

# WORLD TRADE ORGANIZATION

RESTRICTED

G/TBT/M/1

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## Committee on Technical Barriers to Trade

### MINUTES OF THE MEETING HELD ON 21 APRIL 1995

Chairperson: Miss C. L. Guarda (Chile)

1. The WTO and the GATT Committees on Technical Barriers to Trade held jointly their first and forty-ninth meetings, respectively, on 21 April 1995.

2. The following agenda contained in WTO/AIR/52 and GATT/AIR/3679 was adopted:

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**A. Election of officers**

3. The GATT and WTO TBT Committees elected Miss C. L. Guarda (Chile) Chairperson for 1995.

**B. Rules of procedure**

(i) Rules of procedure adopted by the WTO Council for Trade in Goods

4. The Chairperson noted that in accordance with Article IV:6 of the WTO Agreement, the WTO TBT Committee would establish its rules of procedure subject to the approval of the Council for Trade in Goods. She recalled that at its meeting on 3 April, the Council for Trade in Goods had adopted its rules of procedure as contained in document G/C/W/2. It had been agreed that the Rules of Procedure for meetings of the General Council contained in document WT/L/28 should apply *mutatis mutandis* for meetings of the Council for Trade in Goods with certain amendments. It had also been proposed that those subsidiary bodies of the Council for Trade in Goods which decided that they needed rules of procedure for their own purposes might consider using the rules of procedure of the Council for Trade in Goods, with adaptations where necessary.

5. She proposed that the WTO TBT Committee consider adopting the following Rules of Procedure:

"The Rules of Procedure for meetings of the General Council, as amended by the Council for Trade in Goods, shall apply *mutatis mutandis* for meetings of the Committee on Technical Barriers to Trade, with the following amendments:

(1) Rule 1 shall be modified to read as follows:

The Committee on Technical Barriers to Trade shall meet as necessary, but not less than once a year.

(2) The first sentence of Rule 2 shall be modified to read as follows:

Meetings of the Committee on Technical Barriers to Trade shall be convened by the Director-General by a notice issued, preferably three weeks, and in any event not less than ten calendar days, prior to the date set for the meeting.

(3) Delete Rule 5 (regarding proposed agenda)

(4) Rule 16 (regarding quorum) shall be amended to read as follows:

The Chairperson may consider postponing a meeting in the event that he or she feels that doing so may result in a more representative level of participation by WTO Members.

(5) Rule 33 shall be modified to read as follows:

Where a decision cannot be arrived at by consensus, the matter at issue shall be referred to the Council for Trade in Goods."

6. The representative of Japan requested clarification of the status of informal consultations on rules of procedure applied to the subsidiary bodies under the Council for Trade in Goods, and said that subject to them having been concluded satisfactorily his delegation could agree that the standard format of rules of procedure for subsidiary bodies should be applied to the WTO TBT Committee.

7. Referring to the question raised by the representative of Japan, the Secretariat informed the Committee that the informal consultations in question had been concluded satisfactorily and the results would be formally adopted at the next meeting of the Council for Trade in Goods. If delegations felt it necessary, he said that the WTO TBT Committee might consider adopting the draft Rules of Procedure as presented *ad referendum* the adoption of a standard format in the Council for Trade in Goods.

8. The representative of Canada asked for confirmation that Rule 34 of Chapter VII (Decision-Making) under the Rules of Procedure for Meetings of the General Council would not be applicable in the case of the WTO TBT Committee.

9. The Chairperson confirmed that it was the case.

10. The representative of Brazil said that his delegation could agree with the Draft Rules of Procedure on condition that the amended Rule 16 replaced Rule 16 of the Rules of Procedure for Meetings of the General Council.

11. The Chairperson confirmed that it was the case.

12. The representatives of the United States, the European Communities, New Zealand and Korea supported adoption of the Draft Rules of Procedure for the Committee.

13. The WTO TBT Committee agreed to adopt the Rules of Procedure as presented.

14. The representative of Canada said that it would be useful to have an understanding within the Committee that any Member proposing to raise a bilateral issue at the Committee meeting should give advance notice to the Secretariat and the Member concerned. This would allow substantive discussion to take place with a view to resolving any differences before the meeting took place and as a result could save time for the Committee. The representatives of the European Communities, Switzerland and New Zealand supported the Canadian proposal.

15. The Committee took note of the Canadian proposal and the statements made.

(ii) Decision on "Transitional Arrangements - Avoidance of Procedural and Institutional Duplication"

16. The Chairperson drew attention to the fact that the Preparatory Committee of the WTO had adopted the Decision on "Transitional Arrangements - Avoidance of Procedural and Institutional Duplication" to provide for co-operation between bodies established under the Tokyo Round and WTO with respect to notifications and holding of meetings. The Decision had been adopted by the CONTRACTING PARTIES at their Sixth Special Session and the WTO General Council at its meeting of 31 January 1995, as contained in document WT/L/29.

