WORLD TRADE ORGANIZATION

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(99-4881)

Committee on Technical Barrier to Trade

MINUTES OF THE MEETING HELD ON 1 OCTOBER 1999

Chairman: Mr. Mohan KUMAR (India)

1. The Committee on Technical Barriers to Trade held its Eighteenth meeting on 1 October 1999.

2. The following agenda, contained in WTO/AIR/1165 was adopted:

I. REQUEST FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV) AND THE INTERNATIONAL LABORATORY ACCREDITATION COOPERATION (ILAC)

3. The Chairman indicated that more time was needed for informal consultations on the requests for observer status by the OIV and ILAC.

4. The Committee agreed to return to the requests at its next meeting.

II. REPORT (1999) OF THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE

5. The Committee agreed to adopt the Report (1999) of the Committee on Technical Barriers to Trade as contained in document G/TBT/SPEC/13.

III. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

6. The representative of the Canada informed the Committee that the Standards Council of Canada had notified its acceptance of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement). This notification included the acceptance of the Code for four standards development organizations in Canada (Bureau de Normalisation du Quebec, Canadian General Standards Board, Canadian Standards Association International and Underwriters Laboratories of Canada).

7. The representative of India informed the Committee that a notification on the implementation and administration of the Agreement by his country (under Article 15.2) would soon be made.

8. The representative of New Zealand informed the Committee that the Agreement on Mutual Recognition in Relation to Conformity Assessment between New Zealand and the European Communities had just been notified.

9. The representative of Australia expressed concern about various proposals being developed in Europe to restrict or ban the use of certain heavy metals, particularly Denmark's proposal to ban lead and the European Commission's proposed Directives on Cadmium Batteries and on Waste from Electrical and Electronic Equipment. While she recognized the need for environmental controls for hazardous materials, the proposals might be more trade restrictive than necessary. Appropriate scientific risk assessments, including an impact assessment on switching to alternative materials, had not been undertaken. She added that manufacturing standards might be created that run counter to the objective of greater harmonization of standards at the international level. She sought further clarification on the rationale of the proposed Directives and their relationship to the European Communities' health and environmental objectives, so that their consistency with WTO obligations could be assessed.

10. She also raised concerns on a proposal by Belgium to introduce a Decree requiring manufacturers to prove that products manufactured as single use devices could not be reprocessed or reused. She believed that the proposal would place an onerous burden on industry and would not comply with the essential requirements of the European Directives (European Commission NBM/107/99 & Council Directive 93/42/EEC of 14 June 1993).

11. The representative of the United States associated herself with the Australian intervention. She indicated that since the last Committee meeting the European Commission's DG XI had circulated another proposal on the Directive to reduce waste and the environmental impact of discarded electrical and electronic equipment, currently being discussed in inter-service consultations. She noted that the new draft still contained provisions which might be inconsistent with the Commission's obligations under WTO rules and might significantly and unnecessarily affect trade from the US. She estimated the potential impact on US products from this Directive to be over $40 billion. Concerns expressed earlier had not been taken into account in the previous version. She

raised similar doubts as to the new draft and reiterated her request to consider alternatives to meet the environmental objectives and to justify the Directive currently under consideration.

12. The representative of Japan echoed the concerns of Australia and the US about the European Regulation on waste from electrical and electronic equipment. While sharing the objective of waste reduction, he felt that a restriction on components, especially heavy metals, created an unnecessary obstacle to trade, excessive to what was necessary to attain the objective.

13. The representative of Canada associated his delegation with the comments made by Australia, the US and Japan, recalling his delegation's intervention at the last Committee meeting concerning the EU Directives on waste from electrical and electronic products and nickel-cadmium batteries. In this respect, he voiced his continuing concerns with regard to both trade in manufactured goods and trade in metals and minerals.

14. The representative of the European Communities recalled that the proposed EC Directive on waste of electrical and electronic equipment had been made by one authority of the Commission and was currently under discussion in inter-service consultations. At this stage, it could not be considered as a formal proposal by the Commission. He took note of the concerns raised regarding the issue of cadmium batteries, the ban of lead proposed by Denmark and the Belgian proposal on single use medical devices.

15. The representative of the United States drew attention to document G/TBT/W/119 concerning EC Regulation 881/98 ("Traditional Terms"), and raised the concern that upon full implementation, it would restrict the use of commonly-used wine labelling terms describing colour, processing methods and other characteristics of wine. Pursuant to EC Regulation 881/98 (adopted April 1998, effective 1 October 1999), wines with labels or packaging containing any of the labelling terms which the EC defined as "traditional terms", would be denied entry into the EC unless originating from a country with which the Commission had a bilateral (or multilateral) agreement. Despite ongoing bilateral consultations with the European Commission, she remained concerned that labelling terms targeted by the Directive were simply descriptive. She referred to adjectives that had long been used in association with wine making throughout the world and were not linked to any specific product or geographical area, such as "vintage", "superior", "reserve" and "extra". She held that these adjectives were used by winemakers world-wide to convey general consumer information about their wine and did not function as indicia of source or quality for any particular type of wine. The EU, however, treated them as proprietary property, as if they were a bona fide geographical indication.

16. Although Regulation 881/98 had been enacted to prevent deceptive practice, she deemed it unlikely that the use of these terms by multiple parties would create consumer confusion. She argued that terms such as "amber" and "gold" were commonly used to identify the colour of wines, that "aged five years" was a common way of identifying how long the wine or liqueur had been aged and that "vintage" and "reserve" were common terms to identify other attributes of wines or liqueurs. Conversely, the EC had suggested that consumers would not know the true origin and/or composition of the wine if, for example, the term "reserve" was used on any wine other than the "Mavrodafni Patron" from Greece. She called the purpose of the regulation into question, wondering whether European consumers purchasing California wine labelled as "vintage" would - in the absence of this Regulation - be deceived into believing that they were buying a Spanish or Portuguese wine. Even if this was the case, she contended that there were less trade-restrictive alternatives.

17. She was concerned about the precedent that the regulation could create for other agricultural products such as cheese. She complained that the Regulation had not been notified in draft form and that no opportunity had been given to interested Members to provide comments before adopting the final Regulation. She requested further clarification and justification for the Regulation as foreseen under Article 2.5. She requested information on whether a continued delay in implementation was planned for consultations with interested parties and the development of a WTO-consistent approach. She also recalled the obligation to notify bilateral agreements under Article 10.7 of the TBT Agreement, and incited that information be given on whether any agreements had been

concluded by the European Commission in anticipation of the Regulation's enforcement and, if so, when notification could be expected.

18. The representative of New Zealand shared some of the concerns relating to wine products flared by the US on EC Regulation 881/98 ("Traditional Terms"). She also feared a precedent effect for other products in which Members took a significant trade interest. She was puzzled by the EC's claim that proprietary rights over what she considered generic terms, being in common usage around the world, were necessary to fulfill the Regulation's stated objective of preventing deceptive practices. She argued that, most likely, there were less trade-restricted means to fulfill this objective. She showed empathy towards specifying conditions for the use of the relevant terms by third countries, while criticizing that the Regulation used "traditional terms" and not an internationally recognized intellectual property right, and that it put forward generic terms as "traditional terms". She felt that these conditions would be difficult to meet unless a third country had negotiated a bilateral agreement with the EU. She requested justification for the Regulation under Article 2.5 of the TBT Agreement and an update with regard to the implementation of the Regulation.

