WORLD TRADE ORGANIZATION

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Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 15 MARCH 2002

Chairman: Mr. Joshua Phoho Setipa (Lesotho)

1. The Committee on Technical Barriers to Trade held its twenty-seventh meeting on 15 March 2002.

2. The following agenda, contained in WTO/AIR/1734, was adopted:

I. REQUESTS FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV), THE BUREAU INTERNATIONAL DES POIDS ET MESURES (BIPM) AND THE GULF ORGANIZATION FOR INDUSTRIAL CONSULTING (GOIC)

3. The Chairman said that further consultations among WTO Members on observer status in the context of the General Council were still needed, and proposed to come back to these requests at the next meeting.

4. The Committee took note of the statement made.

II. SEVENTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE TBT AGREEMENT UNDER ARTICLE 15.3

5. The Committee concluded its Seventh Annual Review of the Agreement on the basis of the background document G/TBT/11/Rev.2.

III. SEVENTH ANNUAL REVIEW OF THE CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS IN ANNEX 3 OF THE AGREEMENT

6. The Chairman drew attention to documents G/TBT/CS/1/Add.6, G/TBT/CS/2/Rev.8 and the Seventh Edition of the WTO TBT Standards Code Directory. In 2001, 14 standardizing bodies from 13 Members had accepted the Code, which made up a total of 138 standardizing bodies from 94 Members having accepted it up until the end of 2001.

7. The representative of Japan noted that the Code of Good Practice was an important element of the TBT Agreement, in particular in terms of ensuring transparency in standardization. Japanese standardizing bodies had been positively accepting the Code, and he encouraged standardizing bodies in the territories of other Members to do the same.

8. The representative of Malaysia informed the Committee that the current standardizing body in Malaysia was Department of Standards Malaysia.

9. The representative of Mexico informed the Committee that all the standardizing bodies in Mexico had accepted the Code.

10. The representative of Indonesia clarified that the name of the national standardizing body of Indonesia was BUDAN.

11. The representative of the People's Republic of China informed the Committee that the Chinese government standardizing body was ready to notify its acceptance of the Code.

12. The representative of Korea informed the Committee that the standardizing body of his country was Korean Agency for Technology and Standards.

13. The Committee took note of the statements made. Document G/TBT/CS/2/Rev.8 would be revised according to the above information.

IV. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

14. The Chairman drew attention to a Ministerial Decision on Implementation-related Issues (WT/MIN(01)/17) which stated that "subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued".

15. The Committee took note of the Ministerial Decision and agreed to include it in document G/TBT/1/Rev.7.

16. The Chairman recalled that Ministers in Doha "confirmed the approach to technical assistance being developed by the Committee, reflecting the results of the triennial review work in this area, and mandated this work to continue". They also "urged Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement".

17. With the Ministers' mandate in mind, he believed that it was important for the Committee to expedite its process to further develop its technical cooperation programme, following the steps agreed at the Second Triennial Review (i.e. to carry out the survey to assist developing countries Members to identify and prioritize their needs before the Committee reassessing the needs and to consider the existing technical assistance activities by multilateral, regional and bilateral organizations, as well as to identify the technical assistance partners and financial consideration). He reminded the Committee that at the Second Triennial Review, it had agreed to assess the progress made in implementing the technical cooperation programme in the context of the Third Triennial Review in 2003.

18. He further drew attention to the Ministerial Decision concerning outstanding implementation issues. It had been agreed that the following two TBT related issues should be addressed by the Committee (Job(01)/152/Rev.1): (i) Article 11 shall be made obligatory so that technical assistance and cooperation is provided to developing countries; and (ii) Acceptance by developed-country importers of self-declaration regarding adherence to standards by developing-country exporters. This provision should be introduced in Article 12. The Committee should report to the Trade Negotiations Committee for appropriate action by the end of 2002.

19. The representative of Malaysia believed implementation issues were important and proposed to hold informal discussions on them at the June Committee meeting.

20. The representative of India supported the Malaysian view.

21. The representative of Brazil proposed to invite the proponent(s) to present the two outstanding issues to the Committee, in particular the justification of the proposals, to facilitate discussions.

22. The Chairman concluded that the Committee would hold informal discussions on the outstanding implementation issues at its June meeting, and requested the Secretariat to approach the proponent(s) of the two outstanding issues to make the presentation at the meeting.

23. Concerning the accession of the People's Republic of China, he recalled that at the Ministerial Conference, a Decision had been made on a "Transitional Review Mechanism" (WT/L/432). It provided that those subsidiary bodies of the WTO (including the TBT Committee) "which have a

mandate covering China's commitments under the WTO Agreement shall, within one year after accession … review, as appropriate to their mandate, the implementation by China of the WTO Agreement and of the related provisions of the Protocol. China shall provide relevant information, including information specified in Annex 1A, to each subsidiary body in advance of the review… Each subsidiary body shall report the results of such review promptly to the relevant Council …" "The review provided for will take place after accession in each year for eight years. Thereafter there will be a final review in year 10 or at an earlier date decided by the General Council."

24. He welcomed the Chinese statement on implementation and administration of the Agreement under Article 15.2 (G/TBT/2/Add.65), and invited China to provide the additional information listed in Annex 1 A of document WT/L/432 in order that the Committee could carry out the Review and report back to the Goods Council before the end of the year.

25. The Committee took note of the statements made.

26. The representative of Argentina drew attention to document G/TBT/W/171 (of 17 January 2002) containing Argentinian comments on the European Communities (EC) notifications G/TBT/N/EEC/6 and 7 on draft regulations of the European Parliament and the Council on "Genetically Modified Food and Feed" and "Traceability and Labelling of Genetically Modified Organisms (GMO) and Traceability of Food and Feed Products produced from Genetically Modified Organisms and Amending Directive 2001/18/EC" (COM2002/182). He noted that the objectives cited for these proposals were for the protection of human health or safety, animal or plant life or health, or the environment and consumer protection. Supervision and authorization procedures were established for the labelling and traceability of feed and foodstuffs which were genetically modified (GM). This would require, in addition to the normal labelling specifications, the insertion of wordings stating that they were genetically modified or produced by GM ingredients.

27. He raised questions about how these proposals reconciled with the TBT and the Marrakesh Agreements. He was concerned about the lack of scientific support for these measures, and that it could lead to the possible introduction of other non-science based elements in regulatory decision-making processes. He believed the EC traceability and labelling requirements were not the ideal measures to fulfil the declared objectives, and went against the principle of Article 2.2 of the Agreement. They were more trade restrictive than necessary and would not take into account the risks of non-fulfilment would create. The labelling wordings "containing or coming from GMO" showed a lack of impartiality, and would not provide consumers with the information needed to make purchasing choices in an objective way. He pointed out that foodstuffs and feed containing GMOs could retain less agro-chemicals residual and could result in less environmental contamination. The EC proposed labelling would lead consumers not to choose GM products even though both the traditional and GM products had been analyzed, tested and authorized for marketing as safe products.

28. He believed there existed a reasonable variety of less trade restrictive alternative measures which could fulfil the EC declared objectives (e.g. the use of batch numbering or the identification of new breeds of plants). To impose labelling and traceability requirements for products or ingredients that could not be differentiated from the traditional counterpart would constitute an unjustified discrimination between them. This would go beyond the principles of MFN treatment and national treatment, contrary to Article 2.1 of the TBT Agreement, as well as Articles I and III of the GATT 1994. His delegation reserved its right to broaden the comments on this issue in other fora.

29. The representative of Canada recalled that his delegation had raised the EC GMOs labelling and traceability issues at the previous meeting. In December 2001, Canada had provided official comments to the EC's enquiry point on these two draft regulations stating that they appeared to be discriminatory, costly, unworkable and unenforceable. Canada was particularly concerned about the following aspects of the regulations: (i) the attempt to respond to unidentified risks; (ii) the requirement for bio-tech derived products, which have been approved for human and animal

consumption and environmental release, to go through well established pre-market assessments; and (iii) the inconsistency in the application of the proposed regulations, since they would apply only to food and feed produced from GMOs but not foods produced with GMOs. He looked forward to receiving a response from the EC on the Canadian comments.

30. He drew attention to a related issue - the EU's GM approval moratorium. Canada had been denied access to the EU market for GM canola for five years. (In 1994, Canadian canola exports to the EU amounted to 425 million dollars). He questioned the justification to block GM canola from the EU market without any health, food safety or environmental reasons, of which had been confirmed by two EU's independent scientific committees on plants. Canada had raised this issue at various levels with the EU for several years, including via the Prime Minister. He believed the EU moratorium had no basis on science and should be lifted immediately.

31. The representative of the United States (US) associated her delegation with the statements made by Argentina and Canada. She said that the US had submitted comments to the EC notifications in December 2001 (of which she was willing to make available to interested Members). She raised concerns on the fact that the EC proposals did not attempt to identify specific risks or hazards, and that the requirements were to be implemented on products that had already undergone risk assessment and had been approved for years. She agreed that products should be assessed for safety before being put on the market, and that bio-tech products should be determined to be as safe as their conventional counterpart. However, she could not understand why the EC sought to impose additional traceability and monitoring requirements only on bio-tech products.