17. The GATT and WTO TBT Committees took note of the decision contained in WT/L/29.

18. Regarding participation in meetings by certain signatories of the Final Act eligible to become Original Members of the WTO, the Chairperson drew attention to document WT/L/27 and the fact that the General Council, at its meeting on 31 January 1995, had decided that during a period of seven months following the date of entry into force of the WTO Agreement, Signatories of the Final Act Embodying the Results of the Uruguay Round that were Contracting Parties to the GATT 1947 and were eligible to become original Members of the WTO might be present and speak at formal or informal meetings of the bodies established under the WTO Agreement and should have access to all documents made available to Members of the WTO for such meetings. Such Signatories would not have the right to participate in the decision-making of the Bodies established under the WTO Agreement.

19. The GATT and WTO TBT Committees took note of the General Council's decision as contained in document WT/L/27.

(iii) Participation of Observers

(a) Governments

20. The Chairperson noted that certain governments which were in the process of acceding to the WTO, or had initiated negotiations to do so, or had declared their intention to do so in the near future, had been invited to attend meetings of the General Council as observers. She drew attention to Annex 2 of document WT/L/28 "Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council", "Guidelines for Observer Status for Governments in the WTO", of which paragraph 6 stated that "... governments with observer status in the General Council may participate as observers at meetings of working parties and other subsidiary bodies of the General Council as appropriate, with the exception of the Committee on Budget, Finance and Administration".

21. The WTO TBT Committee agreed that such governments be invited to attend meetings of the Committee, except if or when it was decided by the Committee to hold a closed session with participation of Members only.

22. The WTO TBT Committee agreed to adopt the guidelines contained in paragraphs 3, 9 and 10 of Annex 2 of WT/L/28 as its rules of procedure relating to Observer Status for Governments in the Committee.

(b) International Organizations

23. The Chairperson drew attention to the fact that at the informal meeting of Heads of Delegations to the General Council on 9 February, it had been agreed that pending final agreement on guidelines for observer status for international organizations in the WTO, the Chairman of each

sectoral Council would consult on whether to invite certain organizations to the first meetings of their respective subsidiary bodies (WT/GC/COM/2). At the first meeting of the Council for Trade in Goods, its Chairman had indicated that the IMF, UNCTAD, ITC (UNCTAD/GATT), ISO, IEC, FAO/WHO Codex Alimentarius Commission and OIE would qualify for invitation to the first meeting of the WTO TBT Committee. She said that accordingly these international organizations had been invited as observers to this meeting. Following the meeting of the Council for Trade in Goods on 3 April 1995, Ad Hoc Arrangements for the Participation of International Intergovernmental Organizations in Meetings of the Council for Trade in Goods and its Subsidiary Bodies had been agreed.

24. The WTO TBT Committee agreed to adopt the decision of the Council for Trade in Goods that, pending the adoption of criteria and conditions for observer status for international organizations in the WTO, the WTO TBT Committee would decide which international organizations should be invited to its next meeting. In this respect, the WTO TBT Committee agreed to invite those international organizations which had been invited to this meeting to attend its next meeting.

#### **C. Status of Ratification of the WTO TBT Agreement**

25. The Chairperson drew attention to a list containing the latest membership of the WTO TBT Agreement for the information of the Committee. She recalled that on 30 December 1994, the United States had notified its withdrawal from the Tokyo Round TBT Agreement (LET/1971) and in accordance with Article 15.11 of the Tokyo Round TBT Agreement, the withdrawal had become effective on 28 February 1995.

26. The Committee took note of the statement made.

#### **D. Termination of the Tokyo Round TBT Agreement**

27. The Chairperson drew attention to document TBT/W/192, a draft decision to terminate the Tokyo Round TBT Agreement and said that in response to proposals by the Preparatory Committee, decisions had been taken to terminate the GATT 1947. She thought that since the Tokyo Round Agreement on Technical Barriers to Trade interpreted and supplemented the GATT 1947, it made little sense to keep it in existence beyond the date on which the GATT 1947 would terminate. She proposed that the GATT TBT Committee consider adopting the decision on the Termination of the Tokyo Round TBT Agreement as contained in TBT/W/192, whereby the Agreement would be terminated at the end of 1995.

28. The representative of Japan said that his delegation supported the decision *per se*, that "The Agreement is herewith terminated one year after the date of entry into force of the WTO Agreement. In the light of unforeseen circumstances, the Parties may decide to postpone the date of termination by no more than one year." However, he thought that the Tokyo Round TBT Agreement was a completely different legal agreement from the General Agreement on Tariffs and Trade (GATT 1947), and the termination of the GATT 1947 did not necessarily mean the Tokyo Round TBT Agreement needed to be terminated. He said that further consultation on the language of the reason for the termination of the Tokyo Round TBT Agreement was needed and suggested that the reason could be to avoid duplication between the WTO and Tokyo Round TBT Agreements.

29. The representative of the European Communities supported the comments made by the representative of Japan and thought that further clarification might be needed on the intention of the wording "in the light of unforeseen circumstances". He asked if it covered issues notified under the

Tokyo Round Agreement among Signatories of the Tokyo Round Agreement which had not been settled satisfactorily could continue to be treated under the new WTO TBT Agreement.

30. The Chairperson said that she would hold informal consultations with interested Parties of the GATT TBT Committee to decide on how to terminate the Tokyo Round TBT Agreement. The issue would be taken up again at the next meeting.