19. The representative of Canada associated his delegation with the comments made by the US on "traditional terms", as defined in the EC Regulation.

20. The representative of Mexico expressed his delegation's interest in the issue of "Traditional Terms", and requested the EC to provide further information as well as a copy of the Regulation. He proposed formal or informal follow-ups in the Committee.

21. The representative of Uruguay found the objective of protecting traditional terms followed by the EC to be legitimate, since it was a way of protecting the denomination of origin. He affirmed his country's support for any measures of the EC taken in an attempt to protect these denominations of origin. However, he considered the regulation, particularly its annex, to be too far-reaching. Annex 1 gave details on traditional terms (such as "superior" or "reserve") that could easily be incorporated in the labelling, but did not in themselves constitute a variety that could be identified with any particular region of Europe. In many cases, the terms acted as a verification of the same particular quality of wine produced in other parts of the world. He contended that Article 3 of the Regulation would impose an EC standard and procedure onto exports to the EC and should therefore be notified according to the Agreement. He requested a detailed justification for this measure and information as to whether the EC planned to notify this Regulation to the Committee.

22. The representative of Argentina flagged his concern regarding the EC Regulation for the reasons already given by the previous speakers. He felt particularly concerned about extending protection to terms largely used in the wine industry throughout the world and not related to any particular geographical area. He raised concern also about a possible expansion of the Regulation to cover other products. He requested explanation on the objective of the EC Regulation.

23. The representative of Chile associated his delegation with the interest stated by several Members in a justification of the EC Regulation and in further clarification concerning the time of its application. He requested the EC to comment on the seeming confusion or exaggeration regarding geographical indications that could be supposed to be included in the labelling.

24. The representative of Australia informed the Committee that her delegation had, in consultation with the European Commission, sought to clarify the scope and nature of the protection envisaged by the EC in providing the list of terms in EC regulation 881/98. She valued the earlier decision by the Commission to defer the application of that Regulation when these matters were clarified. While the reason given by the European Commission for this Regulation was the prevention of consumer deception, she observed that this objective was effectively met in many jurisdictions through general consumer protection laws without any evidence of consumer deception in relation to these terms. She encouraged a discussion in the Committee on how to protect consumers' interests in relation to such terms in the least trade restrictive manner. She considered the US intervention as a useful start to this discussion.

25. The representative of the European Communities replied that EC Regulation 881/98 and other Traditional Expressions Legislation sought to protect traditional expressions which had, through association over a long period of time, acquired a particular connotation with certain wines. The purpose was to avoid misleading the consumer and unfair competition. The rationale was that certain producers had, through their work and investment, built up a quality association with certain words used in the marketing and description of wines. He felt that, as with intellectual property, the value which these producers had developed should not be exploited by other producers who would deceive consumers by passing off their products as having qualities which they did not have.

26. He clarified that the legislation under discussion would not protect most of the words cited by the US, such as "5 years of age", "amber" or "gold" in the English language. "Vintage" and "reserve" would only be protected in relation to a particular category of wines. He also stressed that the legislation would provide national treatment in that it allowed third countries to use the terms on similar conditions as applied to EC Member States.

27. He informed Members that the European Commission had proposed to postpone application of the regulation to August 2000, in order to bring all wine legislation in line with the new EC Common Market Organization for wines which would enter into force on that day. Thus the measure would not be applied for the time being. He pointed out that the US, upon repeated request, had proven unable to provide a single example of a wine for which the Traditional Expressions were used. He considered this a clear indication that the Traditional Expressions were highly specific, associated with particular production processes and, thus, worthy of protection. He emphasized that the legislation, if applied, would have no significant trade impact.

28. He reconfirmed that the aim of the Traditional Expressions legislation was to avoid misleading consumers. He noted in this regard that the US and other Members had extensive legislation in place to protect consumer interests. In the case of the US, he considered this legislation to consist of opaque common laws, rules and practices. He mentioned the wine sector, in which the US operated a complex and costly system of label registration - State by State - with the aim of, *inter alia*, checking that consumers were not misled.

29. He concluded that the proposed postponement of the legislation's application should close the issue for the time being. He explained that the EC had not notified the legislation for not being aware of any significant trade impacts, as set out in the TBT Agreement. Regarding any agreements or discussions on the subject, he did not see the necessity to notify for the same reasons. He expressed his confidence that the legislation was fully WTO-compatible. He contended that there was a good case for a transparent application of consumer protection in relation to labelling and traditional expressions at the international level and he would therefore welcome multilateral discussions on the topic. He invited Members to reflect on a suitable forum for such discussions.

30. The representative of Canada reiterated his concerns over the number of countries opting to impose broad mandatory labelling policies for foods derived from biotechnology which appear to go beyond a scientifically based food safety objective. Concerning the recent announcement by Japan of a proposed regulatory scheme, he appreciated the extended comment period to provide time for consultations with interested Members. He drew attention to what he considered a less trade restrictive approach in providing information to consumers. On 17 September, the Government of Canada had announced a project to develop a voluntary labelling standard for foods derived from biotechnology. This project was led by the Canadian Council of Grocery Distributors and the Canadian General Standards Board. He affirmed that the Government of Canada believed in the right of consumers to have access to information relating to biotechnology and food. He explained that in Canada, labelling requirements were mandatory for all foods, including those derived from biotechnology, when nutritional changes were made to the product, or to alert consumers of possible health concerns such as the presence of food allergens. The voluntary labelling standard currently under development with the participation from consumer groups, food companies, producers, interest groups and the government was intended to provide additional information to consumers. He offered to provide more information to interested Members.

31. The representative of New Zealand recalled notifications G/TBT/Notif.99.244 (made by her delegation on 19 May 1999), G/TBT/Notif.99.134 and G/TBT/Notif.99.275 (by Australia on 24 March and 14 June 1999). The notifications informed the Committee that in December 1998 a decision had been taken by New Zealand and the Australian States, Territories and Commonwealth to consider extending the labelling requirements under the existing joint Australian/New Zealand standard (Standard A18 of the Australian Food Standards Code) to all products produced using gene technology. They also advised that genetically modified (GM) foods would be allowed to remain on the Australian market after 13 May 1999 (when the Standard entered into force). Details were also provided of current applications made to the Australia/New Zealand Food Authority (ANZFA) for approval of GM foods for sale. In August 1999, the December 1998 Decision had been re-confirmed and a draft standard was currently being formulated by the ANZFA to give effect to this Decision. She announced that the amended Standard would be notified to the Committee on its completion. She recalled that at the previous meeting of the Committee, Canada had raised various issues in relation to notification G/TBT/Notif.99.244. Mindful that some details of the Standard had not yet been finalized, she intended to give some preliminary comments and promised further clarification upon completion of the amended Standard.

