
Committee on Technical Barriers to Trade

MINUTES OF THE MEETING HELD ON 17 OCTOBER 2002

Chairperson: Ms. Emily Earl (New Zealand)

1. The Committee on Technical Barriers to Trade held its twenty-ninth meeting on 17 October 2002.
2. The following agenda, contained in WTO/AIR/1914, was adopted:
 - I. **REQUESTS FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV), THE BUREAU INTERNATIONAL DES POIDS ET MESURES (BIPM), THE GULF ORGANIZATION FOR INDUSTRIAL CONSULTING (GOIC) AND THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)..... 2**
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I. REQUESTS FOR OBSERVER STATUS IN THE COMMITTEE BY THE OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV), THE BUREAU INTERNATIONAL DES POIDS ET MESURES (BIPM), THE GULF ORGANIZATION FOR INDUSTRIAL CONSULTING (GOIC) AND THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

3. The Chairperson drew attention to document G/TBT/W/177, a request by the CBD. She understood that further consultations among Members on the issue of observer status in the context of the General Council were still needed, and proposed to come back to the requests at the next meeting.

4. The representative of the European Communities (EC) said that without prejudice to the general WTO rules and practices on observership, the EC was in favour of a positive decision regarding the observer status of the CBD in the Committee. He regarded it as a step to enhance the mutual supportiveness of trade and environment. He informed the Committee that further information on the EC position was contained in TN/TE/W/15.

5. The representative of Norway supported granting observer status to the CBD, at least on an ad hoc basis.

6. The representative of Australia was supportive about the observership of the CBD.

7. The Committee took note of the statements made.

II. STATEMENTS ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

8. The representative of the United States (US) recalled that there had been an extensive discussion on the EC wine labelling Regulation (EC Regulation 753/2002) at the last meeting, with a number of delegations raising concerns about its potential trade effects. Contrary to the requirement of the Agreement that "notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account", the EC notified the Regulation only after it had been adopted. Subsequent to the notification, the US had provided comments expressing concerns about the Regulation. Only the previous day, the EC had agreed to discuss the Regulation with her delegation and provided responses to some of the comments made. However, the discussion had confirmed her fears and a number of outstanding issues and questions still remained. Her immediate concern was that the US suppliers, on this day, were expected to comply with the Regulation as of 1 January 2003. Given the procedural failure of the EC to notify the regulation at an appropriate time and the outstanding substantive concerns, she requested the EC to delay the implementation of the Regulation or to withdraw it, and asked for an indication from the EC at this meeting.

9. The representative of Mexico shared the US concerns, and recalled that Mexico had made comments on the Regulation and participated in the discussion that had taken place the day before. He regretted that despite the concerns raised on the inconsistencies with the Agreement of certain provisions of the Regulation, the EC still intended to put it into force on 1 January 2003. He welcomed the extension of the comment period on the Regulation. However, he questioned the EC's intention to consider the comments made by other Members. He believed that the notification should have been made, as set out in Article 2.9.2 of the Agreement, "at an early appropriate stage". The Regulation, because of its technical characteristics, had an important impact on developing country exporters. He requested that, should the EC decide to put it into force on 1 January 2003, technical assistance should be provided to exporters in developing countries, in such a manner that they could comply with its requirements.

10. The representative of New Zealand recalled that her delegation had commented in detail on the EC wine Regulation 753/2002 (notified on 10 June 2002 in G/TBT/N/EEC/15) at the June Committee meeting. The EC had not responded substantively on that occasion to the questions raised, but had invited other Members to submit written comments before 9 August 2002. That final date for comments had subsequently been extended twice, to 24 August and then to 30 September 2002. Her authorities had submitted written comments on 23 August, and had requested, as a matter of urgency, an opportunity for consultations. Concerns on the potential trade impact of EC wine labelling regulations had first been raised in the Committee in 1998, and on this specific Regulation in 2001. At the March 2002 meeting, the EC had confirmed awareness of its transparency obligations under the Agreement. She regretted that this had not seemed to be the case by the subsequent actions of the EC. The Regulation was only notified more than a month after it had been adopted and published. Her delegation had since been disappointed at the difficulty in seeking substantive responses from the EC, and was now faced with a regulation scheduled for implementation on 1 January 2003 (just over two months from now). However, the EC had still not responded to New Zealand's written comments. Exporters in her country, who had completed the 2002 harvest were faced with uncertainty with the market requirements.

11. She appreciated the technical discussions to clarify certain aspects of the Regulation in recent weeks and the substantive exchange the day before with EC experts. Her delegation was assessing the information that had emerged from the discussions. However, the core concern about the potential trade impacts and the systemic issues associated with the approach of the Regulation remained. She believed that it would be difficult to make judgments before an official written response to the points raised was provided, including on how the Regulation measured up against EC's TBT obligations. She was disappointed that nearly two months after the submission of written comments to the EC, no written response had been received. She questioned when and if the response would be available. In her view, the EC's slowness to address the concerns raised was beginning to stretch the boundaries of good faith. She again urged the EC to withdraw the Regulation or to defer its implementation until such time when the concerns were satisfactorily resolved.

12. The representative of Argentina shared the concerns of the previous speakers. His delegation had submitted comments on the Regulation to the EC enquiry point, and no written response had yet been received. For that, it was difficult to understand the objective of the Regulation, and it increased his delegation's belief that the Regulation was not in consistence with the Agreement. He appreciated the opportunity to discuss the matter with the EC the previous day. However, after that meeting, he was even more concerned, because he had not been able to obtain the justification of the Regulation. He requested the EC for an immediate written response, and believed that the lack of such a response was in itself a sufficient reason to defer the implementation of the Regulation.

13. The representative of Paraguay supported the statements made by the US, Mexico, New Zealand and Argentina regarding the EC Regulation. He expressed concerns about the deficiencies of the Regulation and the EC's procedural errors. He feared that a precedent of this type would be established, given the implication and the costs that would be imposed on exports in different countries. His delegation had taken part in the meeting held the day before. He was concerned about the constraints in being able to speak in his native language during the consultations with the EC. He urged the EC to reconsider the positions put forward by different Members in relation to the Regulation.

14. The representative of Canada associated himself with the comments made by the previous Members. Canada had provided comments on the EC's notified Regulation on wine labelling to the EC's enquiry point in August 2002, and believed that it was important to receive a written response. He hoped that the plurilateral meeting with the EU the day before was the first step towards further information. However, time was running out, given that the regulation was scheduled to come into force on 1 January 2003. He requested further consultations with the EC in the very near future to

address the concerns raised. He urged the EC to reconsider withdrawing the Regulation or at least delaying its implementation.

15. The representative of Australia reiterated his delegation's concerns about the EC wine labelling Regulation, and recalled that the issue had been raised at the last Committee meeting and the one in October 2001. He had serious concerns about the fact that the EC notified the Regulation in June, one month after its adoption. He appreciated EC's efforts to try to explain the technical details of the Regulation (e.g. at the meeting held the day before). However, he was disappointed that many of the questions raised remained unanswered. He was not convinced that the objectives claimed (such as consumer protection and the prevention of deceptive practices) were addressed in the least trade restrictive way. He highlighted the following questions: (i) why is truthful information not allowed to be included in a label; (ii) on what basis is the EC asserting the right to use certain common descriptive and ordinary words (in Spanish, French, English, German or Italian); (iii) why is it necessary for the use of "traditional terms" on labels of third country wines to be harmonized with those of the EC's; (iv) has the EC considered less trade restrictive alternative measures to fulfill its stated objectives.

16. He wondered if the EC could try to understand other Members' viewpoints on these issues. Would it be acceptable for European consumers to be told suddenly that commonly used words (e.g. old, fine, superior, vintage or the colour red) could no longer be used? He could not imagine how people in London, Paris, Madrid or Lisbon would feel about the implications that someone was trying to control the use of their languages. In his view the Regulation had little to do with issues related to consumer protection and the prevention of deception. His concern was that even the EC had prepared to discuss at the technical level, it had not been prepared to consult on the WTO and TBT issues raised. He reminded the EC of its obligations under Article 2.9.4 of the Agreement to discuss upon request, comments of other Members, and "to take these written comments and the results of these discussions into account". He sought early advice from the EC on how it intended to comply with those obligations. He stressed the importance of the EC to respond to the written questions submitted by Australia on 23 August, and the need to hold meetings to enable further dialogue. He was concerned on EC's intention to enforce the Regulation in a few months' time, despite the many questions unanswered and the widespread concerns amongst other Members. He urged again the EC to withdraw the Regulation, or at least defer its implementation until all the concerns raised, including the vital issues of WTO consistency, had been properly addressed.

17. The representative of Brazil associated her delegation with the comments made by the previous speakers. Brazil was concerned about the EC Regulation on wine labelling, and had submitted comments in writing. She was disappointed that no written reply had been received. She urged the EC to provide as soon as possible written responses not only to Members who had submitted comments, but also to the Committee as a whole, since the issue had wide implications on the work of the Committee. She found the plurilateral meeting held the day before useful. It had shed light on the purpose of the EC's Regulation. However, it had failed to provide answers to queries and concerns raised in written comments and at Committee meetings. She echoed Australia's concern on EC's obligations under Article 2.9.4. She noted that the EC had allowed reasonable time for comments. However, it failed to discuss the comments made and to take the written comments into account. In light of this, she urged the EC to withdraw the Regulation or to delay its entry into force.

18. The representative of Peru had a systemic concern about the EC Regulation and the precedent that it might set with regard to the application of the Agreement. She shared the procedural and systemic concerns voiced by the previous speakers. Peru had taken part in the plurilateral meeting with the EC. She believed that it was necessary to continue such consultations and urged the EC to take into consideration the concerns raised.

19. The representative of Uruguay shared the concerns voiced by previous speakers, and pointed out that his delegation had not received any written response to the comments made to the EC. Uruguay was not clear about the objective nor the technical contents of the EC Regulation. For this reason, he urged the EC to reconsider the entry into force of the Regulation until such a time when other Members had an opportunity to have detailed consideration on its different aspects.

20. The representative of the European Communities recalled that the EC wine Regulation No.753/2002 was notified on 10 June 2002 with the date of entry into force on 1 January 2003. Following requests from a number of Members the deadline for comments had been extended twice until 30 September 2002. His authorities had received a number of detailed written submissions, and were analysing them as well as considering the points raised. In addition to bilateral consultations in Brussels, an informal discussion had been held with interested Members the day before, to exchange views on the concerns raised and to clarify certain issues. The EC was taking stock of that meeting and would take into account comments made, including those raised at Committee meetings. He took note of the requests made by a number of Members for written responses to the comments made. He ensured EC's readiness to stay in contact and to engage fully in taking this issue forward in the coming weeks.

21. The representative of Australia raised concerns about a US standard (UL 64) on fire detection and alarm system control equipment (control units for fire protective signalling systems). The Standard was referenced in the National Fire Protection Association, the National Fire Alarm Code and FPA 72. It was currently reviewed by the US drafting committee. She drew attention to the relevant international standard (ISO FTIS 7340/2 Control and Indicating Equipment) specifying requirements for the same equipment. She requested the US to take the ISO standard into account when revising UL 64, and to notify this revision. She recalled that Australia had raised this issue with the US Enquiry Point, and had been advised that a response to the comments made would be provided no later than 31 December 2002.

22. The representative of the United States clarified that UL 64 was a voluntary standard, and believed that opportunity had been provided for comments until 30 September 2002. She noted that Australia had submitted comments to the US Enquiry Point, though comments could have been conveyed directly to the UL, the body where the standard was developed. She would verify with UL about the comments, and believed that UL was still considering them. She could not commit herself to provide a substantive reply by December 2002, but ensured that a response would be provided, when she obtained further information about the status of the process.

