
Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 20 MARCH 2003

Chairperson: Ms. Emily Earl (New Zealand)

1. The Committee on Technical Barriers to Trade held its thirtieth meeting on 20 March 2003.
2. The following agenda, contained in WTO/AIR/2047, was adopted:
 - II. **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), THE GULF ORGANIZATION FOR INDUSTRIAL CONSULTING (GOIC) AND THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)..... 2**
 - III. **EIGHTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT UNDER ARTICLE 15.3..... 2**
 - IV. **EIGHTH ANNUAL REVIEW OF THE CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS IN ANNEX 3 OF THE TBT AGREEMENT..... 2**
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II. 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), THE GULF ORGANIZATION FOR INDUSTRIAL CONSULTING (GOIC) AND THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

3. The Chairperson drew attention to the requests for observer status in the Committee by the OIV (G/TBT/W/62), BIPM (G/TBT/W/135), GOIC (G/TBT/W/141) and CBD (G/TBT/W/177). She recalled that the Committee had been holding consultations on these requests for some time, and further consultations had taken place at the informal meeting of the day before. She regretted that progress had been limited. She recognized that the difficulties could be attributed to an unresolved debate in the context of the General Council on observer status, or could also be due to the specific nature of some of these organizations.

4. She drew attention to the Committee's guidelines for observer status (G/TBT/1/Rev.8) which stated that "requests for observer status shall be considered on a case by case basis taking into account such factors as the nature of the work of the organization concerned, the nature of the Membership, the number of WTO Members in the organization, reciprocity with respect to access to its proceedings, documents, and other aspects of observership". She noted that five out of the 17 observerships in the Committee had been granted on an *ad hoc* basis. The last cases which had been agreed in October 1997, extended to the ACP, EFTA, and ALADI. She invited Members to revisit the unresolved requests, to re-familiarize themselves with the nature of each of the four organizations, as well as to reflect on the possibility of providing them with observe status on a case by case and *ad hoc* basis in the event that the impasse at the General Council was resolved.

5. The Committee took note of the statement made.

III. EIGHTH ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT UNDER ARTICLE 15.3

6. The Chairperson drew attention to the background documents G/TBT/12 and Corr.1.

7. The representative of the United States (US) drew attention to Item V of the Review on "Technical Assistance" as well as to document G/TBT/W/172 containing information on the Director General's efforts to assist participation of developing countries in standard-setting activities and information on organizations such as the World Bank and the FAO. She suggested to include such information in future Reviews to further reflect the Secretariat's technical assistance activities.

8. The representative of Chile believed that it would be useful to include under Item II, all the statements made since 1995, on the implementation and administration of the Agreement, so as to provide an overall view of the status of implementation by Members.

9. The Chairperson recalled that this document was meant to be a review of a particular year, and encouraged delegations who wished to obtain an overall view, to study the preceding documents.

10. The Committee took note of the statements made, and adopted the Review.

IV. EIGHTH ANNUAL REVIEW OF THE CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS IN ANNEX 3 OF THE TBT AGREEMENT

11. The Chairperson drew attention to documents G/TBT/CS/1/Add.7, G/TBT/CS/2/Rev.9 and the eighth edition of the WTO/TBT Standards Code Directory. In 2002, ten standardizing bodies from ten Members had accepted the Code, and six bodies from one Member had withdrawn from it,

which made up a total of 139 standardizing bodies from 101 Members having accepted the Code up until the end of year 2002.

12. The representative of Mexico announced that an additional Mexican standardizing body would notify the Committee of its acceptance of the Code.

13. The representative of Malaysia raised the question of whether the ISO could provide information on the percentage of all the national standardizing bodies that had accepted the Code.

14. The representatives of Egypt, Ghana, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, India, Romania, St. Vincent and the Grenadines indicated changes of information contained in the Standards Code Directory.

15. The Chairperson invited delegations to communicate those changes to the ISO/IEC Information Centre. She noted the question raised by Malaysia, and suggested that it could be dealt with in the context of the Third Triennial Review.

16. The Committee took note of the statements made.

V. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

17. The representative of Switzerland drew attention to a US notification (G/TBT/N/USA/32) concerning measures proposed under the Bioterrorism Act to register food facilities and to declare foodstuff importation (Section 305 and 307 of the Act). Her delegation understood the concerns of the US over terrorist attacks as well as the desire to prevent risks, and would not be against the obligatory registration provisions to ensure traceability. However, she raised concerns on the need to have a preliminary declaration for the importation of foodstuffs. She had difficulty in seeing the positive effects of such a measure for the security of population. This requirement would hamper exports entering into the US. She noted that it would apply only to imported foodstuffs, and no analogue provision had been made for US products. She considered it out of proportion and a violation of the least trade restrictiveness obligation. She recalled that the US had notified the measures under both the TBT and the SPS Agreements, and questioned why the TBT notification was limited to the registration of food installations, but not to the declaration of foodstuffs importation which was notified under the SPS Agreement. Her delegation would submit written comments to the US within the established deadline.

18. The representative of Mexico recalled that on 12 June 2002, the US Congress had approved the Act for Public Health Security and Bioterrorism Preparedness and Response. In Section 305 of that law, two obligations had been established: (i) to register equipment or installations that would manufacture, process, pack or store foodstuffs in its final or temporary destination within the US territory; and (ii) to notify to the US authorities of the importation of such products before such operations were made. 12 December 2003 had been set as the date for the entry into force of the requirements, and detailed procedures had been established for their compliance. Notifications of both measures had been made to the SPS Committee on 7 February 2003 (G/SPS/N/USA/690 and 691). The notification concerning the registration for food installation was made to the TBT Committee on 13 February 2003 (G/TBT/N/USA/32), and the final date for comments was on 4 April 2003. He pointed out that, despite the fact that it was a technical regulation as defined under Annex 1, the measure on prior notice of importation had not been notified under the TBT Agreement, and he requested the US to do so.

19. His delegation recognized the rights of Members to adopt measures necessary for certain legitimate objectives, and agreed with the need to establish a legal mechanism to protect public health and security, particularly after the US tragic events of 11 September 2001. However, he raised

concerns on the trade impact of those measures on Mexican foodstuff exports into the US market, as well as on the scope of that legislation. He believed that other less trade restrictive options existed which could fulfil the legitimate objectives. He noted that the trade flows of foodstuffs between the US and Mexico had doubled since the entry into force of NAFTA, which reached 6.2 billion dollars per year. He thanked the US for providing the opportunity for comments. His authorities were reviewing the legislation and would submit comments within the deadline.

20. The representative of Argentina noted that the US notified measures would require domestic and foreign companies that produced, stored, packed foodstuffs for animal and human consumption in the US to be registered under the Food and Drug Administration (FDA). His government understood and shared the US's objectives to prevent terrorist attacks by introducing contaminants in foodstuffs. However, he raised concerns on the trade implications of the measures, as well as the complexity of their implementation (e.g. the system for the electronic registration, the information to be brought to the FDA and the procedures for issuing a registration number). He raised questions on the scope of the system, and whether it would include all owners, operators, agents, producers processing foodstuffs or just the exporters of such products. His authorities had expressed concerns, and would re-submit comments to the US contact point. He appealed to the US to ensure that these measures would be applied in consistency with the TBT Agreement and would not become trade barriers.

21. The representative of Australia shared a number of the concerns raised by the previous speakers on the trade impact of the US Bioterrorism Act. She also shared the concerns that the Act was designed to address. Her delegation would submit comments to the US, and looked forward to working with US agencies to make this regulation as least costly and burdensome as possible.

22. The representative of the European Communities (EC), while recognizing the legitimacy of the objectives pursued, shared certain concerns raised by the previous speakers on the US draft regulation, and believed it might be, in part, more trade restrictive than necessary. He sought clarification on the scope of the measure and on the products to be covered. He noted that the registration requirement would be introduced at the end of year 2003, and was concerned about the difficulties which could be faced by exporters. He also queried the fact that two relevant notifications had been made to the SPS Committee and only one to the TBT Committee. The EC had raised concerns to the US and would submit further comments on the notifications.

23. The representative of Brazil recognized the legitimacy of the objective, but had concerns on the trade impact of the measure, and requested the US to implement it in a least trade restrictive manner.

24. The representative of Malaysia agreed that the measure should be implemented in the least trade restrictive manner, given its impact on trade. She noted that the scope of the regulation was wide and captured a large number of companies. She sought clarifications on whether the registration would be done on an automatic basis, or whether a longer time-frame would be provided to exporting companies, particularly small companies in developing countries, which could encounter difficulty in complying to it in such a short time-frame.

25. The representative of Indonesia shared the concerns raised. He requested the comment period to be extended, given the need to coordinate with the numerous technical institutions and associations on the matter.

26. The representative of the United States recalled that two notifications had been made to the SPS Committee and only one to the TBT Committee. Her authorities had intended to notify both under the TBT Agreement, but due to human failure it had not happened. However, both proposals were out for comments. The Bioterrorism Act was signed on 12 June 2002, which required the FDA to develop regulations in four areas: the registration of food facilities; the establishment of records; the prior notice of imported food shipments; and the administrative detention. Unless exempted, the

provisions would apply to all facilities for all types of food products regulated by the FDA. Detailed information on the law and on the anticipated regulations could be found on the FDA's website (www.cfsen.fda.gov). The FDA had been consulting with stakeholders extensively in the preparation of these regulations. She could not provide substantive reactions to the comments made, but encouraged Members to take the opportunity to submit written comments prior to the deadline of 4 April 2003. Her authorities were not able to extend the comment period due to the legislative constraints. However, she ensured that efforts would be made to take the comments into account, and that the final rules would be consistent with the obligations under the TBT Agreement.

27. The representative of Australia, speaking on behalf of Australia and New Zealand, raised concerns on the EC regulation 753/2002 on wine labelling. She recalled that both countries had commented in detail on the regulation (notified in G/TBT/N/EEC/15) at Committee meetings of June and October 2002, and had submitted written comments to the EC Enquiry Point requesting consultations. Technical discussions had taken place in October 2002 with officials of the Commission. However, a formal written response was still awaited. Her delegation had had concerns on the potential trade impact of the EC's policies in this area since 1998. In November 2002, the Commission had announced that the implementation of the regulation would be deferred until August 2003. Both Australia and New Zealand had welcomed the step, and had called for the EC to use the extra time to take third countries' comments into account in amending or abandoning the regulation. She raised concerns about the regulation's consistency with the principles of the TBT Agreement, in particular, the obligation to avoid unnecessary barriers to trade, and to ensure that regulations were not more trade restrictive than necessary to fulfil a legitimate objective. She requested the EC to comply with its obligations under the Agreement, in particular, under Article 2.5, that Members, upon the request of another Members, explain the justification for the regulation, and under Article 2.9.4, to discuss Members' written comments upon request and to take those comments and results of discussions into account.

28. She encouraged the EC to be more flexible in its approach to wine labelling requirements, recognizing that there could be alternative means of pursuing legitimate public policy objectives under a Member's label system. She was disappointed that the EC had not provided answers to the questions raised five months earlier. The regulation continued to generate uncertainty for exporters. She noted that the implementation date (1 August 2003) was imminent, and urged the EC to repeal the regulation until all outstanding concerns of Members were addressed.

