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From the Director's Desk



Prabir Sengupta

SINCE the establishment of GATT in the late 1940s, substantial liberalization in trade in goods has taken place through tariff reductions and tariff eliminations. With the tariff reductions and eliminations continuing, the need to regulate and discipline other forms of trade barriers assumed critical importance given that the GATT had set its ultimate objective of establishing a barrier-free trading regime. Though concerns towards non-tariff measures/barriers were expressed for the first time during Kennedy Round (1964-67), a more comprehensive Plurilateral Agreement on Technical Barriers to Trade (TBT) was adopted during the Tokyo Round, which came to be popularly known as "Standards Code." It subsequently tried to ensure that international trade would not be unnecessarily hampered by technical regulations and standards, drawn up to protect health, safety of environment and to prevent fraud on unsuspecting consumers.

As many countries were not signatories to the "Standards Code", Uruguay Round of negotiations provided a forum to many developing countries to participate in the negotiations so that a well defined package for all the countries could be worked out. The TBT Agreement that thus came into effect recognizes that countries should have the right to establish technical regulations for protection of human, animal or plant life subject to the condition that these regulations do not create unnecessary obstacles to trade.

The Agreement further encourages the countries to recognize each other's testing procedures. Through this mechanism, an assessment can be made as to whether a product meets the importing country's standards through the testing and certification procedures available in the country where it is produced. For the trade to flourish, it is necessary to provide adequate information to manufacturers and producers to know their prospective markets and to this extent, the Member Governments are required to set up national enquiry points.

Since 1995 when the WTO was established, Members have increasingly taken recourse to technical regulations. Towards the end of 2003, more than 5,000 TBT notifications have been made by eighty WTO Members. The coverage of these standards notified so far and their linkages with technology levels and production process methods are emerging as constraints for market access. Low level technological competence of developing countries would further undermine their market access prospects.

Thus, the growth of TBTs underscores the need for the developing countries to upgrade their technological competence in order to compete in the global market.

WTO and Technical Barriers to Trade (TBT)

Creating Barriers Against Furthering Market Access

Biswajit Dhar and Murali Kallummal***

I. Introduction

OVER the past five decades and more, the multilateral process has witnessed substantial liberalization in trade in goods via tariff reductions and tariff elimination. While a substantial part of this liberalization in developed countries was achieved under the General Agreement on Tariffs and Trade (GATT), majority of developing countries undertook commitments for lowering tariffs as a part of the Uruguay Round commitments. Alongside the reduction of tariffs, the need to regulate and discipline other forms of trade barriers gained substantial significance and was viewed by many as the new mechanism to carry forward the process of trade liberalization. This realization led to the first detailed discussion on non-tariff measures/barriers during the Kennedy Round (1964-67). A commitment was taken in this Round to reduce non-tariff barriers. Although this Round witnessed a major step towards freer trade for developed economies by way of substantial reduction in average tariff levels, very few achievements were made by way of regulating non-tariff measures.

Although the Kennedy Round provided an expansion in the

mandate of multilateral trade negotiations by extending the scope of liberalization whereby non-tariff measures (NTMs) were taken up, the actual process only began under the Tokyo Round (1973-79). By the end of negotiations under the Tokyo Round, a plurilateral Agreement on Technical Barriers to Trade (TBT), better known as the "Standards Code", was adopted. All products, including industrial and agricultural products were subjected to the provision of Standards Code.¹ This Agreement filled a gap in the trading system's defences against non-tariff barriers. It attracted nearly 40 signatories, including a fairly large number of developing countries.

The Standards Code was set up to ensure that international trade would not be unnecessarily hampered by technical regulations and standards drawn up to protect health, safety and the environment, to prevent fraud, or for other reasons. It was believed that these measures can easily operate in ways that discriminate against importers, particularly if the standards are different from those used in other countries, are enforced through testing or certification requirements which imports cannot easily meet, or are insufficiently publicized.

The Code therefore encourages the signatories to use internationally agreed standards, where these existed; required them inform one another about their preparation, adoption and application of standards, and to consult on this when necessary. It called for testing and certifying authorities to avoid discrimination against imports and, as far as possible, to recognize each other's tests and certificates.

The Uruguay Round introduced the issue of technical barriers to trade through a ubiquitous mandate that provided for negotiations aimed at improving, clarifying, or expanding appropriate Agreements and Arrangements negotiated in the Tokyo Round of Multilateral Negotiations. One of the key decisions taken upon commencement of the negotiations was that all GATT Contracting Parties would fully participate in the process. In other words, the plurilateral Agreement on TBT was to be made a multilateral contract.

The UR thus gave a political push to negotiations and a forum in which major changes to the Code itself were considered. It offered the opportunity to negotiate directly with developing countries that were not signatories and thereby placing the discussions in a much wider context, made it possible to develop a package agreement on standards that might require

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¹ See Article 1.3, of the Agreement on Technical Barriers to Trade, 1979, GATT.

greater efforts by some countries than others.

II.1 Scope of the Agreement on Technical Barriers to Trade

The TBT Agreement under the WTO came into effect from 1 January 1995 following the decision taken by the Tokyo Round TBT Committee to terminate the "Standards Code". In its multilateral incarnation, the TBT Agreement seeks to ensure that technical negotiations and standards, as well as testing and certification procedures, do not create unnecessary obstacles to trade. However, it recognizes that countries have the right to establish protection at levels they consider appropriate, for example, for reasons like human, animal or plant life or health or environment, and should not be prevented from taking measures necessary to ensure that those levels of protection are met.

In ensuring that standards and testing do not create unnecessary obstacles to trade, the TBT Agreement encourages countries to use international standards where these are appropriate, but does not require them to change their levels of protection as a result of standardization. The agreement sets out a code of good practice for the preparation, adoption and application of standards by central government bodies. It also includes provisions describing how local government and non-governmental bodies should apply their own regulations – normally they should use the same principles which apply to central governments.

Applying the basic GATT principles of non-discrimination, the Agreement provides that the procedures used to decide whether a product conforms with national standards have to be fair and equitable. It discourages any methods that would give domestically produced goods an unfair advantage. The agreement also encourages countries to recognize each other's testing procedures. By so doing, a product can be assessed to see if it meets the importing country's standards through testing in the country where it is produced. Manufacturers and exporters need to know what the latest standards are in their prospective markets. To help ensure that this information is made available conveniently, all WTO member governments are required to establish national enquiry points.

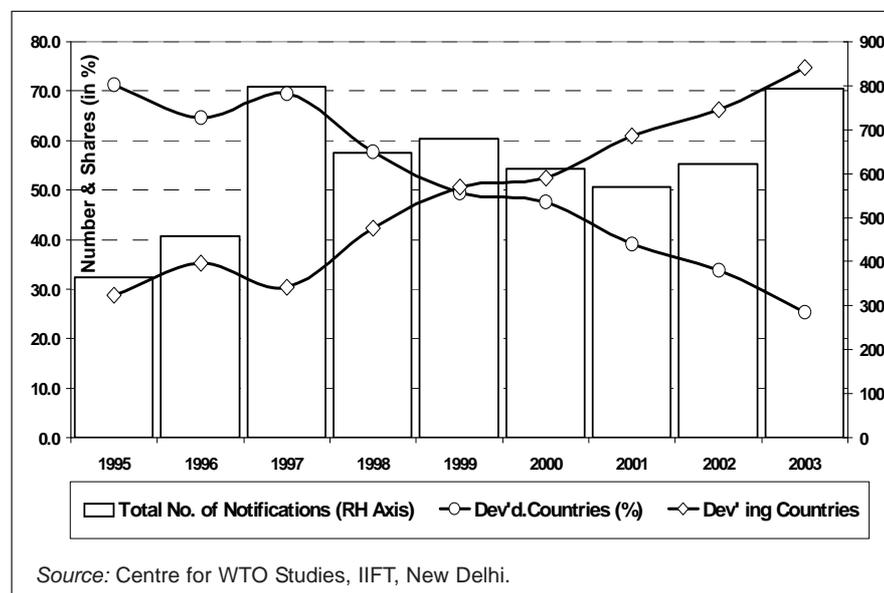
II.2 Trends in the Growth of TBT Barriers and Their Impact

Nearly four decades after the steps were taken by the multilateral trading system for the reduction of NTMs and to thus enhance market access prospects, the global trade is beset with one of the most difficult and complex regimes. Contributing to the emergence of this regime is the increasing presence of TBT, which have become the guideposts for trade. In fact, it can be argued that since the formation of the WTO in 1995, the number of TBTs and the spread of such measures across the Member countries are undermining trade liberalization achieved by way of tariff reduction and elimination of conventional forms of non-tariff barriers, such as quantitative restrictions.

THE growth of TBTs thus underlines the need for the lesser players in the global economy to focus on the mechanisms through which they can upgrade their technological sinews, which are possibly the most significant factor that could contribute towards improving the quality of their goods and services.

This surge can be related to the low average tariff levels prevailing across large number of developed and developing countries and also to a growing awareness regarding quality and sustainable development needs. As seen in the Figure 1, from 1995 after the WTO came into existence, a total of 5,460 notifications were made by 80 Member countries. These notifications were carried out specifically transparency reason under Article 2 of the Agreement on TBT. From 365 notifications made by 26 countries in 1995, the total notifications in 2003 touched a high of 794 by 77 Member countries. It can clearly be seen that the extent of coverage of TBT, both in terms of products and markets (Members) are on the rise since the formation of the WTO. In nearly a decade, TBT measures have only shown signs of upward movement. Two distinct phases can be seen in this regard. After rising between 1995 and 1997, there were signs of stabilization in the number of new TBT measures being

FIGURE 1
TRENDS IN TBT NOTIFICATIONS UNDER THE WTO:
JANUARY 1995-DECEMBER 2003



notified by the Members till 2001. After 2001, however, there has been a substantial increase in the TBT notification numbers.

Of the total notifications issued during 1995-2003, developed and developing countries represent 51 and 49 per cent shares respectively. This suggests that both groups of countries have played an equal role in creating TBTs. What needs particular mention is the fact that the share of developing countries has been steadily increasing. The increase has been by over six times, from 104 in 1995 to more than 600 in 2003. Consequently, their share in total TBT notifications increased from 29 per cent in 1995 to 75 per cent by 2003. Developed countries have not witnessed any substantial increase in the notification numbers, which has remained around 200 to 300 notifications per year. Thus, their share in total TBT notifications has declined from 71 per cent in 1995

to 21 per cent in 2003.

TBTs in the form of measures which include new domestic laws, prevention of deceptive practices, labelling and packaging requirements, quality and standards, regional harmonization, environment protection, and protection of plant, animal and human health, may emerge as serious trade barriers. As regards these forms of TBTs, it has been observed that while developed countries have continued the process of building in new standards to the already existing list of NTMs which existed even before the UR negotiations, developing countries are in a hurry to catch up.

What is more interesting are the differences in the perceptions regarding the behaviour of tariffs *vis-à-vis* non-tariff measures under the GATT regime. Earlier, it was observed that these measures expressed a complementarity in their application across countries,

owing to the large-scale practice of multi-staking of NTMs over and above high tariffs. However, during the last decade, it has been observed that this relationship has turned from complementarity to substitutability across many of the WTO members that have low levels of tariffs.

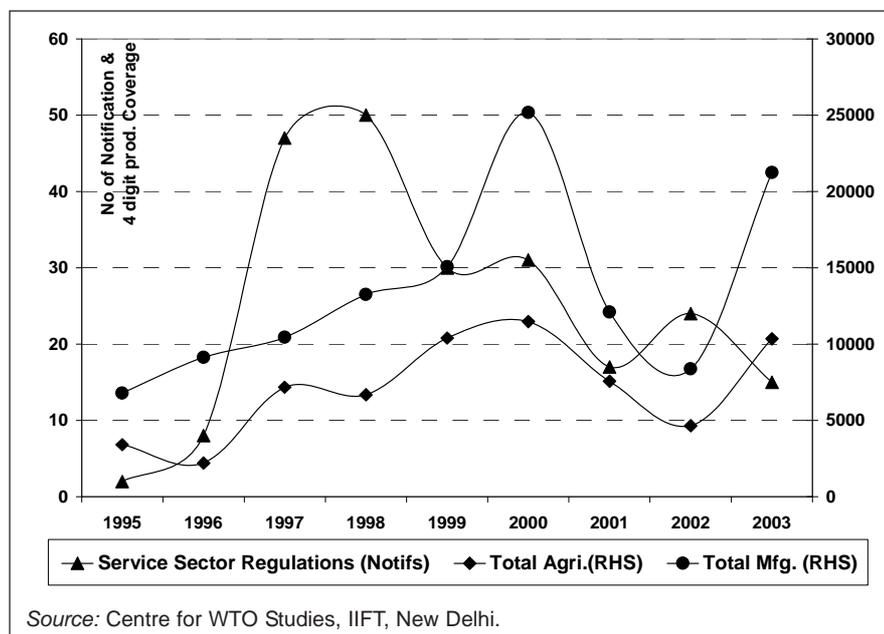
Of the 80 countries which have contributed to the rise of TBT measures under the WTO regime, 19 were developed countries and the rest belonged to the large set of developing and least developed countries. Among the 19 developed countries, the prominent five Members (countries/groups) were the Netherlands (21.3%), Japan (12.9%), the United States (9.6%), the European Commission (8.6%) and Canada (8.1%). These top five countries accounted for 61 per cent share of developed countries' total TBT notifications. On the contrary, the top five developing countries accounted for a lower share of 44 per cent of total developing country TBT notifications.

In the developing country group, the WTO members belonging to two regions found prominence in terms of number of TBT notifications. These countries are Mexico (10.1%), Brazil (9.4%), Argentina (8.0%), Thailand (8.0%), Czech Republic (7.3%), Korea (6.0%) and Malaysia (5.9%). These countries also belong to regions where substantial tariff reduction has been carried out either unilaterally or by participating in regional trading agreements. On the contrary, India, which has had one of the highest average tariffs,

² India's share in the developing group was 1.6 per cent and it accounted for only 0.8 per cent share in total notifications during 1995-2003.

FIGURE 2

SECTORAL DISTRIBUTION BASED ON FOUR-DIGIT PRODUCT COVERAGE OF TBT NOTIFICATIONS: JANUARY 1995-DECEMBER 2003



did not have significant number of notifications.²

Each of the TBT notification made by the Member countries may specify products ranging from single commodity (i.e. at six-digit and above Harmonized System (HS code) to nearly all commodities under the HS product classification. Some of the notifications include large categories like: all food; all machinery equipments; domestic appliances; and also all imported commodities. Quite clearly, each notification has an average coverage of close to 34 HS four-digit commodities. Further, nearly 35 per cent of all products covered by TBT notifications since 1995 belong to agricultural sector. This is a phenomenon which contradicts the general understanding that TBTs are generally applied on non-agricultural goods. In many cases, TBT notifications also covered a

large number of services sector activities (Figure 2). The technical regulations under TBTs are being applied across nearly all sectors which come under the WTO negotiations on market access, and therefore would seriously impinge upon the overall liberalization initiatives.

III. Market Access and Other Impacts

The discussion quite clearly suggests that the increasing TBT coverage of traded commodities and its linkages with tariffs, technology levels, and production process methods would pose serious challenges to overall market access conditions. While it is expected that efforts in the direction of tariff reductions under various Agreements and Committees dealing with agricultural and non-agricultural goods would benefit the overall market access prospects,

conditions created by increased TBTs, especially those with little transparency as regards product coverage, may seriously undermine the benefits that are expected from tariff reduction. Countries which have had little role in the spurt of TBTs but have been participating fully in the tariff reduction exercise undertaken by the multilateral trading system face a piquant situation wherein they find that they have conceded more than they had bargained for. The possible win-win situation for developing countries in a world where the tariffs are becoming insignificant, as has been predicted by many experts, may in fact prove otherwise.

This spectre looms large for many developing countries which have low levels of technological competence in their goods and services sectors alike. These countries would find that their inability to meet the exacting standards that are being put in place by the developed and the relatively more advanced developing countries could prove to be formidable road-blocks to their market access prospects.

The growth of TBTs thus underlines the need for the lesser players in the global economy to focus on the mechanisms through which they can upgrade their technological sinews, which are possibly the most significant factor that could contribute towards improving the quality of their goods and services. This, in other words, brings home the point that the gains from trade can only be realized through furthering the development objectives.

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Promote Regional Trade to Enhance Exports

THE new Commerce Minister has to take strong initiatives for giving a bold thrust to Indian exports. Significantly, India's share in world exports declined by 0.1 per cent last year. Further, a strong export sector is our best bet for not only fostering economic growth but also generating employment. With the WTO commitments, India cannot accede to exporter's request of restoring the income tax relief or continuing the DEPB scheme. Such measures risk the clamping of anti-subsidy duties in our export markets. Thus government will have to find new measures for qualitatively enhancing the export attractiveness. In this regard, the Ministry's attention should be concentrated on four areas: restraining the rising NTBs (non-tariff barriers), promoting trade with neighbours, reducing the transaction cost of exports, and redefining the role of Export Promotion Councils (EPCs).

A recent study by the Ministry points out that exports from developing countries are increasingly facing stiffer NTBs in the developed markets, like the US legislation against service outsourcing or the Buy American provisions to promote US iron foundry products or testing and certification requirements for electric vehicles in the EU. India should abolish trade restricting barriers both at the bilateral and multilateral levels. Our attempts at restraining NTBs will have credibility only if we observe caution in use of such options. A case in point is the Indian port restrictions on import of natural rubber on grounds of difficulties in collecting information on rubber imports. Now there appears to be realization in the Indian government on this count. In a recent notification the DGFT has done away with requirement of BIS (Bureau of Indian Standards) registration for self-ballasted lamps, voltage fuses and switchgear and control gear, which had to comply with mandatory BIS registration

under notification of 7 April 2003. In fact, notifications requiring BIS registration needs to be scrapped altogether. Instead of ensuring quality standards the government should enter into mutual recognition agreements as envisaged in the WTO Agreement on Technical Barriers to Trade.

Promoting regional trade across Asia is also important. There is need to actively promote the booming Indo-China trade. The Asian Highway project under the aegis of ESCAP, to which India has consented, can be the harbinger of higher intra-Asian trade and we should actively devise measures for promoting such trade. Transaction cost of exports is another important area requiring attention. In India, a typical export transaction requires 25 documents to be made and submitted to various agencies. We should seriously think in terms of reducing procedural formalities by replicating the Singapore Customs system where a single document is used for clearing export consignments. Lastly, the EPCs have to be reoriented for actively promoting exports of the designated sectors. In this regard the recent launch of Pharma Export Promotion Council is a step in the right direction. There is need to sharpen the EPC focus by breaking up big councils like APEDA to cater to specific sectors like horticultural and floriculture products. Further, the Councils should not be merely RCMC or MDA granting bodies, but leaders in collecting market information, identifying export barriers and actively promoting exports.

(The Financial Express, 18 May 2004)

ISO Chief Asks India to Adopt Global Quality Norms

INDIA, along with other developing countries, are being pressurized to align their domestic quality standards with those of the International Organization for Standards (ISO).

Speaking at the Bureau of Indian Standards (BIS) on "International Standardization: Challenges and Opportunities," Alan Bryden, Secretary General and CEO of the ISO, said international standards were increasingly important in the context of global trade and the new world economic order. Mr Bryden stressed that although voluntary, ISO standards were "influential tools for international trade."

Referring to WTO agreement on technical barriers to trade (TBT) – India is a signatory to the treaty – the ISO chief said the pact recognizes the significant contribution that international standards and conformity assessment systems have been making to international trade. Urging India to use "proactive" measures to ensure the wider acceptance of ISO standards, Mr. Bryden said ISO had a new role to "play for sustainable economic development through standards, developed by international consensus, in newer technologies, goods and services."

While backslapping India with a "hurrah" for its participation in ISO work in his address, Mr. Bryden held back the big kudos, stressing that as the world's largest democracy, there was need for greater participation by India in the ISO's standardization programmes.

BIS Director General, Nirmal Singh said his organization would play "a more aggressive role" in ISO's programme for international standardization. He said the Government expects to be in a position to adopt the standards published by ISO as harmonized "Indian Standards." India is represented on the ISO through the BIS, which is a founder member.

Based on India's representation in 182 sub-committees as a participating member of the ISO (that constitutes about 25% of the ISO's work) and as an observer member in another 360 panels, India was recently invited to be a member of the advisory group on the development committee of the ISO.

Addressing national stakeholders, including executives from industry associations, consumer organizations, government departments and technical experts, the ISO head urged developing countries to show "better participation and proactive approach" and thus "benefit from international standards in adapting products and services to global

requirements." More than 70 per cent of the ISO membership is among the developing countries.

Elaborating further on a specific action plan to increase acceptance of ISO standards in countries like India, Mr. Bryden said that his organization had even worked out a specific action plan for "assisting" developing countries to "improve awareness of international standards and conformity assessment systems, capacity developments and developing electronic communications." The ISO was aiming at increasing the participation of developing countries in the governance of ISO operations and its technical works.

Raising concerns on the tendency of regional groups to develop standards to promote free trade among member countries, he said the ISO was trying to promote International Standards as the basis of all international trade. Towards this, ISO had entered into an agreement with EU countries for simultaneous development of CEN and ISO standards.

As of now, though, the ISO standards certification appears to be somewhat at variance with local standards, although the national standards bodies of 148 countries are its members with a brief to work at aligning the two sets of standards. Replying to a specific query on the need for ISO standards to take cognizance of local standards, Mr. Bryden said that ISO was working with accreditors on the issue of MNC certification. He agreed that MNCs, when they operate in a region, should make a reference to accreditors and make sure that the local standards are included.

On ISO 14000 series regarding pollution control and related devices and its inability to go into details on local specifications, Mr. Bryden said that the series was coming up for revision soon. "It would be timely for you to send in complaints and put in suggestions," he said.

(The Economic Times, 22 April 2004)

Seminar on Technical Barriers to Trade

IMPLEMENTING the Project TF/RAS/02/2003 on "Market Access and Trade Facilitation Support for Mekong Delta Countries (Laos, Cambodia and

Vietnam) through Strengthening Institutional and National Capacities Related to Standards, Metrology, Testing and Quality" sponsored by the Norwegian Agency for Development Cooperation (NORAD) and the State Secretariat for Economic Affairs of Switzerland (SECO), Directorate for Standards and Quality (STAMEQ) in collaboration with UNIDO, the Seminar on Technical Barriers to Trade was held on 6 May 2004 in Hanoi.

At the Seminar, representatives heard the general report on Vietnam's industries and export prospects; on the issues of TBT agreement and its relation with Sanitary and Phytosanitary Measures (SPS); on technical barriers of the foreign countries to Vietnam's export products; on the fields of standards and conformity assessment of Vietnam and other related issues.

The Seminar was to help Vietnamese managers and enterprises deeply understand the issues of technical barriers to trade, harmonization of standards and conformity assessment, help them improve their management ability to meet WTO's requirements.

(www.tcvn.gov.vn, 7 May 2004)

China Still has "Substantial Barriers" to Trade: US Report

THE USA urged China to accelerate its market-opening efforts, saying there remain "substantial barriers" to trade.