23. The representative of Canada recalled that his delegation had raised concerns about the potential trade impact of the US country of origin labelling requirement at the last meeting. The requirement contained in the US Farm Security and Rural Investment Act of 2002 covered a wide range of agricultural products. He noted that earlier this month, the US had released guidelines for voluntary country of origin labelling requirements, covering beef, lamb, pork, fish, perishable agricultural commodities and peanuts. He understood that these would serve as a basis for technical regulations to be implemented in October 2004. He believed that if the guidelines became technical regulations, it would put an unreasonable and onerous burden on industry. These requirements appeared to be more trade restrictive than necessary to achieve the stated objective and were not in line with US commitments with respect to the Rules of Origin and the TBT Agreements. It would have the effect of restricting Canadian exports to the US, not only affecting Canadian suppliers, but also US importers and consumers. He noted that the US had chosen not to use the Codex general standard for the labelling of pre-packaged foods as a basis of its legislation. He requested the US to notify this draft in a timely manner in accordance with WTO rules, so that interested parties would have an opportunity to comment on it.

24. The representatives of Brazil and Argentina associated their delegations with the comments made.

25. The representative of the United States informed the Committee that the voluntary guidelines had just been notified as G/TBT/N/USA/25, and recalled the past discussion in the Committee about whether or not to notify voluntary measures. She confirmed that the guidelines were currently voluntary. However, in the Statute, the Department of Agriculture had been required to promulgate, by 30 September 2004, a regulation for mandatory labelling. Her delegation was seeking comments from trading partners in an early stage, on the requirements which would eventually become mandatory. It was for that reason, the notification had been made. Nearer to September 2004, there would be a further publication of a proposal for comments and a further notification to be made. This could provide sufficient opportunities for trade concerns to be made known and to be taken into account.

26. The representative of Malaysia sought an update from the EC on the EC Directive on Waste from Electrical and Electronic Equipment (WEEE), and recalled that the EC had agreed to provide further information at this meeting.

27. The representative of the United States recalled her delegation's concerns on the EC WEEE Directive.

28. The representative of the European Communities informed the Committee that following a conciliation meeting held the week before between the European Parliament and the Council, an agreement had been reached on the regulation on electronic waste and hazardous substances. However, it was not the end of the process, since it would not be formally adopted and published until the end of the year. His delegation was willing to provide further information on specific questions on this Regulation bilaterally or at the next Committee meeting.

29. The representative of the United States raised a general concern about notifications made by the EC, and gave an example of a recent EC notification on Cosmetic Directive (G/TBT/N/EEC/17). She understood that the Common position (the notified document indicated in the notification) was not necessarily the document under discussion within the Community under conciliation procedures. She found the text not the best basis for other Members to provide meaningful comments on. She asked if the EC could consider a more appropriate time to make known of its proposals to the Committee and to provide the basis upon which meaningful comments could be made.

30. The representative of the European Communities recalled that the objective of TBT notification procedures was to inform other Members of certain regulatory initiatives which had been started, and as stated in Article 2.9.2, when modifications could be made and comments could be taken into consideration. Each Member was entitled to choose the time to notify according to its legislative procedures. He believed it was important to strike a balance between first, the time when the draft text was relatively stabilized so as to avoid the need to make new notifications if important changes had taken place, and secondly, to provide possibilities for amendments of the text based on the comments received. Given the legislative procedure, he considered the EC respected this criteria, whether when it notified a proposal made by the Commission (as generally was the case) or a common position (as in the case of the Cosmetic Directive). Concerning this specific Directive, he confirmed that it was at the first stage of the decision-making procedure, and since the text had not yet been adopted, there would be months to receive comments and to take them into consideration.

31. The representative of Mexico shared his country's experience on notification with other Members, and said that Mexico notified before a draft regulation was put forward for public comments (a period of 60 days) and when the date of entry into force had not been decided. He pointed out that the date could not be decided, because if changes had to be made to the draft

according to the Agreement, it could still be possible. Gathering comments, taking comments into consideration and modifying the draft took time. He drew attention to notifications G/TBT/N/EEC/18, G/TBT/N/FRA/11 and 14, and G/TBT/N/JPN/51 where the final dates for comments were near to the dates of adoption (e.g. in G/TBT/N/FRA/14 the final date for comments is on 1 October 2002 and the date of adoption and entry into force is in November 2002). He wondered how Members could expect to have serious discussions on the comments received, when they had already decided a date for the entry into force of a regulation.

32. Regarding the notification of the EC wine labelling Regulation No. 753/2002, he noted that the final date for comments was in August and the date of entry into force was 1 January 2003. He wondered how the EC and a number of other Members could have decided a date of entry into force, before they received the comments. He asked if these Members had already known that they were not going to take the comments into account. He believed that there were many other notifications where Article 2.9.2 was not respected. He noted that each Member was entitled to decide when it wished to notify. However, sufficient time should be provided for comments and that amendments to drafts could still be made, if appropriate. He had feared that in the case of the EC Regulation on wine, the comments made by other Members were not useful, since the date of entry into force of the Regulation had already been decided. He believed there was a need for the Committee to hold systemic discussions on this point.

33. The representative of Paraguay echoed the comments made by Mexico, and drew attention to Article 2.9.2 which stated that "Such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account". He regretted that not all Members were acting in this manner. He recalled that at the plurilateral meeting which had taken place the day before, he had been told that the comments made would not be taken into account in the regulation to be implemented. He felt the Agreement was not respected.

34. The representative of the United States shared Mexico's views, and said that the US had the same concern about a Chinese notification made on 25 July (G/TBT/N/CHN/5) on fertilizers. Fertilizers was an area of export interest to the US, and the notification was appreciated. However, she noted that in the notification, the final date for comments was 20 September and the proposed date of adoption was ten days later. It had created concerns that the comments made would not be taken into consideration. Her delegation had had discussions with China, and China had clarified that the date, as indicated in the notification, was simply an anticipated date of adoption. She believed Mexico had raised an useful question: how do regulators know when to publish a proposal and when the proposal is to be adopted? She feared that the answer was a negative one. In the case of G/TBT/N/CHN/5, she hoped that based on the bilateral discussions with China, the US comments would be taken into consideration before the final adoption of that regulation. She welcomed the Mexican proposal to further discuss this issue.

35. The Chairperson noted that an interesting issue had been raised with respect to notifications. She would welcome further discussions on this, and suggested that Members could consider raising this issue in the context of the Third Triennial Review.

36. The representative of the People's Republic of China, referring to G/TBT/N/CHN/5, confirmed that comments had been received from the US and her authorities would take them into consideration. She informed the Committee that the date of entry into force of that Regulation had been postponed, and bilateral consultation had been held with the US. She expressed China's willingness to continue discussions on this at the technical level.

37. The representative of the European Communities welcomed responses provided by the following Members on EC comments: People Republic of China (G/TBT/N/CHN/1) on boilers;

Korea (G/TBT/N/KOR/34) on spirit, liquors, wine and beers; Thailand (G/TBT/N/THA/60) on electrical appliances; and South Africa (G/TBT/N/ZAF/6) on ice cream.

38. The representative of Korea recalled that an explanation of the Korean liquor labelling requirement had been provided at the previous meeting. It was intended to establish order in the distribution of liquors for tax levy reason and for the prevention of deceptive practices. In order not to cause unnecessary inconvenience, an extension of the implementation deadline had been provided for producers to adapt to the new regime.

39. The representative of the European Communities thanked Korea for the information. However, he remained concerned about the labelling requirement with the objective of preventing tax evasion. He found it not in line with international practices, and believed that there existed less trade restrictive measures to fulfill the objective pursued. He welcomed the delay of entry into force of the regulation to 1 October. He requested Korea to further delay its implementation to provide time to seek a mutually acceptable solution.

40. The representative of Korea would convey the EC's concerns and request back to his capital.

41. The representative of the United States recalled that she had expressed concerns at previous meetings on the EC's organic labelling regulation and had raised questions about the bilateral equivalency agreements that the EC signed with third countries. She regretted that despite a number of consultations, questions still remained on the criteria used by the EC to establish these equivalence agreements. The US had indicated interest in being part of it, but had not been able to do so.

42. The representative of the European Communities took note of the US comments and would come back to them at the next meeting or bilaterally.

43. The representatives of Canada, Australia and Brazil shared the US concerns on the EC organic labelling requirement, and expressed interest in engaging in further discussions on this issue.

44. The representative of the European Communities welcomed the Indian notification on labelling (G/TBT/N/IND/1). She recalled that concerns had been raised on the following requirements: (i) to indicate on pre-packaged products the maximum retail sale price. She found this cumbersome and difficult to fulfill, in particular, for economic operators of other countries; (ii) to comply with the mandatory Indian Quality Standards for 133 products and for exporters to register with the Bureau of Indian Standards (BIS). The EC was concerned about the compulsory nature of the requirements which were presented as standards or voluntary provisions. She questioned about the choice of products to be certified, and asked whether India would consider revising this list.

45. The representative of India recalled, as explained at the previous meeting, the measures required that all pre-packaged products subjected to the Provisions of the Standards of Weight and Measure Rules, 1977 when produced/packed/sold in domestic market, should be subject to the provisions of the said rules, when imported into India. The requirement had been applicable to domestic products for a long time, and as for the export/import policy of India, all imported goods were subject to domestic laws, rules, regulations, technical specifications and other norms as applicable to domestically produced goods. He took note of the comments and questions raised and would convey them to his authorities. He hoped to come back to this issue at the next meeting or bilaterally with the EC.

46. The representative of Brazil recalled that at the previous meeting, the EC had posed a question on a notification by Brazil (G/TBT/N/BRA/29) on wine. She regretted that a response had

not yet been provided by her authorities. However, she would continue to press for a reply, and hoped that an answer could be delivered at the next meeting or before that, bilaterally.

47. The representative of the European Communities drew attention to an Indian notification relating to second-hand vehicles (G/TBT/N/IND/9). The EC had raised concerns on this Indian regulation. Although it was similar to the UN/ECE standard, it did not recognize certification documents other than those issued by Indian authorities. In her view, this situation could be resolved efficiently by means of the UN/ECE Agreements of 1958 and 1998 which allowed for globalized standardization. She encouraged India to participate in that body, and requested a response.

48. The representative of India would convey the EC's comments to his authorities and hoped to provide a response at the next meeting, or bilaterally.

49. The representative of Switzerland welcomed the responses by the EC (G/TBT/W/179-180) regarding comments made on EC notifications G/TBT/N/EEC/6-7 on genetically modified (GM) food and feed. They provided further information on the regulations. She would study the documents and come back to them at a later stage.

50. The representative of Norway recalled that a number of Members had made comments on the EC proposals on the traceability and labelling of GM food and feed, both in the context of the SPS and TBT Agreements. It had been argued that there was no scientific evidence that GM food and feed posed greater risks than their conventional counterparts. The EC had stated that the relevant research had not come to the conclusion that GM food and feed were safe per se. Norwegian scientists had reached the same conclusion after reviewing available studies. She believed that in order to ensure an appropriate level of protection and that other legitimate objectives were met, Members should be allowed to evaluate GMOs and GM products on a case-by-case basis, and to establish mandatory labelling and traceability systems, provided that they did not create unnecessary obstacles to trade. The EC proposals took into account the Cartagena Protocol on Bio-safety as well as recent developments in the Codex Alimentarius Commission. She noted that the EC proposals were still subjected to discussions. Norway was of the opinion that they fulfilled legitimate objectives and were not excessive in relation to their purposes.

51. The representative of Korea drew attention to notification G/TBT/N/CHN/1 on a draft regulation of the People's Republic of China for the management and supervision of the manufacturing of boilers and pressure vessels. He understood that the regulation provided procedures including those for the application, acceptance and issuing of licences. He could not understand why manufacturers who failed to obtain approval were prohibited from reapplying.

52. He also drew attention to notification G/TBT/N/CHN/2 relating to General Administration for Quality Supervision and Inspection and Quarantine. He noted that "all food and cosmetics imported to and exported from China shall be accompanied with the Certificate of Import-export Food/Cosmetic Labelling Verification when applying for inspection". He understood that this additional certification mark requirement applied only to foreign importers or exporters, and questioned China's national treatment obligation under the Agreement.