29. The representative of Mexico shared a number of comments made by the previous speaker, and expressed his disappointment on the lack of response to the comments made on EC Regulation. He recalled that his authorities had made comments addressing issues and problems in the Regulation. He hoped that a written response would be received, and that those comments could be taken into account for the amendment of the Regulation to make it more flexible.

30. The representative of the United States associated her delegation with the comments made by Australia, New Zealand and Mexico. She recalled that those issues had been discussed at the June and October 2002 Committee meetings, as well as in a plurilateral meeting with EC officials. She understood that the entry into force of the Regulation had been postponed from January 2003 to 1 August 2003. She sought clarification on whether the transition period under which current products could continue to be shipped until 1 August had been extended. She raised the question on whether and when the EC would respond to the concerns and questions raised, and if the response would be in a written format. She did not see how producers could be expected to comply with the Regulation, if no response to the questions was provided.

31. The representative of Argentina endorsed the views of Mexico, New Zealand and Australia, and informed the Committee that her delegation had not received a response to the comments made on the EC regulation.

32. The representative of Uruguay echoed the concerns expressed on the EC wine labelling regulation. Her delegation saw the need for flexibility in the approach and the application of the regulation, as well as the need to receive responses and the justification thereof.

33. The representative of the European Communities recalled that Regulation 753/2002 had been notified on 10 June 2002, with a date of entry into force of 1 January 2003. Following third country's requests, the deadline for comments had been extended to 30 September 2002, allowing a comment period of 3 and a half months. His authorities had received a number of detailed comments. A number of bilateral discussions had taken place, and an informal discussion had been held on 16 October 2002 with the participation of EC experts. Subsequently, the EC had decided to postpone the date of entering into force until 1 August 2003. He ensured the Committee that the EC was studying all the comments made, including the one by the US on transition period, and was ready to take up this issue with interested Members in the coming months.

34. The representative of Canada raised concerns on the US country of origin labelling requirement under the Farm Security and Rural Investment Act of 2002. He noted that the guidelines were to become regulations in autumn 2003. The stated objective of the requirement was to provide industry and consumers with a workable voluntary program that would carry out the intent of the law. He believed that the guidelines were unworkable and would put an unreasonable onerous burden on industry. Technical regulations based on these guidelines would have the effect of restricting Canada's exports to the US, which would harm not only suppliers, but also US importers and consumers. He encouraged the US to reconsider this requirement, should it not be withdrawn, given the wide reaching consequences of the measure. Canada would continue to monitor developments of the regulation to assess its consistency with the US international trade obligations.

35. The representative of the United States noted that the guidelines which had been notified were voluntary ones, but would become mandatory at some point. The US Department of Agriculture had extended the comment period from 21 January to 21 February 2003, and comments received were being studied. Her authorities at the Department of Agriculture's Agricultural Marketing Service were planning to conduct a number of listening sessions in the US at the beginning of May 2003 in order to obtain additional feedback and ideas for drafting the proposed mandatory regulations. Details of those meetings would be announced, and they would be open to the public, including foreign representatives. She ensured that her authorities would continue to consult on those guidelines and would appreciate any feedback.

36. The representative of the United States recalled her delegation's concerns on the European White Paper on chemicals. She believed the approach would have significant impact on trade, and that its economic implications had not been adequately assessed by the EC. It had the potential to impact production and trade in chemicals and downstream products from autos to textiles. The proposal lacked priority-setting and its implementation appeared to be overly burdensome and costly to industry, governments and consumers. Environmentally sound management of chemicals could be achieved through approaches of better balanced risk and economic considerations. She recalled that her authorities had promoted cooperative engagement and supported international efforts to enhance regulatory harmonization and coherence in this area. She urged the EC to give consideration to the input from transatlantic stakeholders and the US Government. She underscored the importance of transparency, openness, and accountability throughout regulatory processes. She understood that the EC would soon come out with a concrete proposal available for comments on the Internet. She sought further information on this, as well as whether a notification would be made.

37. The representative of Japan supported the objectives of the policy which included protection of human health and of the environment. However, he believed that the draft regulation developed under the EC White Paper might lead to a huge increase in costs for industry of chemical goods and would affect almost all products that use chemical goods. This had a great influence on trade flows and investment. The EC policy, even at this early stage of the regulatory process, showed a wide

range of problems (e.g. regarding the much data needed for registration and the authorization system for risk assessment). He questioned the conformity of these measures with the TBT disciplines, in particular, the one which stipulated that technical regulations should not be more trade restrictive than necessary to fulfill a legitimate objective. He appreciated the opportunity provided by the EC for comments through the Internet. His delegation would submit comments in due course. He urged the EC to develop its policy taking into account its obligations to the TBT or other WTO Agreements.

38. The representative of Australia shared the views of the US and Japan on the EC chemical policy. She recalled the concern amongst industry that the EC proposals could act as non-tariff trade barriers for companies exporting to the European Union (EU). The proposals stood in contrast to the objective of the APEC and the International Council of Chemical Regulation for global harmonization of chemical regulations. The White Paper went beyond the chemical management regime of any other OECD country. It could entail significant compliance costs for SMEs, and might not be the least trade restrictive approach to meet legitimate health, safety and environmental objectives. She raised concerns about the mandatory substitution, as well as issues related to competitiveness, confidentiality and applicability to component chemicals used in manufacture.

39. The representative of Canada associated his delegation with the comments made by the previous Members. His delegation had had discussions with the EC where comments had been submitted. However, he continued to be concerned on the trade impact of the proposals, and looked forward to an early notification from the EC.

40. The representative of the People's Republic of China shared the views expressed by the previous speakers. She believed the EC policy could bring adverse effects to China's chemical exports as well as the exports of downstream products (e.g. toys and textiles) which were of great trade interests to China. Her delegation would follow the development of such EC regulations, and wished to be informed of future progress.

41. The representative of Brazil shared the concerns expressed by the previous speakers.

42. The representative of Korea associated his delegation with the comments made. He urged the EC to provide a reasonable time period (such as five years) for traders and manufacturers to adapt to this new regime.

43. The representative of Malaysia shared the concerns raised, and noted the consequences of this proposal in terms of costs and trade, in particular, for SMEs in developing countries. She urged the EC to take into account the development interests of developing countries in the chemical sector, and to reassess the proposed regulations so that they were not more trade restrictive than necessary. She was concerned that even with the adjustment time, the costs involved could be prohibitive and would lead to the closure of some firms.

44. The representative of the European Communities recalled that the Commission had published in February 2001, a White Paper on the strategy for the future policy regarding chemical substances. This publication had led to an intense consultation period, during which the Council of Ministers and the European Parliament adopted conclusions, and Member states communicated views, as well as those of third countries and NGOs. She informed the Committee that in April 2003, debates would be held for a Communities' position, and that her authorities would notify the draft text of the regulation under the TBT Agreement. A period of consultation on the Internet would be launched, which would enable the EC to set up, in transparency, the policy regarding chemical products.

45. The representative of the United States drew attention to a EC notification on sardines (G/TBT/N/EEC/26) made on 10 March 2003. Her delegation had made comments on this draft regulation within the short comment period provided. She was willing to share those comments with interested delegations. She believed that the draft raised issues of compliance by the EC with its

obligations under the TBT Agreement. It was more trade restrictive than necessary to fulfil its objectives of consumer information and market transparency, and it created difficulties for non-EC source sardine species to enter into the European market. She urged the EC to amend the draft regulation to permit non-trade restrictive labelling requirements for non-European sardine species, as well as to allow other Members a period of 60 days to comment on this draft.

46. The representative of Canada echoed the US's view, and raised the same concerns with respect to the comments period. He recalled that the original deadline for comments was on 19 March 2003, allowing a nine day comment period, although subsequently, it had been extended by one week. His delegation would comment on the regulation and would come back to this issue.

47. The representative of Peru recalled that a process had been underway after the Appellate Body's report on the sardines case, and reserved Peru's right to comment on the notification.

48. The representative of Norway echoed the concerns raised by the previous speakers. Her delegation was examining the matter, and reserved its right to come back to the issue at a later stage.

49. The representative of Mexico supported the views expressed, in particular, those by the US and Peru. He urged that a precedent which conflicted the conclusion of the Appellate Body should not be set.

50. The representative of Chile endorsed the comments made by the US and Peru, and was concerned about the short time frame to submit comments. He recalled that Chile had been a third party in the dispute, and had a trade interest in the issue. A revision of the regulation, which did not match up with the recommendations of the Dispute Settlement Body, was against Articles 2.4 and 2.2 of the TBT Agreement. He reserved his right for further comments on this issue.

51. The representative of Venezuela recalled that her country had been third party in the dispute on the original regulation. The motivation had been to seek solutions to the trade restrictive effects on non-Mediterranean sardine products. The proposed labelling requirement related to the use of the word "sardine" had direct consequences on the perceived value of the products in the EU market. She noted that the Appellate Body was examining the amendment. She argued that the time-frame of nine days for comments to the amended regulation was not enough, and supported the US view for an extension of the comment period, so that comments could be taken into account.

52. The representative of Ecuador supported the positions of Mexico, Peru, Venezuela and Chile, and requested the EC to extend the deadline for comments.

53. The representative of the European Communities recalled that the EC had made a notification on the Draft Commission Regulation amending Council Regulation (EEC) No 2136/89 Laying down Common Marketing Standards for Preserved Sardines. He explained that the measure had been notified for transparency purposes, although there was no obligation to notify it under Article 2.9, since it was based on an international standard. The date of adoption was in April 2003, and it was not possible to postpone this due to the time constraint under Article 21.3 of the Dispute Settlement Understanding. Consequently, a deadline for comments had been set for 19 March 2003. Following requests from third countries, the deadline had been extended to 26 March 2003. He ensured that all comments received would be examined with a view to finding the best solution.

54. The representative of the United States recalled that Korea had notified in December 2002, (G/TBT/N/KOR/46) its draft regulation to mandate the standard on Wireless Internet Platform for Interoperability (WIPI). Her delegation had provided comments to and had bilateral exchanges with Korea on the proposal. On 13 February 2003, during technical consultations, concerns were expressed (e.g. on intellectual property and on the trade restrictiveness of that regulation). She appreciated Korea's commitment not to turn the standard mandatory until concerns were fully

resolved. She was willing to share her concerns with other interested Members, and would appreciate further information from Korea. Her delegation believed that in order to be WTO compliant, Korea should amend this proposal or simply withdraw it.

55. The representative of Korea was not sure if the TBT Committee was the right forum to discuss this issue. However, he was open to questions by other Members. He believed that WIPI was covered by the GATS, rather than by the TBT Agreement, since it was not a product standard, but a technical interface standard that governed interconnection among networks of wireless Internet service providers. Korea had made the notification to the TBT Committee for transparency purposes. He recalled that since then, only one comment had been received (i.e. from the US). He explained that WIPI would allow Korea to achieve the following legitimate objectives: (i) to provide consumers with choices by means of broad interoperability; (ii) to ease the burden of content providers and facilitate the market; (iii) to neutralize the market power of dominant incumbents. The main goal was to ensure better consumers' rights for services, and to establish a level playing field in the Korean wireless Internet services market. Incompatibility among five different platforms had been the major hurdle for further development of the market.