32. She explained that on 3 August 1999, the Australia/New Zealand Food Standards Council (ANZFSC), had re-affirmed that all GM food products sold in Australia and New Zealand should be labelled in order to provide consumers with information on those foods. The Council had also decided that all GM food products continued to be subject to pre-market safety assessments to determine the safety for human consumption. The Council had asked the ANZFA to address a number of issues relating to the Decision and to prepare appropriate amendments to the existing Standard covering food produced using gene technology to give effect to the labelling decision. An amended Standard would be considered by the Council at the end of October 1999.

33. New Zealand and Australia intended that any amended Standard be consistent with all of their international trade obligations. If an amended Standard was agreed, it would be notified to the WTO prior to its adoption. She also assured that she had taken note of the comments made by Canada in relation to the implementation of the Japanese labelling programme, namely to ensure that other Members would have sufficient time to consider the trade impact of the Standard. She said that details of the draft amended Standard pertaining to the following issues were not yet completed: How would the labelling scheme be verified and enforced? What methods of analysis and sampling schemes would be used to ensure accuracy of labelling? How and when would all the necessary methods of analysis be developed? Would methods and sampling be subject to international scrutiny and verification?

34. The representative of Australia associated her delegation with the comments made by New Zealand.

35. The representative of Japan informed the Committee that in August the report of an expert study on a potential genetically modified organisms (GMO) labelling scheme in Japan had been submitted and was currently taken into account by the Japanese government. He confirmed that upon completion of a draft labelling system, the Committee would be notified.

36. The representative of the United States welcomed the information given by Japan which would enable her delegation to provide comments. She equally expressed her appreciation for the information given by Canada, highlighting that there was no obligation to notify voluntary standards. She invited Canada to keep the Committee informed of further progress.

37. The Chairman suggested that the questions and response concerning EC Regulation 881/98, the Waste Management Directives and GMO labelling regulations be put down in writing and circulated to the Committee.

38. The Committee took note of the statements made.

IV. PROGRAMME OF WORK ARISING FROM THE FIRST TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE TBT AGREEMENT UNDER ARTICLE 15.4

39. The Chairman drew attention to Article 10.6 of the Agreement stating that "The Secretariat shall, when it receives notifications in accordance with the provisions of the Agreement, circulate copies of the notifications to all Members, … and draw the attention of developing country Members to any notifications relating to products of particular interest to them." He said that the Secretariat, in considering human and financial resources involved, and in taking into account the recent Survey on the Electronic Facilities Available in National TBT Enquiry Points (G/TBT/W/105 and G/TBT/W/105/Suppl.1 and 2 that showed e-mail availability), had decided to propose certain actions so as to further the implementation of the provision. He drew attention to the Secretariat's proposal (Annex 1) which had been introduced to Members at the informal meeting of 16 September 1999 and had found wide support.

40. The representative of Australia noted that in order to facilitate the process, the proposal requested Members to provide Harmonized System (HS) numbers when notifying their draft regulations. Since the proposal stated that the relevant notifications would be transmitted to developing countries via electronic mail, she was concerned that a number of developing countries might not possess electronic mail communication facilities, and invited the Secretariat to seek advice from Members in this respect. As a matter of principle, she found that the ability of all enquiry points to communicate by electronic mail would be of benefit to all Members.

41. The Chairman replied that according to the Survey on the Electronic Facilities Available in National TBT Enquiry Points, almost all enquiry points had e-mail facilities.

42. The representative of Hong Kong, China welcomed the initiative by the Secretariat. She noted that a selection of products based on 20 HS chapters might not be sufficient to certain Members.

43. The Chairman responded that "20 HS chapters" was an indicative number and a higher number would not be rejected.

44. The representative of Canada welcomed the Secretariat's proposal and endorsed the proposed approach as a good starting-point which could still be refined at a later stage.

45. The representative of Thailand welcomed the Secretariat's proposal. She sought clarification if the Secretariat would transmit the relevant notifications in the original language received. She held that some developing countries who used English as their second language might face translation problems if the notifications were in French or Spanish.

46. The Chairman replied that with some delay these notifications were to be translated for transmission to Members in English. He informed the Committee that the Secretariat was planning to purchase and develop the necessary computer hard- and soft-ware, but Members were welcome to provide any further comments to the Secretariat before 15 October.

A. IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT BY MEMBERS UNDER ARTICLE 15.2

47. The Chairman drew attention to the fact that so far, 57 notifications under Article 15.2 had been received, containing statements on the implementation and administration of the Agreement from 72 Members (G/TBT/2/Add.1-57). 93 Members had notified the existence of their enquiry points in document G/TBT/ENQ/15.

48. The representative of the United States welcomed the information provided. She recalled that under the First Triennial Review, the Committee had asked delegations who had not submitted their statement of implementation under Article 15.2 to inform the Committee of reasons for not doing so.

Possible explanations might comprise uncertainty as to what kind of information was expected to be provided to the Committee or domestic implementation problems that could be addressed through technical assistance. She requested Members failing on this obligation to clarify their intentions with respect to implementation of the provisions. She pointed to the importance attached to "implementation" by the US in the preparation for the Seattle Ministerial Conference. The US had submitted a paper to the General Council (WT/GC/W/323) highlighting its intention to ensure that all obligations it had assumed under the Uruguay Round be properly fulfilled. She hoped that Ministers, in a future work programme, would put increased attention on implementation issues and the work of the Committee. She invited delegations who might need assistance to make this known.

49. The Committee took note of the statements made.

B. PREPARATION, ADOPTION AND APPLICATION OF TECHNICAL REGULATIONS

50. The Chairman drew attention to documents G/TBT/W/71 and G/TBT/W/80 by Canada and Thailand concerning national experience with technical regulations.

51. The Committee took note of the statement made.

C. INTERNATIONAL STANDARDS, GUIDES AND RECOMMENDATIONS

52. The Chairman drew attention to documents G/TBT/W/75/Rev.1 (a revised proposal from the US on Transparency in International Standards), G/TBT/W/87/Rev.1 (a revised/simplified version of the EC paper on the Conditions for the Acceptance and Use of International Standards in the Context of the TBT Agreement), G/TBT/W/113 (a Japanese paper on Issues concerning International Standards and International Standardization Bodies), as well as G/TBT/W/60, 61, 81 and 99 (submissions made by Colombia, Canada, Thailand and Australia on their national experience in the use of international standards, guides and recommendations). He also drew attention to a new Japanese paper entitled "Japanese Proposal for Amendment of the TBT Agreement" (G/TBT/W/121). He recalled that at the last meeting, with respect to the proposals made on international standards, two sets of questions had been debated: a "content" and a "form" question. With relation to the "content" question, he summarized that the issues being discussed could broadly be categorized into the following: (i) issues related to international standardizing bodies (such as their principles, procedures of standards development, the issue of transparency, the decision-making process as well as the participation of developing countries); (ii) issues related to the definition or requirements of international standards (such as an understanding on what constituted an international standard within the context of the Agreement); (iii) issues related to the function and use of international standards, including the reasons for the non-use of international standards; and (iv) any other elements.

53. The representative of the European Communities introduced document G/TBT/W/87/Rev.1, and emphasized that the document did not replace its predecessor, but complemented and simplified it. It dealt with principles related to international standardizing bodies, the issue of international standards themselves and the use of international standards. He noted that the nature of a standard and the nature of the standardizing body could not be entirely divorced. He also advocated that greater emphasis be laid on the use of international standards.

