

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

TBT/W/164

20 November 1992

Special Distribution

Committee on Technical Barriers to Trade

DRAFT MINUTES OF THE MEETING HELD ON 19 OCTOBER 1992

Chairman: Mr. J.A. Clarke (Hong Kong)

1. The Committee on Technical Barriers to Trade held its forty-fourth meeting on 19 October 1992.
2. The agenda contained in GATT/AIR/3345 was adopted.

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3. The Chairman drew attention to document TBT/W/159 which had been circulated earlier in the year concerning the adoption on a lapse-of-time basis of a draft decision on notification of mandatory labelling requirements. He said that since no objections to the adoption of the draft decision had been raised before the deadline of 7 August 1992, it had been adopted. The Committee took note of the Chairman's statement.

4. He informed the Committee that the Government of Israel had provided information on its enquiry point and it had been circulated in TBT/W/31/Rev.9/Add.2. He said that the Secretariat would issue a new consolidated list of enquiry points upon completion of the annual review.

A. Statements on implementation and administration of the Agreement

5. With reference to the request of the United States and European Communities at the last meeting, the representative of Australia provided the Committee with information related to queries concerning the implementation and administration of the Agreement by his Government. He said that technical regulations and standards of food, drugs and poisons were all published in both draft and final form. Announcements of proposals to vary the Australian food standards code were published by the National Food Authority in a major national newspaper and in the Commonwealth Gazette. Notices of intention to adopt standards and technical regulations on drugs and poisons were published in the Commonwealth Gazette. These announcements and notices invited public submissions on the relevant proposals. Copies of draft amendments or draft

standards were available upon request. Concerning mandatory consumer standards, he said that the standards published by Standards Australia were voluntary standards only until such time as they were adopted in legislation. If there was a need to make such standards mandatory, a consultation and review programme would be conducted after publication by Standards Australia and before legislative adoption. Notification under the TBT Agreement would be provided during the consultation and review phase. Notices of adoption of a standard or regulation on drugs and poisons, texts of variations to the code on food, and notices of final adoption of a consumer standard or regulation were all published in the Commonwealth Gazette.

6. The representative of Canada drew the Committee's attention to Mexico's ban on the importation of seed potatoes. He said that his Embassy in Mexico City had delivered a diplomatic note to the Mexican authorities requesting immediate removal of the ban on the ground that it was inconsistent with Mexico's obligations under Article 2.1 of the TBT Agreement since it created obstacles to trade and had a serious impact upon Canadian seed potato exporters. Furthermore, his delegation considered the ban unjustified on technical grounds because it had not been notified to the GATT either under Article 2.5 or 2.6 of the TBT Agreement. His delegation hoped that this matter would be satisfactorily resolved as soon as possible.

7. The representative of Mexico said that his delegation here in Geneva was not aware of the measure just referred to. However, he took note of the point made and said he would get information from his authorities so that a satisfactory solution might be reached.

8. The Committee took note of the statements that had been made.

9. The representative of Switzerland, speaking on behalf of the EFTA countries, voiced his concern about the Korean Marks of Origin system notified in TBT/Notif.91.194. He said that at the last Committee meeting on 28 April 1992, his delegation, like many others, had intervened on this subject. Furthermore, during two interventions in Seoul, on 20 May and 24 June 1992, the Korean Authorities had been informed by the EFTA countries that they considered that the marks of origin system and the related labelling requirements constituted unnecessary obstacles to trade. They appreciated the information which had been provided already by the Korean authorities. However, that information did not meet their concerns and its legal status was not clear.

10. After closer examination, they had come to the conclusion that the Korean requirements were inconsistent with Article IX of the GATT and the TBT Agreement. The measures created inconveniences and constituted trade barriers because: (1) the requirement that the marks of origin must be made in the exporting country was not in line with the GATT, and it increased the costs for exporters and as a consequence also for consumers in Korea; (2) the marks of origin system was discriminatory since it was applied only to imported goods; (3) even if the rationale of the Korean legislation was for consumer protection, the long and impressive list of

products subject to the system, which included even fragile products and non-consumer goods, was not justified; (4) the time-consuming administrative requirements, which did not correspond to international standards and implied detailed information and excessive documentation on a case-by-case basis, unreasonably increased the costs of the exported products and could even require disclosure of confidential information. He reiterated that the Korean delegation should provide to the Committee, without any further delay, comprehensive information on the system and on the exact number and designation of products covered. He also urged the Korean delegation to give due consideration to the concerns expressed by the EFTA countries and to take appropriate measures promptly to avoid unnecessary obstacles to trade created by the Marks of Origin system.

