

WORLD TRADE ORGANIZATION

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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).

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.

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.

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.

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

⁹ G/TBT/9/Annex 3.

¹⁰ G/TBT/N/GEN/1-33.

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; co-operative 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 for the Acceptance of Conformity Assessment Results (MRAs)

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

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.

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; and
 - 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

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.

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.

ANNEX 1

LIST OF DOCUMENTS RELATED TO THE THIRD TRIENNIAL REVIEW

G/TBT/W/156	Technical Assistance and Technical Cooperation Programme (Submission from Brazil)
G/TBT/W/160	Japan's Experience on Technical Assistance in the Area of TBT (Submission from Japan)
G/TBT/W/162	Marking and Labelling Requirements (Submission from Switzerland)
G/TBT/W/163	Technical Assistance and Capacity Building in the Field of Technical Barriers to Trade (Submission from the European Communities)
G/TBT/W/164	Technical Assistance and Technical Cooperation Programme (Submission from Indonesia)
G/TBT/W/165	Labelling (Submission from the United States)
G/TBT/W/166	Philippines Experience in the Implementation of the TBT Agreement (Submission by The Philippines)
G/TBT/W/167	A Policy Framework for Mutual Recognition Activities (Submission from Canada)
G/TBT/W/172	Action to Increase Participation of Developing County Members in the Work of Relevant International Standard Setting Organizations - Information from International Organizations (Report of the Director-General)
G/TBT/W/173 and Add.1	A Policy Framework for the Facilitation of Trade and in the Fields of Standardization and Conformity Assessment: A Toolbox of Instruments (Submission from the European Communities)
G/TBT/W/174/Rev.1	Labelling and Requirements of the Agreement of on Technical Barriers to Trade (TBT): Framework for Informal, Structured Discussions (Submission from Canada)
G/TBT/W/175	Labelling (Submission from the European Communities)
G/TBT/W/176	Labelling (Submission from Japan)
G/TBT/W/178	Questionnaire for a Survey to Assist Developing Country Members to Identify and Prioritize their Specific Needs in the TBT-Field (Note by the Secretariat)
G/TBT/W/183	Notifications Related to Labelling (1 January 1995 – 31 August 2002) (Note by the Secretariat)
G/TBT/W/184 and Corr. 1	Specific Trade Concerns Related to Labelling Brought to the Attention of the Committee since 1995 (Note by the Secretariat)
G/TBT/W/186 and Add.1	A Compilation and Summary of the Responses Received 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)
G/TBT/W/188	Technical Assistance Activities in the TBT Field - European Commission and EU Member State Funded (Submission from the European Communities)
G/TBT/W/189	TBT Technical Cooperation Programme (Submission from Mexico)
G/TBT/W/193	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)

G/TBT/W/194	A Policy Framework for the Acceptance of Results of Conformity Assessment Procedures (Submission By Japan)
G/TBT/W195	Implementation of Supplier's Declaration of Conformity (Submission by The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu)
G/TBT/W/196	Main Objectives for the Third Triennial Review of the Technical Barriers to Trade Agreement - General Concept Paper (Submission by Canada)
G/TBT/W/197	Third Triennial Review of the TBT Agreement (Submission by the European Communities)
G/TBT/W/198	TBT-Related Technical Assistance and Capacity Building (Submission from Australia)
/TBT/W/199	Korea's Experience in the Implementation of the WTO/TBT Agreement (Submission by Korea)
G/TBT/W/200	Korea's Experience on Technical Assistance in the Area of the TBT (Submission by Korea)
G/TBT/W/201	Technical Assistance Activities in the TBT Field: Japan (as of 11 March 2003) (Submission by Japan)
G/TBT/W/202	Canadian Technical Assistance and Cooperation Activities in the TBT Field (Submission from Canada)
G/TBT/W/203	Technical Assistance and Capacity Building in the TBT Field (Submission by New Zealand)
G/TBT/W/205	Third Triennial Review of the TBT Agreement (Submission by the People's Republic of China)
G/TBT/W/207	Overview of the Existing Databases on TBT-Related Technical Assistance (Note by the Secretariat)
G/TBT/W/209	Third Triennial Review of the Agreement on Technical Barriers to Trade (Communication from Mexico)
G/TBT/W/210	Canada's Approach to Voluntary Conformity Assessment (Submission by Canada)
G/TBT/W/211	Third Triennial Review of the TBT Agreement (Submission by New Zealand)
G/TBT/W/212	Follow up to the Workshop on TBT Related Technical Assistance (Communication from New Zealand)
G/TBT/W/213	Contribution to the Third Triennial Review of the Agreement on Technical Barriers to Trade. Labelling (Communication from Chile)
G/TBT/W/214	Third Triennial Review of the TBT Agreement Notification Procedures Related to Amended Regulations Previously Notified to the WTO – Proposal (Submission from Brazil)
G/TBT/W/215	Third Triennial Review of the TBT Agreement (Submission from Brazil)
G/TBT/W/216	Follow up to the Workshop on TBT Related Technical Assistance Proposal from New Zealand for an Information Coordination Mechanism (Submission by New Zealand)
G/TBT/W/217	Conformity Assessment: A Framework to Improve the Application of the TBT Agreement (Submission by the European Communities)
G/TBT/W/218	Supplier's Declaration of Conformity (Submission by the European Communities)
G/TBT/W/219	Recent European Commission Developments in the Field of Better Regulation (Submission by the European Communities)
G/TBT/W/220	Third Triennial Review of the TBT Agreement (Submission by the United States)