32. Regarding the proposed labelling requirements, she believed that they were imposed on products with no identified handling, usage, safety or compositional distinctions. Consumers would be left without accurate information. Without the means for testing, the requirements would be unenforceable, could lead to fraudulent practices and could fuel consumers' distrust in regulatory regimes which was not in any country's interest. She did not see the justification of expanding the mandatory traceability and labelling requirements to animal feeds, and that the requirements could enhance public health. She noted that the EC proposals also fell under the SPS Agreement, and had been notified under that Agreement. She looked forward to the EC's response.

33. The representative of Australia associated her delegation to the comments made by Argentina Canada and the US. Australia had raised concerns about the two EC proposals at the previous meeting and had submitted comments to the EC's enquiry point in January 2002, expressing concerns and seeking explanation on the following: (i) the substantive reasoning behind each of the stated objectives; (ii) the EC's obligations under Article 2.2 of the Agreement, since the proposals were believed to be more trade restrictive than necessary to fulfil a legitimate objective; (iii) the traceability proposal was not founded on scientific basis; (iv) the cost that would be involved to develop, maintain and enforce the proposed regulatory system; (v) the scientific or other explanation behind the EC's proposal to discriminate between foods produced from GMOs and foods produced with GM enzymes; (vi) the inclusion of foods with little or no novel DNA and protein in the labelling regime; (vii) the reason to include GM feed in the proposed regulations; and (viii) how the comments made on the proposed regulations would be taken into account.

34. The representative of the European Communities recalled that in the second half of year 2001, discussions among Member States in the Council had progressed well on the traceability proposal. In the last months, discussions were focussed on the GM food/feed proposal. At the present moment, the two proposals from the European Commission were being studied by the European Parliament led by the Environment and Human Health Committee. The first meeting had been held in February, and work was being done to produce its report, including possible amendments. He did not expect the first reading of the Parliament to be finalized before summer 2002. Member States would attempt to arrive at a common position after that. The common position would then be sent back to the

Parliament again for its second study. A second reading of the Parliament would be made before the final adoption of the proposals.

35. He said that the objectives of the proposals were: (i) to ensure a high level of protection; (ii) to have an efficient and transparent authorization procedure; and (iii) to extend the labelling requirements to facilitate consumer choice and ultimately to ensure social acceptance on the application of bio-technology in agri-food production. He argued that the present criteria and the scope for authorization of GM foods had not been changed. They had been in place since 1997 when the EC adopted the novel food regulation EC 258/97 which laid down that food containing, consisting of and produced from a GMO had to be authorized prior its placing on the market. What was new was to establish an authorization procedure for feed derived from GMOs. He believed the proposed procedures would be more efficient, since the newly established European food safety authority would be carrying out the risk assessment. It would be more transparent because the summary of the applications, the opinion and the conclusions of the risk assessments would be made public, and the public would be provided opportunities to respond.

36. The labelling requirement for foods consisting of and produced from GMOs had been in place since 1997 in the novel foods regulation, and had been made mandatory in 1998 by EC Regulation 1139/98. The new proposed labelling requirement did not change its scope, but extended its coverage to facilitate consumer choice. It required all foods produced from GMOs to be labelled irrespective if DNA or protein could be detected in the final products. The reasons behind the traceability proposal were to ensure accurate labelling and to enable control authorities to verify whether or not GMOs had been used in the production of a food product via paper trail. Traceability was a recognized concept in the Codex Alimentarius, and a paper concerning traceability (CX FICS 02/inf.2) had been produced in the Codex Committee on Food Export Inspection and Certification Systems in January 2002.

37. He noted that traceability had already been a requirement in EC legislations for GMOs as well as for food and feed in general. In January 2002, the Council and Parliament had adopted a proposal for a general food law laying down general requirements of traceability in the food and feed sector (EC Regulation 178/2002). All food and feed business operators had to put in place systems that enabled them to identify from whom they had received a product (substance or ingredient) and to whom they had sold a product. This enabled operators to identify one step back and one step forward in the chain. The regulation did not require operators to identify all that were involved in the product chain from farm to table. The new proposal was to apply traceability to GMOs as well as foods and feeds derived from GMOs. One of the reasons for the proposal was to avoid risk. He noted that a general traceability requirement for GMOs had been adopted by the Council and Parliament in 2001 (Directive 2001/18) on the deliberate release of GMOs into the environment. This Directive (notified in February 2001 and would enter into force on 17 October 2002) required Member States to ensure the traceability at all stages of GMOs to be placed on the market. As a result of this Directive, there could be 15 different traceability systems in place in the European Union (EU). However, the new proposal would provide one single traceability system in the EU. He believed it would be advantageous for EU operators as well as those importing to the EU.

38. He promised that written responses would be provided to all the written comments made by other Members before the first reading of the European Parliament and the common position made. The comments would be made public and submitted to Member States and the European Parliament for their consideration.

39. The representative of Brazil shared some of the concerns expressed about the EC proposals. She sought further clarification on the EC decision-making process. She understood that the first step which was the approval by the Commission had been completed. She also sought explanation on why a distinction was made between foods produced from GMOs and foods produced with GM enzymes.

40. The representative of the European Communities expected that the Parliament would finalise its first reading by summer 2002. The results of the first reading would be sent to the Council and would be discussed among Member States aiming at reaching a common position. This would then be submitted to the Parliament for a second reading. The second reading would go back to the Council to seek its agreement with the final amendments suggested by the Parliament. If an agreement was reached, the proposal could be adopted. If that was not the case, a conciliation procedure would be needed between the Council and the Parliament. He predicted that an adoption could be made by the end of 2002, if the process went smoothly. However, a more realistic view would be some time in year 2003.

41. Concerning the distinction between foods produced from GMOs and foods produced with GMOs, he explained that the existing proposal required the labelling of ingredients, e.g. additives and contents of product. At present, in the EU and most parts of the world, there was no labelling requirements on processing aids. That was why the Commission did not want to start extending the general labelling requirements to processing aids such as enzymes. However, this had been identified in the EC white paper on food safety (published in January 2000), and the green NGOs were interested in the issue. He expected an EU internal debate would take place to examine whether this approach was a right one or should be extended.

42. The representative of Australia asked the reason as to why the EC decided to ban canola and to propose requirements on traceability and labelling on GM products in the interest of consumers, but in the case of wine and cheese, no such information was provided to consumers, even the same things were involved. She raised the question of whether there was a double standard involved.

43. The representative of the European Communities explained that there were two separate issues, i.e. the moratorium and the two proposals under consideration. He did not agree that the labelling requirements involved double standards, since there was no EU labelling requirement on processing aids in general. It would be a double standard, if there existed a labelling requirement on processing aids, and that it was not extended to cover GM processing aids.

44. The representative of Slovenia drew attention to certain measures taken by the government of Croatia in connection with road transit on certain goods. The measures had been introduced in January and modified in February without prior notice, although they affected border regimes concerning the transit, importation and exportation of goods by road (including international road carriage). The measures covered a wide range of chemical products, such as liquid natural gas and household paints, which were classified as dangerous substances internationally. He believed Croatia did not act in accordance with its obligations under the TBT Agreement, in particular Article 2. The measures had effected trade of Slovenia and other Members, and had caused a down-turn in economic activities in the region. Croatia had neither publish a notice of the measures in a publication nor notified to the WTO in an early appropriate stage, when amendments could still be introduced and comments taken into account. He stressed the importance of the implementation of such obligations under the TBT Agreement, and urged Croatia to act in accordance with the Agreement.

45. The representative of Croatia believed the measures taken were in accordance with the TBT Agreement as well as other relevant WTO Agreements, and did not impose any unnecessary obstacles to trade. They related to the road carriage of hazardous materials and goods considered internationally as dangerous. The legitimate objectives of such measures were: (i) for ecological concerns to protect the environment and to protect the safety of road transportation, since in the past years, Croatia had experienced accidents where dangerous materials were transported on roads without adequate safety infrastructure. The objective of the measures was to set up adequate transit corridors (i.e. good quality highways) for such materials in order to avoid incidents; (ii) to prevent deceptive practices relating to the black-market sale of such goods, especially oil and petroleum products. This was done by designating specific equipped border crossing for the import of such products. He believed such practice was not unusual internationally.

46. The representative of the European Communities recalled that at the previous meeting, he had raised concerns about certain mandatory certification and registration requirements for 133 products (including steel and steel products) in India. These requirements had been published in the Gazette of India. However, they had not been notified to the WTO. He sought clarification on the following: (i) the objectives of the regulations; (ii) the role of the Bureau of Standards and the justification of the requirement to register with the Bureau as well as the registration fee; (iii) whether relevant international standards, guides or recommendations had been considered; (iv) whether India had considered accepting existing equivalent international or national certifications; (v) whether other less burdensome and trade restrictive means had been considered; and (vi) when would the regulations be notified to the WTO.