54. He explained that the TBT Agreement and the Code of Good Practice (Annex 3 of the Agreement) gave a privilege to international standards. International standardizing bodies would play a more important role than they did before the existence of the TBT Agreement. This implied that international standardizing bodies should be accountable to a broad range of interests which could be demonstrated if the bodies observed the following principles: (i) status: A distinction ought to be made between an international and other standardizing bodies. Objectivity would require that standardizing bodies could not claim two different levels of status (e.*g.* national, regional or international) for their core activities at the same time. For example, CEN could not be regarded both as a regional and an international body, but as a regional body; (ii) impartiality: All countries with an interest in standardization ought to have access to participation in the work. There should be international control over the results, without either discrimination or privilege as to the nationality of

the participants. In the context of improving access to participation by developing countries, it might be appropriate to use technical assistance, in line with Article 11 of the Agreement; (iii) openness: Participation in the work of an international standardization body should be possible on equal terms, without discrimination as to nationality. Recalling paragraph G of Annex 3, he said that, generally, participation should take place through one delegation representing all standardizing bodies in the territory of a Member; (iv) transparency: He recalled that this was an issue taken up by the US. He explained that transparency was crucial both in the establishment of work programmes and in the ultimate results, which should be made publicly available on fair, reasonable and non-discriminatory terms; (v) effectiveness: He noted that this was of particular concern to the Japanese delegation. The work undertaken by international standardizing bodies should respond to market and regulatory needs, and the standards produced should be delivered on time and reflect the state of the art. Work programmes and standards should be coherent both internally and with other international standardizing bodies, *i.e.* conflicting standards should not be maintained, and national and regional standardizing bodies should act coherently in international standardization activities.

55. He contrasted international bodies that held a privileged position under the Agreement, but were not subject to a code of practice, with regional and national bodies being subject to the Code of Good Practice without being privileged. He proposed to give concrete form to these principles of accountability by drawing up a voluntary code of good practice or a set of guidelines for international standardizing bodies, which might then privilege international standards prepared by them. He argued that a proliferation of competing international standards ought to be avoided, and that no more than one standard ought to be in place for the same scope. Purchasers and suppliers would be confused as to which international standards to use. He reiterated that these issues were closely related within the context of the Committee's examination of the work of international standardizing bodies. Reverting to the set of criteria specified by the EC, he said it would be difficult to separate out individual issues without reaching some kind of agreement that covered the whole set of criteria.

56. The representative of Japan made reference to both his delegation's former and recently distributed paper (G/TBT/W/121). He recalled that in the last meeting, his delegation had presented document G/TBT/W/113, emphasizing the procedures for developing international standards, namely transparency, openness and impartiality. Additionally, market relevancy had been stressed, *i.e.* the fact that international standards should meet the needs of the global market. He pointed out that in furtherance of the original paper, the new proposal was in the form of a proposed revision of the text of the TBT Agreement. It contained two basic ideas: international standards and conformity assessment. He elucidated that concerning the first issue, an addition to Article 4 was proposed, and named Article 4 *bis* "International Standards". Paragraph one of this section spelled out how international standards should be developed in line with Article 2 of the TBT Agreement. He laid out that provisions A, B, C and F referred to transparency, D to openness, E to impartiality, and Paragraph two to market relevancy. This would be determined by looking at the substantial global market share of products in terms of consumption. He conceded that the Committee might wish to have a technical discussion on determining market relevancy.

57. The representative of the United States welcomed the papers of the EC and Japan. She recalled that the US had tabled a proposal in the form of a draft Committee decision (G/TBT/W/75/Rev.1). It called upon Members as they participated in international standardizing bodies to be mindful of certain procedures to enhance the process of standards development. For a better understanding of the US proposal she referred to another US document (G/TBT/W/64). She expressed her hope that the Committee could reach agreement on her delegation's proposal.

58. She requested clarification concerning the EC's paper: The EC held that it was implicit in the TBT Agreement that international bodies should be accountable to a broad range of interests. While she shared the sentiment to see a broad range of interests involved, she was not sure how the EC had determined this as being implicit in the Agreement. She observed that the US and Japanese papers called for the publication of specific draft standards and not just the work programme of the international standardizing body, which was, however, all the EC mentioned. She found this to be insufficient in terms of transparency. She further explained that the opportunity for written comments

reflected current US procedures for governments and private bodies on a domestic level and proposed that at an international level similar procedures be followed. She noted that the EC's paper was unclear as to whether the Committee itself was supposed to develop guidelines to bind international bodies. Although the Committee had already expressed its concern earlier that it did not possess the jurisdiction to do so, this still seemed to be part of the EC's paper.

59. She commented on the EC's paper regarding the provision on "status" of standardizing bodies and the proposed distinction between national, regional and international bodies. She wondered about the need for this distinction, although she recognized the privileged status given to international bodies in the Agreement. The distinction between national and regional would become increasingly irrelevant in the global economy, especially in the field of voluntary standardization. She reckoned it would be preferable if the Committee focused on international bodies given the strong encouragement in the Agreement to use international standards.

60. Regarding the Japanese proposal she remarked that the notion of market relevancy might already be captured through Article 2.4 allowing Members not to use international standards where these were perceived to be ineffective or inappropriate for the fulfilment of legitimate objectives. This provision would provide leeway in dealing with international standards that were obsolete or otherwise not appropriate for domestic purposes. She found that an alternative way to ensure market or technological relevance was to include regular reviews as a principle of international standards development. This was an element incorporated in the Committee decision proposed by the US. She invited Japan to take these comments into consideration.

61. The representative of Slovenia expressed his delegation's association with the EC's proposal, and emphasized that the principles of impartiality, openness, transparency and effectiveness should apply for international standardizing bodies.

62. The representative of New Zealand expressed her delegation's appreciation for the EC, Japan and US papers, as well as her view that action on the issue of international standards by the TBT Committee was timely. She commended the principles of "status" and "impartiality" in the EC's paper which she believed were useful additions to the principles of transparency and openness as laid out in both the US and previous Japanese proposals. The concepts of status and impartiality were particularly important for smaller Members who needed to ensure that they would be able to participate effectively in the work of international standardizing bodies.

63. The representative of Chile welcomed the proposals and explanations given by the EC and Japan. Referring to the subject of market needs and the importance of market requirements, he commented that although the intention was good, he identified the risk of placing a barrier to the flexibility needed in setting standards and to the necessary freedom for technological innovations. Further deliberations on this topic were necessary so that these "good" concepts would not result in blocking the development of new products, new markets and new processes.

64. He agreed that putting order to the process of participation in international standard-setting bodies was warranted. However, this should not result in some kind of *supra*-nationality or superstructure deciding on what could qualify as an international standardizing body. He said that, after all, standards developed by these bodies were voluntary, in contrasted to technical regulations where more precise linkages between the states and the standard-setting bodies were needed. These bodies should be free and flexible in their operations and continue to be exposed to economic realities in deciding on their activities. He requested the EC and Japan to give more information on how their respective suggestions could be implemented without creating a rigid structure for standard-setting bodies.