53. The representative of the People's Republic of China took note of the comments made, and would come back to them at the next meeting or bilaterally with Korea.

54. The representative of the European Communities raised concerns about an Indian notification (G/TBT/N/IND/8) requiring that food "at the time of the importation, the products are having a valid shelf life of not less than 60 per cent of its original shelf life". He gave the example if a product had an original shelf life of five years, at time of importation, its shelf life must be over three years. He recalled that his delegation had raised this issue at the previous meeting, and India had provided a

number of useful replies. However, he still believed that this measure was discriminatory and was more trade restrictive than necessary, since its scope was broad, covering all food products. He questioned why the requirements under the domestic rules "the Prevention of Food Adulteration Act" were not sufficient for foreign products.

55. The representative of India would convey the comments to his capital, and hoped to respond to them on a bilateral basis.

56. The representative of Canada raised concerns about a Chinese regulation related to security systems. He understood that it was a requirement for a certification mark to be issued by a newly established Chinese certification authority. With the creation of this authority, the product had to be re-certified even if it had been tested by the previous identical regime. He found the process unnecessary and burdensome, and requested bilateral consultations to explore this further.

57. The representative of the People's Republic of China agreed to discuss the issue further with Canada bilaterally.

58. The representative of the European Communities reminded the US that her delegation had made comments on notifications G/TBT/N/USA/8, 15 and 18 concerning US draft regulations on tyres (control system for power pressure, labelling of tyres and new performance requirements for these products). She regretted that no response had been received. She would support the efforts to improve road and tyre safety. However, she emphasized the importance of harmonizing these standards which would benefit industry and of the relevant work in the UN/ECE. She requested a written response in which European industry was interested.

59. The representative of Korea associated his delegation with the comments made by the EC.

60. The representative of the United States informed the Committee that one of the US regulations on tyres had been adopted, and a copy of that regulation would be sent to the EC together with a response to comments made. The other two were still in a draft form, and comments were being reviewed.

61. The representative of Canada raised questions about an EC notification (G/TBT/N/EEC/17) concerning an amendment of the Cosmetic Directive for the seventh time. He noted that the stated objectives, *inter alia*, were to make the sixth amendment legally and practically enforceable as well as to provide protection for animal health and welfare. He sought clarification on this amendment.

62. The representative of the European Communities noted that Article 4.1 of Directive 76/768/EEC provided for "a marketing ban on cosmetic products when the final product or its ingredients have been subjected to animal testing..." after 30 June 2002. The ingredients or their combination which had been tested on animals before 30 June 2002 would not be affected by this ban. In order to ensure legal certainty and to fulfil EC's obligations on the free circulation of products and the protection of public health, the Commission had prepared a proposal to amend this Directive for the seventh time which would defer the entry into force of the ban called for in the sixth amendment. The issue of the marketing ban was also to be discussed within the framework of the seventh amendment. The discussion was held in the Committee on Cosmetics, which had met for the first time on this issue on 30 September. At present, in the consideration phase of the Community legislative procedure, no agreement had been reached between the two Community legislative branches (i.e. the Parliament and the Council). A conciliation phase was expected to be concluded on 2 December.

63. The representative of Mexico drew attention to a notification submitted by Venezuela (G/TBT/N/VEN/14) concerning a Register of Domestic Manufacturers and Importers of Textile

Clothing. He sought clarification on the objectives to establish such a register and whether alternative approaches had been considered. Although this measure would be applied to both importers and domestic producers, it could create certain constraints to Mexican exports.

64. The representative of Malaysia noted that a number of issues raised at Committee meetings would be dealt with bilaterally. However, these issues might be of interest to a number of other Members. She asked if the responses could also be provided to the Committee.

65. The Committee took note of the statements made.

III. ANNUAL TRANSITIONAL REVIEW (TRM) MANDATED IN PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

66. The Chairperson recalled that at the Doha Ministerial, a decision had been made on a Transitional Review Mechanism (TRM). It provided that "those subsidiary bodies of the WTO (including the TBT Committee) which have a mandate covering China's commitments under the WTO Agreements shall, within one year after accession ... review, as appropriate to their mandate, the implementation by China of the WTO Agreement and of the related provisions of the Protocol. China shall provide relevant information, including information specified in Annex 1A to each subsidiary body in advance of the review... Each subsidiary body shall report the results of such review promptly to the relevant Council..." "The review provided for will take place after accession in each year for eight years. Thereafter there will be a final review in year ten or at an earlier date decided by the General Council."

67. She drew attention to document G/TBT/2/Add.65, a Statement made by China on the Implementation and Administration of the Agreement under Article 15.2, as well as document G/TBT/CS/N/143, a notification made by the State Administration of China for Standardization on its acceptance of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement). She welcomed the notifications and the relevant information (as specified in Annex 1A) provided by China at the June meeting as well as a few days previously (paragraphs 7-9 of G/TBT/M/27 and G/TBT/W/190). She also drew attention to documents G/TBT/W/181, 182, 185 and 187 (submissions from Japan, the EC, the US and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu) containing questions aimed at a better understanding of the implementation by China of the Agreement and the related provisions of the Protocol.

68. The representative of the People's Republic of China informed the Committee that in spite of the challenges and difficulties arising from WTO Membership, his government had taken a positive stand on implementation issues while adopting effective measures in TBT areas. As a part of the major institutional restructuring, China had merged CIQ-SA and CSBTS into General Administration of the People's Republic of China for Quality, Supervision, Inspection and Quarantine (AQSIQ) according to the request of the WTO Members and the demand of a market economy in China. AQSIQ had the mandate to uniform the administration of conformity assessment on both domestic and imported products. China had submitted the statement under Article 15.2 in a timely manner, had notified the acceptance of the Code of Good Practice and had provided further information as specified in Annex 1A in advance of this meeting.

69. He recalled that since December 2001, preparations had been made by a number of relevant government agencies for the proceeding of the TRM. On the issue of notification, China had established a notification system and enquiry point for TBT and had informed this to the Committee. Twelve notifications had been made under Article 2 to provide transparency on these measures. Opportunities were provided to respond to enquiries posed by other Members, enterprises and individuals through the TBT focal point. A special mechanism to ensure transparency had been set up

with the endorsement from the State Council designating the Gazette of Foreign Trade and Economic Cooperation as the sole publication for trade-related regulations and administrative rules. The mechanism also provided for a period for public comments to regulations and measures before their publication and enforcement. A number of other steps had also been taken to ensure transparency in this regard. For example, the Standardization Administration of China (SAC), carrying out AQSIQ's requirements to fulfill the transparency obligations under the TBT and SPS Agreements, had adopted in May 2002, "provisions on Notification of Mandatory National Standards (on trial)" to ensure that mandatory standards be notified to Members through the WTO Secretariat under Article 2. Status of the preparation, revision and approval of mandatory standards were published expeditiously on Standardization in China, and the website of AQSIQ and SAC. A minimum of 60 days for comments were provided for proposed technical regulations including mandatory standards.

70. It had been an important technical and economic policy in China to take an active approach to adopt international standards as the basis for technical regulations. Since 1980, China had formulated a number of laws and regulations and had taken measures to ensure the implementation of Article 2.4 of the Agreement so as to improve efficiency and economic development. Under the current legal and regulatory system, review of the technical regulations was required every five years to ensure consistency with international standards.

71. He recalled that Article 13 of the Standardization Law of the People's Republic of China stipulated that "after the standards come into force, the department that formulated them shall, in the light of scientific and technological developments and the needs in economic construction, make timely reviews of the current standards to determine if they are to remain in force or are to be revised or annulled". Article 20 of the Regulation for the Implementation of the Standardization Law stipulated that "after standards go into effect, the departments which formulated the standards shall carry out timely review in light of the development of science and technology and the needs of economic construction. Normally, review should be conducted no more than every five years". The term "development of science and technology" embodied the development and the revision of international and foreign advanced standards. To fulfill China's commitments and further ensure the alignment of national standards with international standards as well as the adaptation to the development of national economy, SAC (the central government standardization body) was currently drafting "Regulatory Provisions for Reviewing Standards" to make the review systematic and operational. The said scheduled Regulatory Provision would be officially published shortly.

72. His government attached great importance to the adoption of international standards and advanced foreign standards. Harmonization of standards had become an important technical foundation for the development of national economy, and the safeguard to enhance the overall level of product quality and the competitiveness in domestic and world markets, expanding foreign trade as well as maintaining sustainable, healthy and quick development of the Chinese economy. In that spirit, the Standardization Programme for the Ninth five-year plan and the 2010 Long-range Goal had been formulated. A special meeting had been convened in July 2001 to discuss the nationwide harmonization with international standards. It had been attended by more than 30 vice-minister level officials and addressed by the State Councillor. To encourage the adoption of international standards, AQSIQ jointly with other six ministries and commissions, had published Opinions on Promoting Alignment with International Standards to actively encourage the adoption of international standards. It had stipulated that on average, there would be a two per cent increase in the use of international standards as a basis for domestic technical regulations in each of the forthcoming five years, so that the commitment of a ten per cent increase in five years under the Protocol would be met. Statistics show that China had aligned 506 of its national standards with international standards in the first nine months of 2002.

73. To ensure national treatment for imported products, China had announced the implementation of a new compulsory product certification system. This system, known as "CCC" system, had

replaced the two former compulsory certification systems for domestic and imported products respectively. "Four Unifications" had been realized for both imports and domestic products (i.e. unified catalogue, unified set of applicable technical regulations, standards and implementation procedures, unified certification mark and unified fee charge standard).

74. He recalled that the Regulations for the Management and the Supervision of Manufacturing of Boilers and Pressure Vessels had been notified to the Committee, and would come into force soon. The Regulation contained the following provisions: (i) the administrative permission system shall be applied to any manufacturer of boilers and pressure vessels whose products are used in China. The products shall be subject to mandatory supervision and inspection; (ii) boilers and pressure vessels are to be classified into four categories (A, B, C and D) according to their different level of risks. There are also requirements to manufacturers with regard to the resource condition, quality assurance and safety quality of the products; (iii) procedures on application, acceptance, manufacturing trial, audition, licence issuing, management, renewal of the licence as well as penalty to manufacturers are also provided; and (iv) manufacturing licences are valid for four years. He believed that the adoption and entry into force of this Regulation would ensure the national treatment for imported boilers and pressure vessels sold to and used in China.

75. He noted that the full implementation of the Agreement entailed huge tasks and required enormous input of manpower and financial resources. The fulfilment of the tasks by his government despite difficulties, was a further testimony of China honouring its obligations and commitments. China, as a developing country Member, had a shortage of technical resources in the implementation of certain areas of the Agreement, e.g. Article 2.7, in the absence of experience and information from other Members. He was pleased to learn about a decision made in the context of the SPS Committee providing guidance on the implementation of Article 4 of the SPS Agreement on equivalence. Based on the SPS experience, he proposed that the Committee could start discussions on the issue of equivalence, and to develop guidelines for the implementation of Article 2.7 of the Agreement. China would promptly follow the guidelines once such a decision was made by the Committee.

76. He then provided replies to the questions raised by the EC, Canada, Japan, the US and Chinese Taipei in advance of the meeting. First, on the uniform implementation of the technical regulations, especially by governments at local level, he stated that the current legal system of China ensured the nationwide uniform implementation of China's accession commitments and China's laws, regulations and administrative rules. Any laws and regulations at local level should be in line with those at national level and the central government would rectify any laws and regulations at the local level once an inconsistency was identified. With a view to strengthen uniform implementation, on 21 April 2001, the State Council had published Regulations Prohibiting Barriers between Regions in Market Economy Activities to prohibit actions in conflict with national laws by local governments.