47. The representative of Japan associated his delegation with the concerns expressed, in particular the fact that the Indian mandatory certification system covered a broad spectrum of products and could constitute unnecessary obstacles to trade. He was also concerned about the lack of notifications. He sought further information from India.

48. The representative of the United States recalled that she had raised concerns on the Indian system at the March 2001 meeting (paragraphs 19-21 of G/TBT/M/23), and reiterated the importance of India to provide a response either bilaterally or at the upcoming meeting.

49. The representative of India ensured that the concerns expressed would be conveyed to his authorities, and a response would be provided.

50. The representative of Malaysia reiterated her delegation's concerns about the Belgian labelling scheme related to social responsibility (G/TBT/N/BEL/2), and noted that the scheme had been recently approved. Companies could affix labels to their products, if they met certain criteria and standards recognized by the ILO. Social audit firms approved by the Belgian Ministry of Economy would undertake the relevant conformity assessment. She could not comprehend the need for such a labelling requirement, although this was a voluntary standard. She found it WTO-inconsistent and could lead to the discrimination against products from developing countries. It would nullify the WTO's work to strengthen the multilateral rules based trading system and its development agenda to assist developing countries. She believed there were other ways to achieve social goals which would not create adverse trade impacts. She urged Belgium to delay and reconsider the implementation of the measure until all implications had been assessed.

51. The representative of Egypt associated his delegation with the statements made by Malaysia. He was concerned that this law would create unprecedented obstacles to trade and would discriminate against developing countries. He believed it inconsistent with the TBT Agreement.

52. The representatives of Thailand and Hong Kong, China shared the concerns expressed by Malaysia and Egypt.

53. The representative of the European Communities noted that the Belgian proposal had been adopted and would enter into force later in 2002. He underlined that it was a voluntary labelling scheme and was non-discriminatory since it applied to both domestic and foreign firms and was based on relevant international ILO standards. He recalled that the notification procedure had been discussed in previous meetings, and since it was a voluntary measure it should not have notified to the WTO. He ensured that transparency provisions were observed by the EC and opportunities for comments were provided. Copies of the text of the measure were available to interested delegations. He took note of the comments made, and would convey them to the relevant authorities in Belgium and the European Commission.

54. He drew attention to an Indian regulation (published in the Gazette of India) that banned the import of edible food products which had at the time of their importation, passed 40 per cent of their

shelf-life. He found the regulation discriminatory, and sought information on the following: (i) the date of entry into force of the regulation; (ii) the products to be covered; (iii) the rationale for such a regulation; (iv) whether other less trade restrictive means had been considered; and (vi) when the regulation will be notified to the WTO.

55. The representative of India would convey the EC's concerns to his authorities.

56. The representative of Canada recalled that his delegation had raised concerns on the New Zealand ban on import of trout in previous meetings. He was disappointed to be informed that the ban had been extended for three more years until November 2004. He found the measure unjustified, and requested for an indication on when it would be lifted.

57. The representative of New Zealand reassured that the Canadian comments would be conveyed back to her capital. She explained that the measures in place related to the commercial sale of trout. Under section 26 ZQ of the New Zealand Conservation Act of 1987, the purchase or sale of trout was prohibited. This was one of the measures designed to ensure the conservation of trout stock in New Zealand due to the concerns regarding problems caused by poaching and as a consequence, unsustainable pressure on the stock. In October 2001, his authorities extended the law to ensure that in the absence of a more comprehensive legislation, the integrity of the domestic conservation framework, including the sales regime contained in the Conservation Act, would not be undermined. The law and its entity did not prohibit the importation of all trout into New Zealand. It provided for the importation of trout in non-commercial quantities for personal consumption, so as to ensure that both domestic and imported trout were subject to the same treatment.

58. The representative of the European Communities drew attention to certain Korean emission standards for automobiles which he believed could prohibit vehicles designed to comply with European emission standards to enter into the Korean market. In particular, the Korean limit for hydrocarbon was significantly lower than that in Europe and other parts of the world. He believed the measure more trade restrictive than necessary, and if imposed, would create barriers to trade. His delegation had submitted written comments in June 2001, and he sought a response from Korea.

59. The representative of Korea ensured that the comments made by the EC would be conveyed back to his capital and a response would be provided.

60. The representative of the European Communities raised concerns on a notification from Korea (G/TBT/N/KOR/26) on miniature fuses on automatic electric controls. He noted that the safety criteria for these devices referred to various standards. He sought clarification if these standards deviated from the relevant IEC standards, and if it was the case, what would be the justifications.

61. The representative of Korea requested further details about the EC's concerns, so that he could convey them back to his capital for a response.

62. The representative of the European Communities drew attention to a Japanese notification (G/TBT/N/JPN/20) concerning standards of vehicle emission, of which his delegation had provided comments to Japan. He said that the EC supported efforts to reduce pollution and was committed to the development of technologies in this area. However, he believed it would not be possible for producers to comply with the Japanese new requirements at the proposed date. For certain vehicle types, it would require the replacement of diesel engines by gasoline ones. The proposal called for emission levels which would be attainable in future technology. He sought from Japan an estimation as to when such levels could be achieved by diesel technology. He believed if unrealistic targets were set and insufficient time was provided for manufacturers, it might have the effect of diminishing possible future use of diesel technologies. It could eliminate the positive impact of diesel technology on CO2 emissions, which could play a positive role in reducing global warming. He noted that in

Europe, work was being done to further reduce the sulphur content in fuel to achieve environmental goals. He encouraged Japan to give such research a high priority.

63. The representative of Japan assured that a response would be provided to the EC from his authorities.

64. The representative of Canada welcomed the notification made by China under Article 15.2 on the implementation and administration of the Agreement and China's indication on the acceptance of the Code of Good Practice (Annex 3 of the Agreement). He informed the Committee of the recent bilateral discussions between Canada and China on biotechnology. He was pleased that China had recognized the need to provide a transition mechanism for agricultural GMOs. Canada was working with China officials on how to apply the interim procedures announced on 11 March 2002. He believed this might not have been necessary, if the measure had been developed in a transparent way. He asked if China intended to notify the GMOs regulations to the Committee, particularly those promulgated on 7 January 2002. He noted that biotechnology was an important sector to both Canada and China. His authorities would continue to work with Chinese officials to further clarify China's agricultural GMOs regulations and the interim procedures.

65. The representative of the United States welcomed the statement on implementation by China which was comprehensive and made promptly. It indicated an understanding of the obligations under the Agreement. She shared the Canadian concerns with the Chinese GMO labelling requirements, and appreciated the announcement of interim measures to facilitate trade. The US had had a number of bilateral discussions with China and would continue to further cooperate in this area. She understood that the labelling requirements took effect on 20 March 2002. She reminded that exporters and producers needed a reasonable implementation period to comply with new regulations, and believed that advance notification would have been useful.

66. The representative of Argentina echoed the concerns of Canada and the US. He requested China to notify the interim measures under the Agreement, so that information could be obtained.

67. The representative of the People's Republic of China ensured his delegation's cooperation and participation in activities of the Committee. He confirmed that consultations with Canada and the US on GMO labelling had taken place and was expected to continue. The mandatory labelling requirements had been adopted in June 2001 by the Chinese Ministry of Agriculture to implement the Regulations of Agriculture GMOs Safety promulgated by the State Council of the People's Republic of China. He noted that mandatory labelling requirements were nothing new to the Committee, and believed the Chinese regulations were in compliance with the TBT Agreement. These regulations had not been notified as they were adopted before China's accession, and China did not have an obligation to notify before becoming a WTO Member. He understood that notifications should be made at an early appropriate stage, when amendments could still be introduced and comments taken into account. He welcomed the comments made, and looked forward to the discussions on labelling issues in the Committee and other relevant WTO Committees.

68. The representative of the European Communities drew attention to an US notification (G/TBT/N/USA/12) concerning fire resistance and quality of mattresses and bedding. He noted that relevant ISO standards existed, and sought clarification if standards other than those of the ISO were used. His delegation had sent written comments to the US, and waited for a response.

69. The representative of the United States took note of the comments made and would come back to the EC.

70. She recalled that at the previous meeting, the US and a number of other delegations had raised concerns about wine labelling requirements and EC Regulation 1493/99. The EC had indicated that a notification would be made when a draft existed. She sought further clarification on this.

71. The representative of Australia recalled that her delegation had expressed concerns on the draft EC labelling regulation 1493/99. She believed it would have significant effects on trade, and asked if the EC had chosen the least trade restrictive means to achieve the objectives. She was also concerned about the possible extension of this approach to other products and sectors. At the October 2001 meeting, the EC had indicated that it would notify its proposed wine labelling regulation to the Committee, and she asked when it would be done.

72. The representative of New Zealand supported the concerns raised by the US and Australia.

73. The representative of the European Communities confirmed that the Commission was in the process of drafting the proposal on wine, including those parts relating to labelling and traditional expressions. He took note of the transparency obligations under the Agreement.