- G/TBT/W/221 Overview of Technical Cooperation Activities Regarding Metrology, Standardization and Conformity Assessment – Received and Tendered by Brazil (1995-2003)
(Submission from Brazil)
- G/TBT/W/222 Third Triennial Review of the TBT Agreement
(Submission by Japan)
- G/TBT/W/223 The Introduction of Discussions on Good Regulatory Practice in APEC
(Submission by Japan)
- G/TBT/W/224 Third Triennial Review: Conformity Assessment and Transparency
(Submission from Egypt)
- G/TBT/W/225 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)
- G/TBT/W/228 European Community TBT Related Technical Assistance to Developing Countries
(Submission from the European Communities)
- G/TBT/W/230 The Third Triennial Review of the TBT Agreement
and Corr.1
(Submission by Thailand)
- G/TBT/W/232 Technical Cooperation and Assistance Programme Management Model
(Submission from Brazil)
- G/TBT/W/233 The Third Triennial Review of the TBT Agreement
Proposed Outcome on Technical Assistance
(Joint Proposal by Canada and New Zealand)
- G/TBT/W/234 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)
- JOB(01)128 and 128/ADD.1-2 - Technical Assistance – Compilation of Submissions from Members Since the Beginning of Year 2001
(Submissions from Bolivia, Brazil (G/TBT/W/156), Cuba, European Communities (G/TBT/W/163), Egypt (G/TBT/M/23), Japan (G/TBT/W/160), Indonesia (G/TBT/W/164), Mauritius, Mozambique, Nigeria, Oman, Panama (G/TBT/W/142), Peru, Philippines (G/TBT/W/166), Thailand, Zimbabwe, Morocco, Barbados and Egypt)
- JOB(02)/99 and 99/Add.1-52 – Responses to the Questionnaire for a Survey to Assist Developing Country Members to Identify and Prioritize their Specific Needs in the TBT-Field (responses received from Brunei Darussalam; Argentina; Macao; China; Singapore; Peru; Brazil; Indonesia; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; Madagascar; Chile; the Philippines; Paraguay; Colombia; Kyrgyz Republic; Mexico; China; India; Lebanon; Oman; Lesotho; Malawi; Kenya; Chad; Cuba; Venezuela; Honduras; Senegal; Angola; Zimbabwe; St. Vincent & the Grenadines; Mauritius; Jordan; Korea; Malaysia; South Africa; Mongolia; Bangladesh; St. Lucia; Ghana; Trinidad and Tobago; Uganda; Egypt; Jamaica; Guatemala; Uruguay; Turkey; Sri Lanka; Antigua and Barbuda; and Pakistan).

ANNEX 2

IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

(As of 7 November 2003)

Members	Enquiry Points (Notified)	Notifications under Article 15.2
Albania	X	
Angola		
Antigua and Barbuda	X	G/TBT/2/Add.66
Argentina	X	G/TBT/2/Add.21 and Suppl.3
Armenia	X	G/TBT/2/Add.75
Australia	X	G/TBT/2/Add.8/Rev.1 and Suppl.1
Austria	X	G/TBT/2/Add.12/Rev.2
Bahrain	X	G/TBT/2/Add.19
Bangladesh	X	
Barbados	X	G/TBT/2/Add.48
Belgium	X	G/TBT/2/Add.12/Rev.2
Belize	X	
Benin	X	
Bolivia	X	G/TBT/2/Add.43 and Suppl.1
Botswana	X	
Brazil	X	G/TBT/2/Add.26/Rev.2 and Suppl. 1
Brunei Darussalam		
Bulgaria	X	G/TBT/2/Add.32/Rev.2
Burkina Faso	X	
Burundi	X	
Cameroon	X	
Canada	X	G/TBT/2/Add.6/Rev.1
Central African (Rep.)		
Chad		
Chile	X	G/TBT/2/Add.16 and Suppl.1
China, People's Republic of	X	G/TBT/2/Add.65