56. Dominant players had no incentive to voluntarily resolve problems arising from such a market fragmentation, as they wished to maintain their dominant market position. Achieving interoperability with a single standard was a way to reduce the burden on content providers, as well as to provide the widest number of consumers with contents promptly and cost effectively. He ensured that his authorities would allow reasonable time to discuss with the US, and would take the comments as well as the results of bilateral consultations into consideration. He informed the Committee that in-depth discussions were undergoing among interested private parties of the two countries. He recognized the importance of intellectual property rights (IPR), and believed IPR holders, both domestically and abroad, should be protected. Korea expected the issues to be resolved shortly, and looked forward to narrowing the differences by further bilateral consultations.

57. The representative of the European Communities welcomed the notification made by the Peoples Republic of China (G/TBT/N/CHN/5) on "Limit quantity of arsenic, cadmium, lead, chromium, mercury content for fertilizers". She recalled that on 29 November 2002, the EC had sent comments and raised concerns about the low limits set, if it were to concern mineral fertilizers. She requested China to provide justification on this, as well as information about the scope of the application of cadmium limits.

58. The representative of the United States recalled that her delegation had raised concerns regarding G/TBT/N/CHN/5, and technical consultations with Chinese authorities had been held subsequently. She was awaiting further information from China.

59. The representative of Korea requested China to provide a written response to the comments made by his delegation on G/TBT/N/CHN/1 and G/TBT/N/CHN/2.

60. The representative of the People's Republic of China invited the EC to provide China with the comments made on fertilizer at this meeting, to ensure that those would be taken into account. She confirmed that a technical meeting had taken place with the US, involving US experts in the fertilizer sector. Referring to the Korean comments, she recalled that bilateral consultations had been held. The misunderstanding regarding the boiler and pressure vessels notification (G/TBT/N/CHN/1) had been clarified in the course of those meetings. She invited Korea to submit written comments for further clarification. Regarding G/TBT/N/CHN/2 on food and cosmetics, she ensured that national treatment applied to imported products under this regulation. Chinese products had been required to meet this requirement for some time.

61. The representative of the European Communities recalled that at the previous meeting, his delegation had raised concerns about the Korean detailed labelling requirements on alcoholic drinks

(G/TBT/N/KOR/34). He believed that although the prevention of tax evasion could be a legitimate objective, there existed other less trade restrictive measures in line with international practices. The Korean measure had come into force, and was causing problems to EU exporters. He urged Korea to suspend the measure, and introduce less trade restrictive means to achieve its objective.

62. The representative of Korea, in reply, recalled that an explanation had been provided at the previous meeting. He argued that the measure had been introduced to amend a labelling requirement put in place in 1976, in order to prevent deceptive practices in the distribution of liquors. He did not believe that the measure created unnecessary trade restrictions, because tax authorities had not found other possible effective solutions for the growing concern of tax evasion. He stated that a six month extension of the implementation deadline had been provided for producers to adapt to the new regime.

63. The representative of the European Communities recalled that her delegation had raised concerns on proposed US regulations on tyres (G/TBT/N/USA/8, 15 and 18), and had sent comments to the US. However, no reply had been received. The US had indicated that one of the regulations had been adopted. Two others were still in draft forms, and comments were being considered. She requested the US to communicate the adopted text, and to provide a response to the comments sent.

64. The representative of the European Communities recalled that in previous meetings a number of delegations had raised concerns on the draft EC regulation on batteries. He noted that, while there was no final text to notify, the EC had launched a consultation exercise, as part of an impact assessment, on a possible revision of EC Directive 91/157/EEC. The deadline for comments to this exercise was on 28 April 2003, and details were available at the website of the Commission.

65. The representative of Venezuela informed the Committee that concerns raised by Mexico at the previous meeting, on G/TBT/N/VEN/14 (registration of domestic manufacturers and importers of textile clothing) had been addressed bilaterally. She explained that the purpose of the regulation was to provide information on labels for textile garments marketed in Venezuela, whether produced in the country or imported, to prevent misleading practices. A three month period had been provided between the publication of the regulation and its entry into force. Information (e.g. on the steps to be followed and the possibility to obtain the forms) was available on the webpage of the national body responsible for the Agreement. Requests for registration were processed expeditiously, so that imports would not be hampered.

66. The representative of the European Communities recalled that his delegation had raised concerns on China's "CCC" certification system under the Transitional Review Mechanism. He recognized the importance to protect consumer safety and the right of China to take such measures. However, he raised concerns about the excessiveness of the system, and sought clarification on whether components and spare parts of products needed to be certified separately.

67. The representative of the People's Republic of China recalled that an explanation on the "CCC" system had been provided at the 2002 Transitional Review. He would forward the question raised by the EC to his capital, and would seek opportunities for an exchange of views.

68. The representative of Brazil informed the Committee that his authorities had replied on 28 February 2003, to the comments made by the EC on the Brazil's technical regulation on wines.

69. The representative of Mexico raised concerns on the way which Members complied with their notification obligations. He regarded notifications as a fundamental tool to identify measures that might have trade impact, and believed that notifications must be made early enough in order for the other Members to make comments. He drew attention to the provision of the Agreement, which stated that "notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account". He noted a proliferation of notifications where the dates of adoption and entry into force were prior to the date of notifications. In some cases, the

deadline for comments was close to the date of notification, was not provided or was indicated "not applicable", which led to the confusion of Members receiving those notifications. It also gave an indication that comments would not be taken into account and that a decision on the regulation had already been taken. He doubted the usefulness of those notifications, if opportunities for comments were not provided. He believed Members did not interpret and implement the relevant provisions uniformly, which gave rise to a problem of transparency in regulations being notified. He would revert to this matter under the Triennial Review of the Agreement.

70. The Committee took note of the statements made.

VI. TECHNICAL ASSISTANCE AND FOLLOW-UP TO THE SPECIAL WORKSHOP HELD ON 18 MARCH 2003

71. The Chairperson thanked Members, in particular representatives from capitals of developing country Members, and the moderators for their contribution to a successful Workshop on Technical Assistance held on 18 March 2003. She drew attention to her summary report of that event prepared based on the moderators' reports under her own responsibility (Annex A).

72. The representative of the Philippines found the Workshop useful. She recalled that there existed a database on technical assistance needs in the context of the Committee on Trade and Development, which included information on possible donors and their assistance activities in different fields of the WTO. She believed that duplication of work should be avoided.

73. The representative of the European Communities believed that the Reports of the Chairperson and the moderators had well captured the discussions at the Workshop, which had come up with a number of good points. His delegation attached importance to the Committee's work on technical cooperation and wished to move forward with the program. He believed the creation of a well defined task force could be a way to progress. This smaller group would then report back to the Committee. The meetings of the task force could be organized back to back with Committee meetings, with its regular work done either by correspondence or through email. He supported the enhancement of transparency in the field of technical assistance, the ideas of a structured and sequenced approach as well as sustainability.

74. The representative of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu said that the Workshop had assisted her delegation to better understand the needs of developing countries as well as what its contribution could be. She informed the Committee that Chinese Taipei had provided technical assistance on a long-term basis at the request of two non-WTO Members. Two types of technical assistance activities were provided: secondment of experts to work with staff of recipient countries and the placement of staff from recipient countries to domestic laboratories to obtain hands on training. These two types of activities had proved to be cost efficient in areas concerning technology, and had been welcomed by the recipient countries. She was of the view that technical assistance was not to be given to solve problems, but to facilitate the process of improvement. Recipients needed to transform the knowledge or assistance received into elements which, could fit into their own social and cultural characteristics.

75. She believed the creation of a database was the first and most important step to be taken. It could contain information on the supply and demand sides, as well as channels where funding resources could be explored. With the database, her delegation could adjust or modify the technical assistance provided by referencing to the needs identified. Classification of the information might be needed to facilitate searching through the database, and the seven areas of needs identified in the Secretariat's paper (G/TBT/W/193) could be useful reference. The Committee's role could become critical to address constraints, in cases where the needs identified were not met by any technical assistance provider. Her delegation could contact the Secretariat for further suggestions.

76. The representative of Colombia found the summary reports well structured, comprehensive and clear. She believed it was time to move for action, and that at the first stage, the Committee should put forward a classification of the technical assistance and capacity building needs identified by developing countries. According to the short-term and long-term implementation possibilities, it would be useful to take into account the modalities suggested by Brazil in document G/TBT/W/156. The programme of technical assistance should be one of the priority tasks of the Third Triennial Review. She supported the consolidation of a database containing information on projects of donors, be they countries or multilateral organizations, as well as ways to access such projects. She shared the Philippines' view that work should not be duplicated. She was flexible with the methodology, be it working in a special task force, or in multilateral or plurilateral informal Committee meetings.

77. The representative of Canada thanked the Chairperson for her comprehensive report, which had set out ideas to move forward. He shared the view that it was important to identify the existing databases so as to avoid duplication. He supported the idea of a small task force taking up the issues identified at the Workshop. An important part of the task would be to determine what was already existing in terms of information as well as issues which could be advanced more quickly, so as to obtain early results. His delegation was flexible on how the task force would operate, whether on the margins of Committee meetings, by email or a combination thereof.

78. The representative of Japan appreciated the Workshop which had contributed to a better understanding of the problems of developing countries as well as providing a clearer direction for future technical assistance. He drew attention to the documents submitted by his delegation at the Workshop describing the APEC's and the Japanese experience in TBT-related technical assistance. He believed it was important to make use of the various information to further develop the technical assistance programme. He supported the creation of a small task force and requested the Secretariat to coordinate the process.

79. The representative of Malaysia expressed her delegation's appreciation for the Workshop and its results. She was of the view that the Committee could undertake follow-up work in areas such as: to improve the transparency of technical assistance programs; to continue its on-going work of identification of technical assistance needs; to exchange national experiences; to identify awareness programs; as well as to discuss its coordinating role in respect of the providers, recipients and other international organizations. She suggested that informal consultation by the Chair could be undertaken with respect to the creation of a database or the setting up of a small task force. She noted that the Workshop had shown that there were needs in capacity building in terms of infrastructure and institutions, where the capacity of the Committee might be limited. Such gaps could continue to be filled by provider governments and international organizations. It was importance for providers to improve coordination, so as to reduce duplication and to have a more focused approach to technical assistance.

80. The representative of Brazil found the Workshop useful. A number of proposals had been raised, which would assist the Committee to move forward. She supported the idea of a task force which could meet back-to-back with the TBT Committee, and work through the Internet in order to optimize resources. However, she highlighted the issue of its composition and terms of reference. On the issue of sustainability, she believed that it related not only to an easy access to technical assistance by developing countries, but also to enhancing the infrastructure of these countries. It should take into account the needs to develop the various TBT-related disciplines (e.g. metrology, technical regulation, standard and conformity assessment), and to assure that these disciplines were evenly enhanced, so that recipient countries could effectively develop their overall infrastructure. Referring to the database, she linked it to a Brazilian paper in the year 2001 (G/TBT/W/156), where her delegation had suggested the creation of a website by the WTO Secretariat. She believed the role of the Committee could be to act as a facilitator and a provider of information of technical assistance. It was important to take into account the work undertaken by other international organizations.

81. The representative of the People's Republic of China thanked the Chairperson and the moderators for the conduct of the Workshop, where a number of suggestions had been made (e.g. the creation of a task force, the setting up of a database containing information on technical assistance needs, providers and recipients). She believed technical assistance was essential to enhance the implementation of the TBT Agreement by developing country Members, and stressed the importance of expediting the process. It was important for donor countries to know the needs of developing countries, as technical assistance should be a demand-driven process. She supported the view that technical assistance had to be a sustainable on-going process. WTO Members needed to provide and receive technical assistance continuously, so as to ensure the full and sustainable implementation of the Agreement that regulated international trade.