74. The representative of Korea drew attention to a Japanese notification G/TBT/N/JPN/8 on the promotion of effective use of resources. He recalled that Korea had raised this issue at previous meetings and had delivered concerns to Japan bilaterally, in particular, about the difficulties faced by small and medium companies, and that the regulation might result in discriminatory effects on importing electronic products.

75. The representative of Japan believed the regulation was not discriminatory to foreign producers nor to small and medium enterprises, and neither did it create unnecessary trade barriers. He noted that certain provisions in the regulation did not apply to SMEs and foreign manufacturers. However, he would convey the concerns raised back to his capital, and a response would be provided to Korea.

76. The representative of Malaysia shared the Korean concerns and invited Korea to make known to this Committee the outcome of its bilateral consultations with Japan.

77. The representative of Japan was not aware of any bilateral consultations between Japan and Korea on this law for the promotion of effective use of resources. Concerns had been raised by Korea at the Committee meetings.

78. The representative of the European Communities emphasized the importance of the transparency provisions of the Agreement, and believed the notification system worked well. However, he raised a general concern about the lack of response to questions posed during the notification procedures. He gave the examples of Korean notification G/TBT/N/KOR/4 for which the EC had provided comments in June 2001, as well as the US notification on fibres for which comments had been sent in February 2001. He regretted that in both cases, no response had been received. He noted that his authorities tried to respond systematically to every written question posed to the EU. He found it disappointing for those in capitals, who spent time studying notifications and preparing relevant questions, if no response was received.

79. The representative of the United States appreciated what was done in the EU. She explained that the US did not always respond to individual comments. However, as a matter of procedure and law, US regulatory agencies had to dispose of the comments received at the final publication of a regulation. This was the same for the case of the Textile Fibre Products Identification Act. She recalled that the EC had made relevant comments in February 2001. The Act had been adopted on 1 February 2002 and published in the Federal Register. She was willing to assist the EC to obtain the information.

80. She recalled that at previous meetings, she had raised questions concerning the rules of origin in the Agreements (PECAs) being negotiated by the EC and acceding counties to the European Union. She considered these rules restrictive, and questioned the justification to include rules of origin in those agreements.

81. She further recalled her concerns raised in previous meetings on the EC's organic regulation. Questions remained regarding its implementation and its criteria for establishing equivalency with third countries (i.e. whether there existed guidance for EC's Member States to enforce the requirements). She regretted no response had been received.

82. The representative of the European Communities, referring to the PECA Agreements, informed the Committee that the EC was in the process of examining the issue of rules of origin within the context of both the PECA Agreements and mutual recognition agreements (MRAs). He noted that rules of origin existed in some of the MRAs and the PECA Agreements, but not in certain others. Given the design of the agreements dated back before the Uruguay Round and given the changes in circumstances, the EC was looking into this issue. He took note of the US comments and would keep the Committee informed of the outcome.

83. On the issue of organic products, he believed the EC's Rule was in line with international standards. Under the Rule, there were two systems for recognizing organic products from third countries. The first system provided for ad hoc applications by private importers, and these applications were processed by the relevant Member State. The second system was in terms of bilateral agreements, whereby the EC recognized third countries domestic systems (i.e. certification and control) as being equivalent to the EC system. The EC had reached such agreements with six countries (Argentina, Australia, Czech Republic, Hungary, Switzerland and Israel). He understood that negotiations were being held with Japan and there were discussions with the US. He emphasized that the EC system was open to imports from third countries, and in particular the ad hoc procedures, which was valid up until 2005, thus allowing for a considerable variety of products from a large number of countries. The system was currently under review, and the US comments had been reflected.

84. The representative of Switzerland recalled that she had raised questions on notification G/TBT/10.7/N/33 concerning a MRA concluded among Colombia, Bolivia, Ecuador, Peru and Venezuela on technical regulations and conformity assessment at the previous meeting (e.g. how the agreement would apply to non-members and whether third party certificates would be accepted).

85. The representative of Colombia informed the Committee that on 7 February 2002, a communication had been sent to the permanent representative of Switzerland to the WTO, replying to the concerns raised by Switzerland at the meeting of 9 October 2001. It had provided information on the criteria for certification and how certification with third party countries would serve to avoid discrimination.

86. The representative of Switzerland welcomed the reply from Colombia. Referring to notifications made by Thailand, she welcomed the replies and clarifications received on certain questions which had been posed by her delegation. However, she noted that Thailand had submitted more than a dozen notifications on mandatory standards prepared by the standardization body. These notifications did not indicate whether there existed relevant international standards. She believed in order to improve transparency, it would be useful to provide such information.

87. The representative of Thailand took note of the Swiss comments and would provide a reply.

88. The Committee took note of the statements made.

V. FOLLOW-UP OF THE MEETING ON PROCEDURES FOR INFORMATION EXCHANGE

89. The Chairman recalled that at the special meeting on procedures for information exchange held on 28 June 2001, a number of proposals had been made, and at the previous meeting, the Committee had held further discussions on them. One of the proposals involved the creation of a

central depository for notifications on the WTO web site to enable Members to fill in notification forms on the Internet and send them instantly to the Secretariat and other Members. Another proposal involved placing the list of TBT enquiry points on-line to enable Members to update it themselves. Subsequently, Canada had contacted the WTO Documentation Division to study the practicality of such an approach and its implications on the work of the Secretariat.

90. The representative of Canada recalled that his delegation had met with the Secretariat to discuss the proposals aiming at simplifying and speeding up the notification procedures. Few options had been identified for further exploration. He said that the proposed approach would not take away the current paper-based or electronic-based method for submitting notifications. It was meant to offer a faster alternative which over time could become the norm. His delegation would continue to work with the Secretariat to develop a more concrete proposal for the consideration of the Committee.

91. The representative from the Language Services and Documentation Division of the Secretariat informed the Committee that he had had a discussion with the Canadian delegation and that the proposal seemed technically feasible. It would be useful to continue consultations in order to further understand the Committee's requirements and potential solutions. There were several options, each of which had different implications for the working methods, costs, development time and available facilities. He drew attention to the Secretariat's application "Documents Online" available on the Internet which contained a number of features that had facilitated notification procedures. The Secretariat had plans to modernize the software for the management of the Central Registry of Notifications in the second half of 2002.

92. The representative of Brazil thanked Canada and the Secretariat for their work on the proposals which she considered important to all Members, and particularly to developing country Members. She informed the Committee that Brazil had currently created a new web site designed to facilitate information exchange. It served not only Brazilian producers and exporters to improve their access to TBT notifications, but also improved the access to draft and adopted Brazilian regulations. She would provide the electronic address to interested Members, and welcomed any comments on that web site. She regarded the exchange of information and access to data on-line useful, and could also improve the implementation of the Agreement. The Committee should coordinate this part of its work with the issue of technical cooperation being discussed in the WTO, since a lot of work could be explored in this area to improve the access to notifications and draft regulations of Members.

93. The Chairman supported the view that ways should be sought to integrate this work with the overall WTO technical assistance programme to assist developing countries Members to improve their notification system and to utilise information technology.

94. He drew attention to the proposal on a booklet on transparency provisions of the Agreement and document JOB(02)/24, the draft booklet prepared by the Secretariat.

95. The representative of New Zealand supported the Secretariat draft booklet, and found it comprehensive and factual. She drew attention to a similar handbook developed recently in APEC as part of its technical assistance project. The work had been led by the New Zealand national standards body (Standards New Zealand) with the assistance of other APEC Members and the WTO Secretariat. The handbook covered both TBT and SPS transparency provisions. She believed it could be read in conjunction with the Committee's booklet to supplement Members' understanding. The APEC handbook could be obtained from the APEC web site, and there was no particular APEC intellectual property associated with it. She was ready to provide an electronic copy to any interested Members.

96. The representative of Switzerland supported the booklet on transparency provisions, and in particular the part regarding the handling of comments on notifications. She found it useful to receive written responses after written comments had been made. She shared the EC's concerns about the lack of responses to comments.

97. The representative of Australia echoed the comments made by New Zealand and Switzerland. She provided the following comments on the draft: (i) on page six, to clarify that in addition to the possibility of transmitting notifications by electronic mail to the WTO CRN, Members could choose to transmit notifications through their permanent missions; and (ii) on page 20, to clarify the obligation to designate a single central government authority responsible for notification procedures. She thought this obligation was not the same as the one concerning the establishment of a TBT enquiry point. The enquiry point (to be established under Article 10.1) which was a centralized information centre, should not necessarily be the authority responsible for notification procedures (to be designated under Article 10.10 of the Agreement).

98. The representative of Japan thanked the Secretariat for the draft booklet and New Zealand for introducing the APEC handbook on TBT and SPS transparency matters. Japan believed the APEC handbook could be a good reference to non-APEC Members.

99. The representative of Malaysia believed the booklet could provide a convenient reference and improve the operation of enquiry points. She supported the Australian comments on the draft.

100. The representative of Egypt welcomed the booklet, and in particular, its possibility to assist developing countries. He supported the comments made by Australia.

101. The representative of Canada welcomed the draft and found it useful. He proposed before publishing the booklet, time should be provided to Members for further comments on the draft.