65. The representative of Japan, in response to US concerns, stated that he was not sure whether the exception clause contained in Article 2.4 applied to market relevancy. He thought that in drafting this text during the Uruguay Round the assumption had been made that international standards did exist which were market relevant. He believed this assumption to be mistaken. He agreed with the comments by Chile that a determination of market needs might block new products and new

processes. He indicated that further discussion on a case by case basis was needed to come to terms with a mechanism to determine the market relevancy of international standards. Also in response to Chile, he explained that the Japanese proposal preferred procedural criteria to simply designating international standardizing bodies in order to prevent the extreme case of a superstructure. It was preferable, he said, to stick to the essence of international standards rather than to explicitly identify international standardizing bodies.

66. The representative of the European Communities clarified that the EC did not intend to impose the Code of Good Practice or any other rules on international standardizing bodies. He suggested that it was, however, in the intention of the proposal to set out some kind of code which international standardizing bodies might care to observe and which would be a factor in determining whether a standard was truly international. He argued that the relevant provisions of the Agreement went beyond merely "encouraging" the use of international standards, with the term being "shall use". He hypothesized that if a Member had introduced a standard or technical regulation and were held before a dispute panel on the grounds that it had not based it on an international standard while one existed, then, in the panel proceedings, it might be a relevant factor if the international standardizing body had decided to abide by a set of criteria determined in advance. He concluded that a standardizing body might find it advantageous for its own position to adopt such a code. Given that national and regional standardizing bodies were obliged to abide by the Code under Annex 3 of the Agreement which included the obligation to use international standards as a basis for their own standards, and given that Members were held to use all measures available to them to ensure that the Code was adopted, the EC found the distinction between a national, regional and an international standardizing bodies to be extremely important. Moreover, with the strong use of standards in the EC, interlocutors both at the regional and at the national levels to transpose EC standards were necessary.

67. He raised doubts about the Japanese proposal to measure the market relevancy of international standards by the share of trade in terms of consumption and warned about potential difficulties in gathering verifiable data and compiling accurate statistics. On the other hand, he suggested that a standard treated as international ought to govern the majority or at least a substantial part of trade or regulations in a particular area.

68. Referring to comments made by the US, he explained that the proposed accountability of international standardizing bodies to a broad range of interest tied in to the aspect of participation. It was his conviction that an international standardizing body had to be open to participation by anyone. He stated that access to participation by developing country Members needed to be improved and suggested that better use of Article 11 of the Agreement had to be made. Given the wide range of activities in standardization and developing countries' difficulties in participating therein, a much wider discussion on this issue would be warranted. Regarding transparency, he added that not all the aspects of transparency had been fleshed out in the EC's proposal, but the EC paper intended to highlight that there were many other factors besides transparency.

69. The representative of Japan agreed with the difficulties involved in verifying market relevancy of international standards. He highlighted that the Japanese proposal was the first draft of an initial proposal and meant for discussion. The question of market relevancy had to be solved on a case by case basis and might even contribute to making a proper distinction between international standardizing bodies and others. In this respect he also alerted to the difficulty in having more than one standard with the market relevant meaning for a particular scope.

70. The representative of Switzerland underlined that his delegation endorsed the position of the EC, and that more technical assistance targeted to participation in standard-setting activities was desirable.

71. The representative of Canada welcomed all three proposals, and suggested that their contents be brought together. To this end, he was of the opinion that a more informal approach by the Committee was timely.

72. The representative of the European Communities, referring to principles for international standards as contained in document G/TBT/W/87/Rev.1, stated that some international standardizing bodies might not necessarily produce all of their documents in the form of international standards. He cited the example of ISO producing documents which were industry agreements or documents that did not have the full level of consensus.

73. He explained that his delegation had developed two sets of properties of international standards. One set contained: (i) their elaboration by recognized bodies, a *sine qua non*; (ii) their establishment in full transparency and openness to participation at the world level. This, he said, implied open announcement of the project, announcement of public availability of the draft, which responded to an American concern, and active seeking of consensus at the global level; and (iii) their preparation by global consensus processes, accounting for all relevant interests and characterized by the absence of sustained opposition to substantial issues from any country or, at least, any country that had shown interest in taking part in the work.

74. His delegation expected, as a second set of properties, international standards to have a clear scope, give requirements appropriate to the stated scope and be performance-based where possible with objective means for determining compliance. International standards should be coherent, *i.e.* not give requirement that vary or contradict those of another international standard with a coincident or overlapping scope. He argued that having two standards with different requirements, both of them being regarded as international, would codify rather than remove barriers to trade. International standards should be non-discriminatory, *i.e.* not intentionally favour a particular supplier. He explained that a choice might have to be made between two technologies, coinciding with two different suppliers, and pointed to the problem that the pure test of market relevancy would not necessarily be impartial between suppliers. He continued that international standards should be based on scientific or technical principles, *i.e.* be of a certain quality, and be publicly available on fair, reasonable and non-discriminatory terms, which should include the right to transpose them at the national and regional levels. He noted that these principles for international standards were to a certain extent linked to the issue of international standardizing bodies.

75. The representative of the United States said her delegation did not propose to redraft the definition of international standards, but to make an initial step in enhancing the definition of an international standard by clarifying the types of procedures that should underpin their development. She explained that the US proposal referred to the notion of openness and of transparency, which could be drawn from the existing provisions of the Agreement, and of consensus which was highlighted in the US proposal and drawn from ISO Guide 2. She believed that if followed properly these central features of international standards development would result in the type of documents foreseen by the TBT Agreement to facilitate trade and prevent trade barriers. She found it difficult to relate the section on principles for international standards in the EC's paper to the US and Japanese papers and to previous discussions on international standardizing bodies.

76. The representative of the ISO clarified that if documents published by ISO were not international standards, the state of consensus would be clearly marked on the document. He set forth that in order to respond to market needs, it had to be taken into account that consensus processes could be very long. For some technology it would be very important that the document be known before full consensus was reached. These documents would not be international standards, but only for the use of the market. He assured that international standards when labelled as ISO international standards or as originating from IEC or ITU had gone through the full consensus process.

77. The representative of Korea expressed his appreciation for the new document prepared by the European Commission. He requested clarification on the meaning of "recognized" international standardizing body under Heading 3 "The principles for international standards", para. 9, sub-item 8 of the paper. He would feel concerned if this implied that the TBT Committee would set up a procedure to recognize international standardizing bodies. This would give rise to the problem of jurisdiction and the independence of these bodies. His understanding of the Japanese paper (G/TBT/W/113) with regard to Section IV "Recommendations" was that it proposed the TBT Committee should examine the possibility of establishing a fundamental rule relating to international

standards and international standardizing bodies. He felt that in order to be in a position to recognize international standardizing bodies, it might be more useful to establish rules or principles concerning the bodies.

78. The representative of the European Communities said that Members of the WTO could recognize that certain bodies fulfilled a set of criteria that Members had drawn up in advance. The US paper referred to the procedures which a body should carry out, hence, it seemed reasonable to assess these bodies as fulfilling such requirements. He cited ISO/IEC Guide 2 as the related standard text which made reference to "recognized" standardizing bodies as having competence. If there were no means of assessing a body, any document could be claimed to be an international standard causing administrative chaos. Therefore he contended that, to a certain extent, an assessment of bodies, that can produce international standards, was appropriate. Such recognition could be based on the principles outlined by the EC, although its proposal was still tentative.