**E. Notifications under Articles 2.9, 2.10, 3.2, 5.6, 5.7, 7.2 and 15.2 of the WTO TBT Agreement**

(i) Recommendations endorsed by the Preparatory Committee

31. The Chairperson recalled that at its meeting on 28 October 1994, the GATT TBT Committee had adopted recommendations regarding notification procedures under the WTO TBT Agreement aimed at ensuring that adequate procedures would be in place to allow notifications to be made and processed during the period between entry into force of the WTO TBT Agreement and the first meeting of the WTO TBT Committee. Those recommendations (contained in PC/IPL/10/Rev.1) had been endorsed by the Preparatory Committee of the WTO and had been adopted by the General Council of the WTO. The Secretariat had been instructed, pending the first meeting of the WTO TBT Committee, to undertake the work that would be necessary to implement them.

(ii) Procedures for Notification and Information Exchange under the WTO TBT Agreement

32. The Chairperson drew attention to item (iii) of the document PC/IPL/10/Rev.1 regarding notifications made under the obligations of the WTO TBT Agreement which stated that WTO Members should follow the recommendations and guidelines relating to notification procedures contained in TBT/16/Rev.7. She pointed out that TBT/16/Rev.7 related to the obligations of the Tokyo Round TBT Agreement and not to those of the WTO TBT Agreement, and drew attention to document G/TBT/W/2 in which the Secretariat had updated the decisions and recommendations taken by the Tokyo Round TBT Committee regarding procedures for notification and information exchange contained in TBT/16/Rev.7 to reflect the provisions of the WTO TBT Agreement. The exercise had been undertaken in part in a purely mechanical way. However, an attempt had also been made to indicate how new and additional obligations regarding notification and information exchange that had been included in the WTO TBT Agreement might be incorporated into the procedures if WTO TBT Members felt there was a need to do so. She invited the WTO TBT Committee to hold discussions of this agenda item based on the Secretariat's background document with a view to adopting updated decisions and recommendations on procedures for notification and information exchange under the WTO TBT Agreement.

33. The representative of New Zealand thought that the proposals set down in the document G/TBT/W/2 were generally acceptable. However, he made the following suggestions: (1) on page 2, regarding the Statement on Implementation and Administration of the Agreement, the third line of paragraph 1, "Members should" should be replaced by "Members shall" so as to keep the same language as in the first line of the paragraph; (2) on page 3, point (iii), regarding notifications under Articles 3.2 and 7.2, "proposed and adopted technical regulations" should be replaced by "proposed or adopted technical regulations" to reflect the distinction between the obligations under Article 2.9 and Article 2.10 of the Agreement.

34. The representative of the European Communities supported the first proposal made by the representative of New Zealand. Also, he drew attention to Paragraph N of document TBT/16/Rev.7

regarding Labelling Requirement and said he thought that it should also be included as a decision of the WTO TBT Committee because it referred to notification obligations.

35. The representative of the United States also supported the first suggestion made by the representative of New Zealand. She said that some of the recommendations contained in TBT/16/Rev.7 were made by the GATT TBT Committee at an early stage of the implementation of the Tokyo Round TBT Agreement. Regarding page 2 of G/TBT/W/2, the statement on implementation and administration of the Agreement, she made the following comments: (1) point (d), she questioned whether "consultation point" was still relevant under Article 14 of the WTO TBT Agreement given the dispute settlement mechanism established under the WTO; (2) point (b), she questioned the value of including "the expected length of time allowed for presentation of comments" in the statements, since it was recommended by the Committee that 60 days should be provided normally and 45 days under special circumstances. She thought that any deviation would be varied by case and would be difficult to predict at the early stage of implementation, when presenting the statement; and (3) in relation to information provided under the Code of the Good Practice, specifically paragraphs J, L and O of Annex 3 of the Agreement, she questioned whether it was possible to submit that information in the initial statement by Members since the Code of Good Practice was opened to acceptance with a separate notification.

36. The representative of Argentina shared the doubts expressed by the United States over the need to maintain consultation points. He added that for technical consultations, there were enquiry points.

37. The representative of the European Communities supported the comments made by the United States and Argentina on consultation points. Referring to the comment made by the representative of the United States on the length of time for comments, he said that indicating a date for comment period was very useful for industries, especially if more than 60 days was provided by Members, and they should have the opportunity of making it explicit.

38. The representative of Brazil thought that there was an urgent need to adopt decisions and recommendations relating to the Statement on Implementation and Administration of the Agreement under Article 15.2 of the WTO TBT Agreement. In that connection, he asked whether it was necessary for Signatories of the Tokyo Round Agreement to re-submit their original Statements or make a completely new Statement since the basic structure of the recommendations would remain the same. He supported the suggestion made by New Zealand that "Members shall" submit relevant information in the form of written statements. He shared the doubts raised by the United States on the value of "consultation points" and thought that delegations knew the addresses and telephone numbers of all other delegations in case bilateral discussions on issues were needed before bringing them to dispute settlement procedures. He also supported the view expressed by the representative of the United States regarding comment periods.