82. The representative of Kenya believed the Workshop had brought up issues which called for solutions. He believed a task force would be useful to facilitate the identification of priorities and appropriate technical assistance activities, either national or regional, so as to optimize the resources available. He stressed the importance of defining indicators during the implementation of projects to determine their sustainability. The task force could come up with guidelines in this regard. At the national level, for the implementation of the Agreement, awareness raising should be undertaken. At the international level, the Committee could highlight the problems and technical assistance required by developing countries and LDCs.

83. The representative of Egypt found the Workshop well structured and useful. Its program had reflected the Committee's recognition of the importance of technical assistance as a means to enhance developing countries' abilities to effectively implement, as well as benefit from the TBT Agreement. The aim of the event was to ensure that technical assistance was targeted to specific priorities and needs identified by individual or groups of developing countries. The questionnaire to assist the identification and prioritization of needs had played an important role in this regard. He recalled that at the Second Triennial Review (G/TBT/9), the Committee had recognized the importance of dissemination of information and knowledge as a key element of capacity building, and referred to a number of areas of concern to developing countries (e.g. notification and information exchange). Information technology had been recognized as a possible way to address certain problems. He highlighted certain parts of that report related to technical assistance that had yet to be implemented. Paragraph 44 contained various forms of technical assistance deliveries. The most effective approaches were those of long term and technical natures, such as internships, missions, consultancies and training of experts. He stressed that close contacts with other international organizations were required (such as the ISO) to raise awareness of international standards and other TBT issues. The goal of technical assistance programs should be to respond to the real needs and priorities of beneficiary countries. He found the proposal for the creation of a database useful. However, he highlighted the importance to coordinate with other organizations so as to benefit from the existing information and databases. He believed that the creation of a task force was important to implement technical assistance efficiently.

84. The representative of United States thanked the Chairperson, the moderators and the speakers for their contributions to the Workshop. It had generated ideas, such as the importance of the dissemination of knowledge and exchange of information among Members, and for that, the Committee would continue to be the important forum. She was not clear about the idea to create a task force, or about its mandate. She was cautious that the task force could take away the discussions that should take place in the Committee. She imagined that focussed discussions could be held among interested Members to generate ideas which might not be possible in a broader setting. However, this needed to be linked with the work of the Committee and in the context of the completion of its work programme on technical assistance under the Triennial Review. She shared the view with the others about the database, and emphasised the importance of coordination and avoidance of duplication. She noted that in certain databases, information could be categorized differently from the information compiled in the Committee, and further work might be needed. She reiterated that technical assistance should be focussed on the effective implementation of the Agreement.

85. The representative of India appreciated the discussions at the Workshop and its reports. He believed that a number of elements had been developed (e.g. in terms of future strategies and the role of the Committee), and the Committee should not lose the momentum to move forward to achieve the ultimate objective of this process. He shared the view that the main purpose of the exercise was to assist developing countries in implementing the Agreement and to benefit from it. The Workshop had provided an opportunity for Members to share information and discuss developing countries' needs based on the responses to the questionnaire. He found the Secretariat's categorization of the prioritized needs in seven categories useful. Since data on developing countries' needs was made available, a focus should be put on the delivery of assistance through the various channels bilaterally or multilaterally. In this context, the creation of a database was useful to capture information on both the demand and supply sides, such as on the various programmes and funding. However, he shared the view that duplication of work should be avoided. He took note of the elements in the report of session four of the Workshop on future strategies. These included issues of awareness, sustainability, structured approach and transparency. He sought suggestion from other delegations on how to handle the issue of information gaps. He did not yet have a position on the creation of a task force, but welcomed any informal discussion on that approach.

86. The representative of Australia was mindful of the limited resources of the Committee in the area of technical assistance, and believed that it could best contribute in the areas of transparency and coordination. The Committee could serve as a forum for information exchange on national experiences, on technical assistance programmes of providers, as well as the needs and priorities of recipients. It could also consider ways to provide Members with information on TBT-related technical assistance activities of other multilateral agencies. For that, she was drawn to the idea of a database which listed countries' needs as well as technical assistance programmes that were underway or completed, preferably with the identification of donor organizations. She agreed that any duplication of work should be avoided. Her delegation was reflecting on the idea of a task force, and took note of the concerns raised by Brazil and the US on its mandate and participation.

87. The representative of Panama appreciated the Workshop and the assistance received regarding the participation of her capital-based delegate. She drew attention to document G/TBTW/193, and noted that, among the seven categories of needs, infrastructure and capacity building were areas where most needs had been identified. She stressed the importance of coherence in technical assistance programmes by international organizations, so as to better target the priorities identified and to avoid the repetition of the same kind of assistance as well as wasting the limited resources. She urged that WTO documents should be translated in time to facilitate active participation by delegations in discussions. She recommended that the Report of the Workshop should be transmitted to capitals, and that it could be used as a reference to strengthen technical assistance programmes.

88. The representative of Saint Lucia appreciated the assistance provided to her by the WTO to participate in the Workshop and Committee meetings. She supported the view that the Committee should move forward with its technical cooperation programme, given the many issues involved in the implementation of and benefiting from the Agreement by developing country Members. For that, she supported the ideas of a well structured database and a task force with specific terms of reference. She stressed the importance of awareness-building among policy makers, since they set the agenda in their respective countries.

89. The representative of Mauritius associated his delegation to other Members in appreciating the Workshop. He recognized the complexity of the Agreement, the different levels of development among Members, and, therefore, the different assistance needed by them. He supported the setting up of a task force with well-identified terms of reference. The task force could focus on the provision of experts/resource persons and materials as well as the designing of courses for the training of trainers that could lead to a well designed, comprehensive awareness programme. He believed that unstructured technical assistance provided in an ad hoc basis would not be effective. The task force

could also come up with a comprehensive policy on technical regulations, which would assist Members to put in place non-trade restrictive practices.

90. The representative of Mexico believed that technical assistance was a broad field, and supported the setting up of a task forces to focus on the following areas: (i) the access to information (e.g. on the availability and provision of technical assistance) by means of a database. However, the duplication of work of the existing databases should be avoided; (ii) to identify the specific needs and priorities (e.g. in two or three strategic areas) of developing countries, the possible donors, and, when applicable, the financial means; and (iii) the creation of a mechanism which would evaluate the results and the effectiveness of the assistance provided.

91. The representative of Argentina found the Workshop informative. He noted the suggestions made, and believed that the report of the Chairperson contained good guidelines for the Committee to further its work. The most important issue was the coordination among national authorities, the Committee and donors on the way technical assistance could be provided. He agreed with Mexico on the need to evaluate the effectiveness of technical assistance programmes. He believed that the proposals of setting up a database and a task force needed to be further studied. These mechanisms could be used as tools to ensure the effectiveness and continuation of technical assistance. He thanked the Secretariat for a successful national TBT Seminar held in October 2002 in Buenos Aires, where 50 representatives from different central and local government agencies participated.

92. The representative of Peru noted that there was a consensus on the need to share updated information on technical assistance as well as to set up a database. However, developing countries often experienced problems to access information due to the lack of infrastructure and, therefore, it was important to provide technical assistance in this area.

93. The representative of Venezuela welcomed the results of the Workshop, and believed that the questionnaire had contributed to the identification of needs and priorities of developing country Members. She highlighted the importance of raising awareness of and benefiting from the Agreement. She suggested that the report of the Workshop should be circulated at a TBT seminar to be held in Peru.

94. The Chairperson concluded that there was support to further elaborate the proposals which had arisen from the Workshop, which could contribute to the development of the TBT-related technical assistance programme in the context of the Third Triennial Review. Members should keep the momentum, and should consider working methods to facilitate discussions. She noted the idea to have a focused group of delegations to take the work forward. However, it was necessary to avoid the risk of creating additional bureaucratic and negotiating structures, which could slow down the process. This required flexibility and the ability to explore practical options to further elaborate the proposals. She noted the importance to avoid the duplication of work, especially concerning the database of which a large number of Members supported. She requested the Secretariat to prepare a paper outlining the existing databases on TBT-related technical assistance, with an aim to assist Members to identify where the Committee could add further value. She invited Members to bring to the Secretariat's attention of any database that they were aware of, in addition to those in the ISO, OECD and the WTO. She encouraged interested Members to contribute to this process in the capacity of friends of the Chair and the Secretariat. They could be called upon in an informal capacity to identify practical issues associated with the proposals.

95. The representative of Brazil thanked the Chairperson for highlighting the issues, and expressed Brazil's willingness to assist in the process.

96. The representative of the European Communities considered the Chairperson's suggestion was a sound way to move forward. He believed that much of the information was already available,

and supported the idea of putting it together. He sought further clarification how the friends of the Chair and the Secretariat would work.

97. The Chairperson responded that it could be a combination of approaches to consolidate inputs from Members. Input could be provided by e-mail and, if needed, from time to time, Members could meet informally in Geneva.

98. The Chairperson, in relation to the issue of workshops, recalled that the Committee had been considering another workshop which was a learning event on labelling. Discussions had been held based on a Secretariat note containing a number of draft elements. She believed that further reflection on the format of the event was required. She observed that there was a general agreement on holding this event based on real-life case studies, with no formal conclusion, but with a particular focus on developing countries' concerns. However, the following issues required further consultations: (i) the participation of the event (e.g. whether to invite the private sector); (ii) the timing of the event (e.g. whether it should take place before or after the Cancun Ministerial Conference); (iii) the cases to be included (e.g. whether these should relate only to the TBT Agreement or to all types of labelling); (iv) the elements to be studied under each case; and (v) the speakers and their selection (e.g. if they should be experts who had direct involvement in a particular labelling case or they could be other stakeholders). She took note of the view that the discussion should not pass judgement on the compliance of particular cases with the disciplines of the Agreement. Certain Members had the desire to focus on the implementation of the Agreement and to include the elements of good practices as well as least trade restrictive alternatives. There was a suggestion to divide the event into two parts (i.e. a section on trade concerns and another on trade benefits). She encouraged delegations to consult among themselves to seek common ground on how the event should be structured. She proposed to hold informal consultations on this before the next Committee meeting.

99. The representative of the European Communities thanked the Chairperson for her summary of the discussions on the labelling workshop. He was of the opinion that the discussions had been fruitful and significant progress had been made, although a number of outstanding issues still remained. He was concerned about the timing of the event, and welcomed informal consultations on the issues before the next meeting.

100. The representative of Malaysia thanked the Chairperson for her summary (i.e. the workshop should be a learning event for educational purposes, and that it should be based on case studies and should not result in formal conclusions or recommendations). She believed that a number of issues needed further reflection. There should be practical considerations on the timing of the event. She supported the idea of holding informal discussions on the outstanding issues. However, she requested for more time to reflect on them before the consultations.

101. The representative of Egypt agreed that progress had been made in aspects of the workshop. However, certain points needed further reflection. His delegation was willing to cooperate with the others to reach an agreement on the structure and components of the event. He raised concerns on the timing, and believed that, from a practical point of view, it was not appropriate, in particular for developing countries to be well prepared, to hold it too soon. He supported the idea of informal consultations, and agreed with Malaysia that more time would be needed to consult with capitals.