77. Secondly, on transparency, notification and publication of TBT measures, he said that China published adopted and proposed technical regulations and conformity assessment procedures in the "MOFTEC" Gazette, the Gazette of AQSIQ and the AQSIQ website. The period for public comments to proposed technical regulations (including mandatory standards) was a minimum of 60 days. Since its accession to the WTO, China had notified twelve proposed technical regulations (including mandatory standards) and conformity assessment procedures, providing 60 days for comments. The comment period and the date of entry into effect of certain draft regulations could be prolonged, e.g. the date concerning chemical fertilizers was postponed at the request of the US.

78. Thirdly, on the adoption of international standards, he drew attention to the Standardization Law of China which encouraged the adoption of international standards. In December 2001, China had amended the Regulatory Measures on Adoption of International Standards stipulating that "international standards" referred to those developed by the ISO, IEC and ITU as well as other international organizations included in the list confirmed and published by the ISO. Such definitions

were intended to facilitate the operation of the Measures. China would study the relevant decisions of the Committee and would consider measures that were both consistent with the Agreement and favourable for China to adopt the most suitable international standards.

79. On the question concerning the responsibility of AQSIQ and CNCA, he said that the AQSIQ, directly under the leadership of the State Council, was a ministerial level competent government authority responsible for the quality supervision, inspection and quarantine, certification and accreditation and standardization across the country. Its responsibilities included administration for the conformity assessment activities in China, but AQSIQ itself was not a conformity assessment body. CNCA, under the administration of AQSIQ, was authorized by the State Council to exercise concrete administrative responsibilities, undertaking unified management supervision and overall coordination of certification and accreditation activities across the country. He ensured that the results of conformity assessment conducted by eligible conformity assessment bodies would be recognized across the country and there occurred no duplicated conformity assessment in China.

80. On the revision of the Law on Import-Export Commodity Inspection, he said that the revised Law had been adopted by the Standing Committee of the National People's Congress on 28 April 2002 and had come into force on 1 October 2002. The draft of the Implementing Regulation of the above Law had been submitted by AQSIQ to the State Council for review and was expected to be enacted by the end of 2002 or early 2003. He believed that both the Law and the draft Implementing Regulation were in consistence with the commitments made in the Working Party Report of China's accession and the TBT Agreement.

81. The Chairperson thanked China for the information and welcomed China's proposal regarding the Committee's work on equivalency. She believed that it could be undertaken in the context of the Third Triennial Review of the Agreement in year 2003.

82. The representative of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) appreciated China for its efforts to prepare the responses. He would study them in details. Chinese Taipei, as one of the major trading partners of China, felt obliged to address a number of legitimate concerns where China might have lapsed in its implementation. He believed a smooth implementation of China's Accession Protocol was in the interest of all Members, including China itself. He welcomed the opportunity of the TRM to exchange views with China.

83. The representative of the United States joined Chinese Taipei to thank China for providing the comprehensive information to ensure that the TRM was meaningful. She welcomed the responses to the questions raised by her delegation (G/TBT/W/185). However, she wished to confirm her understanding about China's referring "international standards" to those developed by the ISO, IEC and ITU as well as those international bodies included in a list confirmed by the ISO. She sought clarification from the ISO on whether a mechanism existed to recognize international standards, since she was not aware of such procedures. She noted China's proposal for further discussion on equivalency in the Committee, and suggested to take it up under a separate agenda item (e.g. in the context of the triennial review). She appreciated China's efforts not only to provide the information to the Committee, but also for the substantial reforms that were underway. She recalled that since China's accession, the US had been able to have constructive exchanges of information with China, and she hoped that it would continue.

84. The representative of the ISO clarified that the Directory of International Standardizing Bodies published by the ISO referred to by the Chinese delegation was a list of organizations having standardization activities which qualify as international standardizing bodies as defined in the ISO/IEC Guide. The purpose of the Directory was solely to give succinct information on these organizations and to indicate where to obtain further information on their works. It was not a formal recognition of those bodies.

85. The representative of Japan appreciated China's efforts to implement the commitment under the Protocol. He believed that the TRM would contribute to improve understanding about China's rules, disciplines and commitments. He recalled that Japan had submitted questions (G/TBT/W/181) to China. He regretted that no written response had been received. He believed that written responses could facilitate Members' understanding on China's new system and would assist the TRM process to proceed effectively. He urged China to respond in writing and believed that it was necessary to have a further opportunities to exchange information and opinions.

86. The representative of the People's Republic of China believed that the TRM was to be conducted in accordance with the mandate of paragraph 18 of the China's Protocol of Accession. He believed China had fulfilled its obligation in connection with that mandate in the provision of information and notifications. The Japanese request seemed to have gone beyond the mandate, since under paragraph 18, China had no legal obligation to provide written responses in advance of the Review. He rejected the request. However, he was prepared to cooperate with the Chairperson and the Secretariat, and would submit the statement made to the Chairperson.

87. The representative of Mexico said that his delegation had studied the information submitted by China, although (unlike the US, Chinese Taipei and Japan) Mexico had not raised any written question. However, Mexico shared some of the concerns raised and was grateful for the responses provided. He believed China recognized that the implementation of the TBT Agreement was complex, which meant that the Review would take time and would require access to further information. The intention of paragraph 18 of the Protocol provided for a mechanism which would allow Members to request further clarification in order to carry out a meaningful review on how China had implemented the Agreement. Although there was no specific mention in paragraph 18 of an obligation for China to supply further clarification, depending on the interpretation of the Protocol, seeking for additional information should be allowed. Mexico would like to reserve that access.

88. The representative of the European Communities thanked China for the detailed statement as well as its submission (G/TBT/W/190) to the Committee. He found the information useful and extensive. He recalled that his delegation had submitted questions to China (G/TBT/W/182) in advance to assist a constructive and substantive TRM. In general, the EC welcomed the efforts made by China to implement the Agreement, although there were certain outstanding issues raised in G/TBT/W/182 which had not been addressed. If China was not in a position to respond to those unresolved issues at this meeting, he urged China to reply, preferably in writing, before the General Council TRM. EC reserved its right to come back to them in the appropriate fora at a later date.

89. He recalled that G/TBT/W/182 emphasized the importance of transparency and the proper functioning of the Agreement. He noted that China had provided information on how it fulfilled its transparency obligations. However, he drew attention to the obligations that notifications should be submitted in such a way that enough time would be provided for comments and for the comments to be taken into account. A reasonable period of time should be given for producers in other Members to adapt to the proposed measures. He welcomed China's efforts to notify during the first months of its Membership, and encouraged China to continue its implementation in such a fashion. He sought clarification on what China had put in place to ensure that notices of proposed or adopted technical regulations (including the list of products subject to mandatory certification) were published as well as to ensure the time allowed for comments on proposed technical regulations.

90. He noted that China had provided information on the use of international standard. He drew attention to Article 2.5 which provided the obligation to explain the justification for a technical regulation, upon requests by other Members, if it was not in accordance with relevant international standards and might have a significant impact on trade. He recalled that in G/TBT/W/182 the following questions were raised: (i) what is China's plan to align technical regulations, conformity assessment procedures and standards with relevant international standards; (ii) what has China put in

place to bring its statutory inspection law into conformity with the Agreement; (iii) how does China ensure the uniform and consistent application of technical regulations, conformity assessment procedures and standards throughout the country and to avoid unnecessary additional local regulations; (iv) what has China done to unify the current certification marks; and (v) how does China ensure the obligations concerning confidentiality are met.

91. Concerning the use of agreed TBT terminology, he noted that it had not always been the case in documentation received from China so far, and he encouraged China to ensure that the appropriate terms within the meaning of the TBT Agreement were used. He welcomed China's policy stating that same standards and conformity assessment procedures would be applied to both imported and domestic products, and requested further information on the implementation of this policy.

92. Regarding conformity assessment procedures, he recalled that in G/TBT/W/182, his delegation had raised questions about the scope of the revised certification system in China. The EC had certain concerns about the coverage of this new regime as well as the transparency of the related structure. It also demanded a list of foreign and domestic bodies accredited to provide mandatory certification in China. The EC was particularly interested in the policy of allowing foreign bodies to provide certification. China had also been asked about what it had done to ensure the following (i) that conformity assessment procedures being implemented were not more trade restrictive than necessary; (ii) the elimination of multiple or duplicative conformity assessment procedures; (iii) that the same conformity assessment procedures apply to both imported and domestic products; (iv) that conformity assessment procedures were based on international standards; and (v) the implementation of the appeal procedure as indicated in Article 5.2.8. A question had also been posed on the legal acts to set out certification fees, and if these fees applied to both Chinese and imported products. He recognized that some of the above questions had been addressed by China.

93. Referring to certain trade concerns of particular interests to European firms, the representative of the EC thanked the Chinese authorities for having provided an opportunity to comment on notification G/TBT/N/CHN/2 on food and cosmetics. She sought clarification on the following issues: (i) concerning wine and spirits, the least trade restrictive means to achieve the objectives and in relation to existing international standards. She noted that Article 2.2 called upon Members, in the preparation of technical regulations, to take into consideration available scientific and technical information or the intended end-use of products; (ii) concerning the standards for mobile telephone emissions, the EC was concerned by the fact that China might consider introducing radiation standards which were more stringent than those used in other parts of the world; (iii) related to the new compulsory certification system for vehicles, the EC was concerned about the absence of transparency and a sufficient time lapse to enable adaptation to the new requirements; and (iv) in the chemical sector, whether the Chinese authorities envisaged new legislation.

94. The representative of Canada clarified that his delegation had not submitted a paper as part of the TRM process, since its concerns had been addressed by submissions made by other Members. He recognized the task China had undertaken with respect to the implementation of the Protocol and the TRM. He believed that it would be helpful if China would submit information in writing and invited China to respond to the questions not yet covered.

95. The representative of Cuba thanked China for the information and the responses. She believed that with the statements made and the documents submitted in advance, China had proceeded in a way according to its commitments under paragraph 18 of the Protocol. She did not see any obligation under paragraph 18 to provide written responses, given the fact that the Chinese statements would be recorded in the minutes of this meeting. Referring to the Mexican statement on the complexity to implement the Agreement, she agreed with this view. However, she pointed out that issues related to the compliance with the provisions of the Agreement could always be raised under

the agenda item "Statement on Implementation and Administration of the Agreement" in regular Committee meetings.

96. The representative of the People's Republic of China provided additional responses to questions raised under the TRM. On the issue of China's Compulsory Product Certification System (CCC system), he informed the Committee that all relevant documents were available on both the AQSIQ and the CNCA websites, and some of them were also produced in English. More English translation would be available for reference. The documents were, e.g. "The First Catalogue of Products Subject to Compulsory Certification", "List of Designated Certification Bodies", "List of Designated Testing Bodies" and "The Fee Chart for Compulsory Product Certification". China had abided by the following two principles while establishing the CCC System: in compliance with the WTO/TBT Agreement and in line with the ISO/IEC Guides and Standards on certification such as ISO/IEC Guides 23, 28, 65, ISO/IEC Standards 17020, 17025, and etc.

97. Starting from 1 May 2003, all products listed in the Catalogue must obtain a certificate for CCC and be applied with a 'CCC' mark before importation and/or marketing. The old system would be annulled at the same time. For products subject to former CCIB or Great Wall mark certifications, but not subject to CCC, no certification was required as from 1 May 2002. However, to facilitate this process, the CCC applications had been accepted from 1 May 2002 and provided with a transitional period between 1 May 2002 and 30 April 2003. The CCC Catalogue products also subject to former CCIB or Great Wall mark certification systems would need only to have obtained one of the three certifications (Great Wall, CCIB or CCC certifications). He noted that the products listed in Circular No. 670(2001) of AQSIQ were merely part of products under the CCIB certification, which also fell in the Catalogue of CCC. That meant no product which was not subject to CCC certification would be required for any CCC, CCIB or Great Wall mark certifications.