"Overall, while China has a more open and competitive economy than 25 years ago, and China's WTO accession has led to the removal of additional trade barriers, there are still substantial barriers to trade that have yet to be dismantled," the Office of the US Trade Representative said in an annual report.

"Some agencies have renewed efforts to erect new technical barriers on trade," the 2004 National Trade Estimate Report on Foreign Trade Barriers said. "In many sectors, import barriers, opaque and inconsistently applied legal provisions and limitations on foreign direct investment often combine to make it difficult for foreign firms to operate in China," it said. The report cited agriculture, intellectual property rights and services as top priority sectors tackled by the US government.

The 500-page report allocated its largest portion to trade issues with China. In the report, the US voiced dissatisfaction with slow progress on the issue of scrapping China's dollar-pegged foreign exchange system.

"The new leadership has publicly committed itself to the goal of moving towards a flexible exchange rate and has taken some measures to prepare for such a system as relaxing some capital controls, but has not announced a timetable for implementing a more liberalized, market-oriented currency regime," the report says.

China has pegged the yuan in a tight range of around 8.28 yuan to the US dollar since 1994. US manufacturers have accused China of keeping the yuan artificially low to provide an unfair competitive edge for its exports.

(*Asian Economic News*, 5 April 2004)

Getting Down to Specifications

THE Federation of Egyptian Industries (FEI) recently held a one-day seminar on Technical Barriers to Trade (TBT), a WTO agreement designed to ensure that technical regulations and standards would not hamper international trade. The seminar aimed at making Egyptian businessmen aware of the details of the TBT agreement.

During the seminar, experts and government officials discussed the extent to which Egypt is compliant with the TBT agreement. According to a study conducted by the Ministry of Foreign Trade (MOFT) and the Egyptian Organization for Standardization and Quality (EOS), Egypt meets its commitments in some items of the TBT agreement but it has only partially fulfilled other requirements.

The TBT agreement includes two main components: the *first* is the technical regulations which is an obligatory commitment for all WTO members. The *second* is the industrial, health and agricultural specifications which are optional since each country can set its own specifications using guidelines decided by international organizations and approved by the WTO.

As a WTO member, Egypt has four commitments relating to the specification item of the TBT agreement. Sahar El-Tohami, senior researcher at the

Assistance for Trade Reform (ATR) Department at MOFT explained that *one* of the main commitments is that imports receive the same treatment as local products.

"Egypt succeeded in meeting this commitment since importers are sometimes given even more privileges than the local producers," El-Tohami noted. For example, a few years ago the government decided to ease the procedures taken by the Egyptian Authority for Imports and Exports Control on shipments of importers who had a track record of good quality shipments. Those importers who follow the specification and quality regulations are registered on a roster called "the white list".

The *second* commitment for Egypt is that its technical regulations and specifications should be in accordance with the international guidelines. Accordingly, Decree 180/1996 issued by the Ministry of Industry states that local as well as imported products should follow the Egyptian specifications or international guidelines.

However, Mahmoud Essa, Chairman of the EOS said that the TBT agreement gives any member country the right not to follow the international specifications for certain reasons such as national security, health concerns and environmental protection. "The reasons presented by the country should be clearly justified in order to be accepted by the TBT committee," Mr. Essa said.

The *third* commitment is transparency. El-Tohami explained that all information relating to each country's specifications system should be available in the WTO Committee on Technical Barriers, the responsible department for receiving and sending any notifications among member countries.

The *fourth* point is that every country has the right to present a notification against any specification of another country through the WTO's Committee on Technical Barriers.

Mr. Essa said the agreement should not be used to hinder international trade. "Egyptian exporters should be well informed about the procedures applied by other countries against the Egyptian products, which may be considered a violation to their commitment towards the TBT. According to the TBT regulations, Egypt has the right to complain to the WTO in 60 days," Mr. Essa added.

The ESO is responsible for modernizing the outdated laws among Egypt's 4,000 specifications, and it conducts an annual plan to add specifications to update the current regulations in cooperation with 100 technical committees.

(www.weekly.ahram.org.eg/2004)

Implications of WTO Agreement Related to TBT on Exports

THE implications of the effort needed are seen in terms of high quality competitive pricing, aggressive marketing, meeting of delivery commitments, particularly, when the number of technical regulations and standards adopted by the country has grown significantly.

Shri Rafeeqe Ahmed, President, FIEO said in his speech, to adhere to technical regulations and to maintain credential as supplier of quality products and services, the exporter has to bear significant cost for hiring of technical experts, translation of foreign regulations and adjustment of production facilities to comply with the requirement, etc.

He said that the most common hurdle that we face by way of anti-dumping investigations and measures, there is very strong barrier that many developed countries have come up with to deny. He said that keeping in view the objection of Technical Barriers to Trade, parameters and requirements of importing countries have laid down about the dyes and chemical processing of leather goods and textiles that we have to avoid as these nations have banned them on the ground that they are carcinogenic.

In the prevailing situation, he said, any country can selectively deny access to any other country's goods and services by invoking its own technical standards, and yet be seen to be following the principle of fair and equitable trading according to the WTO. He further said, GATT recognized the possibility of technical barriers going to be used by these countries as an instrument to circumvent the principle of fair and equitable trade.

Shri Rafeeqe Ahmed said that to ensure free trade flow across borders, three agreements have, therefore, been put in place, namely the Agreement on Technical Barriers to Trade, the Agreement on Sanitary and Phytosanitary Measures, and the

Agreement on Pre-shipment Inspection. He said, these agreements are to ensure establishment of international standards of quality, safety, environmental and ecological protection, laboratory testing, and also inspection and certification, the latter activity being known in WTO parlance as “conformity assessment”.

There are three global organizations engaged in developing and disseminating standards approved by the WTO which have to be followed internationally. They are the International Electro-Technical Commission, the International Organization for Standardization and the International Telecommunication Union. Along with the standards set by these organizations are the “conformity assessment” schemes for testing whether the products are according to the set standards.

Shri Ahmed said, in simple terms, what is being developed today to minimize or eliminate the so-called technical barriers are international standards approved by the WTO and accompanying “conformity assessment” instruments to ensure strict adherence to the standards by all countries. In every country there are national organizations set up as “WTO-TBT Enquiry Point”. The Bureau of Indian Standards is the enquiry point which is available to all exporters wanting to know and understand the requirements under the WTO Agreement on TBT, such as Standards, Technical Regulations and Certification System of India, and those of the WTO member-countries.

(IIFT National Workshop on TBT, 7 January 2003)

SMEs Handicap on Technical Requirements

SMALL and medium enterprises face many difficulties when they are called upon to comply with fresh technical requirements by developed countries in their products. This requirement could demand readjustment of the unit’s production facilities, maybe restructuring, recalibration and perhaps recasting various processes, said Shri Subhash Mittal, Vice President, FIEO in his speech.

Technical specifications or other social compulsions, SMEs in a developing country are not in a position to reorient the production facilities in

the new milieu which lead to raising production costs per unit. Products emerging from these units will have to be tested for ensuring that they comply with the technical regulations and standards, said Shri Mittal. He further said the “conformity assessment” that needs to be done by way of testing and certification by laboratories, certification bodies, etc., will again mean extra cost to a company. There is also the cost of evaluating the impact of foreign technical regulations, disseminating product information, and training of exporters, etc.

Shri Mittal called for the government support in a sustained way, as the transaction costs in exports would increase. While export production units can certainly galvanize themselves, this would help them to meet requirement of technical, safety, health, environmental and ecological standards of developed countries particularly of USA, EU and Japan.

(IIFT National Workshop on TBT, 7 January 2003)

WTO-TBT Enquiry Point in India

THE focus has shifted to laying down for more stringent standards and conformity assessment procedures to check imports, which are affecting exports of developing countries. Introduction of Environmental Management Certification, Social Accountability Requirement, Occupational Health & Safety Measures being imposed on exports of developing countries are worst hit. Presently, emphasis has shifted from tariffs as trade barriers to non-tariff barriers.

The paper, presented by Smt. Meenal Passi, Dy. Director and V.K. Agrawal, Asst. Director, Bureau of Indian Standards at the Workshop on TBT at IIFT, refers to the WTO’s important role that international standards and conformity assessment procedures play in the conduct of international trade which related to the Agreement on Technical Barriers to Trade for the benefit of WTO Members.

The paper covers the Enquiry Point in India at the Bureau of Indian Standards, which performs the following functions:

- (i) Downloads the TBT Notifications from WTO website every month of other member countries for their distribution to concerned organization

in India and also interested industrial organizations.

- (ii) Information on TBT Notifications received from other members is compiled in a database and also published in monthly BIS publications Standards Monthly Additions & EC Norm Scan which is distributed to Government & industrial organizations.
- (iii) Technical Enquiry Service – The professional staff of the Centre responds to over 200 enquiries every month received telephonically, personally, through letters, telex and fax on various subjects regarding matters on standards, technical regulations, etc.
- (iv) Bibliography Services - Bibliographies of standards are compiled on specific subjects on demand. Listing of standards can also be given from the computerized database “Manaksandarbhika”.
- (v) Access to World Standards – Industry has access to international standards through BIS Sales Offices in various regions which provide sale of Indian and foreign standards.
- (vi) Information Centres - BIS is exploring the possibility of setting up information centres in industrial towns with the help of local service organizations and industry associations. One information centre has already been set up at Agra. Other industrial clusters are being tapped for the same.
- (vii) ISO Information Network (ISONET) – The Members bodies of the International Organization for Standardization (ISO) have entered into an agreement by which each of them automatically received information about new standards published by other members as well as their bulletins and catalogues. Bureau of Indian Standards as ISONET member makes available such information to Indian exporters and industry to further strengthen this source of information for exporters.
- (viii) Update Bulletins – To keep the industry and users abreast with the latest developments in standardization and quality systems, BIS brings out a number of update bulletins to cater to the requirements of various segments of industry and users. “Standards India” and “Manakdoot”

and “Current Published Information of Standardization” serve as basic source of information on new standards and developments in the field of standardization all over the world. “EC Norm Scan” keeps the exporters abreast with the latest developments in Europe.

Other TBT Obligations Carried Out By BIS

As per Article 4 of TBT Agreement it is an obligation that the standardizing bodies should accept and comply with the Code of Good Practice for the Preparation, Adoption and Application of Standards. BIS being the national standards body of India has accepted the Code of Good Practices. In fulfilment of obligations under the Code of Good Practices BIS performs the following:

- (i) Prints Programme of Work on yearly basis and updating the same on monthly basis.
- (ii) The information regarding existence of Programme of Work is regularly sent to the ISO/IEC Information Centre.
- (iii) Publish “Standards India” and “Standards Monthly Additions (SMA)” monthly publications on standardization brought out by BIS.
- (iv) A period of 60 days is normally allowed for submission of written comments on draft standards, technical regulations and conformity assessment procedures.
- (v) The information announcing the draft under circulation for comments is published in “Standards Monthly Additions”.
- (vi) Efforts are being made to harmonize more and more national standards with international standards. So far BIS has harmonized 3020 Indian standards with international standards such as ISO/IEC, Codex Alimentarius Commission, etc. Standards have also been harmonized with regional organizations such as EC.

The TBT Agreement takes into cognizance the difficulties faced by developing countries. It recognizes that developing countries may adopt technical regulations, standards other than existing international standards and guides to preserve indigenous technology/production methods

compatible with developmental needs. The Committee on TBT has been empowered to grant time-bound exceptions to developing countries on request.

In order to strengthen WTO-TBT Enquiry Point in India, the Enquiry Point, has identified the following areas as its new/enhanced activities which would require technical assistance as given below.

(1) Establishment of National Notification System (NNS) - In the Indian system, technical regulations are formulated by various regulator authorities at the Central Government level as well as State Government level. Due to involvement of multiple organizations, India has not been able to fulfil its notification obligations fully. It is now planned to establish a National Notification System within the country. It is proposed that BIS will act as the focal point and all regulatory authorities would liaise with BIS through an appointed nodal officer/authority to establish the system. The Notifications on Indian technical regulations and conformity assessment procedures will be prepared by the respective authority and routed to WTO through the BIS, who shall have the added responsibility of providing technical help to these authorities. Nodal officer would also be responsible for responding to queries on the Notifications issued by them.

Apart from the above, it is also proposed to establish an automated system for disseminating information on notifications of other members to all interests within India. The WTO-TBT Enquiry Point at BIS who would be responsible for compiling information on Indian Notifications at the national level would also compile the information on Notifications issued by other WTO member countries. The information would be segregated product group-wise and the information disseminated to interested parties including Govt. Departments, exporters and importers through an automated system. This would not only facilitate our exporters and importers with an update on the worldwide technical regulations but would also be able to provide a mechanism for feedback in order to protect Indian trade interests by being able to put forward any observations/anticipated problems for the WTO consideration.

- (2) Strengthening the "Technical Enquiry Service" through a combination of the following activities.
- (a) Research for exporters.
 - (b) Sector-wise export oriented publications, and
 - (c) Workshops and Seminars
- (3) Also, the following information would be of great help in facilitating the smooth functioning of the Enquiry Point.
- (a) Development of a database of comparative standards, i.e. a comparative index of Indian standards with standards world-over in the areas and countries of trade interest.
 - (b) Acquisition of databases on comparative standards like perinorm would be needed to facilitate the enquiry service.

(IIFT National Workshop on TBT, 7 January 2003)

Technical Barriers to Trade to be Addressed at Joint Kenya-South Africa Workshop

TECHNICAL Barriers to Trade was the subject of a joint Kenya-South Africa Workshop, organized by the CSIR National Metrology Laboratory (CSIR NML) and the Kenya Bureau of Standards (KEBS) was held on 19 July 2001.

Main aim of the workshop was to highlight Kenya-South Africa cooperation in making a contribution to economic integration of the African continent, in line with the Millennium Africa Recovery Programme (MAP) and similar initiatives. Stakeholders (such as the CSIR National Metrology Laboratory, the South African Bureau of Standards (SABS), the South African National Accreditation System (SANAS), relevant Government Departments (DTI, Foreign Affairs and the President's Office) and the private sector will have the opportunity to discuss the topic in the context of South African-Kenyan cooperation.

The workshop was held against the backdrop of the very active programme for the removal of Technical Barriers to Trade (TBT) within the Southern African Development Community (SADC), in which South African organizations like CSIR NML, the SABS and SANAS play a leading role. Experience

gained through this SADC work will be used to support the economic integration of Africa as a whole, in line with and in support of the MAP and similar initiatives discussed at the OAU summit in Lusaka.

Technical Barriers to Trade are amongst the recognized trade barriers between countries (in addition to tariff barriers, sanitary and phytosanitary trade measures, rules of origin, etc.) for which separate WTO agreements are in place. TBT deal with various technical issues such as the mutual recognition of test and calibration results between trading partners; use of identical packaging sizes and labelling; requirements for the same kinds of regulatory tests for products; mutual recognition of the competence of accreditation bodies; setting up of test and calibration laboratories and certification bodies; and use of identical measurement units.

One of the major constraints for developing countries in world trade participation under the WTO rules is the absence of an acceptable infrastructure for calibration, testing, certification, accreditation, quality assurance and standardization. Consequently, products are often re-tested in the importing country, leading to large cost penalties for exporters, while - conversely - substandard products are being dumped in developing country.

(www.csir.co.)

WTO TBT Committee Carries Out Triennial Review

THE WTO Committee on Technical Barriers to Trade (TBT) concluded the third Triennial Review of the operation and implementation of the TBT Agreement.

Among the objectives of the Review of the TBT Agreement, is to focus on issues related to good regulatory practice, conformity assessment procedures, transparency and technical assistance. Also under discussion were various TBT-related concerns, including the EU's proposed regulation on wine labelling. According to the Review, technical assistance (TA) remains an "area of priority work". The meeting identified a range of factors that can impede developing countries' ability to comply with the TBT Agreement, including the lack of awareness of the Agreement, lack of capacity (particularly in terms of human resources), and lack of legislation

and technical infrastructure. As such, it was determined that TA should be tailored to a particular country's needs. Furthermore, it stressed the importance of coordination and coherence among national authorities, as well as with donors.

Looking at the issue of transparency, the Review called on Members to fulfil their transparency obligations, particularly those related to the notification of draft technical regulations and conformity assessment procedures. A number of trade concerns related to the lack of transparency were raised, and it was noted that they have been brought to the attention of the TBT Committee.

Coming under criticism was the European wine regulation, which a number of Members have challenged. Among those countries were New Zealand, Australia, Argentina, USA, Chile and South Africa, and they questioned the EU's proposed legislation governing the description, designation, presentation and protection of certain wine sector products. The EU regulation outlines the information that must be presented on labels, restricts the use of certain bottle types and introduces a system to protect "traditional terms" used to describe a wine. A request was made by the challenging countries for the EC to postpone the implementation of the regulation, currently scheduled for February 2004. The EC however responded that measures had already been undertaken to introduce the changes.

(*Tradewatch*, 19 November 2003)

Examining and Reducing Technical Barriers to Trade

- During 1996, USDA estimated that US agricultural exports valued at more than \$4.97 billion were being subjected to a growing set of restrictive technical trade barriers. More than 300 TBTs have been reported in 63 countries.
- The World Trade Organization has noted that as classical trade barriers-tariffs and quantitative restrictions-have come down ... attention has turned to invisible costs resulting from documentation requirements, procedural delays, and lack of transparency and predictability in ... government rules and regulations. The emergence of these invisible barriers has created an overall negative trading environment.

- Unnecessary TBTs reduce the efficiency of trading firms, often causing long delays at ports while shipments are reinspected and documentation is verified, leading to higher transaction costs. Sanitary and phytosanitary regulations, consumer protection measures, and trade measures are the most common technical barriers now in use.
- In 1996 and 1997, both domestic and imported foods were suspected of causing outbreaks of food borne illnesses in USA. Although it was estimated that net losses to growers ranged from \$12-21 million between 1994 and 1997, positive information allowed growers to recoup between \$24 million and \$32 million. Spin control led to substantially higher net returns to growers than if no attempts had been made to at least partially negate the bad news with good news.
- Global food quality management systems (FQMS) and food safety regulations have developed largely independently of each other over the last four decades, but have become more important as industries seek ways to protect themselves from the negative effects of food borne pathogens and contamination. Cooperative activities among nations and organizations is a key to maintaining an open, transparent trading system which facilitates the efficient flow of foods and other agricultural products.
- Strategies to reduce technical barriers to trade should focus on operating within the framework of the Codex Alimentarius Commission and the WTO to ensure that national food safety standards contain a HACCP component and that the resultant standards are recognized and applied internationally. WTO is in the process of modifying technical working groups to conduct the next round in 1999 and should be approachable about new initiatives, especially those designed to reduce trade barriers and put into place permanent regulations to preclude TBTs from restricting trade in the future.
- A longer term option to pursue is the development of a food safety component, such as HACCP and/or Codex standards under the auspices of the International Standards Organization. Once new standards are agreed upon and implemented by the WTO and its member countries, the ISO series will need to be modified in order to remain current.
- Probably the most effective way of ensuring broad based support for the reduction of TBTs will be to pursue both strategies outlined above. It will be important to form alliances between and within USDA agencies responsible for food safety and technical barriers such as FSIS, AMS, FAS, and ARS, the EPA and the FDA, along with selected consumer and food groups.
- Thorough planning and the formation of some key strategic alliances will aid the reduction of TBTs. Working with the Codex, ISO, and within the framework of HACCP is only the beginning of a successful attempt to dismantle TBTs and ensure that they are not used as impediments to trade in the future.
- While it is possible to pursue this process bilaterally, that will be a time consuming and expensive exercise with mixed and unpredictable results. Working through the NAFTA Technical Barrier and SPS process is one possibility, though somewhat limited in scope since only three countries are involved.
- If NAFTA is expanded to a Free Trade Agreement of the Americas (FTAA), then that organization can provide leverage from which to launch a multilateral TBT reduction effort. The most time and cost efficient method in the absence of a large regional trading bloc will likely be the WTO, the Asia Pacific Economic Cooperation (APEC) forum or some other multilateral fora, such as the Codex Alimentarius Commission.

(www.fb.com)

WTO-ESCWA Arab Regional Meeting on Technical Barriers to Trade

THE WTO invited UNIDO, along with the International Organization of Legal Metrology (OIML), International Organization for Standardization (ISO), International Electro-technical Commission (IEC), to a regional meeting held in Beirut, 2-3 September 2003, to present their technical assistance and capacity building activities aimed at

assisting Arab countries to effectively participate in the multilateral trading system.

The Regional Meeting on TBT fitted nicely into a series of activities and events organized by ESCWA, in cooperation with the WTO and other regional and international organizations, to enhance capacity building and awareness on the rights and obligations of the Arab countries under WTO Agreements, and provide technical assistance to the Arab countries which are in the process of accession to the WTO. These activities are also aimed to better preparing Arab countries for the current round of multilateral trade negotiations in the context of the Doha Development Agenda, which was agreed upon in the WTO Fourth Ministerial Meeting. As part of this preparation, ESCWA has produced 26 specialized papers to help Arab countries adopt a collective vision ahead of the Fifth WTO Ministerial Meeting (in Cancun, Mexico, 10-14 September 2003).

Eleven Arab countries (Mauritania, Morocco, Djibouti, Tunisia, Egypt, Bahrain, Kuwait, Qatar, Oman, UAE and Jordan) are the WTO members. Five countries (Saudi Arabia, Sudan, Algeria, Yemen and Lebanon), are in the process of acceding, and five countries (Libya, Iraq, Comoros, Somalia and Palestine) have not submitted their accession demand. Syria submitted its demand prior to the 4th Ministerial Conference held in Doha, Qatar, in November 2001.

The September 2003 Beirut meeting, under the banner *Technical Barriers to Trade (TBT) in the Arab Countries*, was organized under the auspices of Lebanese Minister of Economy and Trade, Marwan Hamadeh and funded by the WTO. In addition to reviewing the technical assistance available to Arab countries from organizations such as UNIDO in relation to the implementation of the TBT Agreement, it looked at the history of the negotiations on the TBT Agreement and its main principles; the *transparency provisions* in the TBT Agreement; the TBT Agreement and international standards; the TBT cases in the WTO dispute settlement mechanism; and the structure and role of the WTO Committee on TBT.

The UNIDO presentation, by the Senior Adviser on Trade, Bernardo Calzadilla, from UNIDO's Geneva Office, was made up of three parts. The *first* gave an overview of UNIDO's TBT-related assistance

to developing countries from the 1967 UN / UNIDO *World Conference on Industrialization of Developing Countries*, when Standardization was adopted as a UNIDO priority, to "Doha and Beyond". In that time, UNIDO has provided assistance in building standards bodies, testing, calibration and metrology laboratories and in quality improvement to over 80 developing countries. The presentation highlighted that UNIDO's technical assistance and capacity building with respect to the TBT Agreement is based on an in-depth analysis of non-tariff barriers to trade. Compliance with the TBT Agreement is not the only prerequisite for effective participation in the multilateral trading system. In addition to compliance with conformity assessment and standardization issues in the TBT Agreement, the developing countries need to improve productive capacities. UNIDO works in areas specifically relating to the TBT Agreement, but believes the effectiveness of these activities in terms of developing country participation in international trade means attention has to be paid to a broad range of "non-tariff" barriers. UNIDO believes interagency cooperation is vital in this regard. A significant move in this direction will take place at the Fifth WTO Ministerial Meeting in Cancun, with the signing of a memorandum of understanding (MOU) between UNIDO and the WTO.