Members	Enquiry Points (Notified)	Notifications under Article 15.2
Colombia	X	G/TBT/2/Add.18
Congo		
Congo, Democratic Rep. of		
Costa Rica	X	G/TBT/2/Add.51 and Suppl.1
Côte d'Ivoire	X	
Croatia	X	G/TBT/2/Add.73
Cuba	X	G/TBT/2/Add.13
Cyprus	X	G/TBT/2/Add.46
Czech Republic	X	G/TBT/2 and Suppl.1
Denmark	X	G/TBT/2/Add.12/Rev.2
Djibouti	X	
Dominica	X	G/TBT/2/Add.62
Dominican Republic	X	G/TBT/2/Add.74
Ecuador	X	
Egypt	X	G/TBT/2/Add.34
El Salvador	X	
Estonia	X	G/TBT/2/Add.58 and Rev. 2
European Communities	X	G/TBT/2/Add.12/Rev.2
Fiji	X	
Finland	X	G/TBT/2/Add.12/Rev.2
Former Yugoslav Republic of Macedonia (FYROM)		
France	X	G/TBT/2/Add.12/Rev.2
Gabon		
Gambia		
Georgia	X	
Germany	X	G/TBT/2/Add.12/Rev.2
Ghana	X	G/TBT/2/Add.76
Greece	X	G/TBT/2/Add.12/Rev.2
Grenada	X	G/TBT/2/Add.67

Members	Enquiry Points (Notified)	Notifications under Article 15.2
Guatemala	X	
Guinea, Rep. of	X	
Guinea Bissau		
Guyana		
Haiti		
Honduras	X	G/TBT/2/Add.50
Hong Kong, China	X	G/TBT/2/Add.1
Hungary	X	G/TBT/2/Add.41
Iceland	X	G/TBT/2/Add.55 and Suppl.1
India	X	G/TBT/2/Add.56
Indonesia	X	G/TBT/2/Add.3
Ireland	X	G/TBT/2/Add.12/Rev.2
Israel	X	G/TBT/2/Add.72
Italy	X	G/TBT/2/Add.12/Rev.2
Jamaica	X	G/TBT/2/Add.57
Japan	X	G/TBT/2/Add.10
Jordan	X	G/TBT/2/Add.61
Kenya	X	
Korea	X	G/TBT/2/Add.28
Kuwait		
Kyrgyz Republic	X	G/TBT/2/Add.59
Latvia	X	G/TBT/2/Add.52
Lesotho	X	
Liechtenstein	X	G/TBT/2/Add.36
Lithuania	X	G/TBT/2/Add.64
Luxembourg	X	G/TBT/2/Add.12/Rev.2
Macau, China	X	G/TBT/2/Add.30
Madagascar		
Malawi	X	

Members	Enquiry Points (Notified)	Notifications under Article 15.2
Malaysia	X	G/TBT/2/Add.9
Maldives		
Mali	X	
Malta	X	
Mauritania		
Mauritius	X	G/TBT/2/Add.40
Mexico	X	G/TBT/2/Add.14
Moldova	X	G/TBT/2/Add.68
Mongolia	X	G/TBT/2/Add.44
Morocco	X	G/TBT/2/Add.39
Mozambique	X	
Myanmar	X	
Namibia	X	G/TBT/2/Add.42
Netherlands	X	G/TBT/2/Add.12/Rev.2
New Zealand	X	G/TBT/2/Add.24
Nicaragua	X	
Niger	X	
Nigeria	X	G/TBT/2/Add.20
Norway	X	G/TBT/2/Add.15/Rev.1
Oman	X	G/TBT/2/Add.63
Pakistan	X	G/TBT/2/Add.45
Panama	X	G/TBT/2/Add.53 and Corr.1
Papua New Guinea	X	
Paraguay		
Peru	X	G/TBT/2/Add.29
Philippines	X	G/TBT/2/Add.11
Poland	X	G/TBT/2/Add.31/Rev.1
Portugal	X	G/TBT/2/Add.12/Rev.2
Qatar		

Members	Enquiry Points (Notified)	Notifications under Article 15.2
Romania	X	G/TBT/2/Add.17 and Corr.1
Rwanda		
Saint Kitts and Nevis		
Saint Lucia	X	G/TBT/2/Add.37
Saint Vincent & Grenadines	X	G/TBT/2/Add.71
Senegal		
Sierra Leone		
Singapore	X	G/TBT/2/Add.25
Slovak Republic	X	G/TBT/2/Add.4
Slovenia	X	G/TBT/2/Add.5 and Suppl.2
Solomon Islands		
South Africa	X	G/TBT/2/Add.60
Spain	X	G/TBT/2/Add.12/Rev.2
Sri Lanka	X	G/TBT/2/Add.27
Suriname		
Swaziland	X	G/TBT/2/Add.35
Sweden	X	G/TBT/2/Add.12/Rev.2
Switzerland	X	G/TBT/2/Add.7
The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	X	G/TBT/2/Add.69
Tanzania	X	
Thailand	X	G/TBT/2/Add.38
Togo		
Trinidad and Tobago	X	G/TBT/2/Add.47
Tunisia	X	G/TBT/2/Add.22
Turkey	X	G/TBT/2/Add.33
Uganda	X	G/TBT/2/Add.23
United Arab Emirates	X	
United Kingdom	X	G/TBT/2/Add.12/Rev.2
United States	X	G/TBT/2/Add.2

Members	Enquiry Points (Notified)	Notifications under Article 15.2
Uruguay	X	G/TBT/2/Add.54
Venezuela	X	G/TBT/2/Add.70
Zambia	X	
Zimbabwe	X	G/TBT/2/Add.49
TOTAL: 146	121	92