98. Regarding the relations between the CCC Certification and the Telecommunication Networking License System (concerning Telecommunication terminal equipment), he informed the Committee that the Certification and Accreditation Administration of China (CNCA) was responsible for the CCC certification system, while the Ministry of Information Industry was responsible for the Telecommunication Networking License System. The two government authorities had agreed on a clear division of responsibilities. CCC certification involved safety and EMC requirements, and Networking License System involved CCC certification plus networking performance requirements of the products. There was only one test for safety, EMC and networking performance, and one label that was networking labeling with CCC marking.

99. Regarding the relations between the CCC certification system and the Registration System for medical devices (7 products), he stated that the CNCA was responsible for the CCC certification system, while the State Drug Administration was responsible for the Registration System for medical devices. The two government authorities had reached consensus on the following: CCC certification involved safety and EMC requirements of products, and Registration System involved CCC certification plus clinic application verification requirements. There was no duplicated testing for the products.

100. Concerning Automobile certification, he believed that the technical requirements for automobiles under the CCC system were generally equivalent to the ECE standards. Technical exchanges had been conducted between CNCA and most of the manufacturers of automobiles in Europe, United States and Japan, and consensus had been reached.

101. The representative of China informed the Committee that confidentiality requirements for conformity assessment agencies and personnel were clearly stipulated in the Law on Import-Export Commodity Inspection and the Regulatory Provisions on Compulsory Certification for Products.

102. Concerning cosmetics, she recalled that the import restriction imposed by China on the cosmetics in question was based on standards prepared by the OIE and WHO as well as relevant provisions by European Union (EU) Member States. China recognized the standards and guidelines of the WHO and OIE. Importation of the relevant cosmetics was allowed upon the presence of the official quarantine certificates issued by the authorities of the countries and regions concerned. In the first half of this year, China had notified the requirements of certification to the EU mission and embassies of BSE-affected countries. The EU Member States had provided China with the information of their authorities issuing the certificates, to which China had accepted. The scientific justifications included relevant standards of OIE on BSE and WHO classification of ingredients derived from cattle tissues as well as EU SRM and EU 999/2001 Directive on cosmetics containing ingredients derived from animals.

103. Regarding wine and spirit products, she stated that the indication of production and expiry dates for wine and spirit products was in compliance with the requirements by the Chinese laws and common practice. Relevant provisions were covered by the Law on Food Hygiene, the Law on Product Quality, the General Standard of Food Label (GB7718-94), and the Standard of Beverage and Wine and Spirit Marks (GB10344-1989). All these provisions reflected fully the principle of national treatment. The Chinese quarantine inspection authority, as a competent agency implementing regulations and standards, had undertaken a large amount of work in the area of food labelling. Many exports of food to China, including wine and spirit products, had complied with the requirements by the Chinese laws, regulations and standards and had marked production dates. She believed the indication of production dates for wine and spirits did not restrict trade. On the contrary, it facilitated Chinese consumers' understanding about these products and consequently could promote trade flow. Her delegation welcomed comments from the EC, and was willing to exchange views on this subject.

104. In the implementation of Article 7.1 of the Agreement, she said that in China, local governmental bodies conducted conformity assessment procedures under the framework and unified policy established by central government bodies. Therefore, the compliance with Article 7.1 could be fulfilled.

105. On the drug issue, the State Drug Administration was the sole drug regulatory authority in China for the approval of drug importation and marketing. The "Import Drug License" issued by the State Drug Administration to a foreign drug manufacturer was valid across the country, and there was no requirement to register the drug and to get an approval again at each local province. The manufacturer should revise a drug specification or add certain testing items in its specification, if the product manufacturing process had been changed. However, such revision or adding was only limited to that specific product and not applicable to other manufacturers producing the same kind of product. Due to different manufacturers and different manufacturing processes for a drug, specification differences might exist. Exported drugs must meet the specifications which were approved by the exporting country drug regulatory authorities and should not be lower than the national standards set up by the importing country drug regulatory authorities.

106. The representative of China regretted that a number of Members misunderstood the nature of the TRMs, and explained why China had agreed upon such a provision during the accession negotiations. His authorities believed such a mechanism could help China to find out deviations and problems in its policies, legislation and practices. Such diagnosis would benefit China in the development of a market oriented economy, and was consistent with the objective of China's reform and open-up policy. The TRMs served in the best interests of China, and that was why his delegation had taken it so seriously. He noted that other Members had been involved with the process, and believed that they could also benefit from it. However, they could only do so, if China accepted their diagnosis and turned it into actions to improve the trade and investment environments. Mutual cooperation was essential, and without such a spirit the TRMs could become counter-productive.

107. He noticed the differences in the understanding of paragraph 18 of the Protocol. However, he believed that the interpretation of the protocol fell within the responsibility of the General Council, and it would be a waste of time to debate it in this Committee. He invited other Members to bear in mind that China was a new Member, and noted that even more experienced Members such as the US and the EU had been challenged regarding their implementations of the Agreement. He found it unrealistic to expect China to resolve all the questions at this first TRM, and pointed out that the TRM was an eight to ten year programme. Between the annual TRMs, there were other channels and opportunities to discuss issues further, including obtaining information through the enquiry point or at a bilateral basis. He gave examples that trade representatives and officials of the US, EC and Japan had been in Beijing, and his Minister would be in Mexico and Australia to discuss the questions. He concluded that the TRM needed to be conducted with a realistic and cooperative attitude.

108. The Chairperson thanked China in drawing Members' attention to the fact that the TRM was an ongoing process and that any further questions could be discussed under the agenda item "Statement on Implementation and Administration of the Agreement" in Committee meetings or bilaterally.

109. She recalled that at the informal meeting held on 15 October 2002, the Committee had held discussions on the reporting approach of the TRM. She had proposed the Report to contain the following elements: a direct transposition of paragraph 18 of the Protocol, the list of information contained in Annex 1A that China was to provide under the TRM, reference to the relevant information that China had provided to facilitate the TRM, reference to the written submissions made by a number of other Members in relation to the TRM and briefly noted the elements raised in those submissions, and finally stating that the report reflected the results of the First TRM which took place at this meeting with a reference to the minutes (G/TBT/M/28), noting that these minutes were an integral part of the Committee's report. The report would also make reference to the relevant discussions held at the Committee's twenty-seventh and twenty-eighth meetings held in March and June 2002 under the Agenda item "Statements on Implementation and Administration of the Agreement". She proposed the Committee to agree on such an approach and entrust her to finalize the Report.

110. The Committee adopted its 2002 Report to be submitted to the Council for Trade in Goods on the Transitional Review mandated in China's Protocol of Accession.

IV. OUTSTANDING IMPLEMENTATION ISSUES IN ACCORDANCE WITH PARAGRAPH 12 OF THE MINISTERIAL DECLARATION

111. The Chairperson recalled that pursuant to paragraph 12 of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1), the Committee was mandated to address two TBT-related outstanding implementation issues. The Committee had started discussions on these issues at its last meeting. At that meeting, India, the proponent, had re-introduced the proposals to the Committee (paragraphs 133-139 of G/TBT/M/27), believing that it was necessary to ensure meaningful technical assistance and cooperation to developing countries and to effectively operationalize Article 11 of the Agreement; and that it would be beneficial for the Committee to hold focussed discussions on the approach of supplier's declarations, in particular on how suppliers from developing countries exporting to markets of developed countries could benefit from this mechanism. There had been a general acknowledgement that the Committee would continue to address these issues on technical assistance and supplier's declarations.

112. The representative of India recalled that decisions on certain implementation issues relating to the TBT Agreement had been reached at the Doha Ministerial Conference. With respect to the remaining outstanding issues, Ministers had agreed to negotiate them as an integral part of the Doha Work Programme. According to paragraph 12 of the Ministerial Declaration, all the

outstanding implementation issues "shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee (TNC)... by the end of 2002 for appropriate action". His delegation had explained the proposals to the TBT Committee at the last meeting.

113. He noted that Article 11 was an issue that had been debated in the Committee (e.g. in the context of the First and Second Triennial Reviews). Certain Members did encounter difficulties in the implementation and operation of the Agreement. He believed Article 11 was a mandatory provision to provide technical assistance in areas such as, the preparation of technical regulations, the establishment of national standardizing bodies, the participation in international standardizing bodies, the establishment of bodies for the assessment of conformity with technical regulations and standards, the access to systems for conformity assessment. These were important for capacity constraint countries as well as developing countries. He noted the ongoing work in the Committee on technical assistance as a follow-up of the Second Triennial Review. He reiterated the Indian proposal that tangible and meaningful technical assistance and cooperation were to be provided to developing country Members and, thus, ensuring the effective implementation of Article 11. He looked forward to the results arriving from the Committee's work.

114. On the issue of supplier's declarations, he confirmed that it would be beneficial for the Committee to further study this approach for the acceptance of results of conformity assessments, and, in particular, how suppliers from developing countries could benefit from it. He recognized that this was not a new subject in the Committee. It had noted the growing concerns with respect to the trade obstacles due to multiple testing and conformity assessment procedures, and had agreed to exchange information on Members' experience in the various types of conformity assessment procedures and their conditions of application. He recalled that at the last meeting, the Committee had had a constructive discussion on this, and a number of Members, including Canada, had indicated their intentions to share national experiences on this approach. He encouraged other Members to do the same so as to facilitate the discussion in the Committee. The information could include elements such as: the specific sectors where this approach was used or could be used effectively; possible challenges with respect to regulatory and legal requirements to put this approach in practice; procedures for regulations to be followed; and infrastructural requirements. Given the fact that the issue had been discussed in the Committee, any background information from the Secretariat would be useful. He looked forward to a meaningful dialogue on these issues.

115. The representative of Canada believed that Article 11 was a mandatory provision. Over the years, Canada had been applying the provision, and positively responding to requests for technical assistance from developing countries. Such initiatives included assistance in areas of the functioning of enquiry points, establishment of standardizing and conformity assessment bodies and the provision of information technology for the implementation of TBT obligations. With respect to the acceptance of supplier's declarations, he recalled that at the June 2002 meeting, a number of delegations had concurred that in depth discussions of the concept was required prior to considering this approach as a special and differential treatment under Article 12. He announced that copies of a case study on supplier's declarations in various sectors in Canada were available at the meeting. This could serve as a discussion tool for the Committee. He proposed that the issue of supplier's declarations could be taken up at the Third Triennial Review, and certain recommendations could be developed, and the result could then be reported to the TNC at the end of year 2003.

116. The representative of the European Communities supported the view that Article 11, as it stood, was mandatory. He agreed with India that there was a need to make the provision more effective so as to provide "tangible and meaningful" technical assistance. The Committee's work on technical assistance should lead towards achieving that goal. Concerning supplier's declaration, he believed the Committee would benefit from an in-depth discussion on the issue. His delegation would provide a paper on it. He believed this could be one of the subjects to be addressed at the Third

Triennial Review. He noted that the EC used supplier's declarations in a number of sectors, sometimes producing good results, other times, not so successful. Therefore, it was necessary to further discuss this approach.

117. The representative of the United States associated herself with the comments made by Canada and the EC. She found the explanation provided by India constructive, and believed that the workshop on technical assistance to be held in March 2003 would provide an opportunity to further explore ways for meaningful technical assistance. It would be a useful opportunity to hear from developing countries on their positive or negative experiences in this regard, since donors would not wish to provide assistance which was not meaningful. On the issue of supplier's declarations, the US would contribute to further discussions, and might provide a written presentation for the next meeting.

118. The representative of India welcomed the comments made by other Members, and looked forward to the contributions to be submitted, which might lead to substantive discussions and held moving forward the process. He took note of Canada's proposal to discuss these issues in the context of the Third Triennial Review of which the preparation work would start early next year, and to be concluded at the end of year 2003. He envisaged that Members would come up with proposals and ideas for the Review. He noted the Outstanding Implementation Issues and the Third Triennial Review were two different mandates. India had no difficulty to address the issues raised in the context of the Review and would participate in it. However, the outstanding issues were to be examined by end of year 2002 and reported to the TNC.