The *second* part of the presentation gave examples of UNIDO's TBT-related programmes from the UEMOA Region, Central America, the Mekong Region, Bahrain and Egypt. The Egypt programme is building the capacity of exporters to cope with the impact of European Commission Directive EC 178/2002 which lays down "the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety". The programme was elaborated jointly by UNIDO and Egypt's Ministry of Foreign Trade with the support of Italy.

The *final* part of the UNIDO presentation, which was referred to participants in the hard copy due to time constraints, introduced the concept of a TBT Early Warning Mechanism for enterprises. The introduction of early warning mechanisms in the least developed countries was on high on the agenda of a meeting sponsored by the UK Department for International Development (DFID) in London on 4 August (see UNIDOScope 17-23 August 2003). The

EWM would work in parallel with and complement the existing network of enquiry points and other information dissemination systems.

Following the Regional Seminar on *Technical Barriers to Trade (TBT) in the Arab Countries*, WTO and ESCWA took advantage of the occasion to sign a memorandum of understanding (MOU) to enhance the coordination of their trade-related technical assistance and capacity building activities.

(www.unido.org)

Santa's Technical Helpers to Tackle Barriers to Trade

MORE than 40 representatives from the international toy industry in Sydney met an attempt to reduce technical barriers to trade which are restricting the sale and purchase of toys around the world.

Just weeks before Christmas, the members of the International Organization for Standardization's technical committee for toy safety, ISO/TC 181, sought to reduce the number of toy safety standards around the world from more than 50 to just one.

The ISO Vice President for Technical Management and the Chief Executive of Standards Australia, Ross Wraight, said: "More than a creature will be stirring in Sydney over the next few days as toy testers, regulators, technical experts gather to resolve long standing issues effecting the international toy trade."

Among the issues being debated by the international toy makers from China, Thailand, USA, UK, New Zealand, Sweden, Denmark, Holland, Korea and Australia are acoustic requirements, flammability, choking hazards and corporate and social responsibility.

"Different safety and regulatory requirements across the world have acted as barriers to trade for too long, as toy manufacturers are required to carry out additional tests before their products can enter different regional market places," said Mr. Wraight.

For example, in the past the requirements for projectile testing under the Australian Standard AS/NZS 1647.1 were different to the European Standard requirements under EN 71 and different again to the American Standard ASTM F 963.

According to Richard Hayman of the Australian Toy Association: "The development of International Standards are a plus for both local manufacturers and the overseas distributors as it will facilitate trade and offer a consistent level of safety around the world."

"The proposed uniform requirements will draw on the best element of each of the national standards and seek to develop a common set of guidelines on everything from acoustics, flammability to toxicity."

It is expected that further parts of the international toy standards will be adopted in Australia next year. Earlier this year Standards Australia published the first in the series of international toy standards, AS/NZS/ISO 8124-1:2002 Part 1 safety aspects related to mechanical and physical properties, designed to help prevent the cumulative effect of hearing damage associated with loud noises.

"These requirements are intended to reduce the risk of hearing damage from high continuous and impulsive noise levels. The standard was specifically designed for noise producing toys such as electric or electronic devices, motors that emit sound, percussion caps and rattling components," said Mr. Wraight.

"As parents go shopping this Christmas for everything from high-tech robots and talking wizards to whistles they need to be aware of the potential danger to hearing posed by certain toys."

According to Warwick Williams of Australian Hearing: "This is a very positive step for the Australian toy industry and clearly reflects parents' increasing awareness of the potential danger to their children from toys that emit loud noises."

The Standard also recommends the following warning for toys which produce high impulsive sound levels:

Warning: Do not use too close to the ear! Misuse may damage hearing

"When Santa and his eight reindeer eventually take to the air later this month with his sleigh full of toys he can be comfortable in the knowledge that it will be the last time he will have to stop at national borders on Christmas Eve," said Mr. Wraight.

Australian Standards are developed through a consensus based process with the cooperation of industry bodies, trade associations, government, and consumer groups. Standards Australia also facilitates the adoption of International Standards which helps facilitate Australian industry interaction with the global marketplace.

(www.standards.org.au)

Developing Countries Call for More Help in the Area of Technical Barriers to Trade

WHAT are the specific problems facing developing countries in the implementation of the WTO Agreement on Technical Barriers to Trade (TBT), participation in international standards setting and dealing with the multiple testing requirements for their exports, and how can the WTO and other organizations help resolve these problems?

This was the main question facing participants in the Workshop on Technical Assistance and Special and Differential Treatment in the Context of the TBT Agreement, organized by the WTO's Committee on Technical Barriers to Trade on 19-20 July 2000 at the WTO headquarters in Geneva.

Developing country participants underlined the importance of the TBT Agreement and international product standards to their trade development, and called for more technical assistance from the WTO and international standard-setting bodies.

The TBT Committee Chairman, John Adank of New Zealand, welcomed the workshop discussions as "practical and solutions-oriented". He said a number of solutions to problems identified at the workshop had been proposed, including improved coordination at the national level, participation of private industry, strengthened technical cooperation focused at individual national needs, better regional cooperation and coordination, as well as greater use of information technology tools like the Internet.

(www.wto.org)

Technical Barriers to Trade

TECHNICAL barriers to trade are discrepancies in product requirements from one country to another, and in approval and control procedures (testing,

certification, etc.) for evaluating compliance with such requirements.

There are both lawful and unlawful technical barriers to trade. For instance, product requirements based on Article 13 of the EEA Agreement (cf. Article 36 of the EEC Treaty), which are designed to safeguard health, the environment, safety, etc., may be lawful barriers to trade (the surveillance bodies in Brussels and the courts in Luxembourg interpret the provisions referred to in a very strict manner).

Through the EEA Agreement, Norway participates fully in the EU internal market and thus in the establishment of common (harmonized) product requirements and methods of conformity assessment.

Common Product Requirements

Since the adoption of the EC plan for implementation of the internal market in 1985, the EU has sought to harmonize rules regarding requirements which products must satisfy in order to be able to be placed on the internal market. To this end, new principles were adopted in May 1985 for the harmonization of rules the "new approach". According to this approach, general, essential requirements regarding public health, the environment and safety are set out in a framework directive, while supplementary technical specifications are drawn up by the European standards institutions CEN, CENELEC and ETSI in the form of standards on the basis of mandates issued by the European Commission and EFTA.

So far, a total of 22 directives have been adopted on the basis of this approach. Examples of product sectors which are regulated in accordance with the "new approach" (cf. "New Approach" directives) are toys, machines, construction products, medical equipment, telecommunications terminal equipment, recreational craft, etc.

The EU has also developed more detailed common rules in other areas, such as chemicals, vehicles and pharmaceuticals. Framework directives, supplemented by more specific provisions laid down in separate directives govern these areas. In these areas, therefore, the European standards institutions are not mandated to draw up supplementary technical specifications.

Methods of Conformity Assessment

To ensure that products meet the requirements laid down in the new approach directives, special conformity assessment procedures have been established, describing the controls to which products must be subjected to before they are considered to be compatible with the essential requirements and thus placed on the internal market. The extent of controls a product must undergo, varies according to the risk related to the use of the product. Requirements may vary from a declaration by the manufacturer stating that certain standards have been applied to extensive testing and certification by independent, third party conformity assessment bodies. A Council Decision (93/465/EEC) was adopted in connection with the "New Approach" directives, providing an overview of all the conformity assessment procedures available under the directives, divided into modules and grouped by category of risk. The conformity assessment procedures also apply to products imported from outside the EEA.

Standards

One way for national authorities to implement the requirements of the new approach directives is by reference in national legislation to European harmonized standards.* These are standards that are issued and approved by the European Commission and EFTA in the form of mandates to the European standards institutions. By definition, standards are voluntary. However, if producers apply them, national authorities have an obligation to assume that the directive requirements (and thus national requirements) have been satisfied. However, companies may, if they wish, choose other ways of complying with the directive requirements, provided that they can substantiate that the requirements have been satisfied.

It is important to be aware that mandated standards constitute only a small part of the total number of standards. Most standards are established in the unregulated sectors of the market because the market itself has expressed a need for common solutions.

* In order for a standard to qualify as a "harmonized standard", a reference to the standard must first have been published in the Official Journal of the European Union.

CE-Marking

For products regulated by the "New Approach" directives, a CE marking will confirm conformity with the essential requirements of the directives. This marking must be used in order for the product to be placed on the internal market. The CE marking shows that the product has been manufactured in conformity with the requirements of the directive. It also means that the manufacturer has followed all the prescribed procedures for conformity assessment. Nevertheless, the manufacturer or his local representative in the EEA has a duty to keep all necessary technical documentation as proof to the relevant authorities that the requirements have been satisfied.

Market Surveillance

Market surveillance consists of the control which the relevant authorities in the EEA states are required to carry out to ensure that the criteria for CE marking have been satisfied, after the products have been placed on the market (including the possibility of making the control in connection with customs clearance). The purpose is to prevent misuse of the CE-marking, to protect consumers and secure a level playing field for producers. Basically, market surveillance is carried out in the form of random inspections to ensure that the technical documentation as required by the directive is available, but it may also include examination of the documentation or the product itself.

Non-harmonized Area

Outside the areas, covered by EEA legislation relating to product requirements, EEA states are permitted to introduce national product requirements, if it can be proved that such requirements are necessary in the interests of public health, the environment, safety and other social considerations. Because of the differences in cultural and geographical conditions in the individual EEA state, such requirements may be warranted. The requirements must, however, be proportionate in relation to their intended purpose, and in conformity with the general obligations of the EEA Agreement.

To ensure transparency in connection with national rules as referred to above, thereby avoiding technical barriers to trade, EEA States are required – pursuant to Directive 98/34/EC (as amended by

Directive 98/48/EC) to notify the EFTA Surveillance Authority/the European Commission (and thereby the other EEA states) of all draft national technical rules relating to products and to information society services. Any disagreement relating to notified drafts may be taken up and discussed in the Standing Committee established pursuant to Directive 98/34/EC.

Technical Barriers to Trade New Website for More Transparent Procedure

INFORMATION on the notification procedure set up under the TBT Agreement is now available online. Visitors to the new and interactive European Commission site – whether enterprises or national authorities – can keep abreast of all developments in this economically important area and react swiftly to them.

Incorporated into Community law in December 1994, the Agreement on Technical Barriers to Trade was negotiated over eight years during the Uruguay Round of negotiations. The Agreement sets out the rules that governmental and non-governmental bodies around the world must follow when developing technical regulations, standards and conformity assessment procedures. It provides for a notification procedure which requires all Members of the WTO to inform other Members, through the WTO Secretariat, of their proposed technical regulations and conformity assessment procedures. The goal is to avoid the establishment of unnecessary barriers to trade.

Most significantly, the European Community's participation in the system specifically allows the EC to be informed about proposals of third countries which may have an impact on exports of Community enterprises. It also allows a dialogue to be initiated with our trading partners before the adoption of such measures.

Enterprises need to make the most of this procedure to make themselves heard and reinforce their competitiveness by using the system established by the TBT Agreement to aid their integration into the world economy.

The new EU website focuses on the TBT notification procedure. Helped by a searchable database, site users can consult draft regulations that have been notified to the WTO with just a few clicks. They can also consult a wide range of documents associated with notifications, such as comments issued by WTO Members and any available translations of the notified drafts.

The site allows visitors, in particular, to view the EC's comments on projects notified by third countries. Enterprises wanting to follow notifications in their field of work can also subscribe online to a mailing list. They can also send comments on drafts notified by a third country. The Commission will take these comments into account when it analyzes the notified drafts.

(www.europa.eu.int)

Standards Barriers are Greatest Obstacles to Global Trade in Information Technology Products

AS tariffs on information technology (IT) products have been reduced and face elimination in global markets, standards-related barriers have emerged as the most important obstacles to trade for IT producers, according to *Global Assessment of Standards Barriers to Trade in the Information Technology Industry*, a new staff research study by the US International Trade Commission (ITC) Office of Industries.

The staff research study assesses standards-related barriers to trade in the global IT industry. The study (1) discusses the role of standards and conformity assessment in the IT industry; (2) provides an overview of the standards process in USA, EU, Japan, and other important global markets; (3) examines the effects of certain standards-related barriers to trade on the computer hardware, software, and telecommunications equipment sectors of the IT industry; and (4) evaluates proposals for reducing IT standards-related barriers to trade.

The study reflects research conducted in the agency's Office of Industries. The views and conclusions expressed in the staff research paper do not necessarily reflect the views of the US International Trade Commission or of any individual Commissioner.

Following are highlights of the report:

- Standards-related barriers are the most important and costly non-tariff barriers for producers of IT products. Of greatest significance for manufacturers of these products is the need to demonstrate product compliance repeatedly with similar technical regulations for each of the multiple markets in which they do business. The requirements result in substantial added time and cost for the manufacturers.
- Mutual recognition agreements (MRAs) may sometimes reduce product compliance costs to IT companies. A number of policy experts assert that agreements between governments to recognize each other's national conformity assessment mechanisms have a potential to facilitate trade. MRAs appear to work best in overcoming differences in testing and certification requirements for industries that have traditionally experienced a high level of government regulation, such as the telecommunications equipment industry. However, MRAs may not always be the most cost-effective means for reducing standards-related barriers to trade in less regulated IT products, such as personal computers and software.
- US industry and trade officials point out that in addition to MRAs, alternative and potentially less-trade-restrictive means for accomplishing technical regulation compliance should be considered. For example, unilateral recognition of other countries' conformity assessment results and supplier's declaration of conformity are possible approaches to reducing burdens on IT exporters caused by duplicative conformity assessment requirements.

(www.usitc.gov)

Namibia Warns that Technical Barriers to Trade Must Be Considered in FTAs

THE Southern African Customs Union (SACU), which includes Namibia, is in the process of negotiating a Free Trade Agreement (FTA) with USA and EU. In the light of this, the role of Technical

Barriers to Trade (TBT) is highlighted as a non-pecuniary barrier to trade.

In a recent note released by Jurgen Hoffmann of the Namibian Agronomic Board, Hoffmann observed that "developed countries, that are a lucrative target market for Namibian exports, and especially agricultural exports, are still using higher standards and bureaucratic measures to try to impede market access of Namibian produce to their markets". He added that, "not only tariffs, but technical barriers to trade are also a major impediment to trade liberalization".

Typical reasons for the existence of such barriers include issues of health, safety, quality and environmental protection.

TBT have been recognized for some time in the WTO, which has brokered the Application of Sanitary and Phytosanitary Measures agreement, the Rules of Origin agreement, and the agreement on Safeguards to name but a few.

While these and other WTO agreements protect Namibian interests, Hoffman warns that Namibia would be particularly susceptible to strict Rules of Origin on diamond exports.

In spite of this vulnerability, Hoffman admits that the two major Namibian export commodities – minerals and tourism – are generally not subject to TBT as long as the demand exceeds the offered commodities or services.

In terms of the WTO's last round of negotiations in Doha, Special and Differential Treatment entailing support and aid from developed countries to developing countries and Least Developed Countries (LDCs) (of which Namibia is one), to build capacity and to give technical assistance also need to be incorporated in the FTAs with the EU and USA. Hoffman points out that these ongoing negotiations are "time consuming and entail a lot of capacity from the Namibian negotiation team".

Building capacity to be in a position to negotiate with the massively resourced and capable EU and US trade teams should be seen as a priority to ensure that all these factors are included in the final FTA with the EU and USA.

(www.tralac.org)

Influence of EU Eastward Expansion on Economic and Trade Relations

POLAND, Hungary, Czech and seven other Middle and East European countries joined the European Union (EU) officially on 1 May and its member countries increased from 15 to 25. The expanded EU has become the largest regional economic group and the largest free-trade zone in the world. The eastward expansion of the EU doubtless has a great influence on the existing political and economic patterns in the world and far-reaching influence on external economy and trade between China and the EU.

After China joined the WTO, trade between China and the original 15 countries of the EU grew rapidly in recent years, exceeding significantly the growth rate of trade between China and Japan and between China and USA in the corresponding period. According to statistics, the trade volume between China and the original EU was US\$125.2 billion in 2003, up 44.4 per cent, and that between China and the ten new members of the EU in the Middle and East Europe was US\$7.6 billion, up more than 50 per cent. Therein China's trade volumes with Hungary, Poland and Czech were US\$2.58, US\$1.98 and US\$1.56 billion respectively, the three biggest trade partners in the ten new member countries.

After the EU expanded, its common trade policy will be automatically applied to the ten new member countries. The major changes are the general tariff level in the ten countries will be lowered by 5 percentage point or so, but not all import duties will be lowered. The 5 per cent of import duty on agricultural products, light industry products, textiles and clothes will be hiked while such products are just what China exported more to them in recent years. This will raise the duties on some products exported from China.

The EU is currently one of the economic groups that take the severest anti-dumping measures against Chinese products, and its quotas, anti-dumping, anti-subsidy and indemnity measures, TBT and SPS schemes will be also applied to these new member countries automatically, which will doubtless affect China's export to these countries and its trade friction with these countries will probably be intensified.

Experts believe that, as the EU implements the policy of zero duties in itself, the trade among its member countries will further increase and its dependence on external trade will be reduced concurrently after the accession of the ten countries. As the economic development levels and trade structures of China and some of the ten countries are similar and the comparative advantages are not apparent, commodities of member countries of the EU will probably substitute commodities some EU countries imported from China and therefore some commodities exported by China to these EU countries will probably be decreased.

Besides, the eastward expansion of the EU will affect its direct investments in China. Since the development levels and labour costs of the ten new EU member countries in Middle and East Europe are relatively low, the transnational companies in the original EU countries are most likely to take advantage of the favourable conditions of completely open markets among member countries and make investments in these countries instead.

The influence of the eastward expansion of the EU on China's export is not ignorable but opportunities always coexist with challenges and the business opportunities brought by the eastward expansion of the EU are also great.

The EU will have 450 million consumers after its eastward expansion and its market scale surpasses those of USA, Mexico and Canada combined together. The external trade volume of the EU accounts for 20 per cent of the world total. Such a gigantic market with great potentials means opportunities to any trade partners in the world and the expanded EU will become the biggest trade partner of China.

Due to historical reasons, Chinese enterprises have more business with the ten new member countries and the eastward expansion provides them with the opportunity to enter the markets of the original member countries. Products produced by the ten countries in Middle and East Europe can circulate freely in the EU after they joined it; moreover, these countries have more preferential policies for attracting foreign investments compared with some Western European countries. Chinese enterprises can go out and increase investments in these countries. As long as their products enter a

member country of the EU, those products will enter the markets of the other member countries, which will further enlarge the market share of Chinese products.

With the economic growth of the economies of the new member countries, the income of their residents will increase considerably, so will the purchasing power. According to an estimate of EU experts, the eastward expansion will raise the annual economic growth rate of the new member countries by 1.3-2.1 per cent. Chinese products are relatively competitive and attractive in these countries. It can be expected that when the income of citizens of the new member countries is raised, the demand for Chinese products will increase, moreover, with rapid growth of the income of the above said citizens, the labour costs will rise faster there than in China. Therefore, the prices of Chinese products will remain competitive.

(www.en.ce.cn)

China Hopes to Double Agricultural Exports in a Decade

CHINA hopes to double its agricultural exports in a decade to meet its economic growth need and increase farmers' incomes.

Such target could be met in the year 2013, Vice Minister of Commerce Yu Guangzhou told a symposium on agricultural exports and export credit insurance.

Agriculture will be one of the key sectors fueling trade both domestically and abroad in the coming years. The quality of agricultural products will be monitored and improved at the beginning of the production chain, Yu said.

China exported US\$21.2 billion worth of agricultural products last year, mainly marine products, garden and animal products and grain, up 17.9 per cent year-on-year. The major buyers include Japan, USA and the EU.

"But technical barriers to trade (TBT), in the name of environmental protection and health requirements, are hindering agricultural exports," said Han Jun, a Senior Researcher with the Development Research Center of the State Council, a think-tank of China's cabinet.

According to a survey by the Ministry of Commerce last year, 89.7 per cent of Chinese enterprises exporting local food specialties and animal products said their business was affected by TBT, 82 per cent said they lost market shares and 35 per cent were pushed out of the market.

"Chinese losses caused by TBT included US\$4.4 billion worth of live animal exports and US\$4.1 billion worth of plant products exports last year," said Xia Youfu, Professor with the University of International Business and Economics.

Other products, such as animal fat and plant oil, food and beverage were also affected. Meanwhile, the agricultural exports were helpful for the employment of abundant rural labour and increasing the farmers' income.

About 16 million of the abundant rural labourers got jobs related to agricultural exports annually. "One national leading agricultural enterprise can offer about 76,000 jobs and per ton of corn exports will offer one job," Xia said.

Statistics from eastern China's Shandong Province, major exporter of agricultural goods including vegetable, marine and animal products, show that the average income of farmers increased by 140 Yuan (US\$16.9) year-on-year in 2001 and of which, 70 Yuan was gained from agricultural exports.

Zhou Xudi, Deputy General Manager of the Shaanxi Hengxing Fruit Juice Beverage Co. Ltd. said the company's business benefits over 600,000 rural families cultivating fruit trees scattered in 13 counties and offers 3,000 long-term jobs and 40,000 short-term jobs per year.

"Agricultural exports contribute not only to the increase of foreign currency reserve, but more to the increase of farmer's income, employment and the optimization of the industry structure in rural areas," Yu said.

(www.english.peopledaily.com.cn)

State Bolsters WTO Bid by Helping Firms be Competitive

A SENIOR Government official said Viet Nam will actively work to remove technical barriers to trade (TBT) as the country prepares to join the WTO in 2005.

As part of a project implemented by the WTO, UNIDO, Norwegian Agency for Development Cooperation and Swiss Economic Cooperation Organization, a seminar was held to help Viet Nam with the TBT Agreement before entering the WTO.

This project is to support trade in Cuu Long (Mekong) Delta countries, through strengthening standards, metrology, testing and quality, which should support Viet Nam's bid to become a WTO member.

It is also aimed to help domestic enterprises and managers raise awareness of opportunities and challenges as Viet Nam enters the global economy.

Under WTO regulations, the TBT Agreement is a multilateral accord to regulate issues related to standards and conformity assessment systems aimed at trade facilitation, elimination of unnecessary technical barriers while ensuring safety, health, environment and national security of member-countries.

The elimination of technical barriers would not only improve trade exchange of Viet Nam commodities and services with other countries but also promote domestic trade and production. "These agreements are implemented not only due to external pressure but also the internal social and economic requirements of the country," said Ngo Quy Viet, Director General of the Directorate for Standards and Quality. "We have to develop technical regulations, conform with international standards and hasten their implementation for both public and individual interests."