102. The representative of India thanked the Chairperson for her summary. India believed that the workshop should be a learning event focused on the implementation of the Agreement. He supported the proposal to have informal consultations before the next meeting, and shared the view of Egypt and Malaysia that more time was needed to prepare these consultations with capitals.

103. The representative of Canada supported the idea of holding informal consultations on the workshop, when delegates felt ready to resolve the outstanding issues, including the one on timing.

104. The representative of Switzerland reiterated her delegation's view on the importance of pursuing discussions on labelling, and supported the idea to conduct informal consultations as soon as possible.

105. The representative of Brazil believed that the workshop should be a learning event for the sharing of information to better understand the existing labelling schemes. Case studies should focus on the experience in the implementation and compliance with the schemes, as well as their trade impact. It would not be appropriate to have any formal conclusion, nor to have discussions on good practices. Regarding the timing of the event, she shared the view that more time was needed to consult with capitals, in particular, in order for developing countries to participate properly.

106. The representative of Mexico supported a workshop on labelling, provided that it would be of an educational purpose, with a view to assist Members to exchange experiences on how to implement the Agreement regarding labelling (e.g. the legitimate objectives and alternatives, such as voluntary labelling schemes). It should be a dialogue without any conclusion. He noted the different types of labelling (e.g. relating to sanitary, quality or energy efficiency), and believed that it could be useful to discuss the issue of the usefulness of labelling with respect to the fulfilment of objectives. The adverse trade effect of labelling was another issue that the Committee could address. The Agreement allowed Members to adopt labelling requirements. However, labelling schemes might not always be the most appropriate approach, as they could imply costs for consumers. He supported the proposal on informal consultations.

107. The representative of Japan echoed the others on holding informal consultations. He believed that the workshop should address trade concerns rather than trade benefits so as to ensure that labelling requirements did not create unnecessary obstacles to trade, although he did not exclude further discussions on trade benefits. The event should be opened to various stakeholders, including other WTO Committees. It was useful to have a broad based information exchange, with the participation of international standardization bodies, such as the ISO, given that it had developed a number of guides and recommendations on labelling. Japan was flexible on the timing of the event, and noted the importance to maintain the momentum and to allow time to develop the discussion under the Third Triennial Review.

108. The representative of Argentina shared the views that the discussions had been productive and allowed Members to identify a number of elements that deserved further reflection. He echoed that the event should be educational without recommendations or conclusions. This would allow a productive and frank discussion on the various implications and aspects of labelling. The issue of whether the event should include only labelling under TBT disciplines or other types was one that needed special consideration. Regarding the timing of the event, he believed that more informal consultations would be required to discuss the various elements, and that more time was needed in order to be well prepared and to obtain feedback from capitals.

109. The representative of Australia agreed that there were a number of issues where further informal consultations would be needed. Regarding the timing, given the pre-Cancun workload, she shared the views that a date after the summer would be appropriate. She sought information from the Secretariat on the work which would be involved in organizing such an event.

110. The representative from the Secretariat informed the Committee that there was no official time-limit for organizing such events, but it would require at least three months. If it involved financing participants, the workload of the WTO logistics unit to make the necessary arrangements for the nominees should also be taken into consideration.

111. The representative of Panama shared the view that future discussions would be necessary. The Workshop should be a learning event, and should take into account the fact that the Agreement had already provided disciplines on labelling requirements. She suggested to take into account the

knowledge and experiences of the various stakeholders regarding labelling (e.g. standardizing bodies, consumers, governments and producers), as well as its trade impact on domestic markets and market access at the international level.

112. The representative of Kenya welcomed the Chairperson's summary and further informal consultations. He recalled that at the Doha Ministerial Conference, the issue of labelling had been discussed and a recommendation had been made on labelling for environmental purposes. He believed that the educational event would allow the Committee to address an issue that was also being addressed by the Special Session of the Committee on Trade and Environment.

113. The Chairperson informed the Committee that the date of the informal consultations would be communicated to Members in due course, and invited Members for any advanced input concerning the organization and structure of the labelling workshop.

114. The Committee took note of the statements made.

VII. PREPARATION FOR THE THIRD TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE TBT AGREEMENT UNDER ARTICLE 15.4

115. The Chairperson recalled that on 10 February 2003, the Committee had held an informal meeting to evaluate the progress of its work since the Second Triennial Review, including the proposals and papers which had been submitted by delegations. Members had shared views on the conduct of the Third Triennial Review to be carried out before the end of year 2003. A number of Members had indicated their interests to include certain elements in the Review and their intention to submit additional papers to facilitate discussions. She encouraged them to make their submissions as soon as possible to ensure sufficient time for discussions. She drew attention to documents G/TBT/W/194-197 and 199, submitted respectively by Japan on "A Policy Framework for the Acceptance of Results of Conformity Assessment Procedures"; by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on the "Implementation of Supplier's Declaration of Conformity"; by Canada on the "Main Objectives for the Third Triennial Review of the Agreement"; by the EC on the "Third Triennial Review of the Agreement"; and by Korea on "Korea's Experience with the Implementation of the WTO/TBT Agreement". She also drew Members' attention to a paper submitted by the People's Republic of China on "The Third Triennial Review of the TBT Agreement".

116. The representative of Japan highlighted the following elements which could be included in the Third Triennial Review: technical assistance, labelling and the acceptance of conformity assessment results. His delegation was willing to participate in discussions of other issues proposed by Members (e.g. good regulatory practice, supplier's declaration and the enhancement of transparency). He introduced document G/TBT/W/194 which encouraged the acceptance of conformity assessment results conducted outside the importing country. The paper provided the approaches to realize the acceptance of results (e.g. mutual recognition agreements (MRAs) to specific regulations, arrangements amongst certification bodies, utilization of arrangements between accreditation bodies and the designation by the importing regulatory authority). It described the characteristics and benefits of the approaches as well as the conditions to conclude MRAs. It proposed a step-by-step approach when technical competence equivalency did not exist, in order to conclude a government-based MRA. He believed the paper could contribute to future discussions.

117. The representative of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu drew attention to document G/TBT/W/195 which outlined Chinese Taipei's experiences in the implementation of supplier's declaration of conformity (SDoC). This approach was introduced to the regulatory process for certain electronic products in January 2002. She explained that it involved mainly small and medium sized enterprises (SMEs). A review had been conducted in August 2002, where a number of problems in the implementation process had been identified. Solutions had been suggested. She believed further discussions and information exchange on this would be needed. She

welcomed the Canadian submission which contained case-studies of SDoC as well as identified issues involved in the application which could affect the success of the programmes. She believed that technical assistance was required in order to introduce SDoC to the regulatory sector (e.g. to establish an effective market surveillance mechanism, to train the personnel in regulatory agencies and to put in place procedures to review SDoC's implementation). She proposed to hold an informal workshop on SDoC which could improve the understanding of the implementation and techniques of SDoC.

118. The representative of Canada introduced the Canadian paper (G/TBT/W/196) which proposed the following issues to be examined in the Third Triennial Review: good regulatory practice (GRP), conformity assessment procedures, labelling and trade-related technical assistance (TRTA). He believed that GRP could be regarded as the approach to other subjects to be dealt with under the Review (i.e. regulatory systems and measures to be taken in order to meet legitimate policy objectives, while respecting WTO obligations, in particular, those concerning TBT). GRP could be applied also to the issue of transparency, including the concerns raised by Mexico on notifications, and should be further addressed. He noted that the discussions on conformity assessment in the Committee, and suggested to focus discussions on elements such as: the encouragement of the adoption of international standards and guides by conformity assessment users as well as the strengthening of the global conformity assessment system. Canada intended to submit a paper on its experience on conformity assessment. He recalled that labelling had been briefly discussed in the Second Triennial Review, and believed that it should be further discussed in the Third Review. He echoed Kenya's concern that the CTE had been called upon to examine labelling requirements for environmental purposes, and that the TBT Committee had the role to address the issue of labelling. He expected both committees to support mutually in the work on labelling for environmental purposes. Canada intended to submit a non-paper on this. On TRTA, he was of the view that the workshop and the discussions that followed it, had underscored its importance. He welcomed information from Members on the existing technical assistance to allow a fruitful discussion.

119. The representative of the European Communities considered the Third Triennial Review as an opportunity to improve the implementation and interpretation of the Agreement. He drew attention to document G/TBT/W/197 which contained the EC's priorities for the Review: (i) assisting developing countries to benefit from the Agreement; (ii) promoting appropriate conformity assessment procedures; (iii) enhancing transparency in the preparation of technical regulations, standards and conformity assessment procedures, including the handling of comments on notifications by other Members; (iv) taking forward TBT Committee discussions on labelling; and (v) assisting Members to identify and use an appropriate mix of measures to facilitate trade in the TBT field.

120. On the development dimension, the EC proposed the Committee to further its work on the development of the technical cooperation programme launched in the Second Triennial Review. Elements for further studies should include the following: existing technical assistance activities; enhancement of cooperation between donors; reassessment of needs in the light of priorities; and the identification of appropriate partners. Particular attention should be given to the monitoring and evaluation of the technical assistance programme. On the issue of enhancing the participation of developing country Members in the international standardization process, he welcomed the work undertaken by the Secretariat and the Director General, and invited the Committee to consider ideas to continue and build on this work. He recalled that his delegation had submitted information on the EC's technical assistance programmes in 2002, and welcomed similar information provided by other Members. He encouraged the Committee to continue its work on the transparency of technical assistance programmes.

121. On conformity assessment, the Third Triennial Review should build on the work undertaken in the Second Review, where an indicative list of approaches to facilitate the acceptance of conformity assessment results had been provided. He believed that SDoC could assist market access without prejudice to the fulfilment of legitimate public policy objectives, when it was combined with effective market surveillance and product liability laws. The EC's experience on the use of SDoC had

been positive. He encouraged other Members to exchange experiences in this area, and welcomed the papers submitted by Canada and Chinese Taipei. The EC believed that accreditation, a possible tool to verify the competence of conformity assessment bodies, when operated to recognized international standards, provided a mechanism to assist the acceptance of conformity assessment activities. He invited the Committee to examine this issue of accreditation, with particular attention to its potential to help developing country exporters.

122. He found it important to further enhance the implementation of TBT transparency provisions, and to assist Members, in particular, developing country Members, to make effective use of the notification procedures. He invited the Committee to seek ways to facilitate the distribution of comments made on draft technical regulations and conformity assessment procedures. Possible mechanisms to achieve this were to place the comments on web-sites of relevant bodies of Members or on the WTO web-site. The latter would imply additional work for the Secretariat. He also invited the Committee to explore the following matters: ways to facilitate access to final texts of notified proposals as well as notifications by local government bodies. He believed the Committee should continue its discussions on labelling, and that the Chairperson's summary would contribute to it. The workshop would improve Members' understanding on the issue.