102. The Committee agreed with the Chairman's proposal that Members should provide further comments, if any, to the Secretariat on the draft in the following week, before the Secretariat published the booklet as contained in JOB (02)/24, taking into account the comments made.

103. The Chairman drew attention to the proposal related to languages to be used on requests and responses in enquiry points. He recalled that at the previous meeting a number of Members had expressed concerns that this proposal could lead to a change in obligations under the Agreement.

104. The representative of Japan reiterated that the proposals should not involve a change in rights and obligations of Members under the Agreement. In this case, he referred to Article 10.8.

105. The Chairman drew attention to the proposal related to the handling of replies to comments on notifications. He recalled that it had been a request from Chile to invite other Members to share their relevant experiences. He suggested that Chile could do that bilaterally.

106. The representative of Chile agreed to consult other Members bilaterally.

107. He made a new proposal related to the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement). He recalled that the Committee had adopted a Decision on Paragraph J of the Code concerning the preparation every six months of work programmes by standardizing bodies. The Decision allowed for the communication of work programmes via the Internet as another possibility to comply with the obligations laid down in Paragraph J. However, the Decision stated that hard copies of such work programmes would be available if requested. He proposed the Committee to consider a similar decision in relation to Paragraph L of the Code. Paragraph L obliged the provision of at least 60 days for comments on draft standards. Standardizing bodies had to announce the comment period in the publication referred to in Paragraph J. Considering the advantages of information technology (which involved less cost and could provide quicker and larger coverage of services, as well as simplify and speed up standardizing procedures), a recommendation should be made that the obligation under Paragraph L (i.e. to announce the comment periods) could be done electronically as an option.

108. The Committee took note of the statements made.

VI. UPDATING BY OBSERVERS

109. The representative of the OIE updated the Committee on OIE's activities. He informed the Committee that the OIE which comprised of 158 members was an inter-governmental organization established in 1924. There were four main objectives of the organization: (i) to disseminate disease information via the OIE web site, email and periodicals (immediately or periodically depending on the seriousness of the disease); (ii) to collect and analyse the scientific information on animal disease control (the information was available to OIE Members through reports and periodicals to assist them to improve the methods used to control and eradicate diseases); (iii) to develop normative documents and standards for use of its Members to protect against disease; and (iv) to provide its Members with technical support on animal disease controls and eradication operations (including diseases transmittable to humans). OIE also contributed to improve the legal framework and resources of veterinary services of its Members.

110. The International Committee was the highest authority of the OIE. It comprised of delegates (usually veterinary officers) from all Members. The general session of the Committee was held once a year in Paris to adopt resolutions, to adopt or revise standards and to discuss current scientific issues. The operation of the OIE was managed by a Central Bureau consisting of five departments (Administrative and Financial, Scientific and Technical, Information, International Trade as well as Publication). The Specialist Commissions in the OIE (e.g. the International Animal Health Code Commission and the Fish Disease Commission) developed international standards for the safe trade in animals and animal products. The Commissions were supported by ad hoc working groups (comprising of scientists from around the world chosen for their expertise) to provide advice on specific issues. The OIE designated 152 collaborating centres and reference laboratories around the world to provide its Members with scientific and technical assistance (e.g. training courses, workshops, scientific meetings and expert advice on topics linked to disease surveillance and control), as well as to facilitate standardization of diagnostic tests.

111. OIE standards (particularly the International Animal Health Code) provided trade guidelines followed by its Members and set out criteria by which countries could claim that they were free from particular diseases. The manual of standards for diagnostic testing and vaccines aimed at contributing to the improvement of animal health services world-wide. Its objective was to harmonize important elements of animal disease prevention surveillance and control. OIE draft standards were discussed in specialist commissions and opportunities were provided for comments by experts from Members. The drafts would become OIE international standards once they were adopted by the International Committee. He noted that the WTO SPS Agreement made reference to the OIE standards, guidelines and recommendations. OIE coordinated its work with other international organizations (e.g. WHO, WTO, IPPC and CODEX).

112. The future work of OIE included the following: (i) the development of animal welfare standards for international trade; (ii) food safety and food born diseases involving public health and food continuum (including diseases that were transmitted from animals to people via food); (iii) the creation of a system by which all chapters could be reviewed, updated and modified as new scientific information became available. He stated that the OIE would remain a scientific based organization.

113. The representative of Canada welcomed the information provided and sought clarification on the distribution of work between the OIE and CODEX.

114. The representative of the OIE noted that the Codex Alimentarius developed food safety and quality standards. However, when an animal disease could have an influence on the food products for consumption, OIE would intervene and propose norms, guidelines and recommendations.

115. The representative of the FAO informed the Committee that the FAO and CODEX collaborated with OIE in a number of matters (e.g. meat hygiene and anti-microbial resistance). OIE would provide input to the works of relevant Codex committees, and the inputs would be taken into account. It was important to ensure that all areas were covered and there was mutual exchange of information.

116. The Committee took note of the statements made.

VII. FOLLOW-UP OF THE SECOND TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE TBT AGREEMENT UNDER ARTICLE 15.4

117. The representative of Canada introduced a Canadian paper on Labelling (G/TBT/W/174). He recalled that the Committee had held an informal discussion on the paper the previous day. At the previous meeting, Canada had requested the Committee to start a structured discussion on labelling issues based on common themes. He emphasized that Canada was not contemplating to develop guidelines or recommendations for labelling nor to re-negotiate existing rules. The idea was to hold a substantive discussion on the issues aimed at obtaining a better understanding on both the subject-matters of labelling and how the existing TBT disciplines applied to those matters.

118. He noted that there existed two types of labelling requirements (mandatory and voluntary). The Canadian paper listed out the following approaches (one might call them good regulatory practices) related to labelling: the choices of policy instruments, the question of mandatory versus voluntary measures, the TBT requirements for technical regulations, the issues of transparency and conformity assessment, the issue of standards, harmonization and equivalency. These subjects were well known to the Committee in past discussions, but did not necessarily focussed on labelling issues.

119. The paper also highlighted the following two elements which Canada believed important: (i) process and production methods related to labelling, in particular non-product related process and production methods (npr PPMs) labelling schemes which often related to certification; and (ii) how labelling measures specifically and generally affect developing countries. He acknowledged that there were other WTO areas related to labelling (i.e. rules of origin and geographical indicators as well as food safety labelling).

120. The aim of the paper was to seek progress in the discussion of labelling requirements that were subject to TBT disciplines. For the next steps, the paper proposed the following: (i) to prepare a taxonomy of recent notifications or implementation issues raised under the Committee meetings, and possibly, cases which came under the dispute settlement process. The aim was to categorise the labelling issues that had arisen in the WTO in the last few years to obtain an understanding of what was involved. The Committee might wish to hold an informal discussion on how this paper could be prepared. He suggested that the base work could be done by the Secretariat, then the Committee would be in a position to decide how to proceed with its learning process (to better understand from the point of views of regulators, industry, developed countries, developing countries, conformity assessment bodies as well as the range of issues involved in a particular type of labelling activities); and (ii) to hold an informal workshop as a "learning event".

121. The Chairman recalled that the informal discussion on the Canadian paper was positive. A number of Members had indicated that more time was needed for further reflections. He proposed that the Committee could consider the Canadian proposals as well as any other proposals by Members at the forthcoming informal meeting in June.

122. The representative of Argentina emphasized that the Committee should not go beyond its competencies and mandate in the discussions on labelling. If the Committee was to request the Secretariat to prepare a paper on labelling, the Committee should define its focus.

123. The representative of Switzerland believed the Canadian paper provided an important new step forward in the work on labelling. The Doha Ministerial Conference made reference to labelling related to consumers, environment and agriculture. Labelling was a cross cutting issue and touched upon the work of the TBT Committee. The issues involved were broad (both theoretical and practical) and should be regrouped under different categories for a constructive debate. Switzerland found it useful to request the Secretariat to prepare a factual synthesis paper, and supported the proposal to organize a workshop on labelling as a learning event.

124. The representative of Colombia saw a need to structure the informal discussions on labelling, but was against any formal work programme on the subject. The Canadian paper contained elements which could be taken into account in order to move the Committee's debate forward in an organised and practical way without prejudging the results. A structured discussion would provide a "road map" to enable the Committee to focus on the different ideas. It would be useful to request the Secretariat to prepare a paper as well as to organize a workshop on labelling. This would enable Members to better understand the relevant notifications and the practices of different Members in labelling, as well as how these matters related to other Agreements and regulatory issues.

125. The representative of the European Communities found the Canadian paper constructive and provided the basis for a focussed discussion in the Committee. The EC had been active on the issue of labelling in the past, and had submitted a paper at the end of the year 2000 (G/TBT/W/150). His delegation had had in-depth reflections on labelling over recent months. He emphasized the importance of ensuring consistency between the work in this Committee and other WTO Committees, in particular the Committee on Trade and Environment (CTE), given the mandate provided at the Doha Ministerial Conference. The EC had made a submission on food labelling to the Agricultural Negotiations.