(www.vietnamnews.vnagency.com.vn)

Reducing Technical Barriers to Trade

FOR the *ISO Bulletin*, Prof. Henri Schwamm, Professor of Economics at the University of Geneva, analyzed the results and the scope of the second triennial review of the WTO Agreement on Technical Barriers to Trade (TBT).

This thorough review provided in particular an opportunity for WTO member countries to agree on the conditions Standards bodies needed to fulfill in order that international standards effectively play the role marked out for them by the TBT Agreement,

namely to facilitate commercial exchanges throughout the world. This represents an important breakthrough that confirms, and in a way officializes, the key position within world trade occupied by consensus international Standards such as those of ISO, for the benefit of both developing and developed countries.

Following are excerpts from Prof. Schwamm's analysis:

International standards function as a vital cog within the TBT Agreement and play a major role in its implementation. However – and herein lies a challenge – the TBT Agreement does not provide any precise definition of what a "relevant international standard" actually is. This omission can be the source of serious confusion in trade exchanges. The TBT Committee has sought therefore to put this right. A broad and thorough debate took place in Geneva during the Second Triennial Review which ended in late 2000 between the TBT Committee Members and the Observers where problems were raised and solutions offered.

Taking these suggestions fully into account – and in order to clarify and to strengthen the concept of international standards under the Agreement and to contribute to the advancement of its objectives – the TBT Committee adopted a list of six principles that should be observed by international standardizing bodies: transparency, openness, impartiality and consensus, effectiveness and relevance, coherence, development dimension.

Transparency: All essential information on current work programmes, as well as on proposals for Standards under consideration and on the final results should be made accessible to all interested parties in all WTO member countries.

Openness: Membership of an international standardizing body should be open on a non-discriminatory basis to relevant bodies of all WTO member countries. This would include openness with respect to participation at the policy development level and at every state of Standards development.

Impartiality and Consensus: All relevant bodies of WTO member countries should be provided with meaningful opportunities to contribute to the development of an international Standard so that the

standards development process will neither privilege nor favour the interests of a particular supplier, country or region. Consensus procedures should be established that seek to take into account the views of all parties concerned and to reconcile any conflicting arguments.

Effectiveness and Relevance: To facilitate international trade and prevent unnecessary trade barriers, international standards need to be relevant and effectively respond to regulatory and market needs, as well as scientific and technological developments in various countries. They should not distort the global market, have adverse effects on fair competition, or stifle innovation, they should not give preference to the characteristics or requirements of specific countries when different needs and interests exist in other countries or regions. Whenever possible, international standards should be performance-based rather than based on design or descriptive characteristics.

Coherence: In order to avoid the development of conflicting international standards, it is important that international standardizing bodies avoid duplication of, or overlapping with, the work of other international standardizing bodies. In this respect, cooperation and coordination with other relevant standardizing bodies is essential.

Development Dimension: Constraints on developing countries, in particular, to effectively participate in standards development should be taken into consideration in the standards development process. Tangible ways of facilitating developing countries participation in international standards development should be sought. Developing countries should not be excluded *de facto* from the process. Provisions for capacity building and technical assistance within standardizing bodies are important in this context.

The Second Triennial Review of the TBT Agreement has allowed substantial progress to be achieved in the right direction. All participants

highlighted the importance of having set guidelines to be used by international standards organizations for standards development. While these guidelines are viewed as a good achievement, it remains to be seen how they will work in practice.

The unanimous agreement on the positive spirit and outcome of this second triennial Review augurs well for the future because it represents, for developing as well as for developed countries, a better-functioning and better balanced tool for trade facilitation in the interest of the international trading community as a whole.

The Standards Code

The WTO Agreement on Technical Barriers to Trade (TBT) – sometimes referred to as the Standards Code – aims to reduce impediments to trade resulting from differences between national regulations and standards.

Standards may vary from country to country. Too many different standards make life difficult for producers and exporters. The need for them to comply with different standards often involves significant costs. If the standards are set arbitrarily, they could be used as an excuse for protectionism standards could then become obstacles to trade. In order to prevent too much diversity, the TBT Agreement encourages countries to use international standards where these are appropriate. It fully recognizes the important contribution that international standards and conformity assessment systems (ensuring that the requirements of standards are met by given products and services) can make to improving efficiency of production and facilitating international trade.

The development of international standards does indeed reduce potential market access barriers for imports on the home market of each WTO member country, and reduces the potential barriers to its exports to third country markets as well.

(www.standards.com.au)



BOOKS/ARTICLES NOTES

BOOKS

National Workshop on Implications of WTO-TBT Agreement on Exports, Centre for International Trade in Technology (CITT), Indian Institute of Foreign Trade (IIFT), New Delhi, 2003.

HIGHLIGHTING present status of the Agreement on Technical Barriers to Trade (TBT), the publication says that it came into force with the establishment of the World Trade Organization on 1 January 1995. The agreement contains international rules applicable to product standards used in the trading of goods and the procedures used for assessing conformity with such standards. Technical regulations are mandatory while the standards are voluntary. They cover: (i) Product characteristics including those relating to quality; (ii) Process and production methods (PPMs) that have an effect on product characteristics; (iii) Terminology and symbols; and (iv) Packaging and labelling requirements as they apply to the product.

The TBT Agreement aims to attain international standards and guidelines, and strives further to ensure that technical regulations and standards including packaging, marking and labelling requirements, and procedures used for assessing conformity with such regulations are not formulated and applied to create unnecessary barriers to trade.

Against this, the IIFT's Centre for International Trade in Technology (CITT) organized a one-day Workshop on "Implications of WTO-TBT Agreement on Exports" in association with the Department of Scientific and Industrial Research (DSIR), Government of India, the Bureau of Indian Standards (BIS), Federation of Indian Export Organizations (FIEO) and with the support of Ministry of Commerce & Industry on 7 January 2003 at IIFT, New Delhi.

The publication which is a Report contains a set of Background Papers relating to TBT Agreement and recommendations that emerged out of the discussions during the Workshop.

The Workshop broadly deliberated on: (i) The present status and implications of the various provisions in the TBT Agreement on India's exports; (ii) Impact of the various TBT notices; and (iii) The experience of Indian exporters and related issues as well as strategies for taking the fullest advantage of the various provisions of the TBT Agreement. About 87 representatives from various organizations including Export Promotion Councils, R&D institutions, Ministry of Commerce & Industry, Ministry of Science & Technology, exporters, consultants and other agencies concerned with the subject participated in the Workshop.

Development, Trade, and the WTO:

A Handbook, edited by Bernard Hoekman, Aaditya Mattoo and Philip English, The World Bank, Washington, DC, 2002.

THE publication contains a chapter on "Standards, Regulation and Trade: WTO Rules and Developing Country Concerns" (pp. 428-438). This chapter identifies several problems faced by developing economies in managing problems associated with standards. These are summarized below:

- (i) One important issue, it says, is that relatively little is known about the cost impacts of differing product standards and how they affect exporters in developing countries. In addition to the direct costs of meeting prescribed process standards and certification and testing requirements, there are numerous costs associated with variability in standards across export markets. At the same time, adopting stronger regulations, it says, can enhance technology transfer and raise confidence in the products of exporting firms. Thus, a concerted effort to study the cost and

productivity impacts of meeting international mandates is important.

- (ii) Developing countries should recognize that the imposition of product standards and technical regulations is not solely a trade issue. Effective regulation within their own markets is important for ensuring consumer safety and promoting technical change. To establish and enforce appropriate standards, building expertise and devoting additional resources to applied science and public management are required to a great extent, this effort can be left to private firms wishing to expand domestic and international sales, but there remains a role for government in light of the public good nature of effective standards. In defining and implementing more effective standards, however, many poor countries will need technical assistance from international organizations and specialists having adequate expertise.
- (iii) The SPS and TBT Agreements within the WTO have set a bar that must be met by exporting firms in developing countries. These agreements strongly encourage importing nations to adopt product standards that are at least as rigorous as those developed by international standards-setting bodies. Over time, all WTO members can be expected to adopt such regulations, with the richer members choosing even stronger rules. Thus, developing economies have no choice but to meet recognized international standards, at least for exports. It is likely, however, that such standards would have to be applied to all production within each country simply to inspire confidence in importing markets that goods are produced safely by all potential supply sources.

Against the above-stated observations made, the publication says that problems relating to the implementation of obligations under the TBT and SPS Agreements rank high among developing country concerns. Lack of modern technical infrastructure and capacity to engage in international standards development activities and to provide internationally recognized testing and certification procedures for products is a common constraint. Without the resources necessary for building and maintaining modern standards and conformity assessment systems, it is difficult either to ensure rights or to exercise responsibilities under the existing

WTO rules. If developing countries lack resources to access information on international standards or to participate in their development, a key link between the rule of law as specified in the WTO system and developing countries' ability to fulfill their obligations and defend their rights is called into question. Many developing countries support a targeted review of the TBT and SPS Agreements in light of the development needs.

The chapter also highlights standard-related problems encountered by Indian exporters in some specific products. These include Aflatoxin in peanut, mango pulp, milk & egg products, tyres and steel.

In its concluding remark, the publication says that developing countries may use the WTO dispute resolution mechanism to raise concerns about whether particular standards in import partners meet SPS and WTO rules. Inevitably, resort to dispute settlement will increase, given the proliferation and complexity of modern product mandates. This situation likely means that WTO panels must give greater voice to scientific evidence and representations by members of civil society. Developing countries need to monitor the development of dispute settlement in this regard and assert their own interests.

It must be recognized however, that the WTO itself is not a standards-setting body; it has neither the expertise nor the resources for this purpose. Ultimately, the real concern of developing countries must be to influence the development of global standards in ways that at least pay attention to their concerns.

Food Standards and Safety in a Globalized World: The Impact of WTO and Codex edited by Sri Ram Khanna and Madhu Saxena, New Century Publications, Delhi, 2003.

THE book makes a reference of TBT Agreement in one of the chapters. Both SPS and TBT provisions, it says, have a direct impact on foods standards in India for purposes of export and import.

Further, it underlines that harmonization of Indian food standards with Codex would require convergence with WTO SPS and TBT Agreement. The SPS measures are very strict and require risk based approach in achieving of safety objectives and adoption of suitable measures to control the risk.

This calls for preparation of risk assessment policy at national level, on the other hand, and adoption of appropriate measures for risk management, on the other.

As a first step, it says, food articles should be segregated in three broad groups: (i) Foods which are meant entirely for domestic production and use. Such foods would have practically no export or import market; (ii) Foods which have an export potential, and (iii) Foods which may be imported to meet shortages. The foods falling in groups 2 and 3 would become priority items for compliance with codex standards for smooth export and import failing which a developing country would lose out on exports and would become a dumping ground for substandard foods or foods below international standards. Further, it says that compliance with Codex would need upgradation of infrastructure and adoption of techniques relating to risk assessment and risk management including use of HACCP principles in the control of risk right from the stage of production till its processing and packaging for purposes of export. In its concluding remark, it says that it would be desirable to reedit all PFA standards. This would make each commodity standard complete in all respects, including quality, use of additives, methods of sampling and analysis and requirements of hygiene and labelling and would obviate the need for proving equivalence in respect of existing and new food items finding place in international trade from time to time.

The WTO, Agriculture and Sustainable Development edited by Heinrich Wohlmeyer and Theoder Quendler, Greemeaf Publishing, 2002.

THE book says that the Agreement on Technical Barriers to Trade (TBT) and the Agreement on Application of Sanitary and Phytosanitary Measures (SPS) are of considerable importance within the environmental policy field. Explaining main provisions of the TBT, it says that both agreements deal with the preparation, adoption and application of binding technical regulations and voluntary standards and the related procedures for assessment of conformity. The obligations laid down in the TBT Agreement vary between technical regulations and standards.

The current debate on the scope of application of the TBT Agreement has been heated up by the

issue of environmental labelling. The environmental labelling schemes, it says, are based on the concept of life-cycle assessment. In this context, it says, that two options have been put forward by the EC in order to accommodate non-product-related labelling requirements: the extension of the scope of application of the TBT Agreement and the introduction of a "code of conduct on eco-labelling" as a new instrument.

The Uruguay Round Follow-up and Multilateral Trade Negotiations on Agriculture by P.K. Mudbhary, GCP/RAS/176/GER, Food and Agriculture Organization, United Nations, June 2001.

THE publication is a Report prepared on the basis of a Workshop on "The Uruguay Round Follow-up and Multilateral Trade Negotiations on Agriculture" held at Nepal (Kathmandu) from 27 November - 1 December 2000. The Workshop was organized by FAO, United Nations. The Report makes a reference of SPS and TBT Agreements. The TBT Agreement, primarily deals with a wide range of consumable products, including products that are not food or animal/plant intended for dietary consumption. There are no specific internationally agreed standards, nor is there any organization exclusively recognized in the TBT Agreement for setting standards as there is in the SPS Agreement. Members are encouraged to adopt international or regional standards.

Further, it says that Codex Alimentarius Commission (CAC) is the only international organization recognized by the SPS Agreement for establishing food standards for international trade. Compliance with the Codex standards automatically presumes compliance with the SPS Agreement. No such presumption is granted in the TBT Agreement. Codex, it says, is a joint programme between the Food and Agriculture Organization (FAO) and the World Health Organization (WHO).

The Future of Food: Long-Term Prospects for the Agro-Food Sector, Organization for Economic Co-operation and Development, Paris (France), 1999.

THE publication contains a set of papers. One of the Papers entitled "Long-Term Policy Issues and Challenges for Agro-Food", examines the current

direction of policy reforms and prospective policy challenges. It analyzes the effects of domestic and international pressures and also discusses the policy challenges likely to arise from these pressures. The Paper makes a reference of the TBT Agreement. Product standards, it says, are dealt in the SPS and TBT Agreements.

The World Trade Organization (WTO) recognizes technical regulations, which are mandatory measures enforceable by law, and technical standards, which are voluntary measures. Governments and non-governmental organizations can be involved in the development of standards, depending on the institutional relationships in a particular country. Both technical standards and regulations specify that a product must have certain characteristics, or that certain processes must be followed in the manufacture of a product, in order to qualify for import and sale. A product or process may be covered by standards in labelling laws, packaging laws, standards of identity, certification and inspection rules, and food safety standards.

The Uruguay Round Agreement on Agriculture, it says, was an important contribution to freer trade, and created more transparent rules for the future. The Agreement provides for clearer and enforceable rules for non-tariff barriers. Important for food and agriculture are the Agreements on Sanitary and Phytosanitary Regulations (SPS) and Technical Barriers to Trade (TBT), particularly in conjunction with the improved provisions for resolving conflict through the new options for dispute settlement.

Indian Agriculture and the Multilateral Trading System by Brajesh Jha, Rajiv Gandhi Institute for Contemporary Studies, Rajiv Gandhi Foundation, Book Well, New Delhi, 2001.

THE Agreement on Technical Barriers to Trade (TBT) is one of the significant agreements which has indirect bearing on trade in agriculture. The Agreement requires that technical standards and regulations should not be drawn up with the aim of restricting trade. It encourages use of international standards and calls for national testing and certifying bodies to avoid discrimination against imports, and as far as possible, recognition of other country's tests and certificates. This includes elaborate procedures for notification and consultation, and provisions for

technical assistance to developing countries and for greater flexibility for these countries.

International Food Trade Beyond 2000, Alicom 99/6-10, FAO/WTO, 1999.

THE book contains a set of papers which were presented at a Conference on "International Food Trade Beyond 2000: Science-based Decisions Harmonizations, Equivalence and Mutual Recognition" at Melbourne (Australia) from 11-15 October 1999. It was organized by the Food and Agriculture Organization in cooperation with the World Health Organization and the World Trade Organization. One of the session was related to "Food Trade and Implementation of the SPS and TBT Agreements: Challenges for Developing Countries in Meeting the Obligations of the SPS and TBT Agreements and the Codex Alimentarius". Both Agreements focus trade in food with the SPS Agreement specifically attaching significance to human health and safety. The SPS Agreement recognizes that governments have the right to adopt sanitary and phytosanitary measures but stipulates that these should be applied only to the extent necessary to achieve the desired level of protection; that governments should not arbitrarily or without scientific justification discriminate between members where identical or similar conditions prevail; and emphasizes the use of science in making decisions as well as utilizing the principles of risk analysis in setting appropriate levels of protection. The TBT Agreement, on the other, is related to the quality aspects of food, such as labelling of products and those issues not covered by food safety aspects under the SPS Agreement.

Even today, developing countries, it says, continue to receive shipments of foods which are of such low quality and are not acceptable for use by consumers, and most likely could not have been distributed legally within the country of origin.

The Codex Alimentarius Commission with its 165 member nations, has certainly a most positive influence on the quality and safety of foods produced and sold throughout the world. It is recognized that the Codex is the only inter-governmental body in the world that takes positive actions to improve the quality and safety of the world's food supply.

In its concluding remarks, the publication says

that in view of the fact that developing countries often lack up to date information on various aspects of food quality and safety control, special consideration should be given to establishing food quality and safety information centres for excellence in each region. They would be responsible for designing and operating websites and providing the latest scientific information and advice on matters relating to control of food quality and safety, including such matters as risk assessment. Such information sites would be most valuable for developing countries. They may access the latest information related to safety and quality of food. Consideration at the same time should also be given to see that the information on the websites is up to date and scientifically based. Such centres should be located in recognized academic regional institutions and once established, could do network among themselves.

ARTICLES

Implications of WTO-TBT Agreement on Exports by S.P. Agarwal and Rajeshwar Dayal, *Technology Exports*, July-September 2003, Vol. VI, No. 1, Indian Institute of Foreign Trade, New Delhi.

GIVING salient features of the TBT Agreement at the outset, the article says that this Agreement was negotiated in the Uruguay Round, with the objective of improving market access and to ensure that Non-Tariff Barriers (NTBs) in the form of technical standards become non-operative. The TBT Agreement primarily focuses on reducing technical barriers to trade by requiring members (governments) to use international standards as the basis for their technical regulations, which has the added advantages of transparency and predictability of requirements, and efficiency in production. While the Agreement recognizes that there may be legitimate reasons for differences in technical regulations, because of climatic or geographical factors, it requires members to avoid the adoption and application of unnecessary differences in technical regulations and their conformity assessment procedures that in turn have an effect on trade.

The Agreement encourages countries to seek ways to reduce the trade impact where their

requirements differ legitimately through means such as not requiring additional tests of products beyond those undertaken in the producer's market, accepting another country's technical regulations as equivalent to their own, or harmonizing technical regulations to those required in other markets.

TBT Agreement mandates the use of international standards as the basis of technical regulations. The Ministry of Commerce & Industry, Govt. of India, is the nodal Ministry for implementing and administering the Agreement on TBT. BIS, the national standards body has been designated as the WTO/TBT Enquiry Point by Ministry of Commerce & Industry as required under Article 10 of the TBT Agreement.

Further, it says that as per the TBT Agreement (Article 4), it is an obligation that the standardizing bodies should accept and comply with the Code of Good Practices for the Preparation, Adoption and Application of Standards. BIS being the national standards body of India has accepted the Code of Good Practices.

The article broadly presents findings of a One-Day Workshop on "Implications of WTO-TBT Agreement on Exports" organized by IIFT's Centre for International Trade in Technology (CITT) in association with Department of Scientific and Industrial Research (DSIR), Government of India, and with the support of Ministry of Commerce & Industry, Bureau of Indian Standards (BIS) and Federation of Indian Export Organizations (FIEO) on 7 January 2003 at IIFT, New Delhi.

The main objective of the Workshop was to discuss the present status and implications of the various provisions contained in the TBT Agreement pertaining to India's exports. The Workshop also focused on the experiences of some Indian exporters and related issues with a view to taking the fullest advantage of the various provisions of the TBT Agreement. The Workshop was widely participated by a cross-section of the society which included policy-makers and government departments, industry and exporters, industrial associations and export promotion bodies, R&D institutions and related technical institutions, consultants, etc.

The Workshop deliberated on related issues of the TBT Agreement. It came out with various recommendations. These included: (i) The

information contained in the TBT notifications is not readily useable by the exporters most of the time, because of heterogeneous mix of contents and complex language. It is, therefore, necessary that the notices are analyzed product-wise as well as country-wise and then disseminated widely to concerned exporters/manufacturers in a manner, which is easily understood by them; (ii) BIS should make available all the information with regard to TBT notifications and related matters online for the benefit of exporters/manufacturers/R&D institutions and other concerned agencies; (iii) A compendium may be made of TBT notifications with respect to India's major trading partners to evaluate their impact on our exports; (iv) There is a need to undertake awareness programmes about the importance and impact of various provisions of the TBT Agreement for the exporters in different parts of the country; (v) The R&D and related institutions have an important role in assisting the exporters to upgrade/modify their products and processes to meet technical specifications and other requirements of the various TBT notifications of member countries. Therefore, there is a need to enhance interaction of R&D institutions with the export facility and making the technology related services available to the exporters more easily. DSIR indicated its willingness to support such programmes; (vi) Responding to the TBT notices issued by other countries, within the stipulated time period, is essential. Also, it is necessary to have a system approach for networking among BIS, Ministry of Commerce & Industry, export organizations/associations, R&D institutions and other concerned ministries/departments designated to issue notices; (vii) Export promotion organizations (EPOs) and industrial associations should have technical wings. These organizations should periodically give their suggestions and views to BIS/Ministry of Commerce & Industry for discussions and negotiations in the triennial meetings of the WTO member countries and elsewhere. There is, therefore, a need to have frequent consultation among Export Promotion Councils, BIS and Ministry of Commerce & Industry; (viii) Since the international standards are generally different than the national standards of the importing countries, it may be desirable to take up the issue at the ISO and the WTO platforms in order to have single standards for global marketing; (ix) Comparative standards of the importing countries should be prepared for

important products to help the exporters and manufacturers; (x) Active participation at the TBT committee meetings and elsewhere is essential and also to retaliate against the provisions or notices considered to be disadvantageous to us. For this, enhancement of our capacities and capabilities are required on continuing basis. A strong legal framework is also required to take up the issues related to TBT Agreement for redressal, where necessary; (xi) Efforts should be made to make member countries of the WTO to accept the test reports by the approved testing agency/agencies of the exporting country by the importing country; (xii) Studies should be undertaken to identify TBT measures which are (a) not based on scientific and technical evidence; (b) higher than the agreed international standards; and (c) unnecessary obstacles to international trade. These studies would help the government to take up the matters at bilateral or multilateral platforms. All research work should be coupled with practical experience of the exporting fraternity; and (xiii) Efforts are required to be made on bilateral basis to remove the discriminatory non-tariff barriers introduced by some member countries.

In its concluding remark, it says that advantage should be taken of the specific provisions included in Article 12 of the TBT Agreement which provides that developing country members should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade means.

WTO-TBT Agreement: Policy Provisions & Status by Madhulika Prakash, *Report on National Workshop of Implications of WTO-TBT Agreement on Exports*, Centre for International Trade in Technology (CITT), Indian Institute of Foreign Trade, New Delhi, 2003.