79. The representative of Brazil welcomed the three papers. With regard to the EC paper she stated that there were similarities to the Brazilian position, such as contrasting international standards with regional and national standards, although further clarification was needed. The status of standardizing bodies, be it national, regional or international, should receive further attention. In regards to the US paper, she sought clarification on the point stipulating the publication of a notice at an early appropriate stage in such a manner as to enable interested parties within the territory of a WTO Member to become acquainted with it, that the international body proposes to introduce a particular standard. She was unsure what "interested parties" meant and asked whether that referred to all agencies. She stated that in Brazil there was one national agency that represented all other standardizing bodies. She was concerned about the confusion created if several hundreds of agencies had the right to voice an opinion.

80. The representative of the United States responded that, in the US, an interested party could be anyone with an interest in the subject, not necessarily organized as an agency or body, but this would be a genuinely domestic decision.

81. The representative of Canada stated that from previous conversations he had gathered the understanding that if one were to define an international standardizing body and decide whether a body met certain criteria or not, this decision would not lie with the WTO. It would rather be up to the international standardizing body to decide whether it was international, regional or national. The discussion of such principles would ultimately imply an assessment of a large number of institutions against those criteria, a workload which Members might wish to reconsider.

82. The representative of the European Communities clarified that a body should not be able to unilaterally arrogate to itself the right to be an international standardizing body that would impose its standards on governments through Article 2 of the TBT Agreement. He made clear that the WTO had the right to determine what was obligatory under its own rules. Therefore, the principles for international standardizing bodies had to be clear and it would be up to the standardizing body to abide by them or not. Under the principles laid down by WTO Members, the body could be recognized as an international standardizing body, subject to the principles really being followed. He stressed that this markedly differed from drawing up a list of rules imposed on international bodies which was not the EC's intention.

83. The representative of the Mexico expressed strong interest in the issues of both definition of international standardizing bodies and the work done by them in preparing international standards as well as in the participation of countries in those organizations and the way in which those standards were approved.

84. The representative of Australia said her delegation supported elements of each of the papers presented. She agreed with Japan on the importance of the concept of market relevance and on process and procedures as being key. She suggested that the way forward would be the development of a guide for international standards writing, encompassing many of the issues discussed.

85. The delegate of the FAO requested the EC to clarify how its proposal aimed at revising the obligation that countries had to apply international standards.

86. The representative of the European Communities referred to the section of its paper relating to international standards and trade, *i.e.* the use of international standards. He said that regulations should be confined to essential requirements while referring to international standards, that remained voluntary, for their technical content. Transparency would be useful in order to know the areas in which regulations made use of international standards. He reiterated that international standards should be coherent which would be crucial for their use in trade. Alluding to the Japanese proposal he warned that if they simply reflected market shares, a problem could arise with two standards sharing 50% of the market each. He also held that transposition of international standards into regional and national standards was important, because it made the international standard visible at the regional and national level. He also set forth that impartiality and openness of any international standardization process implied that developing countries were not excluded *de facto*. While in most systems they were not excluded *de jure*, this might not always be sufficient, as developing countries might not necessarily be able to take a full part in the work. He stressed the necessity for provisions for capacity-building and technical assistance, especially when developing countries had a substantial market presence for a product being standardized.

87. The representative of the United States suspected that the EC was missing the aspect of market relevance. She highlighted that standardizing bodies did not impose their standards on anybody, but regulators or actors in the market chose to make use of standards. She concluded that the notion of market relevance was attractive, notwithstanding the difficulties related to the type of measurement proposed by Japan. The extent to which these documents were relevant for regulators' or purchasers' purposes would depend on procedural issues among others.

88. The Chairman recalled that there had been three broad suggestions regarding the "form" of the result of the discussions being held: a possible Committee decision, an amendment of the text and a suggestion for a voluntary code of good practice for international standardizing bodies.

89. The representative of Canada stated that the Committee could make substantial progress through the normal procedures available to it under the Agreement and that there was neither a necessity nor desirability of taking the approach being proposed by Japan to insert new text directly into the Agreement.

90. The representative of Mexico was unfavourable towards inserting text into the Agreement as proposed by Japan. While another avenue for solving this matter should be sought, he was of the opinion that more substantive work was needed in the first place. He cited the section in the EC's document concerning the nature of an international standard as an example, whereby a series of elements was provided without clarifying whether an international standard would have to be approved by consensus with the participation of developing countries. He suggested to work more on the substantive issues and leave open all form-related options.

91. The representative of New Zealand voiced his support for a decision by the Committee. Like Canada and Mexico she believed that the Japanese proposal was not necessarily the best way at this stage. She found it reassuring that all three proposals were moving largely into the same direction concerning substance/content and therefore found the form question to be not as imperative as it might seem. She urged that the US proposal for a decision on transparency would be adopted soon by the Committee, because she saw it as a building block to moving to a more extensive decision by the Committee on some of the other issues raised, such as the principles for international standardizing bodies. She reiterated that her delegation would support the US proposal on the basis that it was the first step towards a more comprehensive decision.

92. The delegation of Hong Kong, China agreed with Mexico that it was more important to work on the substance first with the form to eventually emerge. She revealed to be tentatively in favour of adopting voluntary guidelines or a code of good practice, but more time was needed for the study of the proposals.

93. The representative of Japan agreed that content was important and form could follow the content discussion. He voiced, however, his delegation's concern as to the validity of the decision. He said that it was his understanding that for an important and central issue, such as the definition of international standards and guidelines for international and regional conformity assessment bodies, provisions of the Agreement needed to be amended, if possible, during the next Round of trade negotiations.

94. The Committee took note of the statements made.

D. CONFORMITY ASSESSMENT PROCEDURES

95. The Chairman drew attention to documents G/TBT/W/63 (a US paper on Supplier's Declaration of Conformity), G/TBT/W/70 (a EC paper on ISO/IEC Guides on Conformity Assessment), G/TBT/W/79 (a Swiss paper on Autonomous Recognition of the Results of Foreign Conformity Assessment), G/TBT/W/85 (a Thai paper on Experience in the Various Types of Conformity Assessment Procedures), G/TBT/W/99 (an Australian paper on National Experiences with Standards and Technical Regulations), G/TBT/W/72/Rev.1 (an updated list of relevant international guides and recommendations related to conformity assessment procedures), as well as G/TBT/W/118 (a recent Australian paper on a Code of Good Practice for the Accreditation of Conformity Assessment Bodies).

96. The representative of Australia stated that the adoption of international conformity assessment practices was an emerging issue which, if addressed and adopted by WTO Members, would further enhance trade facilitation. To encourage further discussion of the issue within the TBT Committee Australia had developed a draft paper on the transparency process for accreditation of conformity assessment. She emphasized that the adoption of the processes outlined in the paper would be on a voluntary basis only and would not pose further mandatory obligations on Members. She explained that accreditation was a mechanism by which any form of conformity assessment could be given credibility. It sought to evaluate the confidence of conformity assessment bodies. She said the paper addressed a number of issues raised at the WTO Symposium on Conformity Assessment Procedures.