11. The representative of the Philippines informed the Committee of on-going bilateral consultations between her authorities and the Republic of Korea over the Marks of Origin system since the issue had been raised last April. She said that last August Korea's Ministry of Trade and Industry had allowed importers to resume the importation of floppy disk drives at a volume of some 10,000 units per month. She said that consultations were still going on and that she would report back to the Committee on further developments.

12. The representative of New Zealand associated his delegation with the statements made. He was also concerned about the inadequacy of the Korean response made to the Committee so far.

13. The representative of the European Communities recalled that at the last meeting the Committee had already spent quite a bit of time on this issue. He associated his delegation to a great extent with some of the points mentioned by other delegations. He said that, as mentioned at the last meeting, his authorities' concerns were, among other things, transparency, non-discrimination between imports and domestically produced products and coverage of the requirement. He had repeated those questions in letters to the Korean enquiry point and had not yet received any answer. He considered that was a real problem because it was not possible to have a solution without an answer from the Korean enquiry point which might give way to a constructive debate. He hoped that his questions would be answered quickly, otherwise they would have to be tabled officially and be dealt with one-by-one in an upcoming Committee meeting. He recalled that at the last Committee meeting the Chairman had taken note of the statements made and had noted the intention of the Government of the Republic of Korea to supply further information. Considering the number of requests for information, he urged the Korean authorities to send a complete answer to the Committee rather than to proceed through an exchange of information on a bilateral basis. He supported the approach which had been suggested by the Chairman at the last Committee meeting and said that it would be to everyone's benefit if the Committee could receive complete information as soon as possible so that it could be taken up at the next meeting if necessary.

14. The representative of the Republic of Korea said that he was pleased to inform the Committee that the issue between Korea and the Philippines

concerning floppy disk drives had been satisfactorily resolved. He reiterated that Korea's Marks of Origin system was not intended to impede international trade and that it was within the framework of the GATT TBT Agreement and other relevant international guidelines. He repeated what he had said in the last meeting that the purpose of the system was to provide consumers with accurate information concerning a product's real country of origin.

15. However, his delegation recognized that there were some problems in the course of implementing the system, and they were willing to cooperate in order to reach a mutually satisfactory solution. He said that in response to those questions raised at the last TBT Committee meeting, Korea had given a detailed explanation at the TPRM meeting on Korean trade policy which had been held on 9 July 1992. The minutes of that meeting had been circulated in C/RM/M/27. He hoped that information would help the Committee to understand the Marks of Origin system.

16. The Chairman asked if the Korean delegation would be willing to forward to the Committee as a whole the document which was supplied to selected delegations on a bilateral basis in June because he thought that a lot of delegations would be interested to see this detailed explanation.

17. The representative of the Republic of Korea said that it was possible.

18. The representative of the European Communities supported the request of the Chairman, but he did not think that would clear up all the points his delegation was concerned with. Nor were those points resolved satisfactorily by the information provided at the TPRM. For this reason, he insisted that the questions his delegation had sent to the Korean enquiry point should be answered.

19. The representative of the Republic of Korea said that, in his view, the information which his authorities had already provided was enough to give answer to the questions raised by many countries. At the moment he did not know which specific question had not been covered, but nevertheless he would take it into consideration if the information was inadequate.

20. The chairman said that the Committee took note of the statements made.

21. The representative of the United States recalled that her delegation had raised at previous Committee meetings concerns regarding the transparency of Mexico's textile and energy efficiency labelling regulations. She said that she had to raise yet another issue which she believed was a new requirement implemented on 24 September that covered a broad spectrum of products. Her authorities had tried to get more information through the normal channels of Mexico's enquiry point, but they had been told that there had not been any changes to the regulations. She said, however, that U.S. exporters had been raising concerns about losing sales or about no longer being able to get their products into Mexico.