126. While labelling was important for consumers' information, he believed that the key focus of the discussion in the Committee should be to ensure that labelling did not result in unnecessary barriers to trade. The EC would like to discuss the following labelling issues: (i) international standards - the TBT obligations for Members to use international standards as a basis for technical regulations and standards where appropriate. The Committee could attempt to identify the relevant international standards in the field of labelling to facilitate their use. Regional standards had the potential to facilitate trade in the absence of international standards. Members could be invited to share their experience on regional standards for labelling; (ii) equivalency – equivalency agreements on labelling could have the potential to facilitate trade where no international standard existed or when an international standard was not likely to be concluded soon. For mandatory technical regulations, there existed the TBT obligation to consider equivalency. However, for voluntary standards, there was no such provision under the Agreement. The committee could consider the potential impact of equivalency agreements on labelling; (iii) developing country concerns: the issue of technical assistance and how to assist developing countries to comply with labelling requirements in their export markets, as well as to ensure that developing countries were informed of and had opportunities to comment on draft labelling measures.

127. Developing countries could identify their particular labelling concerns, and the survey of the TBT technical cooperation programme would provide useful input; (iv) transparency: the Committee could focus on the importance of ensuring that all interested parties had opportunities to comment on the development of labelling schemes. The Committee's discussion on labelling at the First Triennial Review (G/TBT/5, 1997), stated "the importance of ensuring the transparency of such measures, and that they should not become disguised restrictions to trade". The Committee's Decision on labelling adopted in 1995 (G/TBT/1/Rev.7) underlined the transparency obligations for labelling that "Members are obliged to notify all mandatory labelling requirements that are not based substantially on a relevant international standard and that may have a significant effect on the trade of other Members. That obligation is not dependent upon the kind of information which is provided on the label, whether it is in the nature of a technical specification or not". The Committee could exchange

experience in the implementation of these decisions; and (v) non governmental bodies: a number of labelling schemes were developed and applied by non-governmental bodies subjected to the Code of Good Practice (Annex 3 of the Agreement). The Code provided disciplines for the transparency of these schemes. Another important issue was to keep labelling schemes under review, and under the Agreement, such obligation was provided for mandatory labelling. However, no such provision was contained in the Code of Good Practice for voluntary labelling. The Committee could consider discussing these.

128. He supported the Canadian proposal for a taxonomy paper to provide an inexhaustible list. This could be based on geographical and yearly breakdowns, papers on labelling submitted by Members, relevant Committee Decisions as well as results of the triennial reviews. The paper should be a broad, factual and descriptive one. He also supported the idea of the workshop, but believed that Members would need more time to reflect on the agenda and scope of the workshop (e.g. issues such as compliance with labelling standards, particularly by developing countries, transparency issues and international standards). He welcomed further informal discussions on labelling at the June meeting.

129. The representative of Mexico appreciated the Canadian paper and supported paragraph 5 of that document. Mexico was open to a factual and educational informal discussion on labelling, since it was an important issue and raised concerns from developing countries. However, the discussion should not prejudge any result. Concerning the proposal for a Secretariat paper, he would consult with his authorities on that. Regarding the workshop, he was open to the idea provided that it would be informal, separated from the Committee's work and without any recommendations or conclusions coming from it.

130. The representative of India welcomed the Canadian paper. His authorities would study it, and would come back with further comments. He agreed to discuss the labelling issue in an informal way with a view to better understand the issues. The Committee should consult on what exactly to entrust to the Secretariat for the preparation of a paper. He was open to considering a factual informal educational workshop on labelling.

131. The representative of Malaysia thanked Canada for the paper. She reiterated that any discussion on labelling in the Committee was undertaken on an informal basis and without prejudging the outcome. The discussion was mainly for educational purposes and no formal work programme was needed. The discussion should be progressive, starting with fact finding and focussed on the consistency with TBT disciplines, the impact on market access and the effective implementation of the Agreement. With that in mind, further reflections on the list of issues proposed in the Canadian paper might be useful for the future. As an initial step, the proposal for a compilation of notifications and issues raised in the Committee regarding labelling would be useful. She believed an information event outside the Committee meeting to examine the works of international bodies on labelling and national experience sharing could be useful. Further consultations on these proposals would be needed.

132. She did not see the need to link the Committee's discussions on labelling with the work of the CTE. She believed the CTE had its own mandate, while the TBT Committee's informal discussions had the objective of examining the implementation of TBT disciplines in relation to labelling.

133. The representative of the United States found the Canadian paper a constructive contribution to the labelling discussions. She made preliminary reactions to the proposals made. She agreed with Argentina that further thoughts were needed to clearly define the paper foreseen to be prepared by the Secretariat. She noted the suggestions made with regard to focussing on notifications, issues raised at Committee meetings as well as disputes. A factual paper could be prepared to draw up a limited range of information from notifications and statements made in meetings to start the process. She had doubts about bringing in the element of disputes since so far there had not really been a ruling concerning the Agreement. It might be difficult to apply analysis of specific case to generalise all

different labelling requirements. She preferred to await the Committee's decision on a Secretariat paper as a basis for informal discussions before deciding the structure and agenda of a workshop on labelling.

134. She noted the papers and proposals put forward by other delegations. The EC had raised the issue of international standards and suggested that the Committee could identify relevant international standards. She found this a difficult task for the Committee to take on. Even if a number of international standards could be identified, whether they were relevant, effective and appropriate for particular regulators could only be decided on a case by case basis. It might be difficult at the multilateral level, in the absence of a specific issue or context, to engage in this type of exercise. She agreed with the view expressed in paragraph 5 of the Canadian paper that at this juncture, there was no compelling argument for the developing of guidelines or questioning the application of the existing TBT rules to labelling requirements. She was willing to hold further informal discussion on labelling.

135. The representative of Egypt endorsed the views expressed by Colombia, Mexico, Malaysia and Canada that the discussion on labelling should be on an informal basis and of an informative nature without prejudging the outcome, and should not be linked to any formal work of the Committee. He welcomed the proposal for the preparation of a factual note that would not contain general conclusions or recommendations.

136. The representative of New Zealand found the Canadian paper helpful. She broadly supported the approach taken and agreed with the statement made in paragraph 5 of that paper.

137. The representative of the Philippines expressed appreciation of the Canadian paper, and made some preliminary remarks. The Philippines took careful note of paragraph 5 of the paper, and did not see any compelling reason to develop guidelines on labelling. The discussion on labelling in the Committee should be on an informal basis without prejudging its outcome, and the same should apply to any relevant workshop or event to be held for an educational purpose. She shared the Malaysian view, and did not find an adequate basis to link the labelling discussion in this Committee with the work undertaken in the CTE as well as in the Committee on Sanitary and Phytosanitary Measures. There was no such mandate in the Doha Ministerial Declaration.

138. The representative of Singapore thanked Canada for its paper, and noted in paragraph 5 of the paper that Canada's intention was not to develop guidelines nor renegotiate the existing TBT rules. Singapore shared the view that the discussions on labelling should continue in an informal mode and should be focussed on the consistency with TBT disciplines and the impacts on market access.

139. The representative of Australia reiterated her delegation's position that the existing TBT provisions covered sufficiently the issues relating to labelling. She appreciated the Canadian paper and echoed the previous speakers' sentiments outlined on paragraph 5 of that paper. She did not see any evidence nor justification for clarifying, interpreting or creating guidelines on existing provisions. She noted the interests of some Members in the issue of labelling. She broadly associated her delegation with the comments made by the US, including those on the Canadian proposals. She welcomed further discussion on the content of the Secretariat paper at the June informal meeting. She believed that any relevant workshop should be viewed as a learning event for better understanding of the issues. It should serve as an information exchange exercise and an opportunity for consideration of case studies. It would be appropriate to hold discussions on labelling in an informal mode.

140. The representative of Japan thanked Canada for its paper. Japan recognized the mounting importance of labelling issues in the Committee as seen in the increased number of notifications related to labelling. Labelling could be a useful policy tool to respond to the interests of society (e.g. consumers' needs and information). However, labelling could create unnecessary barriers to trade. These trade barriers could be experienced in the context of other technical regulations, conformity assessment procedures and standards. However, some of them could be specifically

related to labelling. He believed it would be meaningful to deepen the discussion on labelling, but the process should not prejudge the outcome of the discussions. Members should be encouraged to share their national experience concerning labelling based on realities faced by domestic interested parties (e.g. industries and consumers) to provide factual ground for the discussion. Japan intended to contribute to this exercise in future meetings.

141. The representative of Korea appreciated the Canadian paper. He agreed that the discussion on labelling should be conducted in an informal mode, regarded as an educational process, and should not prejudge the outcome. At this stage, it should be opened to all issues relating to labelling. It should take into account the two aspects regarding labelling, i.e. consumer interests, as well as the interests of importers and exporters.

142. The representative of Canada thanked delegations for their positive reactions to the Canadian paper. He believed the Committee could move forward in informal discussions over the next few months to gain a better understanding on labelling. His delegation might contribute an additional non-paper for the coming meeting to assist the process.