119. The Chairperson recalled that at the informal meeting held on 15 October, the Committee had held discussions on how to report to the TNC. She proposed to include the following elements in the Report: a direct quotation of the mandate, the two proposals reintroduced by India at the June meeting and a reference to the relevant discussions in the Committee with a last paragraph indicating "India believed that: (i) It was necessary to ensure meaningful technical assistance and cooperation to developing countries and to effectively operationalize Article 11 of the Agreement; and (ii) it would be beneficial for the Committee to hold focussed discussions on the approach of supplier's declarations, in particular on how suppliers from developing countries exporting to markets of developed countries could benefit from this mechanism. The explanation was welcomed. It was noted that the Committee had been addressing the issues of technical assistance and supplier's declarations in the context of the triennial reviews of the Agreement (G/TBT/5 and 9). The need to further discuss these issues was acknowledged."

120. The Committee agreed to adopt such a Report to the TNC and entrusted the Chairperson to finalize it.

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

121. The Chairperson reminded the Committee that it would start its preparation for the Third Triennial Review at the beginning of year 2003, and invited Members intending to submit papers to facilitate the Review to do so as soon as possible. She recalled that at the last meeting, the Secretariat had been requested to prepare a factual paper containing the following: (i) a list referring to the notifications made since 1995 related to labelling and (ii) a list containing a factual reference to the specific trade concerns related to labelling brought to the attention of the Committee under the Agenda item "Statements on Implementation and Administration of the TBT Agreement" since 1995. She drew attention to documents G/TBT/W/183 and 184 containing the lists prepared. On 15 October 2002, the Committee had held informal consultations on the issue of labelling.

122. The representative of Argentina envisaged that the papers prepared by the Secretariat would be discussed by the Committee at its next meeting. The discussion would assist the Committee to

decide the possible elements to be included in a workshop on labelling. He recalled that at the informal consultations, Brazil had suggested to focus the labelling discussion on issues relating to the implementation of the Agreement. He believed the workshop should be one with a practical content based on a list of issues rather than a merely theoretical content. For that, a substantial discussion on the Secretariat papers would be useful. He looked forward to a draft programme of the workshop to be prepared by the Secretariat for the consideration of Members.

123. The representative of Brazil recalled that at the informal meeting, the Committee had held discussions on the possibility of holding a workshop on labelling next year. With respect to the timing, she believed it would be useful to agree on a date, so that Members could organize their work. Regarding the content, she supported Argentina that further reflections would be needed. It should focus on issues related to the implementation of the Agreement (e.g. on transparency, avoidance of unnecessary obstacles to trade, difficulties as a result of the proliferation of different labelling schemes and challenges faced by developing country Members to comply with them). She noted the Doha Agenda, emphasizing the importance to take into account development aspects of the negotiations and to address concerns of developing country Members. She found the Japanese paper (G/TBT/W/176) useful, providing ideas on the elements of the workshop (i.e. lack of transparency, lack of international standards, duplication of labelling requirements and labelling requirements based on descriptive characteristics rather than performance). She proposed to invited the participation of experts who could provide the Committee with input or technical information on the different labelling schemes (e.g. UNCTAD and OECD which had done work related to environmental labelling requirements and the difficulties faced by developing countries).

124. The representative of Mexico drew attention to document G/TBT/W/167, a Canadian paper on mutual recognition activity, and indicated that his delegation would submit a relevant paper to facilitate discussions in the Committee, possibly in the context of the Third Triennial Review. Concerning the issue of labelling, he reiterated his delegation's position as stated at the previous meeting (paragraph 87, G/TBT/M/27). He shared the views expressed by Argentina and Brazil that the workshop should focus on implementation issues to examine how the disciplines of the TBT Agreement were complied with by Members on labelling matters. He believed the provisions of the Agreement were sufficient to ensure that labelling requirements did not create unnecessary obstacles to trade. The problems were results of non-compliance with the provisions, such as those on transparency. He recalled that under agenda item 2.3 of this meeting, there were a number of labelling related notifications where comment periods had not been provided. He looked forward to receiving the draft programme of the workshop. He had doubt about the Brazilian proposal on the invitation of experts. He believed the workshop should focus on issues relating to the implementation of the Agreement, such as experience sharing among Members in their preparation, adoption and application of labelling requirements.

125. The representative of Japan welcomed the Secretariat papers, and believed further discussion was necessary to address the issues of labelling based on these factual lists. Japan supported holding a workshop. A pragmatic approach should be taken and it should not prejudice any outcome. He welcomed Brazil's view on the Japanese paper (G/TBT/W/176), and invited other Members to take into account the relevant submissions, including the one from Japan, for future deliberations.

126. The representative of the European Communities stated that labelling was an important issue for the EC, and labelling requirements had the potential to cause significant effects on trade. He drew attention to document G/TBT/W/175, an EC submission reflecting the EC's position. He found the Secretariat papers useful, and could assist furthering debates in the Committee. However, with regard to the list of notifications, he believed it had under-estimated the scope of labelling requirements, because it had not included those technical regulations, containing mandatory labelling requirements, but without the word "labelling" appearing in the notifications. In addition, the list related only to mandatory labelling, and one should not lose sight of voluntary labelling, which could also affect

trade. With regard to the paper on trade concerns raised in the Committee on labelling, he believed it demonstrated the range of concerns as well as highlighted a number of systemic issues (e.g. justifications, scientific approach, necessity, transparency and the use of international standards). He supported the view to hold structured discussions on these issues, as well as those highlighted by Brazil on developing country concerns and the need to address specific difficulties they faced regarding labelling requirements in export markets. Members could address this at the workshop on technical assistance in March 2003, and he invited developing country Members to provide information on any specific problems they faced.

127. Regarding the informal workshop on labelling, the EC preferred it to be held as early as possible in year 2003. He hoped the Committee could finalize the programme in March, and requested the Secretariat to circulate the draft programme well in advance of the meeting. He believed the workshop should be a fairly open one in order to enable other Committees to participate, such as the Committee on Trade and Environment (CTE). Observers could contribute in certain practical areas, such as the ISO in international standards.

128. The representative of Chile thanked Japan for the paper (G/TBT/W/176), and recalled the comments made by Brazil on it. The Japanese survey conducted on the concerns of industry on labelling had made it possible to detect the trade barrier factors, such as the lack of transparency. This could be due to the fact that the authorities responsible for labelling requirements were not those who used to develop technical regulations, and did not know about the obligations under the Agreement. As suggested in the Japanese paper, in the voluntary area, labelling institutions might not be aware of the disciplines of the Code of Good Practice on the Preparation, Adoption and Application of Standards. In the case of mandatory regulations, if the requirements of the Agreement were not followed due to the lack of awareness by the relevant authorities, Members should act to ensure implementation. Referring to the points on the lack of or non-use of international standards as well as the duplication of labelling requirements, he believed that it would be useful to analyse these situations in specific cases. The labelling workshop to be organized next year for educational purposes would constitute the opportunity to bring out further examples on these, including those related to the descriptive characteristics of labelling requirements. He believed the important element of the workshop was to focus on implementation issues (i.e. how different disciplines of the Agreement applied to labelling requirements).

129. The representative of India welcomed the Secretariat papers and the recent submissions by a number of Members (Japan, Canada and EC) on labelling. He was interested in the points raised in the Japanese paper (i.e. the lack of transparency, the lack of international standards, the duplication of labelling requirements and labelling requirements based on descriptive characteristics instead of performance based requirements); the point raised in the Canadian paper on the issue of mandatory versus voluntary labelling requirements; the point raised in the EC paper on transparency provisions of the Code of Good Practices for non-governmental standardizing bodies developing voluntary labelling schemes; and the point to identify the relevant situation in which labelling could facilitate trade, boost developing country exports, and help fulfil legitimate policy objectives. He concluded that most issues raised required effort by Members at the national level (e.g. to encourage non-governmental standardizing bodies to accept the Code of Good Practices, to ensure notification of labelling schemes, to enhance transparency of labelling schemes and to ensure participation by developing country exporters in the development of labelling schemes). A key issue was that they all related to the fulfilment of the obligations by Members under the Agreement. None of these required the clarification of the existing WTO rules relating to labelling, which were, in India's belief, balanced and adequate. He supported the views of Brazil and Mexico that the focus of any informal workshop on labelling should be on the implementation of the Agreement, as well as what problems Members faced in complying with the various obligations in this context and should be for educational purposes. He invited other Members to consider carefully the programme of this workshop and how it might be organized next year.

130. The representative of Switzerland welcomed the Secretariat papers on labelling, and found them useful. She believed that it was essential to continue the labelling discussion in a well-structured manner. She was in favour of holding a workshop on labelling, and requested that a draft programme be prepared by the Secretariat soon, so as to facilitate discussions at the next meeting.

131. The representative of Colombia thanked the Secretariat for the papers. In particular, in document G/TBT/W/184, Members could have a picture of all the main concerns raised in relation to labelling requirements. He agreed to hold a workshop on labelling, and supported the Mexican view that it should be educational, and that it should provide a structured debate on the issues. He shared the views of Argentina and Brazil that the workshop should focus on the implementation of the Agreement in the area of labelling. He supported the proposal to invite experts from other institutions (e.g. UNCTAD, as suggested by Brazil) as well as officials responsible for labelling where there were specific experiences to educate the Committee in the area of labelling. This would provide an opportunity for the theoretical to join with the practical. He found the Japanese paper interesting, and believed that it gave good ideas for the organization of the workshop. He also supported the comments made by Chile. He invited the Secretariat to take these elements into consideration when preparing the draft programme.

132. The representative of Malaysia agreed with Mexico that the labelling workshop should be a learning event, and that the focus should be to improve Member's understanding on labelling requirements in consistence with the Agreement. She did not think the Secretariat was able to come up with a draft programme of the workshop at this point. Instead, it would be useful if it could put down certain elements of what could constitute the agenda of the workshop or learning event. Members could discuss these elements at the March meeting. As to the date of this event, she expressed her wish to leave it open until its agenda was clear.

133. The representative of Brazil thanked the Secretariat for the papers, and believed that they provided good material to facilitate further discussions. She commented on the EC's point with respect to CTE's participation in the labelling workshop. She noted that most delegates that covered TBT also covered CTE. She could not understand exactly the reason for CTE's participation, and requested the EC for a clarification. If the CTE was to benefit from the discussions in the workshop, she said that the way to proceed would be to transmit the result or a summary of the workshop to the CTE Special Session. Regarding the issue of mandatory or voluntary labelling schemes, she believed that voluntary schemes could open market access opportunities on one hand, but could also create unnecessary obstacles to trade, depending on how they were elaborated. Her delegation would like to include both mandatory and voluntary labelling requirements in future discussions.

134. The representative of the European Communities recognized that it was up to the Committee to decide whether the CTE would participate in the workshop, and thought that the matter could be discussed at the next meeting. The EC believed that CTE involvement would be useful for the CTE's work. As stated by Brazil, a number of delegations attended meetings of both Committees, and so in a sense the CTE already had a representation in the Committee. The EC's intention was to make it more formal in having CTE's participation in the TBT informal workshop on labelling.

135. The representative of Mexico thanked the Secretariat for the papers. He raised the question to whether funding would be available for the participation of experts from capital at the labelling workshop. He was cautious about the point made by Brazil concerning the result or summary of the workshop. He reminded Members that the workshop should be educational in nature without necessarily arriving at any conclusion or recommendation.

136. The Chairperson concluded that further consultations would be needed on the organization of the informal workshop/learning event on labelling. She would take into account the comments made at the formal and informal meetings as well as the submissions by Members with respect to the ideas

and elements for the workshop. She would communicate her thoughts to delegations in advance of March 2003 to facilitate discussions at the March meeting when Members could also discuss the date of the event and the participation of the CTE. She invited interested delegations to communicate with her or the Secretariat for further inputs.

