend this case under the TBT Agreement and other relevant WTO Agreements.

The representative of the European Communities noted that the Belgian Decree had entered into force in April 2007, while the Dutch Government was still in the process of finalizing the regulation. She confirmed that the European Commission would be carrying out an analysis of all the existing scientific information relating to the animal welfare aspects of seal hunting and that part of the assessment would be conducted by the European Food Safety Authority (EFSA). The EFSA had started its work under the mandate requested by the Commission to issue a scientific opinion on the killing and skinning of seals. It was EFSA's aim to deliver the best science by drawing on independent scientific experts worldwide. The Commission had underlined to EFSA the importance of involving scientists from countries where the sealing took place. It was expected that EFSA would issue its opinion by the end of the year.

The representative of the European Communities concluded by reassuring Canada and Norway that the Commission was giving careful consideration to the concerns voiced in the TBT Committee. She pointed out that no decision had yet been taken with regard to the Belgian and Dutch measures and that the Commission would examine them in the light of the conclusions drawn from the scientific opinion and the study.

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

Saudi Arabia – International Conformity Certification Programme (ICCP)

The representative of Japan, supported by the United States, expressed his delegation's continued concerns regarding the above measure. Although a questionnaire had been sent to the authorities in Saudi Arabia on the issue, no reply had been received.

UE e EUA x Índia - Pneumatic tyres and tubes for automotive vehicles

India - Pneumatic tyres and tubes for automotive vehicles (G/TBT/N/IND/20)

The representative of the European Communities recalled that at the March meeting of the TBT Committee, the Indian delegation had confirmed that the tyre regulation had entered into force. However his delegation's understanding was that the standard and the certification were still voluntary and he sought an update on the state of play of the implementation of this regulation. His delegation's request was again that India should follow the work in the UNECE Committee on tyres regulations and in the meantime refrain from adopting a mandatory national standard.

The representative of the European Communities further recalled that India had referred to specific road and climate conditions as the reason for not accepting tyres which, by means of the so-called "e-mark", were already certified as being safe and suitable for use in conformity with the relevant UNECE regulations. It was his view that in the absence of technical or scientific evidence, specific road and climate conditions in India could not justify the requirement of the special certification scheme that India intended to implement. Several countries which were signatory parties to the

UNECE Agreement of 1958 as well as others not signatories, had severe climate and road conditions and accepted the "e-mark" tyres. The European Communities believed that the Indian certification of tyres according to the national standards would be more trade-restrictive than necessary; moreover, due to the different licence fees for domestic and imported products, it would also be discriminatory.

The representative of the United States associated his delegation with many of the comments made, in particular on the need for India to participate in UNECE discussions on global technical regulations for tyres.

The representative of India recalled that the European Communities had submitted comments and questions in writing and informed the Committee that a reply had been provided. Regarding the UNECE regulation for pneumatic tyres, he noted that India was not a signatory to the 1958 UNECE Agreement. He stressed that the regulation did not involve duplicative marking requirements and that, more generally, the requirements in Indian standards were specified by the relevant technical committees after involving all stakeholders such as manufacturers, testing centres, research organisations, regulatory authorities and consumer organisations. The tropical conditions prevailing in the country, as well as the financial implications in implementing the restricted testing conditions were also kept in mind when elaborating the relevant provisions.

The representative of India noted that the standards were dynamic in nature and that they might be reviewed after more data was generated. The input from the European Communities would be welcome to bridge the gaps between the India and UNECE regulations. Finally, he clarified that the provision of the measure applied both to imported and domestically produced products and that the regulation was still under consideration and had not yet entered into force.

UE x China - Domestic Gas Cooking Appliances

China – Domestic Gas Cooking Appliances (G/TBT/N/CHN/237)

The representative of the European Communities stated that the response received from China to the concerns it had raised previously with respect to the proposed amendment of the national standard for gas cooking appliances had not been fully satisfactory. The expert opinion obtained by the European Communities was that the requirement for a minimum input of burners at 3.5kilowatt and that the burners' material should have a minimum temperature resistance of 700 degrees Celsius were more burdensome than necessary and, moreover, were not justifiable legitimate objectives as required under the TBT Agreement. The Chinese authorities in their initial reply had justified their minimum input requirement as necessary in order to meet market demand since the Chinese cooking method required high thermal power in the short term. However, upon further analysis of the Chinese market and the minimum temperature requirement, the expert opinion remained that neither technical requirement was justifiable within the meaning of Article 2.4 of the TBT Agreement and that if adopted, it would constitute an unjustified barrier to trade.

The representative of China responded that in his delegation's opinion the technical requirements were reasonable, given the Chinese method of cooking. Nevertheless, experts from China and the European Communities should discuss the technical issues with a view to resolving the matter and he was confident that this could be accomplished bilaterally.

UE x Uruguai - Enrichment of Wheat Flour and Foods Prepared with Wheat Flour

Uruguay –Enrichment of Wheat Flour and Foods Prepared with Wheat Flour (G/TBT/N/URY/2)

The representative of the European Communities reiterated her delegation's concerns regarding the Uruguayan Decree on the enrichment of wheat flour with iron and folic acid. Although the Uruguay Ministry of Public Health had ordered that wheat flour used as an ingredient in food additives was exempted from enrichment, there were a number of products for which exemption had been requested but in respect of which a decision had not yet been made. The European Communities was interested in knowing when the list of pre-processed foods that would be exempted from the enrichment requirement would be adopted and which categories of products it would cover. She pointed out that measures should not be more trade-restrictive than necessary.

The representative of Uruguay took note of the concerns.