143. The Chairman concluded that the June informal meeting would provide an opportunity for the Committee to further elaborate the proposal for a Secretariat paper, in particular to clarify its scope and content, as well as define whether it would be a factual one or would contain certain judgements or conclusions.

144. The representative of the European Communities presented an EC paper (G/TBT/W/173 and Add.1) on "A Policy Framework for the Facilitation of Trade in the Fields of Standardization and Conformity Assessment: a Toolbox of Instruments" which was originally a working paper of the European Commission. It was submitted to the Committee with the intention of building on the discussion that had been started by the Canadian paper (G/TBT/W/167) on "A Policy Framework for Mutual Recognition Activities". He noted the increased interest in recent years in international cooperation in the field of standards, conformity assessment and the elimination of trade barriers. The EC, in its paper, attempted to examine the topic of technical requirements of products and their effects on trade. Its aim was to consider possible cost-effective, efficient and less trade restrictive measures and tools to facilitate trade as well as to develop priorities for action in this field. Within the EU, trade objectives in this field had been pursued on four fronts: (i) multilaterally, in the WTO TBT Committee; (ii) the inclusion of bilateral agreements consisted mainly of MRAs for conformity assessments; (iii) the provision of technical assistance to ensure that regulatory regimes in other Members were transparent and trade friendly, and that appropriate infrastructures in the areas of testing and certification were put in place; and (iv) in the field of regulatory cooperation aimed at harmonizing regulations or achieving a good understanding of best regulatory practice.

145. The first part of the paper dealt with the conditions for open trade. In EC's opinion, the best situation was a fully-developed common market, such as the one in the EU internal market, whereby products placed in the market of the territory of one member State could be freely marketed in the territory of the other's and vice versa. This would require the support of a strong institutional framework. Pages 6-8 of the paper provided other situations for trade facilitation: (i) compatibility of approach; (ii) coherence of regulations; (iii) coherence of standard; (iv) transparency; (v) appropriate level of regulation; (vi) transparency and impartiality in obtaining certification; (vii) recognition of certificates, (viii) compatibility of market surveillance; and (ix) development of infrastructure. Over the last few years, the EC had tended to focus on the negotiations and implementations of MRAs. Six MRAs were in place and another one was ready to enter into force. These agreements had not always been easy to implement, in particular in certain sectors. The EC would fulfil its obligations to implement these MRAs, and at the same time, would study the costs and benefits of such agreements.

146. The second part of the paper dealt with the following tools that could be used to facilitate trade: (i) regulatory cooperation: it encompassed multilateral initiatives for harmonizing regulatory requirements and mandatory standards as well as to develop best practices in conformity assessment and technical regulations, harmonizing standards as well as regulatory reform; (ii) harmonization: a maximal option to draw up common or identical rules by a group of authorities, with the intention that the rules on a product would be the same among them (such as in the EU); (iii) recognition of equivalence even where regulations or standards differed. He recalled that this approach had been discussed at the previous triennial reviews, based on a New Zealand paper. He believed the recognition as equivalent of standards could be envisaged in situations where no relevant international standards existed or their completion was not imminent. It could be used as an interim measure until suitable international standards were developed; (iv) mutual recognition agreements: with its experience, the EC believed that MRAs were worth negotiating when the certification systems of the parties involved were not too different. There should exist substantial regulatory, standards and certification infrastructure, as well as sufficient trade between the parties to justify the cost in setting up the MRAs; (v) partial, voluntary, reduced or less formal types of mutual recognition (e.g. agreements between accreditation bodies, certifiers and testing laboratories); (vi) international standardisation; and (vii) technical assistance.

147. He concluded that there was a wide range of instruments available to address different problems in a bilateral or regional setting, and one could choose the most appropriate instruments according to the characteristic of the market, the regulatory environment and the willingness of industries and relevant parties to achieve the objectives. He hoped this paper would stimulate discussion in the Committee, in particular in the field of regulatory cooperation.

148. The representative of Canada said that his delegation would study the EC paper and would provide comments in the future.

149. The representative of Japan provided preliminary comments on the EC paper. He agreed with the general view of selecting the right instruments for regulatory framework or regulatory cooperation, and shared the EC's view on MRAs. He believed the EC paper would contribute to stimulating discussions in the TBT Committee on regulatory cooperation or good regulatory practices.

150. The representative of the United States noted that the first paragraph of the EC paper stated that "The objective of this document is to share with other WTO Members the EC's experience in external trade in the fields of standards and conformity assessment, and present a framework for our future work in this area". She sought clarification on whether this paper was prepared with the aim of stimulating debate for the future work within the EC or the future work of this Committee.

151. The representative of the European Communities clarified that it was a working document of the European Commission, and not even an official European Community policy paper, since it had not gone through the process of discussions within the European Council and the Parliament. It was not meant to present a framework of discussions for the Committee. However, it could be read that way, since the paper covered nearly all aspects of regulatory cooperation.

152. The Committee took note of the statements made.

VIII. TECHNICAL ASSISTANCE

153. The Chairman recalled that at the Second Triennial Review, the Committee had agreed to develop a demand driven TBT related technical cooperation programme. The programme would evolve on the basis of a number of elements, the first step being to design a survey questionnaire to assist developing countries in identifying needs. He drew attention to the draft questionnaire (JOB(02)/Rev.1) revised by the Secretariat on 6 March 2002.

154. The representative of Canada believed the draft could be adopted. The Committee should move forward to the broader question of how the technical cooperation programme should be managed.

155. The representative of Colombia supported the adoption of the draft questionnaire. He reiterated the importance of moving forward, and taking care of the follow-up work in the coming months so that the programme could be carried out.

156. The representative of India appreciated the efforts made to finalize the questionnaire.

157. The representative of Mexico proposed adding a paragraph to the last page of the questionnaire in which any other issues to be addressed could be identified.

158. The representative of the United States supported the suggestion made by Mexico, and believed that the survey should be flexible enough for developing countries to identify their specific needs, even if they might not have been identified in the questionnaire. She looked forward to seeing the results of this effort bilaterally or in the Committee.

159. The representative of Brazil supported the proposal made by Mexico.

160. The representative of the European Communities supported the adoption of the draft, and that the Committee should move to the next stage, since there was still a great deal to be done for the technical cooperation programme. He shared the concern expressed by Colombia about ways to ensure that the next phase of the work would be carried out successfully and that useful replies would be received. He believed that assistance should be provided if developing countries needed help to complete the questionnaire, either through the good offices of the Secretariat, or bilaterally and regionally. The June meeting would be an opportunity to review the progress of this exercise.

161. The Chairman agreed that assistance should be provided to developing countries, if requested, from the Secretariat, or bilaterally from other Members to complete the questionnaire. He added that the Secretariat could introduce the questionnaire at regional TBT seminars in which it participated and could offer assistance to those who attended the seminars. He believed the survey was an important step for the development of the technical cooperation programme, and emphasized the need for developing countries to provide timely, comprehensive responses.

162. The representative of Egypt regarded the role of the questionnaire as important, to provide technical assistance to developing countries. He hoped that replies would be received soon, so that the Committee could move its technical cooperation programme forward.

163. The representative of Chile found the draft questionnaire agreeable. He appreciated the insertion of the footnotes which provided the linkage between the issues with the Agreement and other documents. It enabled Members to better understand what was entailed in each of the questions.

164. The representative of Japan appreciated the draft and shared the view that it was important for the Committee to follow up and to move on to the next step.

165. The representative of New Zealand supported the adoption of the draft questionnaire. Her delegation would share with other Members New Zealand's capacities, experiences and skills in supplying technical assistance. She noted that in the post-Doha Ministerial environment, a lot of work related to technical assistance was being carried out. Mechanisms, including a technical assistance database, were being examined at the broader level in the WTO. These projects were consistent with the Committee's objectives to improve coherence in the delivery of technical assistance activities. The Committee should keep this in mind when furthering its work.

166. The Chairman shared the view of New Zealand that the Committee could consider the possibility of utilising the proposed WTO database to improve coordination in technical assistance activities in the TBT field. He believed the information supplied by observer organizations could also be useful to provide a global picture of TBT-related technical assistance activities provided bilaterally or multilaterally.

167. The Committee agreed to adopt the questionnaire with the inclusion of the Mexican proposal.

168. The Chairman recognized that time would be needed for developing countries to identify their TBT-related needs and to respond to the questionnaire. He suggested that the replies should be submitted to the Secretariat no later than 30 June 2002, so that they could be compiled and be assessed by the Committee at its October meeting. The success of this exercise would depend on the responses from developing countries. Without a comprehensive response, the Committee would not be able to draw up a programme that would reflect the prioritized needs of developing countries. He encouraged all developing countries Members to respond to the questionnaire.