22. She urged Mexico to comply with the requirement to notify regulations in advance of their adoption and entry into force. She told the Committee that her delegation had met bilaterally with the Mexican authorities and hoped that further problems could be prevented.

23. The representative of Sweden stated that his authorities had been informed by the Mexican authorities of new rules on the import of meat in July 1992 and that these had been implemented on 15 August 1992. The rules included: (1) importation of meat would only be allowed from plants that had been approved by the competent Mexican authorities; (2) a specification of the Swedish National Residue Monitoring Programme was required; (3) if meat was exported in boxes, the boxes must be duly labelled; (4) import permission would only be granted if the meat arrived directly to a Mexican port, i.e. transit via a third country was not permitted. He said that his Government expressed its concern that the rules were not in line with Mexico's obligations under the TBT Agreement or the GATT because they created unnecessary obstacles to trade.

24. His Government had asked the Mexican authorities not to implement the new rules until they had been duly notified and an opportunity for comments had been provided. He said that many contacts with the Mexican authorities had been made since then, including the arrangement of an inspection visit to Swedish plants in August; nevertheless many questions were still outstanding. It was not clear if the new regulations constituted a new law, a new ordinance or an amendment to an existing ordinance. However, according to Article 1.5 of the TBT Agreement, any amendments to technical regulations, standards or methods for assuring conformity with technical regulations etc. were covered by the Agreement, except if they were of an insignificant nature. He said that in his view, Mexico had not fulfilled the notification requirements in Article 2.5.2, and because of the absence of a notification, his authorities did not know the motives of the new rules nor the reason why the previous control system was considered inadequate.

25. He said, furthermore, that it was not clear if the new regulations fulfilled the requirements in Article 2.1 that products imported from the territory of any other Party should be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country. With regard to the requirement that meat had to be exported directly to a Mexican port, he said that it was not in accordance with Article V.6 of the General Agreement, which stated that the products that had been in transit through the territory of any other Contracting Party should be accorded treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other Contracting Party. He said that the information they had received had been insufficient and somewhat contradictory, and that Swedish exporters had stopped the export of meat to Mexico due to the prevailing uncertainty.

26. He therefore stated that in the view of his authorities Mexico had not fulfilled its obligations to notify the new measures to GATT and that it

had created unnecessary obstacles to the trade between Sweden and Mexico. He asked the Mexican delegation if some information could be given to the Committee today.

27. The representative of New Zealand associated his delegation with the statement made by the United States and supported the request for greater transparency from Mexico.

28. The representative of Canada endorsed the position taken by the United States and reaffirmed the importance of notification under the TBT Agreement. He also suggested that application of such measures which had not been notified should be suspended until the appropriate notification and period for consultation had taken place.

29. The representative of Mexico replied to the United States' concerns about transparency that his Government had notified a number of mandatory technical standards and these had been reported in document TBT/34. He said that his Government was making a major effort to update, improve and clarify its standardization system. His authorities had notified the Committee on 17 July of a new general law on Metrology and Standardization. The new law aimed at furthering efforts in the direction of clarification and general improvement of their standardization system. He said that in reference to the products referred to by the delegate of the United States there was a new decree published on 3 August 1992 which was a comprehensive compilation of mandatory official Mexican standards currently in force. This document listed standards according to tariff line number, product description, standard number and date of publication in the official gazette in each case. The decree also listed tariff items relating to textiles and leather products subject to requirements and provisions on labelling, marking and inscriptions providing commercial information. At the same time a Public Notice relating to the procedures for compliance with official standards had been published. A list of all the laboratories where tests could be carried out was also included.

30. He said that his Government would notify this decree, without prejudice to its trade impact on third parties, because it wanted to set an example to the Committee. Mexico's exporters would like to see other countries do the same thing because they had difficulties running up against standards which they were not aware of. He reserved his delegation's right to present a proposal in this connection. In conclusion, he told the Committee that consultations with the United States would be held very shortly and he hoped to be able to solve the problems as efficiently as possible.