97. She believed that the process set out in the paper would form a basis for the negotiation of mutual recognition agreements mentioned in Article 6 of the Agreement and for the adoption of autonomous recognition as outlined in the Swiss paper (G/TBT/W/79). It would also allow governments to move to more light-handed forms of regulation including manufacturers' and suppliers' declaration of conformity to standards or regulations. Allowing imported products to be tested and certified in the exporting country to the importing country's requirements would reduce the compliance burden of Members and facilitate the freer movement of goods and services. However, Members would have to have confidence in other Members' conformity assessment results. She suggested that agreeing to internationally recognized standards and guides was one process to ensure that principles of competency, transparency and equity were inherent in any system.

98. She informed the Committee that in order to enable accreditation bodies around the world to recognize each other's conformity assessment bodies, regional networks had been established. These included bodies in the Asia-Pacific area, Europe, Southern Africa and Latin America. These bodies were working cooperatively to develop standards and codes of practice in conjunction with ISO and to develop uniform procedures of accreditation and conformity assessment that were recognized by many Members.

99. She proposed that the paper once finalized by the TBT Committee be adopted as an additional Annex to strengthen the Agreement. The aim of the Annex was transparency in the process for accreditation of conformity assessment. She reiterated that adoption by Members of the proposed Annex would be on a voluntary basis and would be only applicable to those Members who used accreditation as part of their conformity assessment requirements. She invited comments on the paper.

100. The representative of Japan presented the Japanese proposal concerning conformity assessment (G/TBT/W/121). In referring to the wording concerning guidelines and recommendations developed by international standardizing bodies for conformity assessment under Article 5.4 of the Agreement ("international guides"), he noted that the Japanese proposal contained similar definitions or procedures for the development of such international guides. He again pointed to Article 2 of the Agreement and refered to the proposals on international standards in the first part of the Japanese paper. In the proposal under paragraph 9.2.1, reference was made to the previous text under Article 4 *bis*. He stated that, concerning conformity assessment, there should be a clear distinction between the body developing normative documents and the body implementing those documents. He explained that Paragraph 9.2.2 refered to reference documents developed by international systems of conformity assessment for the implementation of conformity assessment.

101. The representative of the European Communities welcomed the initiatives from Australia and Japan. He mentioned that the EC's paper (G/TBT/W/70) had a similar goal in that it stressed the importance to the TBT Agreement of making use of relevant ISO/IEC Guides. He believed that businesses would welcome developments into the direction of the "tested once, accepted everywhere" principle. He welcomed the Australian clarification that the proposed code was a purely voluntary exercise.

102. The representative of Chile welcomed both documents and highlighted their relevance for economic development. The documents, however, did not specify (once the guidelines or code of good practice had been agreed to) what the mechanism would be to determine whether these guidelines or code had been implemented or not. He asked whether it would be in the WTO or the ISO, and whether the way of verifying compliance would be, *e.g.* through annual reviews. This would be to prevent that attempts to advance the issue through voluntary codes just result in a set of good intentions, *i.e.* a mere recognition of the problem.

103. The representative of the United States referred to the US paper submitted to the General Council (GC/W/323), expressing its interest in furthering considerations on a code of good practice on conformity assessment as part of the ongoing work in the Committee. She welcomed the questions raised by Chile and the Australian proposal on a code of good practice for the accreditation of conformity assessment bodies, which could serve as a basis for discussions. She emphasized that the Symposium on Conformity Assessment Procedures held in June 1999 had been useful and had provided a rich background of information for the Committee to draw from in discussions. She declared that conformity assessment procedures presented the most challenging area for preventing and resolving technical trade barriers. Significant improvements in the implementation of the Agreement were needed in this area.

104. She considered the US's idea as reflected in document GC/W/323 to be broader than what had been presented by Australia. The US proposal referenced the provisions of Articles 5 to 9 of the Agreement representing the full range of conformity assessment obligations. She confirmed that the idea of a code of good practice was interesting and merited further discussion as one means of identifying for Members how best to implement the provisions and fulfil the purposes of Articles 5-9. While she considered the Australian paper to be a good start, she felt that by focusing on accreditation, it only addressed one aspect of a larger issue dealt with in the Agreement, namely the lack of acceptance by importing authorities of test results undertaken by foreign conformity assessment bodies.

105. She identified that the main problem was how to establish the necessary conditions to create confidence in conformity assessment results among regulators. Accreditation was only one option, among many, for establishing technical competence. She appreciated the clarification of Australia that its proposed code could be voluntary and would only apply when accreditation was used. Otherwise, the Australian proposal could have appeared to promote accreditation as the preferred means of assuring technical competence of assessment bodies. She noted that the Australian paper also promoted mutual recognition arrangements among accreditation bodies. She was concerned about resource implications and about the apparent assumption that such voluntary arrangements

among accreditors would be automatically accepted by regulators. This had not been the US experience, and the aspect merited further discussion.

106. She held that some consideration ought to be given to the specific interests of regulators in developing confidence in conformity assessment results. Accreditation was not the only means to give regulators this confidence and, as noted above, might not be sufficient by itself. Her delegation supported the consideration of alternative means of achieving recognition, for example through reliance on supplier's declaration of conformity (with or without accreditation). In this context she referred to a paper by Thailand which had seemed to provoke a lot of constructive discussion at the last Committee meeting. She believed that to fulfill the obligation in Article 6.4 of the Agreement, which she described as national treatment in accreditation/recognition of conformity assessment bodies, cooperative arrangements between domestic and foreign conformity assessment bodies, and other means would also be useful instead of focusing almost exclusively on mutual recognition agreements (MRAs). She invited further discussion on a more broad-ranging guideline in this area.

107. The representative of Canada thanked Australia for its contribution to this discussion. He expressed his intention to refer it to the domestic accreditation organization and maybe those conformity assessment bodies that got accredited. He urged the Committee to have a broader philosophical discussion at some point of how many codes or guidelines it might wish to adopt over the next 3 to 5 years and to project the consequences of such an approach. He counted three proposals being on the table for guidelines of different kinds and multiple proposals within each of those.

108. The representative of Hong Kong, China welcomed the Australian paper, stating that her delegation would not be opposed to the voluntary nature of the proposed code. She commented on paragraph (k) of the draft where the issue of MRAs was mentioned, and proposed to make reference to ensure the open and non-discriminatory nature of MRAs.

109. The representative of Switzerland welcomed the Australian contribution and expressed her view that it would entail positive unilateral and multilateral effects on the recognition of conformity assessment results.

110. The representative of Japan welcomed the Australian paper and identified a common direction, although Japan was taking the route of proposing an amendment to the provisions of the Agreement. He shared the US's concern about the Australian paper focussing exclusively on accreditation of conformity assessment bodies. In response to Chile, he explained that a code of good practice as opposed to the amendment of the text of the Agreement would have consequences for the format of implementation. The code of good practice could be either signed or not, and would become mandatory only if signed. By contrast, when this issue was taken up directly into the provisions of the Agreement, Members would have to consider it as an obligation.

111. The representative of Mexico welcomed the Australian proposal and announced substantive comments after consultation with domestic authorities.