123. Regarding the measures to facilitate trade (e.g. technical assistance, special and differential treatment; harmonization of technical regulations, equivalency and mutual recognition agreements), he invited an exchange of experience on this with a view to assist Members achieving an appropriate mix among the measures. He supported further discussions on GRP, and an exchange of information on approaches to technical regulations and regulatory practices. The Committee should also hold discussions on the linkage between technical regulations and measurement requirements. He noted that in some cases, legislations stipulated measurements which were not clear, conflicting or unrealistic (e.g. when the measurements indicated were impossible to measure with existing technologies, or when different measurement methods could arrive at different results). Under such circumstances, trade barriers could be created. Another area where the EC considered important in the Review was the terms and definitions under the Agreement. Members should be informed of recent developments in the ISO/IEC on the elaboration of standards related to terms and definitions in the Agreement. He noted that Annex 1 of the Agreement, in its present state, referred to ISO/IEC Guide 2/1991 which had been superseded by ISO/OIEC Guide 2:1996. The ISO had been working on a new international standard on terms and definitions for conformity assessment (future ISO 17000). He proposed to hold discussions on this, and to invite ISO/IEC for an update.

124. The status of the Committee's recommendations and decisions (as contained in document G/TBT/1) was another issue that the EC wished to discuss. His delegation considered them a useful guidance on rules of procedure, the interpretation, implementation and administration of the Agreement, and the settlement of disputes. However, he was concerned that in a recent dispute settlement case, these recommendations and decisions had been largely ignored by the panel, and believed that they did not carry much weight. The Committee should examine the value of its recommendations and decisions. He noted that Article 15.4 provided the Committee with the possibility to submit proposals for amendments to the text of the Agreement, and that Article IX of the Marrakech Agreement allowed the General Council to seek an authoritative interpretation of its provisions. He recognized that it would take time to thoroughly discuss the above issues, and invited the Committee to develop a road map on how to address them.

125. The representative of Korea drew attention to document G/TBT/W/199, which contained information on Korea's experience with the implementation of the Agreement. His delegation was committed to further contributions in the Third Triennial Review process. On conformity assessment procedures, Korea's priority was to promote bilateral mutual recognition agreements (as identified by his delegation in its response to the survey questionnaire). He noted that Article 6.3 of the Agreement encouraged Members to negotiate, at the request of other Members, agreement for the mutual recognition of results of each other's conformity assessment procedures. He believed that this could

be an area to move forward in terms of technical cooperation to obtain mutual benefits. He invited the Committee to develop ideas and to explore projects amongst developed and developing country Members. In this regard, he believed the Japanese paper (G/TBT/W/194) had provided insight for further discussions on MRAs.

126. The representative of the People's Republic of China drew attention to a non-paper on transparency prepared by her authorities as a contribution to the Third Triennial Review, which contained an analysis of the TBT notifications made during the year 2002. She outlined the following statistics for that year: (i) 50 Members (34 per cent of the WTO membership) submitted notifications on drafted technical regulations or conformity assessment procedures. Two-thirds of the membership (mostly developing country Members) did not notify; (ii) a total of 577 notifications were made, of which 288 had indicated less than 60 days for comments (49.9 per cent of the total made by both developed and developing country Members), thus, she found this a common problem; (iii) 15 urgent notifications were made by 8 Members (2.6 per cent of the total); and (iv) according to the Doha Ministerial Declaration, there should be no less than six months between the publication of technical regulations and their entry into force. However, in 2002, only 35 notifications had fulfilled this requirement (6.1 per cent of the total), while 298 notifications (51.6 per cent) had not provided the six month period, and 242 had no indication or stated "non-applicable". She considered this a common problem for both developed and developing country Members. She believed that technical regulations, conformity assessment procedures as well as other technical requirements were generating an important impact on trade, and that the issue of notifications should be further discussed by the Committee. Good practices with regard to the transparency provisions (e.g. publications, notifications, commenting, enquiring and replying) could assist Members to effectively carry out technical coordination and to improve trade facilitation. China intended to further contribute on this.

127. The Chairperson noted that the above submissions had provided information on national experiences as well as put forward proposals which could contribute to the further work of the Committee in the context of the Third Triennial Review.

128. The representative of Mexico welcomed the submissions, and believed that they contained certain elements which his delegation wished to address. He believed the proposals were of a different degree of importance and could have different possibilities of achieving results. He invited the Committee to continue its discussions on the Mexican proposal on technical assistance as well as to find mechanisms to assess the results of technical assistance (e.g. in terms of guidelines or good practices). He appreciated the contribution from Chinese Taipei, which provided information on SDoC, and believed that the experience shared could assist the Committee to better understand the conditions of using this approach. He supported the idea of holding a workshop on SDoC, and believed that it was a mechanism which could speed up trade transactions. However, the constraints of developing countries in using SDoC should be taken into account (e.g. regarding the kind of products and conditions needed). The Committee could reflect on how to strengthen the relevant institutions in developing country Members so that this approach could be appropriately adopted.

129. He found the Japanese paper contained important elements on MRAs. He was of the view that not all MRAs were effective, and that certain MRAs between governments had not achieved the expected results. Ways should be sought to contribute to the conclusion of appropriate MRAs. He shared other Members' concerns on the implementation of the transparency provisions of the Agreement and favoured discussions on this in the Triennial Review. He highlighted two elements: (i) the notifications on laws and parliamentary decisions which came under the Agreement. However, notification procedures were not often followed through. He believed that Members should consider mechanisms to fulfill their transparency obligations; and (ii) the transparency obligations by local government authorities. He echoed with the EC that further discussions on this were required. He also supported the discussion on terms and definitions under the Agreement as well as the status of the decisions and recommendations of the Committee. He suggested to deal with the issue of labelling

from the perspective of regulatory practices, since labelling requirements were technical regulations in the context of the Agreement.

130. The representative of Switzerland welcomed the contributions from other Members and found that they contained important ideas for the Review. She shared the views of the EC, in particular on technical assistance, conformity assessment, transparency and labelling. She proposed to establish a work programme to deal with these issues in the next three years. She recalled that the issue of labelling had been briefly addressed in the Second Triennial Review, and believed that, for this coming Review, a more focused discussion should be held. Labelling requirements should be in conformity with the rules of the Agreement and should not be disguised restrictions to trade.

131. The representative of Brazil thanked the delegations which had made contributions to the Third Triennial Review, and informed the Committee that his delegation would present comments on them. He noted a number of converging issues under discussions which were related to the implementation of the Agreement (e.g. conformity assessment procedures, technical cooperation, transparency and notification procedures). Brazil was consulting relevant national authorities and the private sector with a view to submit a paper for the Review in due course.

132. The representative of Malaysia thanked the Members who had submitted papers, and believed that the Third Triennial Review would provide an opportunity for the Committee to examine the implementation and operation of the Agreement, as well as to building upon the work which had been accomplished in the Second Review. She found that the compilation of responses on technical assistance had provided a wealth of information which could serve as a useful basis for the Third Triennial Review. The responses had pointed out a number of difficulties experienced by developing country Members in the implementation and administration of the Agreement (e.g. the lack of resources or institutional capacity). The Committee would need to consider solutions, so that Members could fulfil their obligations under Article 15.2. She supported to consider the issue of conformity assessment in the Review, and recalled the difficulties expressed by developing countries in this area (e.g. the cost involved and the lack of infrastructure). The Committee should explore the practical issues (e.g. on supplier's declaration, MRAs, equivalence and accreditation) in addition to, as suggested by the EC, updating the indicative list of approaches. She noted the interest of Japan, Chinese Taipei and Canada on these issues, and hoped to see progress in some of them at a later stage.

133. On transparency, she welcomed the proposals of the EC, the People's Republic of China and Mexico. She believed there were ways to promote the distribution of comments and replies, as well as greater transparency on draft technical regulations and conformity assessment procedures. The concerns which had been raised on replies to comments on draft regulations should be discussed, including the point on the follow-up of cases presented at Committee meetings. Explanations should be shared in the Committee rather than just bilaterally. On labelling, she echoed the view expressed by Mexico that provisions of the Agreement were adequate to address issues related to technical regulations, including labelling. Therefore, discussions on labelling should be done in the context of technical regulations and good regulatory practices.

134. The representative of Egypt thanked Members for their submissions, and recalled that Article 15.4 provided the opportunity to review the operation and implementation of the Agreement, including the provisions on transparency, with a view to adjust, where necessary, the rights and obligations of the Agreement, as well as to ensure mutual economic advantage and balance of rights and obligations. The Committee could, where appropriate, and without prejudice to the provisions of Article 12, submit proposals to the Council for Trade in Goods for amendments to the text of the Agreement. He agreed that the Third Triennial Review should build on the work undertaken during the Second Review, and should aim at examining the implementation of the Agreement with a view to reducing administrative burden, especially for developing country Members. He believed that the provisions related to the rights and obligations of developing country Members needed to be reviewed to ensure that they were effective, responsive and operational. On GRP, he agreed with Canada that it

was a means to reduce or eliminate trade barriers. He looked forward to the Canadian paper and the discussions on GRP. However, he believed special attention should be given to the difficulties faced by developing countries in adopting GRP. These could be noted in the responses to the questionnaire on technical assistance. He invited Members to take into account in their contributions, the difficulties of and the special treatment for developing country Members, and believed that could contribute to enhancing the operation and implementation of Articles 11 and 12. The discussions on technical assistance should go further with a view to finding appropriate mechanisms to enhance the provision of technical assistance to developing countries.

135. He agreed to hold an in-depth discussion on SDoC, and believed that it should be concluded before Cancun, as it was one of the TBT outstanding implementation issues. He welcomed the submission from Chinese Taipei, and encouraged Members to exchange views on the various elements of this approach. On labelling, he raised concerns and sought clarification on the linkage, as suggested in the Canadian paper, between the work undertaken within the Committee and that of the Committee on Trade and Environment (CTE). He emphasized that labelling should be approached as a technical regulation that should facilitate trade, and not as an obstacle to it. He noted that the Canadian submission contained a reference to labelling and social issues. He recalled that at Doha, Ministers had reaffirmed that social issues, child labour and core labour standards were within the mandate of the International Labour Organization, and, therefore, expressed that the WTO should not deal with such issues. The Committee should also consider ways and means to enhance transparency, in particular, on the implementation of the provisions related to developing countries' rights. He echoed the views of the People's Republic of China, Mexico, Brazil and Malaysia on transparency and notification procedures.

136. The representative of the United States thanked the delegations that had made contributions to the Third Triennial Review. She informed the Committee that her authorities, in addition to the normal inter-agency coordinating mechanism with the private sector advisory group, had solicited a consultation through the official Gazette (the Federal Registrar), and were in the process of analysing the input received. This process would be enriched with the papers which had been submitted. She hoped that a substantive contribution would be put forward at the next meeting. She noted that there were a number of priorities among Members for the Review. On technical assistance, she believed that a way could be found to better coordinate the Secretariat's work with the needs identified in the Committee. She supported the discussion on GRP which would include the elements of labelling and transparency. She believed that the Agreement, as it stood, compassed a good balance of rights and obligations, and, in light of the current experience, did not require any amendment. However, there was a need to promote the awareness and emphasize the compliance with the existing obligations.