THE article says that international standards are increasingly important to developing countries for several reasons. *Firstly*, the production and export of manufactured goods by developing countries has more than doubled in 25 years. Thus, developing countries do not predominantly rely on agricultural products or primary commodities for export any longer. *Secondly*, at the same time, tariff rates and other traditional trade barriers have fallen. *Thirdly*,

so-called global supply chain integrators are increasingly setting stringent product or process standards in order to differentiate their products and services and manage product liability risks.

The article makes some suggestions relating to TBT Agreement. These include : (i) Development of national notification system for trade facilitation; (ii) Training & upgradation of skills for implementing TBT at policy and operational level besides greater dissemination of information; (iii) Networking with R&D, conformity assessment organizations, etc. (iv) Progressive harmonization of different national standards and towards the recognition of equivalence of existing standards when international standards are not available; (v) Trade Facilitation through Mutual Recognition Arrangements; and (vi) Greater use of IT for time saving and efficiency.

In its concluding remarks, it says that standards are one of the most important elements of the TBT Agreement and they play a significant role in its implementation. The acceleration of trade resulting from efforts to liberalize markets had produced real benefit for global economic growth. The share of manufacturers in trade has increased rapidly in developing countries over the past two decades. Approximately, 75 per cent of the total exports from developing countries comprise manufacturing. Consequently, there are today new challenges and opportunities for developing countries in trade in goods and the system of trade rights and obligations under the World Trade Organization. This specifically includes areas beyond traditional trade measures such as quantitative restrictions or tariffs. Developing countries now have direct stakes in relatively new areas where domestic regulatory regimes affect trade, including issues of standards and technical barriers outlined in the Technical Barriers to Trade Agreement. Thus, there is imperative need for the standards to respond to "market and regulatory needs" of the country.

Technical Barriers, Import Licenses and Tariffs as Means of Limiting Market Access by Jan G. Jorgensen and Philipp J.H. Schroder, April 2003, Website: jjg@ram.sdn.dk, University of Southern Denmark, Department of Economics, Campusvej (Denmark).

THE article states that technical barriers (standards), import licenses and tariffs may be deployed as means

of limiting the market entry of foreign firms. It examines these measures by employing a simple two-country monopolistic competition model of international trade to study the impact of technical barriers on trade, standards, import licenses and tariffs, and the policies related with market access to the overseas competitors. Further, it deals with welfare impact of such policies. For low levels of protection, it says that tariff will be the better policy tool. Overall, all the three policy tools, it says, do reduce welfare. The Paper, however, does not provide a rationale for imposition of devices limiting market access. On the contrary, it shows that reduction in technical barriers and tariffs, the removal of licensing schemes, and harmonization of standards are all welfare improving devices.

Qualification of Sanitary, Phytosanitary, and Technical Barriers to Trade for Trade Policy Analysis by John C. Beghin and Jean-Christophe Bureau, Working Paper 01-WP 291, December 2001, Centre for Agricultural and Rural Development, Iowa State University, USA, www.card.iastate.edu

THE paper makes an attempt to quantify non-tariff barriers (NTBs) to trade in the agricultural and food sectors. Further, it makes an analysis of the sanitary, phytosanitary, and technical regulations which can have an impact on trade. It also provides some quantitative estimates of the impact of such barriers on market equilibrium, trade flows, economic efficiency, and welfare. Given the heterogeneous nature of these regulations, it says that a unifying methodology does not exist. Quantification of the effects of such measures on a particular product has relied on methods that belong to different fields of the economic literature. It also provides a concise description and evaluation of the various methods available for a more comprehensive assessment of the impact of NTBs on trade and welfare.

In its concluding remarks, the article says that impact of TBT regulations on trade matches several preoccupations of policy-makers. *First*, domestic regulations may constitute major trade impediments. These are becoming more visible because of international scrutiny and more trade restrictive practices. A comprehensive assessment of the actual impact of these regulations, it says, is necessary to non-tariff barriers for a future trade agreement.

Secondly, quantification of the economic effects of sanitary and phytosanitary (SPS) measures and technical regulations is an important step in the regulatory reform process that OECD countries have been involved since 1997. Quantitative analyses help to inform governments of the costs of their SPS policies and provide the tools necessary to define more efficient regulations. *Thirdly*, more satisfactory techniques for estimating damages to trade partners caused by foreign regulations may help solve disputes and serve as a basis for calculation.

Trade Facilitation: Technical Regulations and Customs Procedures by Patrick A. Messerlin and Jamel Zarrouk, The WTO/World Bank Conference on Developing Countries' in a Millennium Round, WTO Secretariat Centre, William Rappard, Geneva, 20-21 September 1999, www.itd.org/wb/messerlin.doc

THE article says that trade facilitation (TF), especially issues related to customs procedures and technical regulations and standards (TRS) have become an increasing source of concern for the international business community and source of conflict in the WTO. Industrial countries perceive that customs procedures in developing countries and emerging markets have not evolved enough to adjust to the rapidly growing volume of trade during the last decade. The article makes a few suggestions relating to TBT. These include: (i) WTO should ensure that bilateral or regional agreements do not distort trade by favouring the MRA signatories at the detriment of non-signatories; (ii) The enforcement issues related to TRS should be discussed in the global framework of service liberalization; and (iii) the enforcement of the revised Kyoto Convention on customs practices needs better coordination between the WCO and the WTO.

It is organized in five sections. Section I discusses role of TF issues by posing two questions: (i) To what extent developing and emerging countries are, more or less, concerned by TF problems than industrial countries through their trade flows with industrial countries? and (ii) How frequent and important have been TF issues in WTO dispute settlement cases? Section II looks at the possibility of initiating unilateral, regional and multilateral actions for addressing the issues raised by the *design* of TRS, and what they imply for WTO rules. Section III deals with

issues that arise in the designing of customs procedures. Section IV discusses mechanisms for the enforcement of TRS and customs-related regulations. Section V summarizes the main findings.

China and the Agreement on Technical Barriers to Trade by Ichiro Araki; araki-ichiro@rieti.go.jp, RIETI Discussion Paper Series 02-E-008, July 2002.

IN its introductory remarks, the article says that the Agreement on Technical Barriers to Trade (TBT Agreement) sets out rules to be observed by WTO Members in their administration of technical regulations and standards, as well as conformity assessment procedures. Under the TBT Agreement, a technical regulation is defined as a "document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory". The Agreement further notes that technical regulations "may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method".

China became a Member of the World Trade Organization (WTO) in December 2001 after more than 15 years of difficult negotiations. The article reviews the negotiating history of China's accession with special emphasis on the Agreement on Technical Barriers to Trade. Because of the unique domestic system in China, the negotiations regarding the TBT Agreement posed special difficulties both for China and the Members of the WTO.

In view of China's long history of state control over economic activities, it is not surprising that many foreign traders doing business in China have complained about the lack of transparency and the discriminatory nature of China's technical regulations, standards and conformity assessment systems. Chinese law, it says, provides that all goods subject to inspection by law or according to the terms of a contract must be inspected prior to importation. The country maintains statutory inspection requirements known as "conformity assessment procedures" on about 800 imported goods, and an even greater number of exported products. Chinese buyers or their purchase agents must get themselves registered for inspection of imported goods at the

port of entry. The scope of inspection includes quality, technical specifications, quantity, weight, packaging, and safety requirements.

The Impact of the TBT and SPS Agreements on Food Labelling and Safety Regulations, WTO, www.csionet.org

THE article says that food labels are an essential source of information for consumers to enable them to have effective control and choice over what they eat whether it is for health, safety, religious, or ethical reasons. Current labelling initiatives favoured by consumers are quite varied. For example, the Transatlantic Consumer Dialogue (TACD), a coalition of more than 60 consumer organizations in the United States and Europe, has recently recommended both mandatory labelling for all genetically engineered foods & ingredients and mandatory nutrition labelling for all food products.

Finally, the article makes some suggestions to build consumer confidence in the context of TBT Agreement. These are: (i) The EU and the US should announce that they will not make any formal challenges at the WTO to each other's food labelling and safety requirements; (ii) The TBT and the SPS Agreements should be subjected to a public and transparent review, with full involvement of all the stakeholders including consumer non-governmental organizations. The WTO, SPS and TBT Committees should be open to observers from non-governmental organizations; (iii) During such reviews, the EU and the US should support the specific recommendations for reform of the SPS and TBT Agreements; and (iv) Consideration should be given to determining whether the SPS and TBT Agreements should be fundamentally reformed so that a national food safety or labelling requirement would be deemed as an illegal trade barrier.

Agro-Food Products and Technical Barriers to Trade: A Survey of Issues and Concerns Raised in the WTO's TBT Committee

by Peter Walkenharst, COM/TD/AGR/P(2002)70/FINAL, 4 March 2003, Trade for Food, Agriculture and Fisheries, OECD, Paris (France), Website: www.oecd.org/trade

THE article speaks of technical regulations and standards which are used by governments to achieve

domestic policy objectives such as containment of health and environment-related risks or fraud, and to facilitate trade by ensuring the inter-operability of technical systems and improving market transparency.

The article presents a survey of issues and concerns raised in the WTO's Committee on Technical Barriers to Trade, with particular emphasis on discussions related to agro-food products. It makes an analysis about the participation of OECD and non-OECD countries in the Committee discussions, and identifies agro-food related TBT issues that might warrant further investigation with respect to their trade and economic effects.

The WTO Agreement on Technical Barriers to Trade (TBT Agreement), it says, tries to ensure that regulations, standards, testing and certification procedures facilitate trade and do not give rise to unwarranted protection for domestic producers. The 1994 Agreement was part of the outcome of the Uruguay Round and extends and clarifies the 1979 Agreement that was reached in the Tokyo Round of multilateral trade negotiations. It requires that technical regulations and standards, as well as testing and certification procedures, be transparent, justified by legitimate objectives, such as national security, prevention of deceptive practices, human health and safety, animal and plant life and health, or environmental protection, and do not create unnecessary obstacles to trade. Countries have the right to pursue domestic policy objectives through technical regulations and conformity assessment procedures.

The TBT Agreement covers all technical measures (regulations, standards, testing and certification procedures) relating to any product or process and production method, except sanitary and phytosanitary measures, which fall under the jurisdiction of the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement). Examples of measures that might fall under the TBT but not the SPS Agreement include technical regulations and procedures concerning packaging, marking and labelling, process and production method, and final product characteristics.

Dispute Settlement: Technical Barriers to Trade, World Trade Organization, United Nations, Geneva, 2003.

THE Paper which mainly deals with various provisions of WTO and TBT Agreements says that the TBT Agreement entered into force in 1995. It was signed by 32 GATT contracting parties at the conclusion of the 1979 Tokyo Round of Trade Negotiations. It provides a detailed examination of the TBT Agreement. It has been organized in six sections. Section I examines the reasons for adoption of the TBT Agreement and the treatment of regulations and standards under the General Agreement on Tariffs and Trade (GATT). Section II which examines the general scope of the TBT Agreement also provides definitions of the key concepts of "technical regulations", "standards", and "conformity assessment procedures". Besides, it makes an analysis of important issues, in particular the relationship between the TBT Agreement, the GATT 1994, the Agreement on the Application of Sanitary and Phytosanitary Measures. Section III deals with the structure of the TBT Agreement and the applicability of the Agreement on other than central government bodies. Section IV provides a nuts and bolts examination of the principles and rules of the TBT Agreement, such as the principle of non-discrimination, the obligation to prevent unnecessary obstacles to international trade and the obligation to use international standards as a basis for technical regulations. Section V deals with technical assistance and special and differential treatment for developing member countries provided for in the TBT Agreement. The concluding section deals with dispute settlement and institutional matters falling under the TBT Agreement.

The Impact of Technical Barriers to Trade on Home Bias: An Application to EU Data

by Mark Vancauteran, 8 August 2002, website: www.ires.ucl.ac.be/DP/IRES_DP/2002-32.pdf

THE paper estimates the impact of technical barriers to trade on bilateral trade flows of individual EU countries. It makes an attempt to identify the effect of technical barriers to trade on EU imports where the EU has sought to introduce harmonized technical regulations to remove technical barriers to trade. Based upon the analysis on the evolution of home bias in the EU, it finds no evidence that the home

bias has decreased for products where differences in technical regulations are important.

The paper has been organized in five sections. Section I gives a brief description of the EU approach to the removal of technical barriers to trade (TBTs). Section II reviews the existing work on home bias and the gravity model. Section III explores the method for estimation. Section IV discusses the data that are used to examine technical barriers to trade. The concluding section discusses the interpretation of the estimated home bias.

Study on WTO Agreement on Technical Barriers to Trade

The WTO Agreement on Technical Barriers to Trade (TBT) essentially aims at improving market access and to ensure that non-tariff barriers in the form of technical standards, etc., should become non-operative. However, contrary to its objective, the TBT Agreement itself is now being perceived to be a major barrier for exports from developing countries. It appears that there is very little awareness about the TBT notifications issued by the World Trade Organization (WTO) particularly in small- and medium- scale industries.

The Centre for International Trade in Technology (CITT) at the Indian Institute of Foreign Trade has undertaken a study on TBT, with the objective to disseminate the information contained in the notifications in simple language. Initially, for this purpose four sectors have been identified, which include, *inter alia*, Automobile and Ancillaries; Packaged and Processed Food; Pharmaceutical and Healthcare; and Fertilizer, Chemicals & Pesticides.

Any input from or interaction with trade and industry will be highly appreciated as this exercise will immensely help in furthering the process of knowledge dissemination. The Centre has undertaken specifically this Study to spread awareness and knowledge, and that is why it is necessary to convey the findings of the Study at every step to quicken the process of awareness.

You may send your suggestions and views to:

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DOCUMENTS

Committee on Technical Barriers to Trade

Ninth Annual Review of the Implementation and Operation of the TBT Agreement

NOTE BY THE SECRETARIAT

1. The Committee on Technical Barriers to Trade¹ (the Committee) will conduct its ninth annual review under Article 15.3 of the Agreement on Technical Barriers to Trade (the Agreement) at its meeting on 23 March 2004. This document contains information on developments in the Committee relating to the implementation and operation of the TBT Agreement from 1 January to 31 December 2003.

I. Meetings of the Committee

2. The Committee, pursuant to Article 13.1 of the Agreement and to the Rules of Procedure, elected Mr. Juan Antonio Dorantes-Sánchez (Mexico) as its Chairperson for the year 2003-2004.

3. Three meetings were held in 2003 (20 March, 2 July and 7 November 2003).² At these meetings, the Committee addressed issues relating to the implementation and administration of the Agreement, technical assistance, observer status and the preparation of the Third Triennial Review.

4. Several measures were brought to the attention of the Committee by Members who raised concerns about the potential adverse trade effects, or inconsistency with the Agreement of those measures. Five Members informed the Committee of measures in existence or taken to ensure the implementation and administration of the Agreement.³

5. At its March meeting, the Committee carried out its Eighth Annual Review of the Implementation and

Operation of the Agreement under Article 15.3 as well as the Eighth Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement).⁴

6. A special workshop on technical assistance was held on 18 March 2003.⁵ In that context, proposals were made on technical assistance which could contribute to the development of the TBT-related technical cooperation programme. Such proposals were also considered by the Committee in the context of the preparation of the Third Triennial Review of the Agreement under Article 15.4.

7. A Learning Event on Labelling was held on 21-22 October. This Event was based on real-life case studies, with a particular focus on developing countries' concerns. It was aimed at enhancing Members' understanding of the preparation, adoption and application of labelling requirements in the context of the implementation of the TBT Agreement, as well as the impact of such requirements on market access.⁶

8. The Committee carried out the annual transitional review mandated in the Protocol of Accession of the People's Republic of China.⁷

9. The Committee concluded the Third Triennial Review at its November meeting.⁸ Elements considered under the Review included the following: (i) the implementation and administration of the Agreement, (ii) good regulatory practice,

(iii) transparency procedures, (iv) conformity assessment procedures, (v) technical assistance and special and differential treatment, and (vi) other elements. A number of recommendations were made by the Committee.

10. During the review period, the Committee heard statements from various observers on their technical assistance activities and on ways in which they sought to ensure the effective participation of Members, in particular developing country Members, in their activities.⁹

II. Transparency Procedures¹⁰

11. In 2003, Members submitted 794¹¹ notifications. Since the entry into force of the Agreement on 1 January 1995, up to 31 December 2003, 5460 notifications were made by 80 Members.¹²

12. Amongst the 794 notifications received in year 2003, the following legitimate objectives and/or rationale have been mentioned by Members as the first objective: protection of human health (in 329 notifications); adoption of new domestic law (in

101 notifications); prevention of deceptive practices (in 97 notifications); consumer information and labelling (in 53 notifications); quality requirements (in 52 notifications); harmonization (in 51 notifications); protection of the environment (in 30 notifications); protection of animal or plant life or health (in 13 notifications); lowering or removal of trade barriers and trade facilitation (in 4 notifications). 39 notifications did not specify any legitimate objective and 24 notifications referred to other legitimate objectives.

13. The Committee has recommended 60 days as a minimum length of time to be allowed for the presentation of comments from other Members.¹³ In 2003, Members allowed an average of 54.8

FIGURE 3
PERCENTAGE OF NOTIFICATIONS BY STATED
LEGITIMATE OBJECTIVE

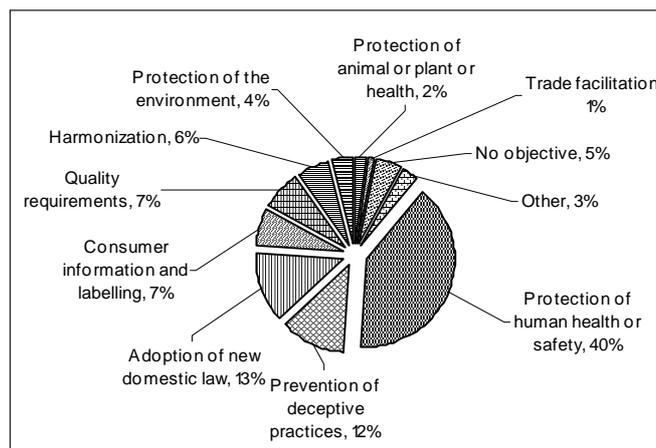


FIGURE 1

TOTAL NUMBER OF TBT NOTIFICATIONS SINCE 1995

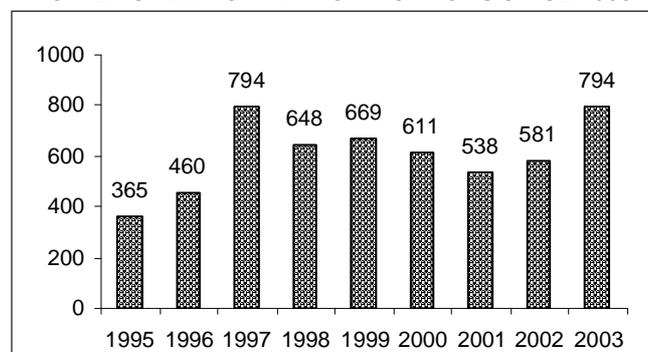
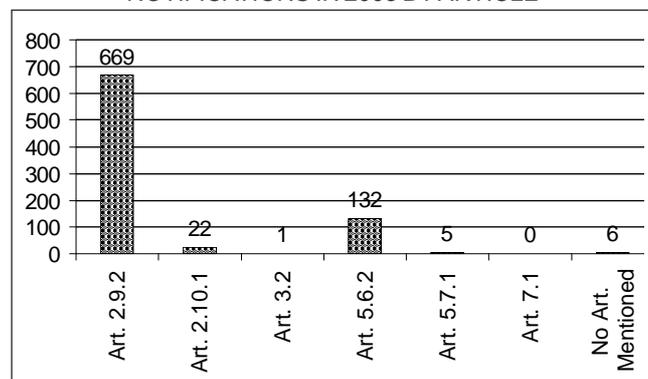


FIGURE 2

NOTIFICATIONS IN 2003 BY ARTICLE



calendar days for comments. 242 Notifications did not specify a comment period, stated it as non-applicable or had a comment period which had lapsed. Figure 4 shows the average time allowed for comments since 1995.

14. In 2003, four notifications were made under Article 10.7¹⁴, notifying respectively the Mutual Recognition Agreement reached by:

- INMETRO (Brazil), SCC (Canada) and A2LA (United States);
- INMETRO (Brazil), SCC (Canada) and EMA (Mexico);
- The European Communities and Switzerland, and
- Japan and the Republic of Singapore

FIGURE 4
AVERAGE NUMBER OF DAYS ALLOWED
FOR COMMENTS SINCE 1995.

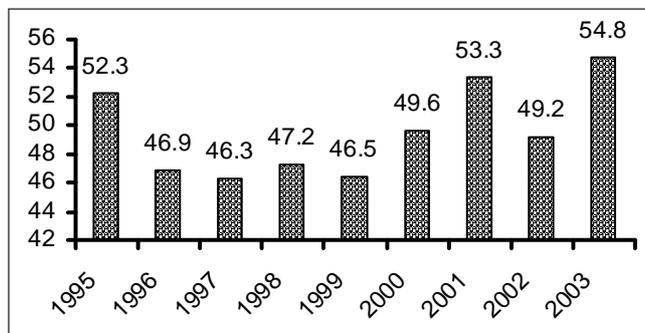
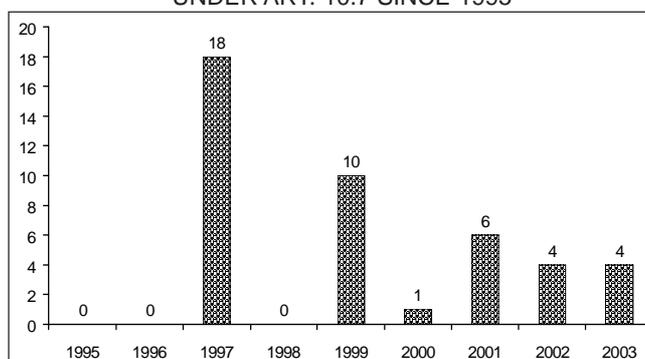


FIGURE 5
NUMBER OF NOTIFICATIONS SUBMITTED
UNDER ART. 10.7 SINCE 1995



15. The following information relevant to transparency is noted:

- (a) Information on publications used to announce that work is proceeding on draft technical regulations and conformity assessment procedures under Article 2.9.1 and 5.6.1 of the Agreement, and publications in which the final texts are published under Article 2.11 and 5.8 is contained in documents G/TBT/2 and addenda.
- (b) The list of WTO TBT Enquiry Points under Article 10.1 and 10.2 is contained in document G/TBT/ENQ/24.
- (c) In 2003, three standardizing bodies from three Members accepted the Code of Good Practice (Annex 3 of the Agreement).¹⁵
- (d) Since the entry into force of the Agreement, 142 standardizing bodies from 103 Members have adhered to the Code. Notifications of acceptance of the Code by standardizing bodies of Members are contained in documents G/TBT/CS/N/1-153.¹⁶

- (e) A list of standardizing bodies that adhered to the Code in 2003 is contained in document G/TBT/CS/1/Add.8. Document G/TBT/CS/2/Rev.10 contains the complete list, by Member, of standardizing bodies that have accepted the Code since 1 January 1995.
- (f) The Ninth Edition of the WTO TBT Standards Code Directory is published by the ISO/IEC Information Centre and will be available in March 2004.