39. The WTO TBT Committee took note of the statements made. The Chairperson invited interested Members to address suggestions in relation to document G/TBT/W/2 to the Secretariat or herself and said she would hold informal consultations according to the suggestions made. Pending any decision by the Committee, WTO TBT Members should continue following the notification recommendations contained in document PC/IPL/10/Rev.1.

(iii) Information to be submitted to the Secretariat by Members

40. The Chairperson drew attention to documents G/TBT/W/3, G/TBT/W/5 and G/TBT/W/6 and reminded Members of the WTO TBT Agreement that they were requested to inform the Secretariat as soon as possible of the names, addresses, telephone and telefax numbers of their Enquiry Points, the

appropriate authority to whom requests for consultation might be addressed, as necessary, and of the addresses to which they wished notifications sent.

41. Concerning G/TBT/W/6, she drew attention to the fact that due to the increasing number of Members it would be difficult and expensive for the Secretariat to distribute notifications to several different destinations for each Member. She proposed the Committee reflect on the possibility of having the most effective and economic way, of circulating notifications, for example, circulating notifications only to Members' local Geneva addresses.

42. The representatives of New Zealand and Brazil supported the suggestion that notifications be circulated to only one address per Member.

43. The WTO TBT Committee took note of the statements made and agreed that notifications would be distributed to the missions in Geneva or to an address (one only) provided by the delegation. Failing to indicate an address meant that the notifications would be sent to the missions of delegations in Geneva. The Chairperson confirmed that in the light of the statements made regarding consultation points, it would not be necessary for Members to update or reply in respect to G/TBT/W/5.

#### **F. Procedures for Notifications under Paragraphs C and J of the Code of Good Practice for the Preparation, Adoption and Application of Standards**

44. The Chairperson recalled that under Paragraphs C and J of the Code of Good Practice for the Preparation, Adoption and Application of Standards contained in Annex 3 of the WTO TBT Agreement, standardizing bodies were required to notify their acceptance or withdrawal from the Code and the existence of their work programme to the ISO/IEC Information Centre. As had been agreed by the Preparatory Committee, the Director-General of the WTO had been invited to enter expeditiously into an agreement with the ISO Central secretariat to establish a WTO Standards Information Service operated by ISO. There had been an exchange of letters between the Director-General and the Secretary-General of the ISO Central Secretariat to reach an understanding between the two organizations to establish a WTO-ISO information system and the Memorandum of Understanding agreed upon had been circulated in document G/L/1. Pursuant to Paragraph 2 of the Memorandum of Understanding and in order to ensure a uniform and efficient operation of the procedures for notifications, the ISO Secretariat and the WTO Secretariat had developed notification formats and related guidelines which were to be used by standardizing bodies accepting the Code of Good Practice. Those guidelines and formats for notifications had been circulated to WTO TBT Members in document G/TBT/W/4 for information. She drew attention to the amendments made to the formats attached to G/TBT/W/4 for indicating the country, customs territory or regional arrangement where standardizing bodies accepting the Code of Good Practice were established and whether they were central government, local government or non-governmental bodies. She informed the Committee that a few notifications had been received already from standardizing bodies accepting the Code of Good Practice. Those notifications had been transmitted from ISO to the Secretariat and circulated to WTO Members for information in documents with the symbol G/TBT/CS/N.

45. The representative of the European Communities suggested that document G/TBT/W/4 should be derestricted for the information of standardizing bodies.

46. The WTO TBT Committee agreed to derestrict document G/TBT/W/4.

47. The representative from the ISO confirmed that a Memorandum of Understanding had been reached to establish a WTO Standards Information Service operated by ISO. He said that the



Chairman of ISO Information Committee (INFCO) had reported to the ISO General Assembly held on 8-10 September 1994, on matters of information on standards development related to provisions of the WTO-TBT Code of Good Practice. The ISO General Assembly, the highest governing body of ISO had adopted the following resolution related to the Code:

"The General Assembly of ISO, commits itself to promoting positive responses to the provisions of the WTO TBT Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 to the WTO Agreement on Technical Barriers to Trade) regarding information on standards development."

48. He informed the Committee that the Memorandum of Understanding on WTO Standards Information Service Operated by ISO had been approved by the ISO Council in November 1994 and since then, in accordance with item 2 of the Memorandum, the ISO Central Secretariat together with the WTO Secretariat had prepared notification arrangements related to the Code of Good Practice. The document containing notification forms and relevant instructions for their use had been approved by the Committee for Information and the ISO General Assembly. He confirmed that ISO had already received notifications on acceptance of the WTO-TBT Code of Good Practice and on the availability of work programmes from two standardizing bodies: DIN Deutsches Institut für Normung (Germany) and Bureau of Product Standards (Philippines). These notifications had been promptly forwarded to the WTO Secretariat according to item 4 of the Memorandum of Understanding.

49. He said it was difficult to estimate the resources needed by the ISO/IEC Information Centre for the application of the WTO Standards Information Service operated by ISO since the number of standardizing bodies accepting the WTO-TBT Code of Good Practice was not known. An assumption might be made that the number would not exceed 670 standardizing bodies and based on that assumption, an approximate estimation of the total cost needed by the ISO/IEC Information Centre for the service was CHF 200,000 covering the need for additional staff, publication of ISO/WTO Directory of standardizing bodies accepting the WTO Code (annually, in English, French and Spanish), publication of updates in the ISO Bulletin of information and mailing cost.