31. Referring to the Swedish concern about a number of Mexican provisions on imported meat, he said that he could not give any answer at the present moment because he had not been contacted earlier, but that he would provide answers as soon as he got more information from his authorities. He supported the statements of the delegations from New Zealand and Canada regarding their concerns for transparency, and he assured them that his Government was making a serious effort to comply with that.

32. The representative of the United States said that she appreciated the clarifications and the willingness of Mexico to notify the decree dated 3 August. She stated once again the usefulness of notification and looked forward to seeing the notification and further consultations on this subject.

33. The representative of Mexico said that in relation to the new Mexican law on Metrology and Standardization, he had received requests from several delegations asking for it in languages other than Spanish. He regretted that this was not possible, so he requested a translation to another language by the Secretariat.

34. The Chairman urged the Mexican delegation to continue consultations with different parties concerned and said that the Committee took note of the statements made.

35. The representative of New Zealand said that the German Federal Government had decreed an ordinance on the Avoidance of Packaging Waste on 8 May 1991 which, inter alia, required packaging to be manufactured from certain materials, to be of a certain size and weight and that it was refillable or actively recycled. He said that this Ordinance also required manufacturers and distributors to take back sales, secondary and transport packaging at each stage of the sales chain. Manufacturers could avoid the requirement if they were party to a separate recycling system. He told the Committee that most of those requirements had already entered into force, and the one relating to accepting back sales packaging was to enter into force on 1 January 1993. However, his delegation was not aware that these packaging requirements had been notified to the GATT Secretariat, which was an obligation under Article 2.5.2 of the Agreement.

36. He said that even though only part of this Ordinance had entered into force, it had already imposed costs on New Zealand exporters and significant changes to packaging, so it clearly could have a significant effect on trade when the requirement on sales packaging entered into force next year. His delegation understood that the Ordinance was mandatory because it used words such as "obligation" and "shall" throughout, and that neither the Ordinance nor similar legislation adopted or underway elsewhere in the European Communities was substantially based on a relevant international standard. The TBT Agreement required mandatory technical specifications which might have a significant effect on trade to be notified and it was defined in Annex 1.1, sentence 2, that packaging requirements were one possible type of technical specification. In addition, the TBT Committee had recently confirmed in TBT/W/159 that "Parties are obliged to notify all mandatory labelling requirements that are not based substantially on a relevant international standard and that may have a significant effect on the trade of other parties and that obligation is not dependent upon the kind of information which is provided on the label, whether it is in the nature of a technical specification or not"; that equally confirmed the obligation to notify mandatory packaging requirements. He recalled that in the discussions on labelling requirements at the 28 June 1991 meeting, which had been an important component in the Committee's recent decision on labelling, the European Communities had agreed with the view that the second sentence of Annex 1.1 was additional to the first, not merely illustrative of it.

37. He said that he had concentrated only on the German Packaging Regulations because they had been in place for a considerable time and his delegation had received clear feedback that they were having a significant effect on trade. However, this was only one example; similar legislation had been or was being adopted elsewhere in the European Communities. He reiterated that his delegation considered that there was a general obligation to notify all such mandatory packaging requirements.

38. The representative of Brazil expressed his concern with the regulations mentioned by New Zealand, not only because of the fact that they were not notified but also because of the way they were being implemented. He said that his authorities had received information from their exporters that they were having problems in complying with the regulation which seemed to be quite burdensome and complex. His delegation would like to reserve its right to raise the issue again.

39. The representative of Australia associated his delegation with the concerns expressed by the New Zealand delegation that there was an obligation to notify the packaging regulations under Article 2.5 of the Code. He said that the issue was complex and the lack of transparency was the main concern. He also noted that there were other similar regulations being considered within the European Communities which would add to further complexity and uncertainty for those wishing to export into that market.

40. The representative of the Philippines also associated his delegation with the statement made by New Zealand. He urged the European Communities to notify its packaging regulations without further delay, because such information would be essential for them to assess the requirement of the regulations and the potential impact it had on their trade.

41. The representative of Canada endorsed the position of the New Zealand delegation and associated his delegation with the statement that packaging regulations could be technical barriers to trade and therefore the rules should be applied and notification should take place.

42. The representative of the United States also associated her delegation with the previous speakers' comments, and noted that Germany was a signatory to the Agreement in its own right and that its response would be welcomed.