137. The Committee took note of the statements made.

VI. TECHNICAL ASSISTANCE

138. The Chairperson recalled that as a result of the Second Triennial Review of the Agreement, the Committee had been developing a demand driven TBT-related technical cooperation programme. A questionnaire had been prepared to assist developing country Members to identify and prioritize their technical assistance (TA) needs in the TBT area (G/TBT/W/178). On 25 June 2002, she had sent out a communication reminding developing countries to respond to the questionnaire. She welcomed the 46 responses received so far (JOB(02)/99 and Add.1-45). In response to a request of the Committee at the previous meeting, the Secretariat had compiled the first 28 responses (G/TBT/W/186). An Addendum to this document would be prepared taking into account the further submissions. This would facilitate the Committee's work to reassess the needs identified in light of agreed priorities.

139. She recalled that the Committee had agreed to hold a workshop on technical assistance back-to-back with the present meeting. However, due to the impossibility of finding hotel rooms and making arrangements to fund the participation of least-developed country and resource-constrained capital based representatives by the WTO General Services Division, she had decided to postpone the workshop in order to ensure full participation and fruitful work. A communication had been circulated on 10 September, explaining the situation and announcing that the workshop would be held, instead, in the week of 17-21 March 2003, back to back with the forthcoming Committee meeting. The Secretariat had indicated that the funding would remain available at that time, and would process the requests already received accordingly, unless informed otherwise. There was still the possibility for other least-developed country and resource-constrained Members to submit their requests for funding before the end of October 2002. The Committee had held informal discussions on the programme and structure of the workshop on 15 October, based on a draft programme prepared by the Secretariat. She requested the Secretariat to further prepare the workshop as agreed by the Committee at its June 2002 meeting, as well as taking into account the comments made at the October informal meeting. She invited Members to contact her or the Secretariat to convey further ideas about the workshop. She hoped this one-day workshop would provide the Committee the opportunity to have focussed discussions on technical assistance and to further develop its Technical Cooperation Programme.

140. The representative of Mexico introduced a Mexican paper on the TBT Technical Cooperation Programme (G/TBT/W/189). He noted that most developing countries had received TA in the traditional form (e.g. through workshops and seminars, etc). However, such activities had had no long-term, or minor affects. Mexico had had that experience due to the high turnover of staff in departments responsible for the implementation of the Agreement. This had led to a permanent shortage in those departments of technical capacity to ensure effective implementation. In order to address this problem, in 1997, the Mexican Government had decided that the Ministry of the Economy's General Directorate of Standards (the responsible authority) be governed by a quality management system, certified as conforming to the ISO 9002-equivalent Mexican standard. Mexico wished to share this experience with other Members and proposed that, as a key component of the TA programme, assistance to developing countries be directed at advising them on the creation of a quality assurance system for government departments in charge of the implementation of the Agreement. He believed this was not the only solution to the situation. However, it was a system which was easy to implement and would raise the level of TA provided.

141. The Chairperson believed the Mexican proposal related to a problem which touched upon a large area of TA delivery.

142. The representative of the European Communities drew attention to document G/TBT/W/188 and stated that this paper was the EC's attempt to compile current TA projects. These were not just Commission Funded projects, but also those funded by Member States. He emphasized that the data was an indicative list and could not be regarded as 100 per cent accurate. It would need to be updated over time to accommodate changes in projects identified. Not all the projects included were hundred per cent dedicated to TBT issues, and some of them just contained elements of TBT-related TA. The EC had provided this information for the sake of transparency with the intention of assisting developing countries who had identified their needs to reflect on the possible assistance to be received. There were cases when experts responsible for the overall TA programme of a particular country were not familiar with TBT-related needs. If they could be made aware of what was available, they might be able to specific their TBT-related TA projects more effectively. The paper was also prepared to encourage other Members to be transparent in their TA activities. He believed transparency was important, not only from Members, but also from donor organizations (such as observers of the Committee). The issue of transparency should be considered when developing the programme of the TA workshop.

143. The Chairperson echoed the EC on encouraging transparency on TA activities. New Zealand had undertaken to provide a similar paper for the next meeting.

144. The representative of Chinese Taipei appreciated the papers prepared by the Secretariat as well as those submitted by Members, and believed these show the importance of the issue of TA. Concerning the TA workshop, the draft programme prepared by the Secretariat contained elements that were critical to ensure best results and that Members who needed TA could benefit from it. She raised questions about how the discussions in session one to four of the programme would lead to the identification of TA partners as well as the form of reporting by moderators. She believed these were important in order to visualise the outcome and to facilitate discussions at the workshop. It would take time for the development of human resources and technical capacity. Different TA needs for one Member might evolve with its development. For that, the Technical Cooperation Programme would cover an extended period of time, and it might be necessary to reassess the needs at certain point. She shared the concern raised by Mexico on the effectiveness of TA activities, and proposed that this element should be included in the Programme. The assessment of TA results could provide useful feedback to future TA activities, and the assessment could be undertaken by donors or the Secretariat.

145. The Chairperson invited interested Members to contact her or the Secretariat to further develop the programme of the TA workshop.

146. The representative of Paraguay believed TA was an important issue, and thanked the EC and Mexico for their submissions. He informed the Committee that there would be a national workshop in his capital with the support of the WTO Secretariat, which would provide an opportunity to improve the understanding and assist the implementation of the Agreement. Paraguay was prepared to share, at the next meeting, the experience gained from the workshop. He agreed with the view expressed by Mexico, and noted that paragraph 6 of document G/TBT/W/189 listed three reasons that prevented developing countries from properly implementing the Agreement (i.e. the lack of competent or trained human resources; the lack of legislation, material resources and technical infrastructure; as well as the lack of participation by interested sectors). He believed that in order to move these forward, funding or financing would be important in order to sustain the ongoing TA activities. He noted the proposals made in the Mexican paper to strengthen institutions, and believed that there were different aspects to be considered in the Technical Cooperation Programme. He recalled that Brazil had submitted a paper (G/TBT/W/156) which emphasized the importance of technical cooperation between different institutions. He found the exchange of experiences at the south-south level

important, and that south-south cooperation could facilitate focussing on reality and discussions on an equal footing. Another important aspect was to consider infrastructure building, in particular to achieve the full implementation of the Agreement. It would be useful to bring the infrastructure element, which had been discussed in the Committee on Trade and Development, to the discussions in the Committee. Infrastructure building and transfer of technologies in areas such as certification bodies and laboratories could assist developing countries to be able to meet the quality demands by international consumers.

147. The representative of Brazil thanked the EC, Mexico and the Secretariat for their papers, and believed they would be useful for the workshop to be held in March 2003. She invited other Members to study them. She noted that Brazil had been mentioned in the EC paper under a number of programmes funded by the EC and Germany. She welcomed these activities. Regarding the Mexican paper, she recognized the need and the problems that had been identified concerning the continuation of human resources. This could create obstacles to long-lasting results of TA as well as problems to ensure the continuity of TA programmes. She noted that these problems mostly existed in developing countries, but could also occur in developed countries, and believed that it was then up to the individual governments to overcome these problems. Referring to the transparency issue raised by the EC, she agreed that it was useful for Members to share information on TA activities. She recalled that Brazil had submitted a relevant paper (JOB/01/128) providing information on its technical cooperation activities (regarding metrologies, standardization and conformity assessment) in the years 1995-2001. The document provided information on assistance received and provided by Brazil. Brazil also provided technical cooperation activities to the private sector within the country, an element which was usually overseen. She believed that it was important for government to resolve problems internally rather than just expecting external donors to provide TA to solve its domestic problems. She believed this an issue which should be highlighted. She thanked Paraguay for the comments made on the Brazilian paper (G/TBT/W/156) highlighting the distinction between technical assistance and technical cooperation. She reiterated the importance of technical cooperation and the usefulness to exchange on the equal and horizontal ways. She encouraged more future programmes based on this concept.

148. Concerning the TA workshop, her view was that it should be pragmatic, focussed and constructive. The Committee should avoid a repetition of the workshop held in the year 2000 with mainly developing country Members representing their problems. Instead, the 2003 TA workshop should focus on the work in the future - the next step to meet the specific needs prioritized. Prioritization was one of the key words related to the technical cooperation programme, since it was not possible to cover everything. There was the need for developing country Members, along with other Members, to identify the specific areas which were of importance to developing countries. She agreed with Paraguay that infrastructure was an important element, and invited the Committee to start from there. She informed the Committee that a workshop on the implication of the Agreement would be held jointly with INMETRO (the standards and metrology agency of Brazil) and the ITC for the private sector of Latin American and Caribbean countries. She was planning to share that experience with other Members at the next meeting.

149. The representative of the European Communities thanked Mexico for its paper, and was aware of the problem identified. Trained government officials could get better paid jobs in the private sector. He found the solution proposed by Mexico interesting. However, he needed to reflect on whether this would work. On the compilation paper (G/TBT/W/186), he suggested that the Committee request the Secretariat to make an analysis of the priorities expressed by developing countries. He believed it was useful to obtain an overview of the different priorities. The EC had attempted to analyse them in four areas (i.e. strengthening the infrastructure, training and awareness raising, international contacts and cooperation and aspects of the Agreement itself). He was willing to share the work with the Secretariat. He found the comment of Chinese Taipei on the need to reassess the TA programme useful. He supported the views of Paraguay and Brazil on the regional element

and the importance of technical cooperation. He invited the Committee to further develop these points at the March 2003 TA Workshop.

150. The representative of Canada thanked the EC for providing useful information on its TA activities in the EC paper. This had inspired his delegation to produce something similar. He encouraged other Members to do the same. To assist discussions, he believed it also would be useful to obtain a compilation of information on the TBT-related TA activities of other WTO bodies, international standardizing bodies as well as other relevant international organizations. He welcomed the responses to the questionnaire and encouraged developing countries which had not done so to respond. All the information would be studied and could provide a full picture of the situation. He supported the EC suggestion to request the Secretariat to further analyse the compilation of the responses. He found the Mexican paper useful. He noted the need for human resources and training in areas such as management of regulations, enquiry points and management of conformity assessment bodies. The Mexican paper provided a basis for further work. He agreed with Paraguay that the building of institutions, legal and technical infrastructure was important, and hoped that the Committee could address these in the March workshop. Concerning the role of the Committee, he believed it was unrealistic to expect the Committee to become a delivery mechanism of the technical assistance priorities identified. It was more appropriate for it to be an advisor and an advocate on TBT-related TA matters. It would be important for the Committee to analyse the results of the Survey at the March workshop well in advance of the July meeting of the CTD, so that any actions or recommendations arising from the programme could be incorporated in the WTO 2004 work plan.

151. The representative of Egypt thanked the Secretariat, Mexico and the EC for their contributions. He believed TA should be tailored to the specific needs of the various countries. He agreed with Mexico that traditional forms of technical assistance did not deliver real outcomes. The Mexican paper had touched upon an important aspect - that was the quality assurance systems which were the centre of the needs of developing countries. The workshop could be an opportunity to address this issue in detail. He welcomed the EC paper, and joined the EC in encouraging others to submit similar papers. He was interested by the point raised by Chinese Taipei on the importance of assessing TA programmes. He believed it valuable to assess the TA outcomes and benefits achieved in the recipient countries. The workshop could serve as a forum for such an assessment exercise. He proposed that it could be a standing agenda item in Committee meetings so that developing countries could provide information on TA programmes received and to have the outcome assessed in the Committee. He emphasized the importance of coordination between national bodies, international organizations and donor countries to ensure the effective delivery of TA to those who needed it.

152. The Chairperson echoed that the point about successful and meaningful technical assistance activities from the perspectives of both donor and recipient could be included in the programme of the TA workshop.