50. Regarding the implementation of clause 3 of the Memorandum of Understanding concerning classification, stage code and reference numbers, he informed the Committee that ICS (International Classification for Standards) had been recommended for use by the General Assembly of ISO, committing it to promote the International Classification for Standards for use by standardizing bodies within their countries, and to urge those ISO members which had not yet implemented the ICS in their national catalogues to do so as soon as possible. ISO Council had also formally recommended the use of a harmonized stage code developed by ISO/IEC at the international level in cooperation with regional standardizing bodies CEN/CENELEC in Western Europe. He said that those harmonized stage codes would meet the requirement of the WTO TBT Code of Good Practice. The harmonized stage codes had also been recommended by the ISO/IEC/ITU Information Technology Strategies Cooperation Group. i.e. by the three apex international standardizing bodies. Concerning the reference number, he said that promotion of the use of relevant ISO/IEC guides would be continued.

51. The representative of Japan said that his government could support the notification procedures stipulated in document G/TBT/W/4. However, for the implementation of the Code of Good Practice he expressed concern about ISONET Rules with which standardizing bodies notified work programmes. He thought that the stage code system was too complicated for use by standardizing bodies, especially non-governmental bodies. He said that explanation of the ISONET rules to Members was essential and further discussion in ISO was necessary for the improvement of the Rules. He indicated that his delegation might come back to the issue in future TBT meetings.

52. The WTO TBT Committee took note of the statements made. The Chairperson said that she would inform the Chairman of the Budget Committee regarding the financial requirements made known by the ISO representative.

#### **G. Technical Assistance**

53. The Chairperson recalled that, in order to give Signatories the opportunity to discuss the activities and problems relating to information exchange, the GATT TBT Committee had adopted a decision that meetings of persons responsible for information exchange including persons responsible for enquiry points should be held on a regular basis. The last meeting of that kind had been held in November 1992. She proposed that another meeting on procedures for information exchange be held in the autumn. She informed the Committee of a suggestion made by the Chairman of the SPS Committee that there should be a joint meeting for this purpose for the SPS and the TBT Committees since there were similar obligations under the two Agreements. She asked if the Committee would agree on a joint meeting organized in the autumn. She thought that this might also be helpful for new Members of the Agreement to set up their enquiry points and fulfil their obligations under Article 10.1 of the WTO TBT Agreement.

54. The representative of the European Communities supported the proposal of organizing a meeting on procedures for information exchange for the TBT Committee. However, he said that it was not necessary to have a joint meeting with the SPS Committee because he thought that the TBT and SPS Agreements were two completely different systems, although they were built up on similar lines and some reference points could be found. He proposed that there could be two separate meetings at the operational level held close together.

55. The representative of the United States said that meetings of enquiry points had proved to be useful for the operational level because representatives could make contacts and discuss common problems associated with the implementation of information exchange. She said that although there was a question of resources for many delegations, it was particularly important to hold such a meeting soon while the WTO TBT Agreement was entering into force and given that changes had been made from the Tokyo Round TBT Agreement. She supported the proposal of having a joint meeting on procedures for information exchange with the SPS Committee. She thought that although there were substantial differences between the SPS and TBT Agreements, the transparency provisions were identical. She recalled that in the past, for the efficiency of resources, meetings of enquiry points had been scheduled closely with the ISO/INFCO meetings because of similar participants. She thought that a joint meeting would also provide participants with an occasion to discuss differences in terms of coverage between the two Agreements and how to best cope with the functioning of the two Agreements, whether or not they were handled by the same enquiry point. She informed the Committee that in her country, the same enquiry point was handling the functions for the TBT and the SPS Agreements.

56. The representative of Canada informed the Committee that his country also had one enquiry point functioning for both the TBT and SPS Agreements. Canada had found this approach cost effective and, given both the substantive reasons raised by the representative of the United States and the need to reduce travel costs, the representative of Canada shared the view expressed by the representative of the United States that it would be advantageous to have a joint meeting with the SPS Committee. He said that even if was a back to back meeting, there should be some joint sessions for participants to compare their experiences in carrying out their obligations.

57. The representatives of Brazil, Indonesia, speaking on behalf of the ASEAN countries, and Japan also supported the suggestion of having a joint meeting on procedures for information exchange with the SPS Committee. The representative of Brazil raised concerns about the possibility of having divergent recommendations in terms of the information systems if there would be two separate meetings.

58. The representative of the European Communities said that if cost effectiveness was the reason, the information exchange meetings for the SPS and the TBT Committees could be held separately on the same day, each lasting for half a day.

59. The WTO TBT Committee agreed to hold a meeting on procedures for information exchange in the autumn. The Chairperson would consult with the Chairman of the SPS Committee and interested delegations regarding the form of the meeting.