43. The representative of Hong Kong said that his delegation endorsed all the views and requests expressed by the delegation from New Zealand in the interests of transparency.

44. The representative of Singapore also shared the sentiments expressed by all the previous speakers.

45. The representative of the European Communities said that like some of the previous issues being raised, an in-depth reply could not be given

because he had not been informed about the issue before the meeting. He made a general remark that if the Committee wanted to be as efficient as possible, the normal procedure of addressing questions to the enquiry point should be used; if the enquiry point was not able to supply an answer, delegations could raise them in the Committee. He thought that if those delegations concerned had approached the enquiry points earlier they certainly would have been given an answer.

46. Concerning the case in point, he said there was a clear distinction between environmental policies, which were not the concern of the TBT Committee, and specific technical regulations like packaging which were directly linked to products. He said that, for example, legislation requiring the collection of packaging for recycling purposes was not directly linked to the work of TBT Committee, and should be discussed somewhere else. On the other hand it would be different if it concerned the packaging itself, for example the size or the material being used. Referring to the concerns expressed by the New Zealand delegation, he argued that in his view they were rather linked to environmental policies and not directly to TBT.

47. He was not sure whether all EC Member States had notified their recycling regulations. Nevertheless, for his part, he informed the Committee that in order to show how seriously his authorities took the matter he had notified to the GATT draft EC legislation. He was not sure if it had already been distributed. In the legislation, which the New Zealand delegation and probably some others were aware of and which was actually under discussion within the Communities, there were some aspects which could be of interest to the work of the Committee. He said that he had notified the whole legislation in the spirit of transparency. He added that the legislation was under preparation and a reasonable comment period was given so that other parties could make comments on the points which were of the Committee's concern. He reiterated that the Committee was not to get involved in environmental, social or health policies as such, but to concentrate on the specific aspects which had to be dealt with under the TBT Agreement.

48. Concerning recycling legislation in some EC Member States, he said that he had not had the time to study them. That was the case with the German legislation, but apparently it was known to some delegations because they had worked on it. He would like to get more specific information on the problems that some delegations were experiencing and which were linked to the TBT Agreement. He said that his authorities would certainly look into the problems with the Member States. He pointed out that in GATT there was the Group on Environmental Measures and International Trade and that the European Communities was actively participating in its work. He hoped that the work there would be fruitful. He emphasised that his authorities were hiding nothing. At the same time he was sure that not all Parties had notified all recycling legislation because it was a rather new subject and it was evolving rapidly.

49. The representative of New Zealand welcomed the news that the European Communities was notifying its draft regulation and especially notifying it

with a reasonable advance period for comments. He also welcomed the fact that the representative of European Communities would look into the particular concerns relating to the German legislation. His authorities would try to be careful in choosing the points to bring up and not to touch on the generalities of environmental measures. They would concentrate on how the legislation concerned related to the particular obligations of the Agreement and he hoped that notification obligations would be followed in that respect. He said that he was not sure when the EC legislation would come into force, but he suspected that it might not immediately remove the force of the German legislation. For this reason, his authorities would still be interested and saw value in the notification of the German legislation to the Committee.

50. The representative of Hong Kong also appreciated the EC statement that they would notify to the Committee. Concerning the regulation's relationship with the complicated issue of trade and environment, he thought that although the subject was being looked into by the Contracting Parties, it was quite reasonable that on that subject there should still be a great measure of support for transparency.

51. The representative of the European Communities said that he wanted to make it clear that the draft legislation had been notified though he did not know whether it had been distributed. Concerning the Group on Environmental Measures and International Trade, he said that there was no doubt that the results of work in that Group would not change any obligation in the TBT Agreement. He asked other delegations who were working on recycling legislation to notify their existing or future legislation so that it would help the Committee to debate on the issue.

52. In summing up, the Chairman said that firstly, he endorsed what had been said about the importance of transparency. He welcomed the European Communities' assurances that they were observing transparency and that they would continue to do so, even given the doubt about whether some of these environmental packaging regulations were fully covered by the TBT Agreement. He thought it best to try to notify as much as possible rather than to take a narrow approach. He also thought that it would be difficult for the Committee to get involved today in a substantive debate on the precise coverage of the Agreement. Nevertheless the Committee took note of the statements made.