112. The representative of the European Communities noted that many proposals were on the table and inquired about plans to try and make progress within the framework of the Committee. He recalled that at the last meeting, discussions were held on supplier's declaration, and the EC had suggested that Members gave information on the areas for which they applied supplier's declaration. In the EU, supplier's declaration was used in several areas. However, he made clear that not every product could be placed on the market by supplier's declaration, and it was only applicable to less sophisticated products. He listed the EC Directives where supplier's declaration was used: low voltage electrical equipment, simple pressure vessels, toys, electromagnetic compatibility, machinery, personal protective equipment, medical devices, recreational craft, refrigeration appliances, pressure equipment, in vitrio diagnostic medical devices, radio and telecom terminal equipment.

113. The representative of Australia thanked Members for constructive comments, and announced to work with Members to improve the paper and bring it back to the next Committee meeting.

Following on the EC's remarks, she asked whether there were any processes within the Committee structure to help advance the papers.

114. The Committee took note of the statements made.

E. TECHNICAL ASSISTANCE UNDER ARTICLE 11

115. No statement was made under this item.

F. SPECIAL AND DIFFERENTIAL TREATMENT UNDER ARTICLE 12

116. No statement was made under this item.

G. OTHER ELEMENTS

117. No statement was made under this item.

V. OTHER BUSINESS

118. The representative of the United States recalled that at the last meeting, the representative of the UN/ECE had reported on their work. She informed the Committee that their proposed agreement on technical harmonization could be of interest to Members. This agreement involved both WTO Members and Non-Members. It was her understanding that it was to promote the implementation of obligations and principles that were of interest to the TBT Committee. She wondered about what legal implications the potential conclusion of an agreement in the UN/ECE might have for WTO Members and Non-Members. She had noticed differences in language, definitions *etc*. She invited other Members to study the document and return to the Committee if necessary.

119. The representative of the FAO informed the Committee about the outcome of the 23rd Session of the Codex Alimentarius Commission and on FAO and Codex activities which were of relevance to the WTO/TBT Committee (Annex 2).

120. The Chairman concluded that delegations should consult with each other in order to pursue the proposals made and identify common grounds. For the purpose of transparency he advised that the Committee be informed at some stage. He raised the idea of having informal consultations of the Committee at the beginning of year 2000.

Annex 1

Proposal by the Secretariat

Implementation of Article 10.6 of the Agreement on Technical Barriers to Trade

Article 10.6 of the Agreement on Technical Barriers to Trade states that "The Secretariat shall, when it receives notifications in accordance with the provisions of this Agreement, circulate copies of the notifications to all Members … and draw the attention of developing country Members to any notifications relating to products of particular interest to them."

Considering the possible human and financial resources which would be involved, the Secretariat has decided to propose to undertake the following actions so as to further the implementation of Article 10.6 of the Agreement, and especially to draw the attention of developing country Members to any notifications relating to products of particular interest to them.

1. Developing country Members are requested to provide the Secretariat with a list of products of particular interest to them (around of 20 items) as indicated by **HS numbers** containing **two digits** (e.g., wood and articles of wood; wood charcoal would therefore be indicated by HS 44). There is a total of 97 chapters in the Harmonized System, i.e., the HS numbers provided will be from 01 to 97.

2. Developing country Members are also each requested to provide the Secretariat with the **electronic mail address** of an authority designated to receive the notifications relating to products of particular interest to them.

3. Members when notifying draft technical regulations and conformity assessment procedures under Articles 2.9.2, 2.10.1, 5.6.2 and 5.7.1 are requested to, under **item 4 of the notification form,** provide the **HS numbers** of the products covered, where applicable.

4. Based on the information provided by the developing country Members and the notifying Members, the Secretariat will transmit the relevant notifications (in the original language received), by **electronic mail** to the designated authorities of developing country Members concerned.

5. Developing country Members will have the possibility to update the information provided under paragraphs 1 and 2.

6. All Members' permanent missions to the WTO will continue to receive paper copies of all TBT notifications. TBT documents, including notifications, are normally circulated to all Members in English, and subsequently in any other WTO working language of their choice.

7. Members are also reminded that TBT notifications are available electronically through the WTO home page (www.wto.org).

Annex 2

Statement by the Representative of the FAO

I would like to highlight the outcomes of the 23rd Session of the Codex Alimentarius Commission which was held in Rome from 23 June to July 1999. The session was attended by 608 delegates and representatives from 103 Member Countries, one observer country and representatives from 63 international governmental and non-governmental organizations including UN agencies and the WTO. All decisions made in the Session were adopted by consensus.

The Commission amended three Rules of Procedure of the Codex Alimentarius Commission, among others, the rule X.2 Elaboration of and Adoption of Standards to stress the need for consensus when adopting standards and related texts. The Commission also established three ad hoc Intergovernmental Codex Task Forces, one of which is the task force on Foods derived from Biotechnology, to be hosted by the Government of Japan. The task force will consider food safety and nutrition aspects of such foods and develop international recommendations in this area.

The Commission adopted 31 new or revised Codex standards, guidelines and related texts. One guidelines relevant for this Committee is the Guidelines for the Development of Equivalence Agreements regarding Food Import and Export Inspection and Certification Systems (food safety matters). The Commission also agreed to develop guidance on the judgement of equivalence of systems for inspection and certification in relation to technical regulations other than sanitary measures, in parallel with food safety issues.

The Commission expressed appreciation for the technical assistance provided to developing countries to allow application and use of Codex standards at national level and in the framework of the SPS and TBT/WTO agreements. In this regard, I would like to inform this Committee about relevant activities implemented by FAO in this area. FAO continues to sponsor and conduct seminars, workshops and technical meetings on a national and regional basis on a range of important topic with relation to food quality and safety and international trade. These topics include food control management and administration, risk analysis methods and procedures; requirements of newly applied international trading agreements; fool labelling; laboratory quality assurance; validation of food analysis methods; development of equivalence agreements and mutual recognition programmes in the area of food safety and quality. In addition more than 30 projects are presently under implementation in this field worldwide.

In relation to the implementation of the Uruguay Round Agreements, including the TBT Agreement, FAO is implementing an Umbrella Program for Training on Uruguay Round and Future Multilateral Trade Negotiations in Agriculture aimed at enhancing national capabilities on WTO matters related to food and agriculture and ensure that developing countries are well informed and equal partners in the negotiating process. Fourteen sub-regional workshops are being organized in different regions of the world: four in Africa; three in Asia; tow in the Near East ; two in Europe; and three in Latin America. Detailed information about venues and dates for these workshops are available at FAO website. Some of the meeting planned for this quarter are: Cairo (26-30 September); Dakar (4-6 October); Prague (4-8 October).

Finally Mr. Chairman, I am pleased to announce that FAO, in cooperation with WHO and WTO, is conducting arrangements for the Conference on International Food Trade beyond 2000: Science-Based Decisions, Harmonization, Equivalence and Mutual Recognition to be held in Melbourne Australia next week. The Conference, as has been informed to this Committee before, will address food quality and safety issues and how they affect trade, health and development at both domestic and international levels. The Conference will be intergovernmental and should point the way to improve international and domestic trade of good quality and safe food from the year 2000. The agenda and papers to be discussed are available at FAO website.