III. Technical Assistance and Special & Differential Treatment

16. In 2003, the Secretariat organized six regional workshops in:

- (a) Namibia for English-speaking African countries;¹⁷
- (b) Lebanon for Arab and Mediterranean countries;¹⁸
- (c) Saint Kitts and Nevis for the Caribbean countries;¹⁹
- (d) Fiji for the Pacific Island countries;²⁰
- (e) Peru for Latin American countries;²¹ and,
- (f) Mozambique for SADC countries.²²

17. The last two workshops were organized pursuant to the mandate given to the Director General²³ to continue his cooperative efforts with international standards setting organizations to enhance the participation of developing countries in their activities. On these two occasions, the Secretariat cooperated with the International Electrotechnical Commission (IEC) and with the International Organization for Legal Metrology (OIML). The programmes for all regional workshops were designed to raise awareness of the TBT Agreement and to provide capital-based officials with updated information on the work and discussions in the TBT Committee. The workshops also provided opportunities for experience sharing among participants, as well as the identification of possible regional cooperation. Concerning their organization, cooperation was received from regional partners, such as ESCWA, CARICOM and the Pacific Forum Secretariat (FORSEC).

18. In response to requests received from individual Members, national workshops were organized in Georgia, Qatar, Yemen, Lebanon, the Kyrgyz

Republic, the Gambia and India.²⁴ These workshops addressed issues such as adequate coordination between regulators, the importance of prioritizing technical assistance needs, the establishment of the enquiry points and the preparation of the statement on the implementation and administration of the Agreement under Article 15.2.

19. The WTO Secretariat participated in a regional workshop organized by UNIDO and UNCTAD for West African countries²⁵ and in a regional Workshop organized by UNIDO for LDCs of the SAARC region.²⁶ In these events, the role of the WTO Secretariat was to raise awareness of the importance of the implementation and administration of the TBT Agreement, to highlight and clarify the main principles and provisions of the Agreement, to provide guidelines and clarification on the TBT notification procedures and to explain how the TBT Agreement could be used as a tool for facilitating international trade.

20. The Secretariat also participated in a Standards Coordination Workshop for Southeast Europe organized by the United States Department of Commerce. This workshop took place in Geneva.

21. Moreover, the trade policy courses organized by the WTO Secretariat for English-speaking African

countries and for Islamic countries, which included training on TBT issues, were also an opportunity to provide technical assistance. Other technical assistance activities included two Geneva-based events: a Special Workshop on TBT related Technical Assistance and a Learning Event on Labelling (referred to in paragraphs 6 and 7, above).²⁷ as well as advice to capital-based officials on various issues related to the operation of the Agreement and the Committee.

22. In 2003, the Secretariat created a web page dedicated to technical assistance in the TBT field.²⁸ This web page contains information related to: activities of the WTO and Observer Organizations; activities, approaches and experiences of Members; training materials; databases on TBT-related technical assistance, and a list of technical assistance-related documents. This web page will be updated periodically to reflect information received from Members and international organizations.

IV. Disputes Involving Provisions of the TBT Agreement

23. The state of play during the year 2003 with regard to disputes involving provisions of the TBT Agreement is summarized below.

<i>Case No.</i>	<i>Case name</i>	<i>Complaint by</i>	<i>State of play</i>	<i>TBT articles invoked</i>
1. Pending Consultations				
DS279	India – Import Restrictions Maintained under the Export and Import Policy 2002-2007	European Communities	On 23 December 2002, the European Communities requested consultations with India concerning import restrictions maintained by India under its Export and Import Policy 2002-2007 with respect to particular products of concern to the European Communities (WT/DS279/1). On 17 January 2003, the United States requested to join the consultations (WT/DS279/2). On 31 January 2003, India accepted the request of the United States (WT/DS279/3).	2
DS263	European communities– Measures Affecting Imports of Wine	Argentina	On 4 September 2002, Argentina requested consultations with the European Communities regarding several EC regulations and other mandatory provisions on oenological practices and on trade in wine (WT/DS263/1).	2 and 12
DS233	Argentina – Measures Affecting the Import of Pharmaceutical Products	India	On 25 May 2001, India requested consultations with Argentina concerning Argentina’s Law No. 24.766 and Decree No. 150/92. (WT/DS233/1).	2 (especially 2.2), 5 (especially 5.1 and 5.2) and 12

Documents

<i>Case No.</i>	<i>Case name</i>	<i>Complaint by</i>	<i>State of play</i>	<i>TBT articles invoked</i>
DS232	Mexico - Measures Affecting the Import of Matches	Chile	On 17 May 2001, Chile requested consultations with Mexico in respect of a series of Mexican laws and regulations which are alleged to constitute unnecessary barriers to the import of Chilean matches (WT/DS232/1).	1, 2 and 5
DS203	Mexico - Measures Affecting Trade in Live Swine	United States	On 10 July 2000, the United States requested consultations with Mexico in respect of Mexico's 20 October 1999 definitive anti-dumping measure on live swine for slaughter (merchandise classified under tariff classification 0103.92.99 of the General Import Law) exported from the United States, independently from the country of origin, and actions by Mexico in the conduct of the anti-dumping investigation resulting in that measure (WT/DS203/1).	2 and 5
DS144	United States - Certain Measures Affecting the Import of Cattle, Swine and Grain from Canada	Canada	On 25 September 1998, Canada requested consultations with the United States in respect of certain measures, imposed by the US state of South Dakota and other states, prohibiting entry or transit to Canadian trucks carrying cattle, swine, and grain. (WT/DS144/1).	2, 3, 5 and 7
DS137	European Communities- Measures Affecting Imports of Wood of Conifers from Canada	Canada	On 17 June 1998, Canada requested consultations with the European Communities in respect of certain measures concerning the importation into the EC market of wood of conifers from Canada. The measures include, but are not limited to, Council Directive 77/93, of 21 December 1976, as amended by Commission Directive 92/103/EEC, of 1 December 1992, and any relevant measures adopted by EC Member states affecting imports of wood of conifers from Canada into the EC (WT/DS137/1).	2
DS134	European Communities- Measures Affecting Import Duties on Rice	India	On 28 May 1998, India requested consultations with the European Communities in respect of the restrictions allegedly introduced by an EC Regulation establishing a so-called cumulative recovery system (CRS), for determining certain import duties on rice, with effect from 1 July 1997 (WT/DS134/1).	2, in particular 2.1 and 2.2
DS100	United States - Measures Affecting Imports of Poultry Products	European Communities	On 18 August 1997, the European Communities requested consultations with the United States in respect of a ban on imports of poultry and poultry products from the European Communities by the US Department of Agriculture's Food Safety Inspection Service, and any related measures (WT/DS100/1).	2 and 5
DS61	United States - Import Prohibition of Certain Shrimp and Shrimp Products	Philippines	On 25 October 1996, the Philippines requested consultations with the United States in respect of a complaint by the Philippines regarding a ban on the importation of certain shrimp and shrimp products from the Philippines imposed by the United States under Section 609 of US Public Law 101-62 (WT/DS61/1).	2
DS41	Korea - Measures Concerning Inspection of Agricultural Products	United States	On 24 May 1996, the United States requested consultations with Korea concerning testing, inspection and other measures required for the importation of agricultural products into Korea. (WT/DS41/1).	2, 5 and 6
DS3	Korea - Measures Concerning the Testing and Inspection of Agricultural Products	United States	On 6 April 1995, the United States requested consultations with Korea involving testing and inspection requirements with respect to imports of agricultural products into Korea (WT/DS3/1). (See WT/DS41).	5 and 6

<i>Case No.</i>	<i>Case name</i>	<i>Complaint by</i>	<i>State of play</i>	<i>TBT articles invoked</i>
2. Active Panels				
DS174 DS290	European Communities- Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs	United States (DS174) and Australia (DS290)	<p>On 1 June 1999, the United States requested consultations with the European Communities in respect of the alleged lack of protection of trademarks and geographical indications (GIs) for agricultural products and foodstuffs in the European Communities (WT/DS174/1).</p> <p>On 4 April 2003, the United States sent an additional request for consultations concerning the protection of trademarks and GIs for agricultural products and foodstuffs in the European Communities (WT/DS174/1/Add.1).</p> <p>On 17 April 2003, Australia requested consultations with the European Communities concerning the protection of trademarks and to the registration and protection of geographical indications for foodstuffs and agricultural products in the European Communities (WT/DS290/1).</p> <p>On 18 August 2003, the United States and Australia requested separately the establishment of a panel (WT/DS174/20, WT/DS290/18). At its meeting on 2 October 2003, the DSB decided to establish a single panel.</p>	United States: (none) Australia: 2
DS291 DS292 DS293	European Communities- Measures Affecting the Approval and Marketing of Biotech Products	United States (DS291) Canada (DS292) and Argentina (DS293)	<p>On 13 May 2003, the United States and Canada requested consultations with the European Communities concerning certain measures taken by the European Communities and its member States affecting imports of agricultural and food imports from the United States and Canada (WT/DS291/1, WT/DS292/1). On 14 May 2003, Argentina requested consultations with the European Communities on the same matter (WT/DS293/1).</p> <p>On 7 August 2003, the United States, Canada and Argentina each requested the establishment of a panel (WT/DS291/23, WT/DS292/17, WT/DS293/17). At its meeting on 29 August 2003, the DSB decided to establish a single panel.</p>	United States: 2 and 5 Canada: 2.1, 2.2, 2.8, 5.1 and 5.2 Argentina: 2, 5 and 12
3. Mutually Agreed Solutions				
DS231	European Communities- Trade Description of Sardines	Peru	<p>On 20 March 2001, Peru requested consultations with the European Communities concerning Regulation (EEC) 2136/89 which, according to Peru, prevents Peruvian exporters from continuing to use the trade description "sardines" for their products (WT/DS231/1).</p> <p>The Appellate Body recommended that the DSB request the European Communities to bring the EC Regulation, as found to be inconsistent with Article 2.4 of the TBT Agreement, into conformity with EC's obligations under that Agreement.</p> <p>On 23 October 2002, the DSB adopted the Appellate Body Report and the Panel Report, as modified by the Appellate Body Report (WT/DS231/R and WT/DS231/AB/R).</p> <p>On 19 December 2002, Peru and the EC informed the DSB that they had agreed that the reasonable period of time for the European Communities to implement the recommendations and rulings of the DSB, would expire on 23 April 2003 (WT/DS231/16).</p> <p>On 14 April 2003, the parties informed the DSB that they had reached an agreement to extend the reasonable period of time until 1 July 2003 (WT/DS231/17).</p> <p>On 25 July 2003, the European Communities and Peru informed the DSB that they had reached a mutually agreed solution pursuant to Article 3.6 of the DSU (WT/DS231/18).</p>	2 and 12

V. ANNEXES

A. LIST OF WTO MEMBERS AND OBSERVERS

Members ²⁹	France	Namibia
Albania	Gabon	Netherlands
Angola	Gambia	New Zealand
Antigua and Barbuda	Georgia	Nicaragua
Argentina	Germany	Niger
Armenia	Ghana	Nigeria
Australia	Greece	Norway
Austria	Grenada	Oman
Bahrain	Guatemala	Pakistan
Bangladesh	Guinea	Panama
Barbados	Guinea Bissau	Papua New Guinea
Belgium	Guyana	Paraguay
Belize	Haiti	Peru
Benin	Honduras	Philippines
Bolivia	Hong Kong, China	Poland
Botswana	Hungary	Portugal
Brazil	Iceland	Qatar
Brunei Darussalam	India	Romania
Bulgaria	Indonesia	Rwanda
Burkina Faso	Ireland	Saint Kitts and Nevis
Burundi	Israel	Saint Lucia
Cameroon	Italy	Saint Vincent and the Grenadines
Canada	Jamaica	Senegal
Central African Republic	Japan	Sierra Leone
Chad	Jordan	Singapore
Chile	Kenya	Slovak Republic
China	Korea, Rep. of	Slovenia
Chinese Taipei	Kuwait	Solomon Islands
Colombia	Kyrgyz Republic	South Africa
Congo	Latvia	Spain
Congo, Democratic Rep. of the	Lesotho	Sri Lanka
Costa Rica	Liechtenstein	Suriname
Côte d'Ivoire	Lithuania	Swaziland
Croatia	Luxembourg	Sweden
Cuba	Macau, China	Switzerland
Cyprus	Madagascar	Tanzania
Czech Republic	Malawi	Thailand
Denmark	Malaysia	Togo
Djibouti	Maldives	Trinidad and Tobago
Dominica	Mali	Tunisia
Dominican Republic	Malta	Turkey
Ecuador	Mauritania	Uganda
Egypt	Mauritius	United Arab Emirates
El Salvador	Mexico	United Kingdom
Estonia	Moldova	United States
European Communities	Mongolia	Uruguay
Fiji	Morocco	Venezuela
Finland	Mozambique	Zambia
Former Yugoslav Rep. of	Myanmar	Zimbabwe

Observer Governments³⁰

Algeria	Ethiopia	Sudan
Andorra	Kazakhstan	Tonga
Azerbaijan	Lao	Ukraine
Bahamas	Lebanon	Uzbekistan
Belarus	Nepal	Vanuatu
Bhutan	Russian Federation	Viet Nam
Bosnia and Herzegovina	Samoa	Yemen
Cambodia	Saudi Arabia	
Cape Verde	Seychelles	

Observer Organizations

African, Caribbean and Pacific Group of States (ACP)*	International Organization for Standardization (ISO)	United Nations Economic Commission for Europe (UN/ECE)
Asociación Latinoamericana de Integración (ALADI)*	International Trade Centre (ITC)	United Nations Industrial Development Organization (UNIDO)*
European Free Trade Association (EFTA)*	Organization for Economic Co-operation and Development (OECD)	World Health Organization (WHO)
Food and Agricultural Organization (FAO)	Office International des Epizooties (OIE)	WHO/FAO Codex Alimentarius Commission
International Electrotechnical Commission (IEC)	International Organization for Legal Metrology (OIML)*	The World Bank
International Monetary Fund (IMF)	United Nations Conference on Trade and Development (UNCTAD)	

* Observer status on an *ad hoc* basis.

B. LIST OF WORKING DOCUMENTS AND SPECIAL DOCUMENTS ISSUED DURING THE YEAR 2003

<i>Document reference</i>	<i>Date of issue</i>	<i>Title and content of documents</i>	<i>Number of pages</i>
G/TBT/W/193	10 February 2003	An Analysis of the Priorities Identified by Developing Country Members in their Responses to the Questionnaire for a "Survey to Assist Developing Country Members to Identify and Prioritize their Specific Needs in the TBT-Field (Note by the Secretariat)	9
G/TBT/W/194	10 March 2003	A Policy Framework for the Acceptance of Results of Conformity Assessment Procedures (Submission by Japan)	6
G/TBT/W/195	12 March 2003	Implementation of Supplier's Declaration of Conformity (Submission by The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu)	6
G/TBT/W/196	13 March 2003	Main Objectives for the Third Triennial Review of the Technical Barriers to Trade Agreement - General Concept Paper (Submission by Canada)	4
G/TBT/W/197	14 March 2003	Third Triennial Review of the TBT Agreement (Submission by the European Communities)	4
G/TBT/W/198	17 March 2003	TBT-Related Technical Assistance and Capacity Building (Submission from Australia)	11
G/TBT/W/199	17 March 2003	Korea's Experience in the Implementation of the WTO/TBT Agreement (Submission by Korea)	3
G/TBT/W/200	17 March 2003	Korea's Experience of Technical Assistance in the Area of the TBT (Submission by Korea)	2
G/TBT/W/201	18 March 2003	Technical Assistance Activities in the TBT Field: Japan (as of 11 March 2003) (Submission by Japan)	4

Documents

<i>Document reference</i>	<i>Date of issue</i>	<i>Title and content of documents</i>	<i>Number of pages</i>
G/TBT/W/202	31 March 2003	Canadian Technical Assistance and Cooperation Activities in the TBT Field (Submission from Canada)	8
G/TBT/W/203	4 April 2003	Technical Assistance and Capacity Building in the TBT Field (Submission by New Zealand)	5
G/TBT/W/204	15 April 2003	Communication from Mexico	1
G/TBT/W/205	19 May 2003	Third Triennial Review of the TBT Agreement (Submission by the People's Republic of China)	1
G/TBT/W/206	19 May 2003	Communication from Mexico	1
G/TBT/W/207	22 May 2003	Overview of the Existing Databases on TBT-Related Technical Assistance (Note by the Secretariat)	5
G/TBT/W/208	22 May 2003	Registration, Evaluation, Authorization of Chemicals under Article 2.9.1 of the Agreement (Communication from the European Communities)	1
G/TBT/W/209	28 May 2003	Third Triennial Review of the Agreement on Technical Barriers to Trade (Communication from Mexico)	5
G/TBT/W/210	20 June 2003	Canada's Approach to Voluntary Conformity Assessment (Submission by Canada)	4
G/TBT/W/211	25 June 2003	Third Triennial Review of the TBT Agreement (Submission by New Zealand)	5
G/TBT/W/212	27 June 2003	Follow-up to the Workshop on TBT Related Technical Assistance (Communication from New Zealand)	3
G/TBT/W/213	27 June 2003	Contribution to the Third Triennial Review of the Agreement on Technical Barriers to Trade. Labelling (Communication from Chile)	3
G/TBT/W/214	27 June 2003	Third Triennial Review of the TBT Agreement Notification Procedures Related to Amended Regulations Previously Notified to the WTO-Proposal (Submission from Brazil)	1
G/TBT/W/215	27 June 2003	Third Triennial Review of the TBT Agreement (Submission from Brazil)	6
G/TBT/W/216	30 June 2003	Follow-up to the Workshop on TBT-Related Technical Assistance: Proposal from New Zealand for an Information Coordination Mechanism (Submission by New Zealand)	2
G/TBT/W/217	30 June 2003	Conformity Assessment: A Framework to Improve the Application of the TBT Agreement (Submission by the European Communities)	3
G/TBT/W/218	30 June 2003	Supplier's Declaration of Conformity (Submission by the European Communities)	4
G/TBT/W/219	30 June 2003	Recent European Commission Developments in the Field of Better Regulation (Submission by the European Communities)	2
G/TBT/W/220	30 June 2003	Third Triennial Review of the TBT Agreement (Submission by the United States)	4
G/TBT/W/221	1 July 2003	Overview of Technical Cooperation Activities Regarding Metrology, Standardization and Conformity Assessment – Received and Tendered by Brazil (1995-2003) (Submission from Brazil)	10
G/TBT/W/222	1 July 2003	Third Triennial Review of the TBT Agreement (Submission by Japan)	2
G/TBT/W/223	1 July 2003	The Introduction of Discussions on Good Regulatory Practice in APEC (Submission by Japan)	3
G/TBT/W/224	7 July 2003	Third Triennial Review: Conformity Assessment and Transparency (Submission from Egypt)	4

<i>Document reference</i>	<i>Date of issue</i>	<i>Title and content of documents</i>	<i>Number of pages</i>
G/TBT/W/225	14 July 2003	Follow-up of the Workshop on Technical Assistance: Outlines for a Database and Task Force to Enhance Delivery of Technical Assistance Activities (Submission by Egypt)	3
G/TBT/W/226	29 August 2003	Gradual Introduction of Upper Limits for Cadmium in Phosphate Fertilizers as an Early Notice under Article 2.9.1 of the Agreement (Communication by the European Communities)	1
G/TBT/W/227	6 October 2003	Transitional Review Mechanism pursuant to Paragraph 18 of the Protocol on the Accession of The People's Republic of China ("China") (Submission by the European Communities to the TBT Committee)	4
G/TBT/W/228 and Corr. 1	15 Oct. and 23 Dec. 2003	European Community: TBT Related Technical Assistance to Developing Countries (Submission from the European Communities)	9 and 6
G/TBT/W/229	15 October 2003	Transitional Review Mechanism in connection with Paragraph 18 of the Protocol on the Accession of The People's Republic of China: Questions and Comments of Japan	3
G/TBT/W/230 and Corr.1	17 and 23 Oct. 2003	The Third Triennial Review of the TBT Agreement (Submission by Thailand)	3 and 1
G/TBT/W/231	20 October 2003	Transitional Review Mechanism pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China: Questions from the United States to China	2
G/TBT/W/232	21 October 2003	Technical Cooperation and Assistance Programme Management Model (Submission from Brazil)	6
G/TBT/W/233	20 October 2003	The Third Triennial Review of the TBT Agreement: Proposed Outcome on Technical Assistance (Joint Proposal by Canada and New Zealand)	3
G/TBT/W/234	21 October 2003	Enhancing Transparency for New or Changed Regulations/CA Procedures which Arise as a Result of Implementation of a Recommendation of the DSB (Submission by Canada)	3
G/TBT/W/235	6 November 2003	Annual Transitional Review mandated in Paragraph 18 of the Protocol of Accession of the People's Republic of China: Information required in Annex 1A of WT/L/432 (Submission by the People's Republic of China)	5
G/TBT/W/236	11 Nov. 2003	Second Annual Transitional Review mandated in Paragraph 18 of the Protocol of Accession of the People's Republic of China. Report (2003)	3
G/TBT/W/237	13 Nov. 2003	Second Annual Transitional Review mandated in Paragraph 18 of the Protocol of Accession of the People's Republic of China: Statement by the Head of Chinese Delegation at the Meeting of the Committee on Technical Barriers to Trade, 7 November 2003	3
G/TBT/W/238	5 December 2003	Communication from Mexico	1
JOB(03)/188	23 Sept. 2003	Compilation of information available to the Committee for the preparation of the Third Triennial Review of the TBT Agreement (Non-paper by the Secretariat)	56
JOB(03)/200	16 Oct. 2003	Elements available to the Committee for the preparation of the Third Triennial Review of the TBT Agreement (Non-paper by the Secretariat)	26
G/TBT/12 and Corr.1	21 Feb. and 11 Mar 2003	Eighth Annual Review of the Implementation and Operation of the Agreement (Background Document by the Secretariat)	16 and 1
G/TBT/13	11 Nov. 2003	Third Triennial Review of the Operation and Implementation of the Agreement on Technical Barriers to Trade	21
G/TBT/ENQ/23	8 October 2003	National Enquiry Points (Note by the Secretariat)	40

Documents

<i>Document reference</i>	<i>Date of issue</i>	<i>Title and content of documents</i>	<i>Number of pages</i>
G/TBT/CS/1/Add.7	19 February 2003	List of standardizing bodies that have accepted the Code of Good Practice for the preparation, adoption and application of standards 2002 (Note by the Secretariat - Addendum)	3
G/TBT/CS/2/Rev.9	19 February 2003	List of standardizing bodies that have accepted the Code of Good Practice for the preparation, adoption and application of standards since 1 January 1995 (Note by the Secretariat - Revision)	9
G/TBT/SPEC/21	18 June 2003	Report (2002) of the Committee on Technical Barriers to Trade (Update)	1
G/TBT/SPEC/22	16 October 2003	Report of the Committee on Technical Barriers to Trade (2003)	1