169. The representative of Canada welcomed the Ministries' Decision on Implementation Issues at Doha, reaffirming the approach taken by this Committee on technical assistance. He believed the work undertaken to develop a comprehensive survey to identify and prioritize needs in the TBT field demonstrated the Committee's commitment to this process. In order to maintain the momentum, the Committee had to seek acceptable ways to follow through for the delivery of technical assistance. It would be unrealistic to expect the Committee to become the delivery mechanism for identified technical assistance priorities. The Committee should act as an advisor or advocate on TBT trade-related technical assistance matters. With this in mind, the Committee should strengthen its coordination with other WTO bodies responsible for the development of the broader framework on trade-related technical assistance responding to the Doha Decisions. The Committee could influence the identification of TBT-related activities in the context of the WTO Secretariat technical assistance plan. This would address the administrative aspects of the technical cooperation programme of the Committee. He invited other Members to reflect on this as the Committee moved on to the next steps of its technical cooperation programme.

170. The Chairman shared the Canadian view, and believed that there was a need to ensure consistency with the overall technical assistance programme that was being evolved in the WTO and to keep revisiting the programme agreed in the Committee to ensure consistency with the overall strategy. He drew attention to the current WTO technical assistance programme in the TBT area, and invited Members to take into account the type of activities that had been planned for the near future.

171. The representative of the European Communities agreed with Canada that the Committee should move to the second phase of the technical cooperation programme in the coming months. He suggested that at the June meeting, the Committee should hold a discussion to obtain an understanding on how the programme would work. He noted the range of existing technical assistance activities. In order that the Committee had a better understanding on how its work could fit in, a briefing on the existing WTO technical assistance activities would be useful.

172. The Chairman proposed that at the informal meeting in June, the Committee could have a look into the overall WTO technical assistance programme. In order to enhance the discussion, an expert from the Technical Cooperation Division would be invited to the meeting to explain the overall WTO plan, the scope and objective of the TBT-related activities as well as how these activities had been planned and undertaken. The Committee could then decide its input to the WTO programme.

173. The representative of Egypt drew attention to his delegation's statement delivered at the meeting in March 2001 (paragraphs 99-107 of G/TBT/M/23) providing information on Egyptian technical assistance needs and relevant technical assistance provided by international and regional bodies. He recognized that technical assistance activities in Egypt and other developing countries had

improved the awareness of TBT matters and the implementation of the Agreement. He requested that the Egyptian statement be reflected in document JOB (01)128. Egypt would respond to the questionnaire and provide further information on its needs, priorities and proposed solutions.

174. He drew attention to document G/L/471 (The Chairman's report on problems faced by developing countries in international standards and conformity assessment - discussions of the TBT Committee in the context of the Second Triennial Review). The report revealed the constraints developing countries faced to effectively participate in international standard setting. It underlined the importance of seeking tangible ways to address such problems and suggested some of the feasible solutions. He noted that the FAO/WHO/Codex Alimentarius had initiated the establishment of a trust fund to support developing countries' participation in Codex works. He looked forward to additional similar initiatives. He drew attention to document G/TBT/W/172 and thanked the international organizations listed for their efforts to increase participation of developing countries in international standard setting activities.

175. The Chairman said that a further addendum to document JOB(01)128 would be issued to reflect the Egyptian statement.

176. The representative of the ITC informed the Committee that ITC had organized a regional workshop for Benin, Burkina Faso and Côte d'Ivoire in January 2002 on the TBT and SPS matters. Under the joint integrated technical assistance programme, technical assistance had been provided to Côte d'Ivoire regarding the implementation of the TBT Agreement (i.e. the operation of the enquiry point and the creation of a national database on standards and technical regulations).

177. The representative of the UNIDO recalled that at the WTO Pledging Conference for the Doha Development Agenda Global Trust Fund, the Director-General of the WTO had expressed the willingness of the WTO to establish a partnership with UNIDO. He had met with the Director of the WTO Technical Cooperation Division, and arrangements had been made to conclude a joint programme in the fields of trade facilitation, technical barriers to trade as well as sanitary and phytosanitary measures. He said that the UNIDO initiative in the field of facilitating access to markets for the Central American countries (in co-operation with the ITC, UNCTAD and WTO) would be launched in April. A side event on trade facilitation, TBT and SPS measures had been organized in the context of the Conference on Financing for Development to be held in Monterrey. UNIDO would continue its efforts to support the coordination with international organizations working in the fields of standardization, conformity assessment and metrology (e.g. the IAF, ILAC, ISO, BIPM and OIML). A meeting had been scheduled in April to strengthen the co-operation between UNIDO and these organizations. UNIDO was ready to make contributions to support the work of the Committee.

178. The representative of El Salvador, also speaking on behalf of Guatemala and Honduras thanked UNIDO for its project in Central America to facilitate market access, since these countries suffered from limitations in market access. The project was important for the development of these countries and a high level official would be following up on this. She supported the coordination and joint efforts between the UNIDO and WTO.

179. The Committee took note of the statements made.

IX. OTHER BUSINESS

180. The representative of the FAO provided an update on the activities of the Codex Alimentarius Commission. She informed the Committee that a meeting of the Codex Committee on Food Import and Export Inspection and Certification Systems had been held on 25 February - 1 March 2002 to finalize a guideline for food import control systems. That text would be forwarded to the next Session of the Codex Alimentarius Commission in 2003 for final adoption. That Committee also discussed

guidelines for the judgement of equivalence (equivalence of sanitary measures associated with food inspection and certification and of technical regulations), and further discussions would be held in February 2003 to finalize these guidelines. The question of traceability was also under discussion in that Committee, and different views had been expressed. It would be further discussed.

181. In the area of biotechnology, a meeting of the Codex Intergovernmental Task Force on Food Derived from Biotechnology had been held on 4-8 March to finalize the texts relating to risk analysis and risk assessment of food derived from biotechnology. One of the texts related to the principles for risk analysis of food derived from modern biotechnology, included provisions for product tracing to facilitate withdrawal of foods from the market when there was a risk to human health. On risk analysis, it had been recognized that the relevant applications should be consistent with the SPS and TBT Agreements. The Task Force also worked on the draft guideline for the conduct of food safety assessment of foods derived from recombinant DNA plants and the text on food safety assessment of recombinant DNA microorganisms. These texts would be forwarded to the Codex Commission for adoption when finalized by consensus. The work in this Task Force was useful for Members if they wished to establish national regulations in this area. The next Session of the Task Force would be held in February 2003. Another area of work related to food produced from biotechnology was the identification of methods of analysis for the detection of genetic modification in foods. A discussion related to microbiological risk management was held in the Committee on Food Hygiene.

182. Concerning food labelling, a number of standards and guidelines in the framework of Codex had been adopted (e.g. general requirements for labelling and requirements relating to specific claims, including on organically produced foods). The Committee on Food Labelling would meet in May 2002 to revise certain guidelines. This Committee also discussed matters on the labelling of foods from biotechnology (with different views of Members) and matters related to nutrition claims or health claims.

183. The Chairman requested that if in the future, comprehensive information was to be delivered by observers, written statement would be appropriate.

184. The representative of the United States recalled that in previous meetings, the UN Economic Commission for Europe (ECE) had provided information on its Working Party 6 to develop an international model for the implementation of good regulatory practice for the preparation, adoption and application of technical regulations via the use of international standards. She reiterated the following concerns she had regarding that model: (i) the legal perspective (i.e. in terms of the relationship of this model to the binding obligations under the WTO TBT Agreement); and (ii) the policy approach in UN/ECE. She noted that the US representative in that Working Party had expressed opposition to the model, nevertheless it had been adopted and its text had now been produced with a UN cover and was called "international model". The US did not support that model, and did not believe it was workable at an international level. She continued to have questions about the relationship between the application of that model and the obligations of Members under the TBT Agreement.

185. The representative of Canada associated his delegation with the comments made by the US. He recalled the concerns he had raised about the comprehensiveness of consultations on the preparation of that model. He understood that rather than the global community, it had been developed by a restricted group of individuals. He was not convinced that it was "international".

186. The representative of Japan shared the concerns expressed by the US and Canada.

187. The representative of the UN/ECE recalled that the TBT Committee had been informed of the development of the model for technical harmonization and had been requested for comments. He confirmed that the model had been adopted as an UN/ECE recommendation in October 2001. He believed the model would not go against WTO Members' obligations under the TBT Agreement. It

was open to the implementation of countries, if they so wished. It was welcomed by the business community. The development of the model had been done in a transparent manner, and more than 30 countries had participated. He confirmed that the US had expressed reservations on its adoption, but according to UN rules, voluntary recommendations did not require unanimous support by participants. He was ready to provide further information to interested Members.

188. The representative of the European Communities believed that since the TBT Agreement provided rules to prevent technical regulations from constituting unnecessary trade barriers, and in particular, Articles 2.4 and 2.6 referred to the use of international standards as a basis for technical regulations, the UN/ECE model offered a concept of how international standards could be used for the purpose of harmonization. He understood that the model was a voluntary one for those Members/countries who wished to be associated with it. He could not see any reason why solutions should not be pursued to assist international technical harmonization in specific areas.

189. The Chairman informed the Committee that the consultations for chairmanship in the Goods Council had not been concluded. The agenda item "Election of Officers" would be taken up at the coming meeting on 20-21 June 2002.

190. The Committee took note of the statements made.