60. The representative of Costa Rica recalled that an agreement had been reached in the SPS Committee on the possibility of holding meetings for the heads of enquiry points on a regional basis so as to reduce travel costs for participants. She suggested the Committee consider also the possibility of having joint meetings at a regional level.

61. The representative of ISO said that a new stage of cooperation had begun between the WTO and ISO with the implementation of the WTO TBT Code of Good Practice and the new role of the ISO/IEC Information Centre. He emphasized the importance of providing technical assistance to developing countries whose institutional standardization infrastructures were not fully developed, and in some cases non-existent, so as to facilitate the implementation of the TBT Agreement. He drew attention to Article 11 of the TBT Agreement which allowed developing countries to request advice and technical assistance in a wide range of areas and said that Members should, if requested, provide technical assistance. He thought that under the Tokyo Round TBT Agreement, implementation had been very limited because the number of Signatories was relatively small. He recalled that there had been individual donors providing financing for the training of developing countries, such as the PRODEC and RESOURCE seminars on Technical Barriers to Trade held in 1993 and 1994, financed by Finland and the European Communities respectively. He regretted that little action had been taken by WTO Members to provide technical assistance to developing country Members under Article 11 of the Agreement.

62. He informed the Committee that within the ISO, a special Committee on Developing Country Matters (DEVCO) which was established in 1961, had been operating since 1980 a Programme for Developing Countries (DEVPRO). DEVPRO had proved over the years to be of substantial benefit to developing country members and economies in transition. The programme consisted of:

- Publication of Development Manuals in the areas of standardization and related matters of which eight manuals had been published and three more were planned;
- Training in standardization and related matters through:
  - \*Regional training seminars,
  - \*Training fellowships with established national standards bodies, and
  - \*Training for ISO technical committee secretariat functions;
- Sponsorship of participation in ISO standards committee meetings;
- Assistance and guidance in the establishment of International Standards needed by developing countries; and
- Assistance in documentation, information and promotion of standardization.

63. He said that DEVPRO was administered by a small staff, fully financed from the regular budget of ISO. However, funding for the elements of the Programme came from sources external to the ISO budget, such as industrialized countries who offered training in their regular training courses and specialized attachment training free of charge for trainees from developing countries. It remained necessary, however, to finance the other expenses of the Programme such as travel and subsistence of fellows in the venue country, expenses of lecturers and trainees in regional seminars, publication of manuals and others. He said that the lack of funds for financing those activities was putting severe limitations on the extent of technical assistance provided by the Programme while the number of countries eligible for assistance had increased. In its Resolution 12/1994, DEVCO had called for closer cooperation between the WTO/TBT and the ISO/DEVCO as well as between their Secretariats to explore ways for achieving the common goals of the two Organizations regarding technical assistance to developing countries. He informed the Committee that written information on the triennial 1995-1997 ISO programme for developing countries and the type of technical assistance provided by ISO was available and could be sent to interested WTO Members.

64. The representative of FAO drew attention to a paper concerning technical assistance from the FAO which was made available at the back of the room. He recalled that there had been a regional seminar organized under the SPS Agreement in Bangkok and another one which would take place in Mexico with the participation of Codex Alimentarius.

65. The representative of ITC informed the Committee that his organization was a UN agency specializing in assisting developing countries on trade promotion and import management in the area of technical barriers to trade.

66. The Chairperson said that the Secretariat was studying ways of providing technical assistance. The problem was budgetary, and if any delegation could contribute in the form of technical assistance to developing countries requiring such assistance or could provide resources enabling the Secretariat to provide technical assistance such offers would be welcomed.

67. The GATT and WTO TBT Committees took note of the statements made.

#### **H. Statements on Implementation and Administration of the Agreement**

68. The Chairperson drew attention to documents TBT/1/Add.40 and 41 and welcomed the statements submitted by Malaysia and Israel in accordance with Article 15.7 of the Tokyo Round TBT Agreement, that "Each Party shall, promptly after the date on which the Agreement enters into force for the Party concerned, inform the Committee of measures in existence or taken to ensure the implementation and administration of the Agreement ...".

69. The representative of New Zealand welcomed the transparency of the Mexican regulation/standard notification system. He asked for an explanation of the significant increase in the number of new and amended Mexican technical regulations and standards that had been issued recently, and asked whether it was a part of the process of Mexico coming into line with its trading partners.

70. He recalled that at the last Tokyo Round TBT Committee Meeting, his delegation had raised concerns about Mexico's labelling and consumer information regulations NOM-050-SCI-1994, and NOM-051-SCI-1994. He said that his authorities had since received advice from Mexico informing them that the draft regulations were at present "on hold" and might be redrafted. He urged Mexico to provide any updated information on the current situation.

71. He drew attention to G/TBT/Notif.95.37 in which Mexico had notified its proposed regulation NOM-106-SCI-1994 which established the characteristics, requirements and conditions for the use of an official Counter Mark. Article 2 of the Mexican regulation suggested that the requirement to exhibit the Mark applied to a potentially wide range of products. He questioned the rationale, necessity and coverage of the regulation; and whether the regulation met the obligations for conformity assessment under Article 5.1 of the WTO TBT Agreement with respect to such issues as import suppliers' access to the Mark and the possibility for conformity assessment to be undertaken at the site of the exporter's facilities. He asked for further clarification from Mexico on the necessity of the procedures in order to give Mexico confidence that imported products conformed with regulations.