C. NOTIFICATIONS MADE BY MEMBERS AND BY RELEVANT ARTICLES OF THE AGREEMENT IN THE YEAR 2003 AND SINCE THE ENTRY INTO FORCE OF THE AGREEMENT

<i>Members</i>	<i>Number of notifications made in 2003</i>	<i>Number of notifications made under the relevant Articles in 2003</i>							<i>Total number of notifications made since 1 Jan. 1995</i>
		<i>2.9</i>	<i>2.10</i>	<i>3.2</i>	<i>5.6</i>	<i>5.7</i>	<i>7.2</i>	<i>Not specified</i>	
Argentina	83	54	0	0	29	0	0	0	205
Armenia	1	0	0	0	1	0	0	0	1
Australia	15	11	2	1	1	0	0	0	125
Austria	0	0	0	0	0	0	0	0	4
Bahrain	0	0	0	0	0	0	0	0	1
Barbados	1	1	0	0	0	0	0	0	2
Belgium	1	1	0	0	1	0	0	0	205
Benin	0	0	0	0	0	0	0	0	2
Bolivia	0	0	0	0	0	0	0	0	22
Botswana	0	0	0	0	0	0	0	0	1
Brazil	71	48	4	0	20	2	0	0	260
Brunei Darussalam	0	0	0	0	0	0	0	0	1
Canada	29	24	1	0	9	0	0	0	217
Chile	3	2	1	0	0	0	0	0	108
China, People's Rep. of	28	23	1	0	2	2	0	0	40
Colombia	25	22	1	0	2	0	0	1	88
Costa Rica	0	0	0	0	0	0	0	0	14
Croatia	38	38	0	0	0	0	0	0	38
Cuba	0	0	0	0	0	0	0	0	5
Cyprus	0	0	0	0	0	0	0	0	1
Czech Republic	21	21	0	0	0	0	0	0	201
Denmark	16	15	0	0	0	0	0	1	184
Dominican Republic	22	22	0	0	0	0	0	0	22
Egypt	0	0	0	0	0	0	0	0	6
El Salvador	26	25	1	0	0	0	0	0	94
Estonia	0	0	0	0	0	0	0	0	1

<i>Members</i>	<i>Number of notifications made in 2003</i>	<i>Number of notifications made under the relevant Articles in 2003</i>							<i>Total number of notifications made since 1 Jan. 1995</i>
		<i>2.9</i>	<i>2.10</i>	<i>3.2</i>	<i>5.6</i>	<i>5.7</i>	<i>7.2</i>	<i>Not specified</i>	
European Communities	21	19	0	0	8	0	0	2	229
Fiji	0	0	0	0	0	0	0	0	1
Finland	0	0	0	0	0	0	0	0	32
France	14	14	0	0	0	0	0	0	94
Georgia	2	0	0	0	2	0	0	0	2
Germany	0	0	0	0	0	0	0	0	8
Grenada	5	5	0	0	0	0	0	0	8
Guatemala	7	7	0	0	0	0	0	0	17
Guyana	17	17	0	0	0	0	0	0	17
Hong Kong, China	4	2	0	0	2	0	0	0	47
Hungary	12	11	0	0	9	0	0	0	17
Iceland	0	0	0	0	0	0	0	0	2
India	0	0	0	0	0	0	0	0	54
Indonesia	9	0	7	0	0	0	0	2	16
Israel	23	0	0	0	23	0	0	0	86
Italy	2	0	0	0	2	0	0	0	3
Jamaica	0	0	0	0	0	0	0	0	30
Japan	45	42	0	0	8	0	0	0	343
Jordan	1	0	0	0	1	0	0	0	1
Korea, Republic of	19	19	0	0	2	0	0	0	157
Kuwait	0	0	0	0	0	0	0	0	6
Latvia	7	7	0	0	0	0	0	0	29
Lithuania	1	1	0	0	0	0	0	0	4
Macau, China	0	0	0	0	0	0	0	0	5
Malaysia	0	0	0	0	0	0	0	0	164
Mexico	47	41	2	0	4	0	0	0	271
Netherlands	4	4	0	0	0	0	0	0	589
New Zealand	4	3	0	0	0	0	0	0	43
Nicaragua	22	22	0	0	0	0	0	0	38
Norway	0	0	0	0	0	0	0	0	59
Oman	1	0	0	0	1	0	0	0	1
Panama	0	0	0	0	0	0	0	0	28
Peru	3	2	0	0	1	0	0	0	6
Philippines	5	5	0	0	0	0	0	0	89
Poland	0	0	0	0	0	0	0	0	5
Saint Lucia	19	18	0	0	1	0	0	0	21
Senegal	0	0	0	0	0	0	0	0	4
Singapore	1	0	0	0	1	0	0	0	18

Documents

Members	Number of notifications made in 2003	Number of notifications made under the relevant Articles in 2003							Total number of notifications made since 1 Jan. 1995
		2.9	2.10	3.2	5.6	5.7	7.2	Not specified	
Slovak Republic	2	1	0	0	0	1	0	0	38
Slovenia	5	5	0	0	0	0	0	0	25
South Africa	16	16	0	0	0	0	0	0	85
Spain	5	5	0	0	0	0	0	0	66
Sri Lanka	0	0	0	0	0	0	0	0	30
Sweden	9	9	0	0	0	0	0	0	127
Switzerland	10	10	0	0	0	0	0	0	105
Thailand	27	27	0	0	0	0	0	0	231
The separate customs territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)	5	5	0	0	1	0	0	0	10
Trinidad and Tobago	2	2	0	0	0	0	0	0	23
Tunisia	1	1	0	0	0	0	0	0	9
Turkey	0	0	0	0	0	0	0	0	4
United Kingdom	4	3	1	0	1	0	0	0	28
United States	26	26	1	0	0	0	0	0	255
Uruguay	1	1	0	0	0	0	0	0	2
Venezuela	6	6	0	0	0	0	0	0	30
TOTAL	794	663	22	1	132	5	0	6	5,460

D. OBJECTIVES AND RATIONALES STATED IN NOTIFICATIONS IN 2003

<i>Objectives and Rationales</i>	<i>Notifications received in 2003 First Objective</i>	<i>Number of times that the objective was mentioned as the first, second or third objective in the notifications received in 2003</i>
Consumer Information, Labelling	53	93
Prevention of Deceptive Practices and Consumer Protection	97	126
Protection of Human Health or Safety	329	384
Protection of Animal or Plant Life or Health	13	23
Protection of Environment	30	89
Quality Requirements	52	71
Harmonization	51	60
Adoption of New Domestic Law and Technology	101	103
Lowering or Removal of Trade Barriers	2	3
Trade Facilitation	2	4
Cost Saving and Increasing Productivity	1	1
Others	24	29
Not Specified	39	0
Total	794	986³¹

E. OBSERVATION OF THE RECOMMENDED COMMENT PERIOD BY MEMBERS IN 2003

<i>Members</i>	<i>Number of notifications made with comment period</i>					<i>Total</i>
	<i>Less than 45 days</i>	<i>45-59 days</i>	<i>60 days or more</i>	<i>Not specified, lapsed or stated as non-applicable</i>	<i>Of which notified under Articles 2.10 and 5.7</i>	
Argentina	3	4	0	76	0	83
Armenia	1	0	0	0	0	1
Australia	3	4	2	6	2	15
Barbados	0	1	0	0	0	1
Belgium	0	0	1	0	0	1
Brazil	22	12	8	29	6	71
Canada	2	9	17	1	1	29
Chile	0	1	1	1	1	3
China, People's Rep. of	0	0	25	3	2	28
Colombia	0	0	23	2	1	25
Croatia	12	1	0	25	0	38
Czech Republic	7	6	8	0	0	21
Denmark	4	3	9	0	0	16
Dominican Rep.	0	0	0	22	0	22
El Salvador	1	0	23	2	1	26
European Communities	2	0	18	1	0	21
France	1	1	8	4	0	14
Georgia	0	0	0	2	0	2
Grenada	0	5	0	0	0	5
Guatemala	1	5	1	0	0	7
Guyana	0	0	0	17	0	17
Hong Kong, China	0	2	2	0	0	4
Hungary	2	0	0	10	0	12
Indonesia	0	0	9	0	0	9
Israel	0	0	23	0	0	23
Italy	0	0	2	0	0	2
Japan	7	18	20	0	0	45
Jordan	1	0	0	0	0	1
Korea, Rep. of	10	8	0	1	0	19
Latvia	2	2	0	3	0	7
Lithuania	0	1	0	0	0	1
Mexico	12	33	0	2	2	47
Netherlands	1	1	2	0	0	4
New Zealand	0	0	4	0	0	4
Nicaragua	0	0	22	0	0	22
Oman	0	1	0	0	0	1
Peru	0	0	2	1	0	3
Philippines	0	2	3	0	0	5
Saint Lucia	2	0	0	17	0	19
Singapore	0	0	1	0	0	1
Slovak Republic	0	0	0	2	1	2

Members	Number of notifications made with comment period					Total
	Less than 45 days	45-59 days	60 days or more	Not specified, lapsed or stated as non-applicable	Of which notified under Articles 2.10 and 5.7	
Slovenia	0	0	3	2	0	5
South Africa	12	3	1	0	0	16
Spain	1	2	2	0	0	5
Sweden	0	5	4	0	0	9
Switzerland	3	1	6	0	0	10
Thailand	1	0	14	12	0	27
The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)	1	1	3	0	0	5
Trinidad and Tobago	2	0	0	0	0	2
Tunisia	1	0	0	0	0	1
United Kingdom	0	1	3	0	0	4
United States	7	6	12	1	1	26
Uruguay	0	0	1	0	0	1
Venezuela	2	0	4	0	0	6
TOTAL	126	139	287	242	18	794

NOTES

¹ For general information on membership and documentation in the TBT Committee during the period of review, see Annexes A and B.

² G/TBT/M/29-31.

³ The full list of Members having submitted the statement on implementation and administration of the Agreement under Article 15.2 (since January 1995) is contained in document G/TBT/GEN/1. The five Members who did so in 2003 are: Israel (G/TBT/2/Add.72), Croatia (G/TBT/2/Add.73), Dominican Republic (G/TBT/2/Add.74), Armenia (G/TBT/2/Add. 75) and Ghana (G/TBT/2/Add. 76).

⁴ The Eighth Annual Review is contained in document G/TBT/12. Other relevant background documents to this review are: the list of standardizing bodies that had accepted the Code in 2002 (G/TBT/CS/1/Add.7) and the WTO TBT Standards Code Directory (eighth edition).

⁵ Annex A of G/TBT/M/29.

⁶ Ten real-life case studies were presented on different sectors such as forest, fruits, flowers and food labelling systems, efficiency requirements and voluntary energy programmes, and tobacco. Speakers were from Argentina, Australia, Brazil, Canada, Colombia, the European Communities, Mexico, the People's Republic of China, the Separate Customs Territory of Taiwan,

Penghu, Kinmen and Matsu (Chinese Taipei) and the United States.

⁷ G/TBT/W/236.

⁸ G/TBT/13. The Second Triennial Review is contained in G/TBT/9.

⁹ Statements were heard from the Asociación Latinoamericana de Integración (ALADI), the International Electrotechnical Commission (IEC), the International Organization for Standardization (ISO) and the World Bank.

¹⁰ The data for the graphs in this section are drawn from the tables in Annexes C, D and E.

¹¹ Notification G/TBT/N/CAN/62 has been withdrawn.

¹² Monthly lists of notifications for 2003 are contained in documents G/TBT/GEN/N/25-36.

¹³ G/TBT/1/Rev.8.

¹⁴ G/TBT/10.7/N/42-45.

¹⁵ These Members were Paraguay (G/TBT/CS/N/151), Mexico (G/TBT/CS/N/152) and Georgia (G/TBT/CS/N/153)

¹⁶ Notifications G/TBT/CS/N/118 and 138 have been cancelled.

¹⁷ Botswana, Ethiopia, Gambia, Ghana, Kenya, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Sierra

Leone, South Africa, Sudan, Tanzania, Uganda, Zambia, Zimbabwe.

¹⁸ Algeria, Bahrain, Djibouti, Egypt, Jordan, Lebanon, Mauritania, Oman, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates and Yemen.

¹⁹ Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Jamaica, Barbados, Guyana, Trinidad, Suriname, Haiti, Dominican Republic and Belize.

²⁰ Fiji Islands Republic, Papua New Guinea, Solomon Islands, Samoa, Tonga, Vanuatu, Cook Islands, Federated States of Micronesia, Kiribati, Niue, Palau, Republic of the Marshall Islands and Tuvalu.

²¹ Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela.

²² Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zimbabwe.

²³ WT/MIN(01)/17.

²⁴ The Georgia, Kyrgyz Republic, Lebanon and the Gambia workshops were joint TBT/SPS workshops.

²⁵ Benin, Burkina Faso, Cape Verde, Guinea, Guinea Bissau, Mali, Mauritania, Niger, Senegal, Togo, Côte d'Ivoire.

²⁶ Bangladesh, Bhutan, Nepal and the Maldives.

²⁷ Capital-based participants from developing country Members attended these workshops with resources from the Global Trust Fund; and, in the case of the labelling learning event, the EC contributed to the funding of the participation of developing country Members.

²⁸ http://www.wto.org/english/tratop_e/tbt_e/tbt_tech_e.htm.

²⁹ Members on 31 December 2003.

³⁰ Observers on 31 December 2003.

³¹ In 2003, 196 Notifications referred to more than one objective.

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Report (2003) of the Committee on Technical Barriers to Trade

1. The Committee held its thirtieth to thirty-second meetings on 20 March, 2 July and 7 November, respectively (G/TBT/M/29-31) under the Chairmanship of Ms. Emily Earl (New Zealand) and Mr. Juan Antonio Dorantes Sanchez (Mexico). At those meetings, the Committee heard statements by a number of Members informing the Committee of measures taken to ensure the implementation and administration of the Agreement. Several measures were brought to the attention of the Committee by Members who raised concerns about the potential adverse trade effects or inconsistency with the Agreement of those measures.
2. At its thirtieth meeting, the Committee carried out the Eighth Annual Review of the Implementation and Operation of the Agreement under Article 15.3 (G/TBT/12), and the Eighth Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement) based on the following background documents: a list of standardizing bodies that have accepted the Code in 2002 (G/TBT/CS/1/Add.7), a list of standardizing bodies that have accepted the Code since 1 January 1995 (G/TBT/CS/2/Rev.9) and the WTO TBT Standards Code Directory (eighth edition).
3. The Committee continued the work arising from the Second Triennial Review of the Operation and Implementation of the Agreement held in November 2000 (G/TBT/9), including the development of a demand-driven TBT-related technical cooperation programme. With the objectives of further developing that programme and providing an opportunity for information exchange, a special workshop on technical assistance was held on 18 March 2003 (Annex A of G/TBT/M/29).
4. The Committee initiated the preparation for the Third Triennial Review at the beginning of this year, and concluded the Review at its thirty-second meeting (see attached the report of the Review).
5. Other activities of the Committee include: the annual transitional review mandated in the Protocol of Accession of the People's Republic of China carried out at its thirty-second meeting (G/TBT/W/236), and a Learning Event on Labelling held on 21-22 October.
6. The ALADI, ISO and the World Bank updated the Committee on their activities and provided information on the ways they sought to ensure effective participation of Members, and in particular of developing country Members, in their activities.
7. Representatives of the ACP, ALADI, EFTA, FAO, IEC, IMF, ISO, ITC, OECD, OIE, OIML, UNCTAD, UN/ECE, UNIDO, WHO, WHO/FAO Codex Alimentarius Commission and the World Bank attended meetings of the Committee in an observer capacity.

Third Triennial Review of the Operation and Implementation of the Agreement on Technical Barriers to Trade

REPORT

I. INTRODUCTION

1. The Agreement on Technical Barriers to Trade (TBT Agreement) provides that: "Not later than the end of the third year from the date of entry into force of the WTO Agreement and at the end of each three-year period thereafter, the Committee shall review the operation and implementation of this Agreement, including the provisions relating to transparency, with a view to recommending an adjustment of the rights and obligations of the Agreement where necessary to ensure mutual economic advantage and balance of rights and obligations, without prejudice to the provisions of Article 12. Having regard, *inter alia*, to the experience gained in the implementation of the Agreement, the Committee shall, where appropriate, submit proposals for amendments to the text of this Agreement to the Council for Trade in Goods" (Article 15.4).

2. The Committee concluded the First and Second Triennial Reviews of the Operation and Implementation of the TBT Agreement on 13 November 1997 (G/TBT/5) and 10 November 2000 (G/TBT/9) respectively.

3. Pursuant to the Second Triennial Review, a number of actions were taken to raise awareness of the transparency provisions of the Agreement and improve its implementation: a Special Meeting on Procedures for Information Exchange was held on 28 June 2001¹ and a booklet on the transparency obligations of the Agreement was prepared by the Secretariat in April 2002.² Furthermore, as part of the technical assistance work programme agreed to in the Second Triennial Review, a Special Workshop on the TBT-Related Technical Cooperation Programme was held on 18 March 2003. With the objective of improving Members' understanding of the preparation, adoption and application of labelling requirements in the context of the implementation of the Agreement, as well as of the impact of such requirements on market access, a

Learning Event on Labelling, which focussed on developing country Members' concerns, was held on 21-22 October 2003.

4. The Committee concluded the Third Triennial Review of the Agreement at its meeting of 7 November 2003. This document sets out the outcome of the review based on the discussion of the following elements:³ (A) the implementation and administration of the Agreement, (B) good regulatory practice, (C) transparency procedures, (D) conformity assessment procedures, (E) technical assistance and special and differential treatment and (F) other elements.

II. ELEMENTS OF THE THIRD TRIENNIAL REVIEW

A. Implementation and Administration of the Agreement

5. The TBT Agreement provides that: "Each Member shall, promptly after the date on which the WTO Agreement enters into force for it, inform the Committee of measures in existence or taken to ensure the implementation and administration of the Agreement" (Article 15.2). It also provides that: "Each Member shall ensure that an enquiry point exists which is able to answer all reasonable enquiries from other Members and interested parties in other Members" (Article 10.1).

6. Since the Second Triennial Review, 15 Members have submitted their statements of implementation under Article 15.2⁴, and several have updated their original statements.⁵ Two Members submitted information on their experience in the implementation and administration of the Agreement.⁶

7. In total, 92 Members have submitted their statements under Article 15.2⁷, and 121 Members have submitted information on their national enquiry points⁸ (see Annex 2). The Committee reiterates the importance of Members fulfilling their obligations under Articles 15.2 and 10.1.

Recommendation

- In order to assist Members in meeting their obligations under Articles 15.2 and 10.1, the Committee invites Members to seek assistance from other Members that have done so to share their knowledge and experience in this regard.

B. Good Regulatory Practice

8. At the First Triennial Review, the Committee reiterated that good regulatory practice for the preparation, adoption and application of technical regulations was a priority for Members to facilitate trade. Members were invited to submit descriptions of their approach to technical regulations. At the Second Triennial Review, the Committee noted that minimizing the use of mandatory technical regulations and utilizing voluntary international standards, where appropriate, could reduce the regulatory burden and open up market access opportunities.

9. The Committee notes that good regulatory practice can contribute to the effective implementation of the TBT Agreement, namely in the avoidance of unnecessary obstacles to trade in the preparation, adoption and application of technical regulations (including associated standards) and conformity assessment procedures, including those related to labelling.

10. The Committee recognizes that for a Member to achieve good regulatory practice and to comply with the Agreement at the domestic level, it may be necessary both to develop domestic policies or regulatory processes, and to establish administrative mechanisms to ensure that all relevant bodies are aware of and understand their obligations under the Agreement and know how to comply with them. In addition, domestic coordination and cooperation, including with local governments, as well as with non-governmental parties, is important.

11. The Committee underlines the importance of regulators considering the use of different approaches to fulfil legitimate objectives and their taking into account the least-trade restrictive options available to them. In this respect, the Committee noted that regulatory impact assessments could be useful and the use of mandatory measures should be minimized.

12. At the Second Triennial Review, the Committee reiterated the importance of giving positive consideration to accepting as equivalent technical regulations of other Members as provided for under Article 2.7. The Committee also noted that, as an interim measure until suitable international standards were developed, in some cases, standardizing bodies or regulators in some Members had chosen to accept as equivalent standards originating from other Members, even though these standards differed from their own, on the basis that such standards fulfilled their objectives.

13. For the Third Triennial Review, the Committee notes that equivalency can be an element of good regulatory practice (and is also relevant to conformity assessment as foreseen under Article 6.1). Moreover, it should not detract from the development of international standards. In considering equivalence, Members must have regard to their general obligations, including those with respect to transparency and non-discrimination.

Recommendations

14. The issue of good regulatory practice is important, evolving, and worthy of further discussion in the TBT Committee. To further its work on good regulatory practice, the Committee agrees to:

- Invite Members to exchange experiences related to the identification of elements of good regulatory practice at the domestic level;
- continue its exchanges on Members' experiences and focus its discussion, on, *inter alia*, choice of policy instruments, mandatory versus voluntary measures, and the use of regulatory impact assessments to facilitate good regulatory practice; and to
- initiate a process of sharing experiences on equivalency in the Committee particularly with regard to how the concept is implemented in practice.

C. Transparency Procedures

15. At the Second Triennial Review, a number of decisions and recommendations were made with a view to facilitating the access to information and

further improving the notification procedures.⁹ The Committee agreed to continue exploring ways to shorten the time for the submission, publication and circulation of notifications, as well as steps to facilitate the electronic transmission of information among Members. In response to a request made at the Second Triennial Review, monthly tables of notifications have been prepared by the Secretariat since January 2001¹⁰ to provide a brief indication of the notifications issued.

16. The Committee reiterates the importance of Members fulfilling their transparency obligations under the Agreement, in particular, those related to the notification of draft technical regulations and conformity assessment procedures as required under Articles 2.9, 2.10, 5.6 and 5.7. It notes that the fulfilment of transparency obligations can contribute to the avoidance of unnecessary obstacles to trade. Notification procedures, and the opportunity for comments, provide Members with the opportunity to influence final requirements of other Members, and could enhance harmonization as well as lead to the transfer of technology.

Sharing of Information on Proposed Technical Regulations and Conformity Assessment Procedures

17. The Committee notes the usefulness of Members sharing information, on a voluntary basis, on the future development of draft technical regulations and conformity assessment procedures before the relevant notifications are made. This would increase transparency and improve the opportunity for comments. This could be done electronically. Members are encouraged to draw the attention of the Committee to such information.