137. The representative of Chile thanked delegations for their submissions. She highlighted a number of issues that could be included in the Triennial Review (e.g. conformity assessment procedures, GRP and technical assistance). She welcomed the papers submitted by Chinese Taipei and Japan on SDoC and on MRAs respectively, and invited Members to share experiences in the various approaches for the acceptance of conformity assessment results in order to facilitate discussions. She believed GRP was the key element to eliminate unnecessary trade barriers, and should be included in the Review. This could be achieved when technical regulations and conformity assessment procedures were prepared and applied according to principles of the Agreement (e.g. transparency, the use of international standards and the adoption of the least trade restrictive measures). She shared the view of Mexico and Malaysia that labelling requirements were technical regulations, and GRP should be applied. She noted that the EC paper had identified a number of elements on labelling to be taken into account (e.g. transparency and consumer's interests). However, she believed the most important element to be considered was to ensure that labelling schemes did not constitute unnecessary barriers to trade. On the status of the decisions and recommendations of the Committee (as proposed by the EC), she believed that this was a cross-cutting issue that affected not only the TBT Committee, but also decisions taken in other Committees. Therefore, the TBT Committee was not the proper place to deal with it.

138. The representative of Australia thanked Members for their papers. She noted that there was a considerable convergence around the need to explore the issues of transparency, technical assistance and conformity assessment. On transparency, she shared the EC's view on a wider distribution of comments and replies on draft technical regulations, and intended to introduce observations on this. Australia was interested in further exploring the issues of equivalence and supplier's declarations. She found the Chinese Taipei submission on SDoC helpful. It complemented the Canadian contribution on that issue. She supported the view not to amend the Agreement, but to encourage its compliance.

139. The representative of India welcomed the submissions. He believed that the mandate of Article 15.4 was to examine the implementation of the existing Agreement as well as the relevant problems faced by Members. The responses to the questionnaire on technical assistance and the Workshop had provided a good panorama on the problems faced by Members during the course of implementation. He encouraged further discussions and experience sharing on these. He did not find the need to clarify the scope or the interpretation of the Agreement. He echoed the view that labelling was already included in the Agreement. The Triennial Review should allow Members to share their experience on labelling, and there was no need to link the Committee's work to that of the CTE.

140. The representative of Canada found the EC paper constructive. It contained issues which his delegation considered important. He noted that suggestions to improve the notification procedures had arisen from the discussion on transparency. He believed that the papers from the EC, Japan and Korea on MRAs contained elements that should be considered during the Review (e.g. the problems faced in the implementation of government-to-government MRAs and the complexity of the different approaches on the acceptance of conformity assessment results). He agreed that the implementation of MRAs was complex, and that it was important to consider whether such a mechanism was appropriate or whether there existed other mechanisms to accomplish the same goals. He welcomed the Chinese Taipei's paper on SDoC which reflected Canada's view that SDoC could be a useful instrument. However, its effectiveness and appropriateness depended on the specific circumstances (i.e. the sector and the regulatory/technical environment involved). He suggested to have further discussions on this issue. He echoed the concerns expressed by other Members on the decisions and recommendations of the Committee as raised in the EC paper, and believed that the Committee should focus on the compliance of the Agreement rather than the expansion of its scope.

141. The representative of the ISO in response to the questions raised by the EC on the ongoing work of the ISO and IEC on terminology and on conformity assessment, drew attention to documents G/TBT/W/72/Rev.4 and G/TBT/W/73/Add.1 which provided an update on a list of relevant international standards and guides related to conformity assessment procedures as well as on the work of the ISO/CASCO. He informed the Committee that ISO 17000 was expected to be issued as a draft international standard in the near future. Once it was adopted, a revision of Guide 2 would take place.

142. The Chairperson noted the convergence of views on certain issues. She realized that there would be opportunities for further discussions on these and on other issues. It was too early to summarize the elements to be included in the Third Triennial Review. She identified a number of issues which had been frequently raised by Members (e.g. conformity assessment procedures, MRAs, accreditation, SDoC, GRP, transparency and notification procedures, technical assistance and special and differential treatment, developing countries' concerns, labelling, participation in the process of international standardization, measurement as well as terms and definitions under the Agreement). She invited further input from Members.

143. The Committee took note of the statements made.

VIII. UPDATING BY OBSERVERS

144. The representative of ALADI recalled that under the 1980 Montevideo Treaty, the ALADI member States had signed a Framework Agreement (FA) for trade promotion through the

elimination of technical barriers to trade. This FA became a regional agreement in August 2001. Its purpose was to avoid unnecessary barriers in inter-regional trade when preparing, adopting and applying technical regulations, standards and conformity assessment procedures. Accordingly, the FA signatories in their regulatory activities should consider not only the work that had been done in the region, but also the existing international standards. As a means to contributing to increase trade relations in the region, particular attention should also be given to the avoidance of unnecessary obstacles to trade. With regard to conformity assessment procedures, the FA signatories should promote and strengthen such systems through mutual recognition and should use the relevant international standards, guides and recommendations. Chapter 6 of the FA referred to technical assistance(TA), and was intended to ensure that its signatories could reach the conditions in order to comply with and benefit from its provisions. TA was provided among signatories according to agreed modalities and conditions, in certain cases, in cooperation with international and regional bodies. Special consideration was given to the least developed countries in the region to assist the expansion and diversification of their exports. With a view to enhance transparency and harmonization, an integrate information system on proposed technical regulations, standards and conformity assessment procedures was developed (with the contributions from FA signatories, the ALADI Secretariat, the Pan American Commission for Technical Standards (COPAN) and other regional entities). The system could be used to exchange comments on drafts and to respond to requests.

145. The ALADI Secretariat, as part of its programme, had undertaken actions to assist FA signatories to implement their commitments. A document on the structure of conformity assessment systems in the region had been prepared, which called for the horizontal cooperation among ALADI member States. Another current activity was to identify the technical regulations, standards and conformity assessment procedures applied by its member States with the objectives to provide information to stakeholders on possible technical trade barriers and to facilitate market access in the region. This initiative would require the input from the respective bodies in member States. The Administrative Commission of the FA was in charge of the programming of regional actions, coordinating technical assistance, disseminating information, promoting joint positions in international fora. The Secretariat of ALADI (also acted as Secretariat of the Commission) had submitted a proposal to improve the functioning of the organization (e.g. on participation, observers and coordination with other relevant bodies to avoid duplication of work).

146. The Committee took note of the statement.

IX. ELECTION OF OFFICER

147. Pursuant to Article 13.1 of the TBT Agreement, the Committee elected Mr. Juan Antonio Dorantes Sánchez as the Chairperson of the Committee for the year 2003-2004.

148. The Chairperson thanked Members for his election, and referred to the Third Triennial Review as an important task in front of the Committee. He informed delegations that the next Committee meeting would be held on 1-2 July 2003.

ANNEX A
SPECIAL WORKSHOP ON TBT-RELATED TECHNICAL ASSISTANCE
SUMMARY REPORT OF THE CHAIRPERSON

Emily Earl (New Zealand)

1. Following the Special Workshop, the moderators, under their own responsibilities, have summed up the presentations and discussions of the five sessions (see Annexes). I would briefly summarize my view on some of the main points emerging from the discussion at the Workshop based on the moderators' reports.
2. The first three sessions of the Workshop provided a valuable opportunity for exchange of information and ideas on the specific technical assistance needs identified and prioritized by developing countries, as well as the existing technical assistance activities, and the types and roles of technical assistance stakeholders. This provided a valuable background for the participants to move forward to the discussions under sessions four and five to focus on seeking solutions. Suggestions were made on future strategies to improve the delivery of TBT technical assistance, and participants were invited to reflect on the appropriate role of the Committee with respect to the issues raised, in light of its mandate from the Second Triennial Review as well as in the context of the Third Triennial Review.
3. The responses from developing country Members to the questionnaire on needs identification and prioritization provided a good base for the discussions of the Workshop. The discussions helped to further identify the trends and commonalties in needs identified by Members, while recognizing that particular solutions would be very much country-specific, as there were large differences among developing country Members in their respective capacities and circumstances. The exchange of national experiences was identified as a useful way of acquiring knowledge from more experienced Members.
4. During the Workshop, a strong emphasis was placed on the importance of raising the awareness and the political profile of TBT issues for the implementation of the Agreement and the resulting-benefits, as well as for the request and provision of TBT-related technical assistance.
5. The need for co-ordination at the national, regional and multilateral levels, as well as among different donors and between donors and recipients was also highlighted. This need arose in part due to the complexity of the Agreement itself, but also to the large number of players involved in the implementation of the Agreement and its related technical assistance. For the effective coordination between donors and recipients as well as among donors, the importance of *transparency* in technical assistance delivery and demand was underlined. A number of suggestions in this regard were made, although difficulties in desegregating donor data to an appropriate level in some instances were noted.
6. The designing of technical assistance programmes could benefit from the proper identification of needs undertaken in consultation, preferably with all relevant stakeholders. A structured/sequenced approach to implementing them could also incorporate elements of raising awareness, improved coordination, better transparency and flow of information, as well as consideration of differing priorities among developing countries. In this context, it was noted that a one-size-fits-all approach might not necessarily work, although certain common elements of effective assistance could be identified.
7. It was noted that ensuring the sustainability of technical assistance and its results was a key element in technical assistance activities. It was recognized that further reflections on this would be useful. Obtaining feedback on, and assessment of, technical assistance so as to allow continual improvement and adjustments to meet the outstanding needs and priorities could be one important element in this regard.

Annex 1

SESSION ONE

RESPONSES TO THE "SURVEY TO ASSIST DEVELOPING COUNTRY MEMBERS TO IDENTIFY AND PRIORITIZE THEIR NEEDS IN THE TBT FIELD"

Moderator: Tobias Nussbaum (Canada)

1. This Session dealt with the specific problems identified and prioritized in the responses to the survey by developing countries (JOB(02)/99 and Add.1-52) concerning the implementation of and the benefiting from the TBT Agreement. It consisted of four presentations describing national experiences with challenges in implementing the TBT Agreement, a summary by the Secretariat of its analysis of the survey results, and discussion among participants. Although the presentations were only an indication of the larger sample received through the survey results, many of the same issues were raised, and there was considerable breadth in the types of problems identified. It was noted that despite the fact that many of the needs identified were similar, their particular solutions would be very much country-specific, as there were large differences among developing countries in their respective capacities and circumstances.
2. In identifying needs and priorities, there was a strong emphasis placed during the session on the importance of awareness raising, both with regard to the obligations in the TBT Agreement, and more broadly, the use and benefit of the Agreement, with domestic interests. It was noted that efforts to increase awareness for the TBT agreement could usefully be focussed on all parts of government as well as industry, decision-makers with responsibility for national budgets, and the public at large. Some participants emphasized that in some cases priority was not given to TBT issues at government level. It was highlighted that top policy makers should be made convinced of the role and importance of the TBT Agreement, so that resources could be better allocated. The lack of awareness among the different stakeholders hindered the capacity to provide meaningful comments to technical regulations, standards and conformity assessment of other countries, due to little feedback coming from the local industry. The lack of awareness of the importance in participating in standards-setting activities was also an element of concern to some participants.
3. It was recognized that the implementation of the TBT Agreement involved many different institutions and competencies, both at public and private level. The need for better coherence within the domestic context was also stressed by a number of participants. In particular, ensuring better coordination and communication among all relevant governmental ministries and agencies with a role to play in implementation of the TBT Agreement was seen as critical. Developed countries, too, acknowledged that coherence within government was a major challenge of implementation.
4. It was noted that in some cases there was a need to adopt or enforce legal infrastructure to ensure the implementation of the Agreement, as well as the need to create a mechanism for the preparation of technical regulations and standards. The implementation of the transparency provisions of the TBT Agreement (to fulfil notification obligations, disseminate information) was also seen as one of the key needs by a number of participants.
5. Capacity building and better infrastructure was another theme frequently raised in the session. Points mentioned were the need for assistance in the establishment/upgrading of national enquiry points, of national standards bodies, as well as in the setting up or upgrading of facilities for conformity assessment (laboratories, testing facilities, trained auditors, metrology services). The need to assist in identifying the basic infrastructure needed by developing countries, in particular small economies, was also highlighted. It was noted that the needs are often significant and reflect the complex reach of the TBT agreement into a wide range of government activity.