72. He raised concerns relating to the packaging and labelling provisions of Mexico's proposed new meat regulations (NOM-030-ZOO-1994). Sub-paragraph 4.7 of the Mexican regulation required (i) the original label of the plant with product and plant details, the packing date etc, in the language of the country of origin; and (ii) a label in Spanish with the corresponding information. He asked if adhesive labels were acceptable and whether the Spanish language label could be affixed in Mexico. He also asked for clarification on sub-paragraph 4.6 which stated that carcasses would only be accepted if properly identified with the seal of the approved establishment, whether it meant that a carton seal had to be applied to each carcass or whether Mexico would accept that the brands printed on the carcass itself met the requirement. He urged Mexico to supply further information which would answer these questions.

73. The representative of Mexico confirmed that new drafts would be drawn up for standards NOM-050 and NOM-051 and the definitive versions of the drafts would be brought to the attention of the TBT Committee. Referring to the other questions raised by the representative of New Zealand, he said that he would refer them to his authorities and replies would be given promptly.

74. The representative of the European Communities expressed concern over the functioning of the Israeli enquiry point because his delegation had encountered difficulties in receiving replies on some enquiries, such as the Israeli standard 215 concerning interlocking clay roof tiles of which his authorities had made the first enquiry in July 1994. He said that substantive changes in standard 215 had affected negatively EC exports to Israel and the revised standard now appeared to be mandatory. He regretted that no reply on substance had been received from the Israeli enquiry point and the regulation had not been notified. He urged the Israeli enquiry point to answer the enquiries and to notify the mandatory standard. He drew attention to some other incidents, such as enquiries relating to seal gate valves, porcelain tableware and welding products when unsatisfactory replies had been provided in October 1994. Although his delegation had made comments at the beginning of 1995, no information had been received. He reiterated the importance of the functioning of enquiry points which could affect the rights and interests of other Members. He urged Israel to look into the matter and find a solution to the substantive issues as soon as possible.

75. The representative of the European Communities drew attention to TBT/Notif/93.458 notified by the United States in December 1993 regarding a proposal on Motor Vehicle Content Labelling. He said that his authorities had expressed concern and made comments on it in January 1994, but regretted that the comments had not been considered. The final rule had been published in the Federal Register in July 1994 and established a mandatory labelling requirement for all new motor vehicles, beginning on 1 October 1994, indicating the domestic and foreign content of their equipment. The labels had to show the percentage of the equipment in the vehicle that originated in the United States and Canada; the foreign countries which were the major sources of the vehicle's equipment; the percentage by value of the equipment originating in each of these countries; the countries of origin of the vehicle's engine and transmission; and the location where the vehicle was assembled. He recalled that his delegation had brought the issue to the attention of the

GATT TBT Committee because of its concern and the general interest in the issue. He recalled that at the last meeting, the representative of the United States had told the Committee that her authorities would review the substance of the matter and additional information would be provided when it was available. He regretted that no information had been received despite a reminder sent to the US authorities on 2 February 1995. He urged again the delegation of the United States to provide information on the regulation.

76. The representative of Japan also indicated Japan's interest in receiving information on the issue.

77. The representative of the United States confirmed that the regulation had been adopted as a final regulation; that explained why there was no information on any changes. She said that she could not respond in substance of the issue at the moment but would report to the regulatory authorities the comments made and would respond at the next meeting.

78. The representative of Switzerland informed the Committee that his authorities would provide a statement to the delegation of Korea concerning the Korean marks of origin system. He recalled that during several interventions in the past, his delegation had expressed concern on the Korean marks of origin system and related labelling requirements. He welcomed the information which had been provided by the delegation of Korea up to the present. However, he thought the information did not meet fully his authorities' expectations and it was not clear if the information had any bearing on the practical implementation of the laws. He said that after closer examination, his delegation was still of the opinion that the currently applied marking and labelling requirements were inconsistent with Article XI of the GATT; the recommendation of 21 November 1958; and the Agreement on Technical Barriers to Trade. He said that it was also clear to his delegation that marks of origin and related labelling requirements were covered by both the Tokyo-Round and the WTO TBT Agreements.

79. He added that beside the problem of origin marking, his country also had problems with the burdensome application of the origin regulations for watches, the marking regulations for woollen fabrics and the mandatory marking in Korean language on many home appliances. He concluded that so far no satisfactory solution had been offered by the Korean authorities on any of the problems raised by Switzerland. He urged again the Korean delegation to give due consideration to Switzerland's concerns, to submit in due course the relevant laws and regulations and to work with his delegation with a view to reaching satisfactory solutions. He said that his delegation would continue bilateral discussions with Korea and would give prior notice to the Secretariat and the Korean delegation if the issue was to be brought back at the next Committee meeting.

80. The representative of the Republic of Korea in responding to the Swiss delegation's comment said that bilateral consultations were continuing in his capital and he hoped that satisfactory solutions could be reached. He said that his delegation would provide the laws and regulations in question as soon as possible.