18. Furthermore, the Committee draws the attention of Members to their obligations under Articles 2.9.1 and 5.6.1 of the Agreement to publish a notice in a publication on the introduction of a particular technical regulation or conformity assessment procedure, at an early appropriate stage, to enable interested parties in other Members to become acquainted with it. The Committee recalls its decision that Members shall provide the names of the publications used to announce that work is proceeding on draft technical regulations or standards and procedures for assessment of conformity in their statements under Article 15.2.

Notifications and the Handling of Comments

19. The Committee notes that a number of the trade concerns raised at its meetings, in certain cases relate to a lack of transparency (including certain labelling requirements). Procedural problems include: failures to notify, short periods for comments, and inadequate handling of comments. Ways should be found to raise the awareness of regulatory authorities to the need for proper implementation of their transparency obligations.

20. The Committee believes that since notifications are a fundamental tool in the identification of measures with an impact on trade, improvements are needed in complying with notification obligations, in particular with respect to the timing of notifications, so that these are made early enough for other Members to comment on. Insufficient comment periods prevent Members from exercising their right to submit comments, to hold consultations, and to have their comments taken into account. They can also be particularly problematic when drafts need to be requested and/or translated. The Committee has observed that, in certain instances, the deadlines for comments have gone beyond the date of the entry into force of regulations, which has reduced the utility of providing comments. Thus, the Committee reiterates the importance of Members fully observing their transparency obligations under the Agreement, as well as the Committee's recommendation as set out in Chapter III, paragraph 6 of document G/TBT/1/Rev.8 to provide 60 days for comments.

21. With respect to the notification forms themselves, the Committee stresses the importance of properly completing these forms, and clearly specifying the anticipated dates of adoption and entry into force of the notified measures and the final date for comments. The accuracy with which notifications are filled out can significantly reduce the time required by the Secretariat to process them. On average, the Secretariat currently takes five working days to review incoming notifications and to have them translated.

22. With respect to the handling of comments on notifications, the Committee reiterates the importance of complying with its previous recommendations as set out in Chapter III,

paragraph 7 of document G/TBT/1/Rev.8. Moreover, the sharing, on a voluntary basis, of comments and responses could contribute significantly to other Members' understanding of whether their comments have been taken into account, and could assist Members in benefiting from the technical knowledge and legal expertise of their trading partners. This could be particularly useful for developing country Members. In the preparation of comments and subsequent responses, the Committee stresses the importance of domestic coordination between the various interested parties.

23. The Committee reiterates the importance of Members fulfilling their notification obligations at the sub-national level under Articles 3.2 and 7.2. Members should make greater efforts to raise awareness of these obligations at this level and to ensure their implementation. This could be done, for example, by holding seminars for local government bodies.

Timing of the Entry Into Force of Measures

24. The Committee also notes that access to final texts of technical regulations and conformity assessment procedures, as required by Articles 2.11 and 5.8, is useful to Members. With respect to the entry into force of measures, the Committee reiterates the importance of following the Committee's Decision in Chapter X of G/TBT/1/Rev.8, which states that a period of not less than six months between the publication of technical regulations and their entry into force should normally be allowed. This can enable exporters, particularly those from developing country Members, to adapt their products and methods of production to import requirements.

The Code of Good Practice

25. With regard to the Code of Good Practice for the Preparation, Adoption and Application of Standards, the Committee notes that in some cases (for instance with respect to voluntary labelling requirements), standards are developed by bodies that are not commonly considered as standardizing bodies and which have not accepted the Code. The Committee calls on Members to draw the attention of these bodies to the Code, and to encourage them to follow its provisions.

Recommendations

26. With regard to the handling of comments, the Committee agrees to:

- Recognize that, to improve the ability of developing country Members to comment on notifications, and consistent with the principle of special and differential treatment, developed country Members are encouraged to provide more than a 60-day comment period;
- invite Members to formulate their requests to enquiry points, on comment periods or on any other matter, in one of the three official languages of the WTO;
- encourage Members to voluntarily respond to comments in writing if so requested, and to share their responses with the TBT Committee. Members are also encouraged to draft their responses in one of the three official languages of the WTO;
- invite Members, on a voluntary basis, to disseminate their comments and responses by means of national websites and to draw the Committee's attention to these;
- encourage Members under Article 10.5, to provide translations of the documents covered by specific notifications, in any WTO official language of their choosing without being requested to do so; and to
- request Members to transmit their notifications to the Secretariat electronically via the Central Registry of Notifications (CRN) at <crn@wto.org> in order to accelerate their processing.

27. With regard to the electronic transmission of information on proposed standards, technical regulations and conformity assessment procedures, the Committee:

- Agrees to examine the feasibility of creating a central depository for notifications on the WTO website, which would enable Members to complete notification forms on line. This would complement, not replace, the submission of notifications to the CRN; and
- takes note of Paragraph L of the Code of Good Practice which states that: "No later than at the

start of the comment period, the standardizing body shall publish a notice announcing the period for commenting in the publication referred to in paragraph J," and agrees that the electronic publication of notices announcing the periods for comments can constitute another possibility for the fulfilment of this transparency obligation.

28. In order to facilitate the follow-up on Members' technical regulations and conformity assessment procedures brought to the attention of the Committee, the Committee agrees to:

- Have amendments to notifications carry the same document symbol as that of the original notification to allow them to be adequately traced; and
- encourage Members to share, on a voluntary basis, with the Committee any follow-up information on issues that have been previously brought to its attention.

D. Conformity Assessment Procedures

29. At the Second Triennial Review, the Committee identified an indicative list of different approaches to facilitate the acceptance of conformity assessment results (namely, mutual recognition agreements for assessment of conformity to specific regulations; cooperative arrangements between domestic and foreign conformity assessment bodies in the voluntary sector; the use of accreditation to qualify conformity assessment bodies; government designation; unilateral recognition of results of foreign conformity assessment; and manufacturer's/supplier's declarations). It agreed to further discuss these approaches with a view to analyzing them in the light of Articles 5 and 6. In the follow-up to the Second Triennial Review, fifteen submissions have been received from nine Members, providing information on the various approaches to facilitate acceptance of results of conformity assessment.

Implementation of the Relevant Provisions of the Agreement

30. The Committee emphasizes the importance of complying with the Agreement's provisions on conformity assessment (Articles 5-9). These include Article 5 (*Procedures for Assessment of Conformity by*

Central Government Bodies), which sets out the obligations concerning non-discrimination, unnecessary obstacles to trade, the use of international guides or recommendations and transparency. The Committee notes the importance of Article 5.1.2 which emphasizes that conformity assessment procedures shall not be applied more strictly than is necessary to give importing Members adequate confidence that products conform with the applicable product requirements, taking account of the risks that non-conformity would create. Moreover, the Committee notes the importance of improving the implementation of Article 5.2.

31. The Committee also stresses the importance of Members using relevant international guides or recommendations (Article 5.4), and of Members playing a full part, within the limits of their resources, in the preparation by appropriate international standardizing bodies of guides and recommendations for conformity assessment procedures (Article 5.5). Moreover the Committee notes the increasing development of international standards for conformity assessment procedures.

32. With regard to the acceptance of results of conformity assessment, the Committee reiterates the importance of paragraph 1 of Article 6 (*Recognition of Conformity Assessment by Central Government Bodies*), which calls on Members to accept unilaterally the results of the conformity assessment procedures in other Members whenever possible. The effective application of Article 6.1 would contribute to reducing unnecessary barriers to trade associated with duplicative testing and certification. The Committee also encourages Members to permit the participation of conformity assessment bodies located in the territory of other Members in their conformity assessment procedures, on a non-discriminatory basis, as stated in Article 6.4. This could contribute to providing a wider choice of competent conformity assessment bodies for suppliers and regulators.

Suppliers Declaration of Conformity (SDoC)

33. An initial exchange of views in the Committee took place on the use of SDoC, which is a procedure by which a supplier provides assurance of conformity to the specified requirements. The Committee recognizes the benefits of this approach

for the assurance of conformity when used in appropriate circumstances. In many cases, SDoC may allow for flexibility and could reduce the cost of conformity assessment. Thus, it could be a means of facilitating trade without prejudice to the fulfilment of legitimate public policy objectives.

34. The Committee notes that the use of relevant international standards, guides or recommendations can provide transparency to the SDoC process, and can support its value and usability. In particular, exporters in developing country Members can improve market access when importing Members accept SDoC. In addition, the use of test/inspection reports or certification results from third parties or in-house laboratories, accredited on the basis of relevant international standards, guides or recommendations, could also facilitate the reliance on SDoC.

35. In order to be effective, SDoC should be combined with: effective product liability laws; well-developed market surveillance systems with appropriate resources and enforcement powers; penalties for false/misleading declarations; appropriate incentives to encourage producers/suppliers compliance; and consumer redress. In addition, in the use of SDoC consideration should be given to the particular characteristics of the sectors and the products involved.

36. In using SDoC, the Committee stresses the importance of Members complying with their transparency obligations so that suppliers are informed of when such conformity assessment procedures are proposed.

Accreditation

37. With respect to the acceptance of conformity assessment results, the Committee notes that Article 6.1.1 identifies accreditation as a possible tool for Members to verify the technical competence of conformity assessment bodies in exporting country Members. When operated according to relevant international standards, guides and recommendations, accreditation offers a mechanism which could promote confidence. This could reduce trade barriers when governmental regulatory authorities accept the results of accredited bodies. The Committee

notes the importance of Members ensuring that accreditation bodies follow the relevant provisions of the Agreement, including those on transparency and openness.

Mutual Recognition Agreements (MRAs) for the Acceptance of Conformity Assessment Results

38. The Committee notes that, under Article 6.3 "Members are encouraged, at the request of other Members, to be willing to enter into negotiations for the conclusion of Agreements for the mutual recognition of results of each other's conformity assessment procedures." Mutual Recognition Agreements (MRAs) are one of the approaches foreseen to facilitate the acceptance of conformity assessment results. The Committee notes, as indicated under Article 6, that appropriate confidence building measures, including accreditation, could facilitate the acceptance of conformity assessment results without entering into MRAs.

39. The Committee notes that MRAs can be negotiated between governments with respect to specific regulations, or can be voluntary arrangements between domestic and foreign conformity assessment bodies. The Committee notes that while MRAs can be a useful approach to facilitate acceptance of conformity assessment results, there may be difficulties faced in their negotiation and implementation. There are various considerations for the conclusion of effective MRAs between governments, such as: a sound regulatory infrastructure, and a sufficient volume of trade in specific sectors between the parties involved to justify the high administrative costs and the generally long-term nature of the negotiations. The following factors may also need to be taken into consideration in the establishment of MRAs: tangible economic benefits; interest of stakeholders; support from key players; underlying compatibility in the regulatory systems of the potential MRA parties; and sufficient resources for MRA negotiation and implementation. Moreover, a step-by-step approach may be useful to conclude an MRA, in particular, where the technical competence of the two parties is not equivalent. In this respect, progress could be made by means of technical cooperation to obtain mutual benefits.

Recommendations

Work Programme

40. With a view to improving Members' implementation of Articles 5-9 of the Agreement and promoting a better understanding of Members' conformity assessment systems, the Committee agrees to the following work programme to:

- Exchange information and experiences on existing conformity assessment procedures and practices, the use of relevant international standards, guides and recommendations, and the participation of Members in national, regional and international accreditation schemes;
- exchange information and experiences and hold a workshop on SDoC covering issues such as: the regulatory authorities, sectors and suppliers which use SDoC; the surveillance mechanism, liability law and penalties used to ensure that products comply with requirements; the incentives for suppliers to comply with requirements; and the legislation that underpins the relationship between buyers and sellers;
- invite representatives from relevant international and regional accreditation fora to provide information on their operation and the participation of Members, in particular, developing country Members, in their systems. Moreover, users, such as certification bodies, should also be invited to share their experiences in this respect; and to
- hold a workshop on the different approaches to conformity assessment, including on the acceptance of conformity assessment results.

41. The Committee will take stock of the progress made on this Work Programme and reflect it in its Annual Report to the Council for Trade in Goods.

E. Technical Assistance and Special and Differential Treatment

42. The Committee emphasizes the importance of effective technical assistance as a means of improving the implementation of the TBT Agreement. This is considered an area of priority work. Trade-related technical assistance could assist developing and least-developed country Members to participate more fully in, and benefit from, the global trading system. In this respect, the

Committee stresses the importance of the implementation of Article 11 of the Agreement.

43. At the Second Triennial Review, the Committee agreed to develop a demand-driven technical cooperation programme related to the TBT Agreement. The programme would need to evolve on the basis of a number of elements, including a survey on needs identification and prioritization by developing country Members; consideration of existing technical assistance activities by multilateral, regional and bilateral organizations; enhancement of cooperation between donors; and identification of technical assistance partners and financial considerations. The progress made in implementing the TBT-related technical cooperation programme would be assessed in the context of the Third Triennial Review. To assist the development of the programme, Members were invited to further communicate information on technical assistance programmes they had proposed, provided or received. The Committee agreed to invite observers to provide regular updates on their technical assistance activities, including the ways in which they sought to ensure the effective participation of Members, and particularly of developing country Members, in their activities.

44. Since the Second Triennial Review, a number of actions were taken for the development of the TBT-related technical cooperation programme. Approximately 100 submissions related to technical assistance were received from Members. These include: 53 submissions received from Members in response to the "Questionnaire for a Survey to Assist Developing Country Members to Identify and Prioritise their Specific Needs in the TBT Field"¹¹; updates provided by observers¹² on their technical assistance activities; and a report of the Director-General on his actions to increase the participation of developing country Members in the work of relevant international standard setting organizations.¹³ Furthermore, the Chairs of the Committee on Trade and Development (CTD) and the General Council were consulted to ensure coordination and avoid duplication of work in WTO TBT-related technical assistance. Pursuant to a decision to strengthen coordination and cooperation between the Committee and other relevant WTO bodies to effectively and efficiently address the issue of trade-related technical

assistance in the context of the Agreement (G/TBT/9), the WTO Technical Cooperation Division provided the Committee with information on WTO technical cooperation and capacity building activities. The Committee takes note of existing databases providing information on TBT-related technical assistance.¹⁴

45. With the objectives of further developing the technical cooperation programme and providing an opportunity for further information exchange on technical assistance, on both the demand and supply sides, a special workshop on TBT-related technical assistance was held on 18 March 2003.¹⁵

Technical Assistance Needs

46. With respect to the responses to the questionnaire, the Secretariat has compiled¹⁶ and analyzed¹⁷ the responses received, which reflect the current situation, specific difficulties, as well as the prioritized technical assistance and capacity building needs identified by developing country Members in relation to the implementation of and benefiting from the Agreement. Based on the analysis of the responses to the questionnaire, the Committee notes that TBT-related technical assistance needs fall in a wide range of areas due to the dynamic and sophisticated nature of technical regulations, standards, conformity assessment procedures and transparency procedures. These include: the need for improved knowledge of the Agreement; effective implementation of the Agreement; exchange of experience among Members and bilateral cooperation; national and regional coordination; training for development of human resources; improvement of infrastructure and capacity building; participation in the work of the Committee and other relevant regional and international organizations (including those in the international standardization process and international conformity assessment arrangements); and needs in relation to market access.

47. The Committee recognizes that improving implementation of the Agreement, including the provisions relating to transparency, is an important element of TBT-related technical assistance. It further recognizes the importance of technical assistance related to good regulatory practice given the difficulties faced by developing country Members in developing relevant mechanisms and

systems. Factors affecting the ability of developing country Members to implement the TBT Agreement include the lack of awareness of the Agreement, the lack of capacity (particularly in terms of human resources), as well as the lack of legislation and technical infrastructure. Technical assistance and capacity building activities should be provided accordingly.

48. The Committee also notes that developing country Members may encounter certain constraints in the use of SDoC for their exports. Technical assistance may be required in this respect. Furthermore, technical assistance may also be required for those Members who wish to introduce SDoC for ensuring conformity to their technical regulations in particular sectors. In addition, the Committee notes that technical assistance is needed to enhance the participation of relevant bodies from developing country Members in international and regional accreditation systems, and recognizes the efforts being made by international accreditation organizations in this regard.

49. The Committee notes the importance for Members to identify and prioritize their needs, since not every request can be addressed, and not every Member will require the same type of assistance. Development of human resources and technical capacity takes time, varies between Members, and may evolve with levels of development. For this reason, technical assistance should be tailored to specific needs. Coordination and coherence among national authorities, as well as with donors, is most important in terms of ensuring that the determination of needs and priorities, and requests for assistance, are made in a coordinated fashion, using an effective approach while avoiding duplication. The Committee notes that care should be taken to balance the various TBT-related assistance activities so that recipient country Members could effectively develop their overall infrastructure.

Approaches to Technical Assistance

50. The Committee emphasizes the importance of effective technical assistance activities. There are a number of good practices to enhance the effectiveness and efficiency of technical assistance. These include the following: technical assistance activities should follow a step-by-step approach,

focusing *firstly* on the provision of knowledge and skills and *secondly* on the development of TBT-related infrastructure. A structured and sequenced approach could increase effectiveness, and better meet the needs identified by developing country Members. In each technical assistance activity, the selection and preparation of participants is critical to ensure proper application and dissemination of the knowledge gained. Regulators and the private sector may be recipients of training activities. There is a need for the increase of sustainability and dissemination of the acquired knowledge through the strengthening of institutions and the use of internal measures to complement technical assistance. There are also needs for the monitoring, assessment and following-up of technical assistance activities.

51. The Committee notes that awareness raising with regard to the use and benefit of the Agreement with domestic stakeholders is an important aspect of technical assistance. Efforts to increase awareness of the Agreement are usefully applied in all areas of government, as well as among industry stakeholders and policy-makers. A lack of awareness not only impedes the development of national measures in a manner that adheres to the obligations under the Agreement; it also affects the provision of comments in response to notifications of other Members, and the effective participation of Members in activities in the Committee and other relevant regional and international organizations.

52. The Committee notes that modalities for the provision of technical assistance under Article 11 of the TBT Agreement could be, but are not limited to, training and human resources development (including via seminars and workshops), technical consultation and "on the job" training. On the other hand, south-south technical cooperation and regional approaches for technical assistance can be effective, and facilitate sharing of experiences among Members with similar situations.

Recommendations

53. In light of the work programme on TBT-related technical assistance since the Second Triennial Review and in order to assist Members in implementing and operationalizing Article 11, the Committee agrees to the recommendations in paragraphs 54-56.

54. The Committee notes the importance of transparency in the provision of technical assistance and the need for coordination at the national, regional and international levels. Recognizing that improvements are needed to facilitate the meeting of demand and supply of technical assistance, and with a view to building on the information received, the Committee agrees:

- To consider the creation of an information coordination mechanism including through the possible development of voluntary notification procedures for donors, and recipient Members to communicate information on current and future activities. To this end, and considering proposals made by Members¹⁸, the Chair is requested to hold consultations with interested Members to:
 - Examine what extent an Internet facility could serve this purpose;
 - examine what an appropriate management approach might be;
 - report to the Committee by mid-2004;
 - that the survey questionnaire could be a dynamic tool to maintain information on developing country Members' needs and encourages Members, on a voluntary basis, to update responses to the survey questionnaire; and
 - to invite Members to communicate to the Committee pertinent information regarding technical assistance activities of relevant regional and international bodies.

55. With regard to technical assistance provided by the Secretariat, the Committee agrees to:

- Explore how the results of the Committee's discussions (e.g., on needs identified, lessons learned, gaps in technical assistance activities) could be reflected in the WTO's Technical Assistance and Training Plan; and
- request the Secretariat, as part of the Committee's standing agenda item on technical assistance, to regularly deliver information on its recently concluded programmes and future plans on TBT-related technical assistance, and reflect this in the Committee's annual reviews.¹⁹ This should include information on modality, content, participation and any feedback from recipient Members.

56. With regard to the appropriate role of the Committee in relation to technical assistance, the Committee:

- Agrees on the need for Members and the Secretariat to raise the profile of TBT issues at the international and national levels²⁰;
- reaffirms the need for its future work to contribute to enhanced cooperation and coordination between those involved in technical assistance;
- reaffirms the need to continue facilitating the exchange of national experiences;
- should provide a forum for feedback and assessment of the outcomes and effectiveness of technical assistance; and
- considers, based on Members' experience of technical assistance received and provided, developing further elements of good practice in technical assistance in the TBT field.

57. The Committee is aware of its own constraints and those of the Secretariat in terms of providing technical assistance. Neither the Committee nor the Secretariat has the capacity to build infrastructure and institutions. These needs could be filled by governments and other relevant regional and international organizations.

F. Other Elements

58. At the Second Triennial Review, the Committee noted that concerns regarding labelling were raised frequently in the Committee meetings during discussions on the implementation and operation of the Agreement. Since then, the issue of labelling has continued to be discussed in that context. The Committee notes that in these discussions trade impediment concerns related to labelling have been brought to its attention.

59. Compilations of notifications made from 1 January 1995 to 31 August 2002, and of specific trade concerns brought to the attention of the Committee by Members since 1995 related to labelling requirements, can be found in documents G/TBT/W/183, G/TBT/W/184 and Corr.1.

60. The Committee agrees to continue to consider labelling concerns in its discussions in the context of the implementation and operation of the Agreement.

61. On the issue of terms and definitions, the Committee agrees that the ISO/IEC could be invited to provide information to the Committee on the revised ISO/IEC Guide 2: 1991, with a view to examining whether and how far this revised document departs from ISO/IEC Guide 2: 1991.

NOTES

¹ The Chairman's Report is contained in Annex 1 of G/TBT/M/24.

² The booklet can be downloaded from the WTO/TBT website.

³ A list of documents related to the Third Triennial Review is contained in Annex 1.

⁴ G/TBT/2/Add. 62-76.

⁵ G/TBT/2/Suppl.1, G/TBT/2/Add.5/Suppl.2, Add.6/Rev.1, Add.8/Rev.1 and Suppl.1, Add.21/Suppl.3, Add.26/Rev.2 and Suppl.1, Add.32/Rev.2, Add.51/Suppl.1 and Add.58/Rev.2.

⁶ G/TBT/W/166 and 199.

⁷ G/TBT/2/ and Add.1-76.

⁸ A list of these enquiry points is contained in document G/TBT/ENQ/23.

⁹ G/TBT/9/Annex 3.

¹⁰ G/TBT/N/GEN/1-33.

¹¹ G/TBT/W/178.

¹² The ALADI, FAO/WHO Codex Alimentarius Commission, IEC, ISO, ITC, OIE, OIML, UN/ECE, UNIDO, WHO and the World Bank.

¹³ G/TBT/W/172.

¹⁴ The Secretariat prepared an overview paper on existing databases providing information on TBT-related technical assistance (G/TBT/W/207).

¹⁵ A Summary Report by the Chairperson on that Workshop is contained in Annex A of G/TBT/M/29.

¹⁶ G/TBT/W/186 and Add.1.

¹⁷ G/TBT/W/193.

¹⁸ In particular: G/TBT/W/212, 216, 225, 232 and 233.

¹⁹ It is noted that the Secretariat is developing a WTO Website on TBT-related technical assistance.

²⁰ It is noted that the Secretariat will prepare a booklet and a CD-ROM on the TBT Agreement.



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