6. Due to different situations and interests in countries within the same region, regional coordination was identified as difficult. The lack of both financial and human resources to participate in TBT Committee sessions, and other meetings of other relevant international organizations was seen as a critical problem for developing countries.

7. The difficulty in complying with other Members' technical regulations or conformity assessment procedures, due to their complexity and sometimes to language problems, was also seen as an area of concern to developing countries, as well as the difficulty in establishing a national quality strategy.

8. Some contributions from the floor proposed ideas for addressing problems identified, such as the creation of an expert group to bring the responses to the questionnaire under one "roof" to enable a proper understanding and to facilitate the implementation of the Agreement, as well as structures to increase coherence among donors. These proposals were taken up in the fourth session on future strategies. It was considered that technical assistance was as a "win-win" activity, beneficial to both recipient countries and donors.

9. Participants welcomed the Secretariat's analysis of the survey results, which was seen as a most useful document to carry forward the discussion of TBT-related technical assistance. The seven areas of needs identified in the Secretariat's background paper (to improve knowledge of the TBT Agreement, to disseminate and raise awareness; for the effective implementation of the Agreement; exchange of experiences among Members as well as bilateral contact and cooperation; national and regional co-ordination strategy; infrastructure and capacity building; participation in the work of the TBT Committee and of other organizations; market access and others) reflected the interests and priorities identified during the session.

Annex 2

SESSION TWO

EXISTING TECHNICAL ASSISTANCE ACTIVITIES

Moderator: Juan Antonio Dorantes (Mexico)

1. This session dealt with the lessons learned by developing country Members from existing technical assistance activities. The goal of this session was to identify areas where there was room for improvement. Four presentations were delivered describing national experiences of technical assistance activities received. Two principal areas of concern were identified, relating to (i) transparency of technical assistance activities, and (ii) technical assistance follow-up.
2. On the first issue, participants highlighted the need for increased transparency both in the supply and in the operation of technical assistance activities. It was stressed that the different levels at which TBT-related technical assistance was provided - bilateral, regional, and multilateral - led to considerable coordination problems among donors. Nevertheless, donors were encouraged to increase their cooperation efforts in order to avoid duplication and make the most efficient use of technical assistance resources. In order to identify relevant providers of technical assistance and to enhance coordination, it was suggested to improve the exchange of information on national experiences among Members and to find additional ways of bringing together suppliers and seekers of technical assistance. In this context, the particularly valuable experience of donors that had previously been recipients of technical assistance was emphasized.
3. As to the operation of technical assistance activities, increased transparency was deemed particularly important in the process of determining needs and priorities of developing country Members. It was stressed that technical assistance did not always address key areas of interest to developing countries. Moreover, needs identification for technical assistance was seen as an evolving process that required regular updating. As a general guideline, it was indicated that technical assistance activities should follow a step-by-step approach, focusing first on the provision of knowledge and skills, and, in a second step, on the development of TBT-related infrastructure. Often, despite progress in the first area, technical assistance was not forthcoming for the second step and generally remained insufficient. In each technical assistance activity, the selection and preparation of participants were considered critical to ensure proper application and dissemination of the knowledge gained. Furthermore, it was pointed out that regulators and the private sector should be direct recipients of training activities.
4. Finally, it was emphasized that follow-up was essential to evaluate the overall performance of technical assistance activities. Three main points were raised. First, technical assistance activities had to be organized so as to allow for increased permeability and a wider spread of the acquired knowledge, including through the use of modern information technologies. Second, continuity and sustainability should be the leitmotiv of all technical assistance activities. It was stressed that longer technical assistance programmes were more beneficial to developing countries and created longer term effects. Finally, participants noted the lack of monitoring of technical assistance activities and the need to establish a set of criteria against which to measure the effectiveness of the technical assistance provided.
5. In conclusion, it was recalled that the objectives of TBT-related technical assistance were both to enable developing country Members to participate more effectively in, and benefit from, the multilateral trading system and to allow Members to fully implement their obligations and use their rights under the TBT Agreement.

Annex 3

SESSION THREE

PROVISION OF TECHNICAL ASSISTANCE AND CAPACITY BUILDING

Moderator: Mr. Joshua Phoho Setipa (Lesotho)

1. This Session dealt with the provision of technical assistance and capacity building focusing in particular on the following elements: (i) types and roles of technical assistance providers; (ii) types of technical assistance recipients (iii) roles of government and the private sector; and (iv) providers' and recipients' coordination and cooperation in the provision and utilization of technical assistance.
2. As regards the types and roles of technical assistance providers, reference was made to ongoing programmes and the need to streamline these to reflect the needs identified by recipients in order to make technical assistance efficient and effective. Observer organizations also highlighted their programmes related to technical assistance. Attention was also drawn to the issue of transparency and enhanced awareness in the work of these organizations.
3. Attention was also drawn to the fact that TBT matters are often included in other programmes that deal with trade-related issues in general. In this regard, the importance of raising awareness and coordinating these activities among donors was emphasized for the coherence and effectiveness of their technical assistance programmes. The importance of having an integrated approach was also mentioned as a key element.
4. Recipients, for their part, recalled the various types of assistance received under bilateral, regional and multilateral initiatives. The need to enhance information regarding all the possible areas of assistance was mentioned, i.e. to create a data-base on the ongoing technical assistance. A cross-cutting issue that was highlighted as of critical importance to the effectiveness of the technical assistance programmes offered by providers was the need to ensure that it reflects the trade policy priorities of the recipients, i.e. market access issues.
5. It was pointed out that it was important to ensure that technical assistance targets the right stakeholders including SMEs and civil society.
6. In order to obtain providers' and recipients' coordination and cooperation, the TBT Committee was mentioned as a forum that could provide an opportunity to coordinate and articulate technical assistance. The current technical assistance programme in the TBT Committee was also considered as having the potential to enhance transparency in the various activities currently undertaken by providers and also in the technical assistance needs of developing country Members.
7. The main elements that were highlighted by the majority of participants included the need to ensure transparency, awareness, consistency with national requirements and needs, and the overall link between work being undertaken in the TBT field and current trade policy priorities.

Annex 4

SESSION FOUR

FUTURE STRATEGIES

Moderator: Ms. Yap Lai Peng (Malaysia)

1. The Fourth Session of the workshop focused on “Future Strategies” for technical assistance. Issues raised in the first three sessions with regard to the responses to the questionnaire survey on technical assistance needs, the problems faced in implementing the TBT Agreement and the lessons learned from existing technical assistance activities, provided the backdrop for participants to provide suggestions and ideas to improve the delivery of TBT technical assistance.
2. First and foremost, the need for a *structured approach* to the implementation of technical assistance was underlined. Technical assistance could benefit from proper identification of needs undertaken in consultation, preferably with all relevant stakeholders. A structured approach would also incorporate elements of raising awareness, improved coordination, better transparency and flow of information, as well as consideration of differing priorities among developing countries. In this context, it was noted that a one-size-fits-all approach might not necessarily work.
3. *Awareness* of the importance of technical barriers to trade and of the TBT Agreement should be promoted at both national and international levels. Involvement of higher level policy-makers was deemed important for a proper formulation of effective technical assistance plans. Providers would be able to respond better if a country had a properly formulated plan with identifiable needs and priorities. At the international level, an increased awareness of donor governments and organizations could lead to enhanced funding for TBT-related technical assistance activities.
4. *Implementation* of the TBT Agreement was seen as an essential goal of technical assistance. Exchange of experiences between Members was encouraged, through a new form of training, which would allow Members to learn from the more experienced ones.
5. To improve *transparency* and ensure targeted technical assistance delivery, a database containing technical assistance needs, availability as well as funding information could be set up to better match technical assistance demand and supply. Other proposals for enhanced transparency included a system of notifications by both the provider and the recipient. Further, it was recognized that coordination at the national, regional and multilateral levels was necessary to avoid duplication and delivery gaps and to ensure that technical assistance was delivered effectively.
6. It was finally noted that *sustainability* of technical assistance was key. However, while technical assistance programmes should not be one-off events, they should neither extend in perpetuity. To ensure sustainability, the government’s responsibility to provide continuity and maintain adequate human resources and effective institutions was highlighted. In addition, it was found that the monitoring of technical assistance programmes would prove beneficial to ensure long-lasting effects.

Annex 5

SESSION FIVE

CONCLUSION AND NEXT STEPS

Moderator: Emily Earl (Chairperson)

1. This session attempted to draw together some of the issues expressed during the course of the day and to consider some questions relating to the appropriate role of the Committee on technical assistance in light of its mandate from the Second Triennial Review to develop a demand-driven technical assistance programme.

2. A number of common themes from the discussions throughout the day were identified as important in considering how the Committee could assist developing country Members to implement the provisions of the TBT Agreement as well as assist Members to implement the provisions relating to technical assistance (e.g. Article 11). The non-exhaustive list which did not intend to capture the full range of the discussion, highlighted the importance of the following:

- raising the awareness and the political profile of the Agreement;
- specificity in needs identification and prioritisation, e.g. through the use of strategic planning or structured and sequenced approaches;
- ensuring the mutual benefits of both recipients and donors in technical assistance activities;
- improving co-ordination at the national, regional and multilateral levels, as well as among different donors and between donors and recipients etc. This need arose in part due to the complexity of the Agreement itself, but also to the large number of players involved in the implementation of the Agreement and its related technical assistance;
- ensuring the sustainability of technical assistance, both with respect to ongoing activities and their results;
- obtaining feedback on, and assessment of, technical assistance so as to allow continual improvement and adjustments to meet the outstanding needs and priorities.

3. A number of questions could be posed in front of the TBT Committee to facilitate its consideration of its appropriate role in technical assistance, particularly, in the context of the Third Triennial Review, given that the Committee could not be a technical assistance provider directly. These questions could also assist it to consider some of the proposals made under Session Four of the Workshop. The non-exhaustive list of questions concerning the role of the Committee, if any, included:

- the role of the Committee with respect to the ongoing identification by developing countries of their TBT-related needs and priorities;
- the role of the Committee to facilitate the exchange of national experiences;
- the role of the Committee to assist donors and recipients in developing effective, efficient and sustainable technical assistance programmes;
- the role of the Committee to raise the profile of TBT issues in the WTO and at the national level;
- the role of the Committee to contribute to enhanced cooperation and co-ordination between those involved in technical assistance;
- the role of the Committee in assisting recipients and donors in identifying each other as prospective partners;
- the role of the Committee with respect to coordination with other organisations; and
- the role of the Committee in providing a forum for feedback and assessment of technical assistance so as to contribute to improvements in this field.

4. It was noted, with respect to considering the role of the TBT Committee, that it was important to keep in mind the on-going work of other organisations, so as to avoid duplication and to improve co-ordination. Caution was also expressed about the limited resources of the Committee when considering its role in co-ordination, and a pragmatic approach should be followed.