81. The representative of Japan also expressed his government's concern over the issue of Korean marks of origin which had been discussed for a long time in meetings of the Tokyo Round TBT Committee. He requested the Swiss delegation to provide the Committee with relevant information on the issue. The representative of Switzerland agreed to make the full text of his statement available to any interested delegation.

82. The Committees took note of the statements made.

## **I. Other Business**

83. The Chairperson said that the WTO TBT Committee might wish to consider how to treat the other decisions and recommendations contained in TBT/16/Rev.7 taken under the Tokyo Round TBT Committee, and said that she would hold informal discussions with Members on this matter before the autumn meeting.

84. She noted that under Article 15.3 of the WTO TBT Agreement, the Committee should review annually the implementation and operation of the Agreement taking into account the objectives thereof. In connection with that, she also noted that under the Ministerial Decision adopted by the Trade Negotiations Committee on Review of the ISO/IEC Information Centre Publication, the WTO Committee on Technical Barriers to Trade should "... at least once a year review the publication provided by the ISO/IEC Information Centre on information received according to the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the Agreement, for the purpose of affording Members opportunity of discussing any matters relating to the operation of that Code." In the Tokyo Round TBT Committee, an annual review had usually been conducted at the last meeting of the year on the basis of a Secretariat working document which was subsequently finalized by the Secretariat in the light of comments given by the Committee or discussions at that meeting.

85. She said that she would hold informal meetings with interested Members on the value of having an Annual Review for 1995, given the short period since the WTO TBT Agreement had entered into force, and on how to approach and carry out an annual review whether for this year or for subsequent years.

86. The WTO TBT Committee agreed that the Chairperson would hold informal discussions with interested Members on how to treat the other decisions and recommendations contained in document TBT/16/Rev.7 and on how to approach and carry out annual reviews.

87. The representative of Brazil recalled that at the last meeting of the Sub-Committee on Trade and Environment of the WTO Preparatory Committee held at the end of 1994, his delegation had made a statement on the relationship between eco-labelling schemes and the TBT Agreement, trying to analyze to what extent eco-labelling schemes were covered by both the Tokyo Round and the WTO TBT Agreements. He thought that this was an issue which would have to be dealt with, whether in the TBT Committee or the Committee on Trade and Environment. He expressed his delegation's interest in the issue and reiterated his delegation's observation that eco-labelling schemes were covered by the TBT Agreement and subject to notification.

88. The representative of Canada also expressed his delegation's interest in the issue and shared the view expressed by Brazil that eco-labelling was an issue that needed to be addressed. He informed the Committee that his delegation had reflected on the issue at the last meeting of the Committee on Trade and Environment, and said that copies of the statement made at that meeting were available to interested Members. He restated his delegation's belief that it was the right time to pursue the linkage between voluntary eco-labelling programmes and the TBT Agreement and that there was a strong basis to pursue consensus that voluntary programmes, such as eco-labelling schemes, were covered by the Code of Good Practice for the Preparation, Adoption and Application of Standards contained in Annex 3 of the WTO TBT Agreement. He thought that it would need considerable work, probably on an informal basis in both the TBT Committee and the Committee on Trade and Environment at this stage given that any questions which dealt with the TBT Agreement should involve the TBT Committee formally or informally.

89. The Committees took note of the statements made.

Date of the next meeting

90. The Chairperson drew attention to Article 13.1 of the WTO TBT Agreement that "the Committee shall meet as necessary, but no less than once a year...". She said that under the Tokyo Round Agreement, the Committee usually held two regular meetings each year, once in spring and once in autumn. She suggested that the WTO TBT Committee might consider following the same practice and this would enable the two Committees to hold joint meetings as envisaged in the "Transitional Arrangements -Avoidance of Procedural and Institutional Duplication". She proposed that the WTO TBT Committee consider following this practice and the next meeting of the two Committees be held some time in the autumn, with the exact date to be fixed by the Chairperson in consultation with interested delegations.

91. The representative of the United States thought that the present meeting had been focusing on procedural matters and there were outstanding points which needed to be clarified and agreed upon before the WTO TBT Agreement could be fully implemented. She suggested that there might be a need for the Committee to hold a meeting before the end of the summer.

92. The representative of Canada shared the view expressed by the United States and thought that there should be flexibility on the date of the next meeting, given the fact that there might be substantive issues that needed to be addressed.

93. The representative of the European Communities said that since the Committee did not yet know whether it would be necessary to have a meeting before the summer, and in the interests of cost effectiveness, he supported the Canadian proposal that the date of the next meeting should be left open. If there were really a lot of substantive work to be completed before the summer break the Chairperson could summon a meeting, but otherwise an autumn meeting should be sufficient.

94. The Tokyo Round TBT Committee and the WTO TBT Committee agreed to the Chairperson's proposal that a joint meeting would be held in the autumn with the exact date to be worked out by herself in consultation with delegations. Regarding the need for a meeting before the end of the summer, the Chairperson said that she would hold consultations with interested delegations. Should there need to be a meeting before the summer break, it would be short and would focus on matters remaining pending from the present meeting and any substantive issues Members might suggest.