153. The representative of the United States welcomed the survey responses. Her delegation would study the submissions and might come back at the next meeting with comments in terms of how the US was attempting to be responsive to the needs identified or the problems the US had identified in the questions raised. She suggested that it would be helpful if the Committee could also study the assistance being provided by the Secretariat to see if that responded to the needs identified. She recalled the point raised by India on the effectiveness of assistance. She noted that the WTO 2003 TA plan was being discussed in the Committee on Trade and Development. She raised the question on how the Secretariat decided with whom it had cooperative undertakings. She believed that a lot of the expertise in areas relating to the implementation of the Agreement did not rest with the WTO Secretariat, nor with other international bodies. Broader benefits might be gained by being more open minded about whom to cooperate with. She asked also if the Secretariat had put its training materials on the web, and if so, it might be useful to have a look at those.

154. She welcomed the paper submitted by the EC on the assistance they provided, and recalled that Japan and some other Members had made similar presentations. Her delegation had not been able to provide such information in detail, and she hoped that at some point in the future, certain substance on the content of assistance provided by US could be shared in the Committee. She was not in a position to react substantively to the proposal made by Mexico, but noted the relevance of the issue identified. She believed further study on the solution proposed would be needed. Concerning the workshop, she recalled that she had made few suggestions at the informal discussions. She proposed to include a presentation on the experience of developing countries that had managed to cooperate on a regional basis (e.g. resource sharing) in terms of the implementation of the Agreement. She believed it could be beneficial, and it was along the lines of south-south cooperation emphasized by Brazil.

155. The representative of El Salvador supported the Mexican proposal. She believed it useful, particularly since in the Central America, efforts had been put in the area of standardization, including projects as described by Mexico. She invited the Committee to take the proposal into consideration in the development of its TA programme.

156. The representative of Japan agreed with India that TA should be tangible and meaningful for recipient countries. He believed TBT-related TA activities should be carried out in coordination with regional bodies, bilateral donors and international bodies.

157. The Secretariat explained that the draft programme of the TA workshop had been revised taking into account comments made by Members at the informal meeting held on 15 October and the revised draft was made available at the meeting. She welcomed further comments from interested delegations so that the workshop could be organized accordingly. Referring to the questions raised by the US on how the Secretariat chose the organizations to cooperate with in its TA activities, she explained that it was one of the approaches adopted by the WTO Secretariat to coordinate with other organizations in its TA activities. Most WTO TA activities were demand driven. Members could submit their requests to the WTO Technical Cooperation Division. In these requests, Members usually indicated the specific areas they wished to cover, and in some cases, also the organizations they wished to be included in such activities. She gave the example of the upcoming TBT Seminar in Viet Nam for the ASEAN countries and China. The programme had been developed with the input of participating countries, also indicating the organizations they wished to invite. The Secretariat also received requests from other organizations seeking contributions from the WTO to their activities. The Secretariat would make a decision on its participation taking into account the nature of the activities as well as the human and financial resources available. She recalled that the General Council had mandated the Director-General to "explore with relevant international standard-setting organizations and relevant intergovernmental organizations financial and technical mechanisms to assist the participation of developing countries in standards-setting activities". The Secretariat had been cooperating and coordinating with these relevant organizations (mainly observers of the TBT Committee) to carry out the DG's mandate. She confirmed that training material was available on the WTO website. However, not all of the TBT-related materials were prepared by the Trade and Environment Division (e.g. certain materials were prepared by the Technical Cooperation Division, the Training Institute or the Information and Media Relations Division). Various Divisions in the WTO made efforts to coordinate and cooperate with the preparation of material on the website.

158. The representative of the ISO recalled that at the last meeting, he had reported on the initiatives of the ISO and its national standards bodies in cooperation with the WTO to identify possible actions to enhance the participation of developing countries and economies in transition in international standardization to complement the TBT Committee's work. Five regional workshops had been held in Bangkok, Belgrade, Bogotá, Cairo and Nairobi and were attended by representatives of standardization stakeholders. The results of these regional workshops had been reported at a wrap-up workshop held back to back with the ISO General Assembly in Stockholm on 24 September.

He appreciated the participation of the WTO Deputy Director General at the workshop attended by 300 participants from more than 100 countries. A list of recommended actions had been drawn up and submitted to the ISO General Assembly for decisions and actions.

159. The recommended actions included the following: for national standards bodies (NSBs) on how to raise awareness of the role of standards for economic development, how to build capacity, develop national cooperation and specify differential treatment for developing countries; for governments on good regulatory practices to implement an appropriate framework and cooperation between developed and developing countries; for the private sector on how to cooperate with NSBs in raising awareness, developing capacity, and improving cooperation between the standardization stakeholders at the national level; and for donors and international organizations (including ISO) to raise awareness, facilitate electronic communication and participation, as well as to develop capacity. The ISO General Assembly had decided to refer the results to the ISO Council for further action and, in particular, to develop an operational programme of action (including financial, organizational and timing aspects) as well as to identify actions that could be implemented immediately (in particular the twinning arrangements between developed and developing countries for the technical work, use of information communication technologies and the implementation of training programmes, etc.).

160. A task force had been established by the ISO Council the following day and a preparatory meeting would be held mid-November 2002 and a full meeting in January 2003. The submission of a programme of action was requested at the March 2003 meeting of the ISO Council. He further reported on a joint initiative of the BIPM, IAF, IEC, ILAC, ISO, ITU-T, OIML and UNIDO to coordinate assistance to developing countries in the areas of metrology, accreditation and standardization (JCDCMAS). He believed these were components needed for an integrated infrastructure. All the above-mentioned organizations had expressed their intention to coordinate their assistance to their developing country members in their respective areas of competence and were committed to coordinating their own activities with a view to optimizing the use of available resources. He informed the Committee that a letter on this subject had been sent to the Chairperson of the Committee for the information of the TBT membership.

161. The representative of UNIDO confirmed that UNIDO had signed on to the joint Committee, JCDCMAS. The group recognized the increased awareness of the importance of effective technical infrastructures for metrology, standards and conformity assessment, including accreditation for developing countries, and expressed their intention to coordinate work in support of developing countries and commit themselves, through the work of the joint Committee, to strengthen the capacity of developing countries, to establish and better implement relevant multilateral commitments in metrology, accreditation and standardization; as well as to promote a coordinated approach to these areas. The group of organizations reaffirmed their commitment to work together on the basis of their respective mandates and to support developing countries in their endeavour to participate effectively in international trade. JCDCMAS would be prepared to inform the TBT Committee on its activities, and indicated its interest in the needs assessment survey carried out by the Committee. He also indicated its willingness to contribute expertise on the follow-up on the needs assessment.

162. The representative of El Salvador, speaking on behalf of Guatemala, Honduras and Nicaragua, thanked the UNIDO for its presentation, and believed that the JCDCMAS initiative was important to developing countries, and in particular, those in Central America. It was necessary to avoid the duplication of work and to improve coordination efforts. She appreciated UNIDO's work in Central America in areas related to, for example, standardization, regulation and trade facilitation. She invited the WTO Secretariat to support these types of activities in the future.

163. The representative of the FAO/WHO Codex Alimentarius Commission drew attention to a paper "Capacity Building for Food Standards and Regulations", which covered both SPS and TBT matters (i.e. food safety and quality, inspection and certification), compiling technical

cooperation activities of the FAO and WHO in the areas of food safety and quality. She believed the paper could also assist countries to meet their obligations under the WTO Agreements (e.g. risk analysis under the SPS Agreement). It highlighted the need for coordination between international organizations. The WHO and FAO cooperated with the WTO, OIE, World Bank and International Atomic Energy Agency in their various activities. Codex's role was to establish standards as well as to participate in the regional committees on matters of interest to the various regions (e.g. specific technical cooperation needs and problems). She informed the Committee that information could be obtained on the website of the FAO and WHO.

164. The Chairperson requested the Secretariat to prepare an addendum to the compilation document (G/TBT/W/186) as well as to provide an analysis of the priorities identified in the responses to the TA questionnaire. She invited the EC to share its preliminary work on this with the Secretariat to facilitate that process. She informed the Committee that copies of the ISO letter which she had received could be obtained by interested Members from the Secretariat. She requested the Secretariat to further develop the programme of the TA workshop to be held in March 2003, and invited interested Members to contact her or the Secretariat for any further comments. She hoped the workshop would be an interactive one with useful contributions from delegations.

165. The Committee took note of the statements made.

VII. REPORT (2002) OF THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE

166. The Chairperson drew attention to document G/TBT/SPEC/20 circulated on 30 September 2002, containing a draft report of the Committee for 2002 to be submitted to the Council for Trade in Goods.

167. The Committee adopted its 2002 Report as contained in G/TBT/SPEC/20.

VIII. UPDATING BY OBSERVERS (UN/ECE)

168. The representative of the UN/ECE said that her organization played a role in developing and maintaining norms, standards and recommendations that facilitated trade (e.g. in the areas of trade facilitation, transport, electronic business, vehicles, transportation of dangerous goods, quality standards for agricultural products and technical harmonization and standardization policies). The two important objectives were to obtain a wide involvement by interested parties in the development of standards as well as the implementation of the existing UN/ECE standards. To facilitate the implementation of these norms, UN/ECE participated in a network consisting of all the UN regional commissions. Within this network, each regional commission promoted the implementation of standards in its region, including those developed by the UN/ECE. The UN/ECE placed particular emphasis in economies in transition and especially those low-income ones. However, it cooperated with other regional commissions in projects for the implementation of standards.

169. UN/ECE's work was opened for participation not only to UN/ECE Member States, but also to all countries and regional economic integration organizations (e.g. Australia, Canada, Japan, New Zealand, the People's Republic of China, Korea, South Africa, the US and the European Union). Other UN Member States who were not signatories and other governmental organizations could participate on a consultative basis. For example, in the area of Centre for Trade Facilitation in Electronic Business (UN/CEFACT) created in 1998, equal status was given to all UN Member States and inter-governmental organizations, as well as sectoral and industry associations recognized by the Economic and Social Council. It was the Centre's objective to be inclusive in order to make its standards and outputs useful in international trade. It also emphasized inclusiveness as one of the ways to provide technical assistance, as well as to ensure understanding of its norms, standards and recommendations. To encourage participation and implementation, it worked with the support of

organizations in other regions (e.g. to hold meetings, workshops, seminars and awareness campaign for educational purpose). Another effort to increase participation from developing countries was through a fund raising programme for capacity building, training and technical cooperation. It worked closely with the following international organizations: UNCITRAL, UNCTAD, UNEP, UNIDO, the ITU, the ISO, the Agency for Economic and Social Development and Assistance, the Bank for International Settlements, the World Customs Organization, CERN and the International Article Numbering Association.

170. She indicated that the same approach for participation applied to the Working Party on Technical Harmonization and Standardization and the Working Party on Agricultural Quality Standards for Use in Trade. Specific technical assistance projects included the Mediterranean project to develop e-learning tools. Further information about UN/ECE's work could be obtained in documents which were made available at the meeting.

171. The representative of the ITC informed the Committee that a regional workshop on business implications of WTO Agreements for the private sector in Latin America and the Caribbean would be organized by the ITC on 22-24 October 2002. A similar one for the Asian region would be held in Manila on 3-5 December.

172. The Committee took note of the statements made.

IX. OTHER BUSINESS

173. The representative of the United States drew attention to a document developed in the Codex Committee on Food Inspection and Certification on equivalence of technical regulations associated with food. It was now available for comments, and purported to assist the implementation of the TBT Agreement. She was concerned that the Codex's work might be unnecessary, and might lead to a misguided interpretation of the WTO rules. Her authorities in the Codex Committee had been requesting a substantiation of the problem that these guidelines attempted to address. She invited trade officials of other Members to follow this work which was under way in the Codex.

174. The Committee took note of the statement made.

175. The next meeting of the Committee would be held on 18 and 20 March 2003 and a special workshop on the TBT-related technical cooperation programme would be held on 19 March, back-to-back with the meetings.