53. The representative of Singapore, speaking on behalf of the ASEAN signatories to the Agreement, voiced her deep concern about the Austrian tropical timber labelling regulations notified in TBT/Notif/92.272 under Article 2.6.1 of the Agreement which allowed omission of Article 2.5 procedures where advance notification should be provided to enable interested parties to comment. She said that it was not clear what the nature of the urgent problems was. Article 2.6.1 had the condition that the regulation was intended to address an urgent problem of safety, health, environmental protection or national security, and it required that a brief indication be provided of the objective and the rationale of the technical regulation, including the nature of the urgent problems. She said that on

the notification, the objective and rationale given was " consumer information", but that the actual rationale was not clear. She said that her authorities could not comprehend what could have suddenly given rise to this urgency to notify under Article 2.6 of the Agreement since trade in timber had been going on for so long.

54. If the urgency element could not be established, it should have been incumbent on Austria as a signatory of the TBT Agreement to abide by the procedures as outlined in Article 2.5 which stated, for technical regulation or standards that may have a significant effect on trade of other parties, signatories shall, inter alia: (1) notify other Parties through the GATT Secretariat of the products to be covered by technical regulations together with a brief indication of the objective and rationale of proposed technical regulations; (2) in regard to technical regulations allow, without discrimination, reasonable time for other Parties to make comments in writing, discuss the comments upon request, and take these written comments and the results of these discussions into account. She drew attention to the fact that the regulation had come into force on 1 September 1992, but was only notified to the GATT on 25 September 1992 and that the column for the final date for comments was left blank. In this context, she said that Austria had not acted consistently with its obligations under the Agreement.

55. Furthermore, she said that the regulation singled out tropical timber because the labelling requirement was applied only to tropical woods and products made of tropical wood or containing tropical wood. Such discriminatory action, from the viewpoint of her authorities, was not in conformity with Article 2.1 of the TBT Agreement. With this unfair trading practice, a bad impression on tropical wood and wood products might be created indirectly. As a result, it would lead to consumers' rejection of such products and thus create an unnecessary obstacle to trade. In conclusion, she urged Austria to consider seriously the concerns raised and work towards a satisfactory solution.

56. The representative of Brazil supported the Statement made by Singapore that the Austrian regulation was discriminatory. Also he pointed out that the regulation provided for a system of certification of environmentally-sound forest management. He questioned the unilateral criteria to establish such certification. He urged the Austrian Government to take into consideration international discussions in this area and also to consider that the effects of such regulations could be contrary to their own objectives of environmental sustainability because the countries affected could be obliged to have recourse to more environmentally detrimental practices.

57. The representative of Austria explained that the labelling regulation was a law decided by the Austrian Parliament under very strong pressure from certain quarters. He said that the labelling requirement was not strange; the same rule existed for textiles, for which the materials used, for example, wool or artificial fibre, were specified. He added that for many internationally well-known furniture enterprises one could read "made

of oak, pine" or whatever on their products. He said that in Austria already for many years furniture producers had been indicating the material of their furniture, whether it was made of domestic wood or of tropical timber. He recalled that in earlier years furniture with the label "made of teak from the Philippines" was very much liked by the consumers. He said that the measure was not intended to create a negative impression on consumers and thus did not create any trade barrier.

58. He said that his Government had more or less legalized an existing practice, a practice which had been pursued by the producers of wood products. He pointed out that the purpose of the measure was for consumer information. He said that for the present he could just take note of what had been expressed by the delegations of Singapore and Brazil and that he would report carefully to his authorities and certainly would come back in a later meeting of the Committee. He added that he supported fully the view point of the European Communities that environmental problems were not the concern of the TBT Committee.

59. The representative of Singapore clarified that the statement which had been made earlier on behalf of ASEAN signatories to the Agreement encompassed both Singapore and the Philippines. Concerning the notification of the Austrian regulation under Article 2.6, in her view there was some contradiction with the statement just made by the Austrian delegate.

60. The representative of Austria said that, for the time being, he could not give any answer to that specific question and he would certainly seek instructions from his authorities.

61. The observer from Malaysia said that he had listened with great interest to the elaboration of the issue of labelling of tropical timber and tropical timber products imposed by Austria, with which his authorities were deeply concerned. He said that his country was fortunate to be endowed with a lot of natural resources, including tropical timber, of which they were a major exporter. Naturally his Government was concerned by a measure which had the effect of being a barrier to trade. He said that the issue of environment which was linked with the legislation introduced by Austria was a subject relatively unexplored in the GATT. He felt that resorting to trade measures for environmental reasons would not bring about resolution of the environmental matter that was preoccupying the Austrian delegation.

62. He added that: (1) there had been no consultation with tropical timber-producing countries prior to the introduction of the legislation; (2) the law was discriminatory because it singled out tropical timber and timber products, and he wondered why, if concern for the environment was involved, soft wood, which accounted for more than 75 per cent of the world's total trade in timber was not covered. He thought that it was not an effective way to address the issues on environment and a broader approach was needed so that it did not impose unfair burdens only on some contracting parties.

63. The representative of Austria, in replying to the Malaysian question, reiterated that the legislation had been an action by the Parliament and

the Government had not been involved, therefore his mission's view had not been sought. He added that the Parliament was quite free to act in whatever way it found necessary. He repeated that the legislation had no discrimination because it was quite a normal practice in his country to label the material of a product. He informed the Committee that he had read that Malaysia had threatened his country with an embargo of its products. In his view, those ideas also would not be in accordance with GATT.

64. The Chairman said that the Committee took note of the statements made and urged the Austrian delegation to observe the TBT Agreement's obligation and to reply to the questions being raised, particularly the issues which clearly did concern the Agreement, which were fairly basic transparency notification requirements that did not seem to have been followed. Concerning the specific question raised by Singapore, he asked the delegate from Austria to explain the urgent nature of the legislation which had prevented it from being notified in a normal way. The Committee noted the intention of the Government of Austria to supply a more detailed explanation at the next Committee meeting.

65. The representative of the European Communities asked the U.S. delegation if their earlier request for more information on TBT/Notif.91.330 and TBT/Notif.91.331 concerning nutrition labelling of food for human consumption and of meat and poultry had been taken into consideration. He emphasised that the information was very important to them, and he would like to make sure that it had been followed-up.

66. The representative of the United States said that the proposals were still under consideration. Her Government had had to hire an outside contractor to simply compile the voluminous comments being received, so she would respond to that later.

67. The Committee took note of the statements made.

68. The representative of Canada said that his authorities wanted to draw the Committee's attention to Article 2.4 of the TBT Agreement which indicated that parties should specify technical regulations and standards in terms of performance rather than design or descriptive characteristics. He noted that amongst other benefits which the Article led to, that approach usually encouraged the market to find solutions which were cheaper and more effective than those that would have been mandated by governments seeking to do the same thing by describing or designing the product in question. He also invited the members of the Committee to consider the application of this Article to measures such as recycling and packaging requirements.

69. The Committee took note of the statement made.

70. The Chairman expressed his concern about the increasing number of complaints being raised under agenda item 2.1 on non-notification, lack of transparency and non-observance of some very basic obligations of the Agreement. He said that it was good that the Committee was being used as a

multilateral forum to express concerns, but disheartening that these concerns seemed to be increasing rather than diminishing. He hoped that representatives would forward his sentiment to their capitals.

B. Thirteenth annual review of the implementation and operation of the Agreement

71. The Chairman drew attention to the Secretariat's background documentation contained in TBT/34 and invited statements.

72. The Committee agreed to conclude its thirteenth annual review.

C. Report (1992) to the CONTRACTING PARTIES

73. The Chairman drew attention to the draft report that had been prepared by the Secretariat (Job 1565).

74. The Committee asked the Secretariat to update the draft in the light of developments at the current meeting and the meeting in early November on information exchange and enquiry points and agreed to adopt its Report (1992) to the CONTRACTING PARTIES.

D. Other business

75. The representative of ISO, speaking as an observer, reported some of his organization's activities which might be of relevance to the TBT Committee. He said that the ISO/CASCO, the ISO Council Committee on Conformity and Assessment, in which some sixty ISO member bodies and the IEC participated, had prepared many guides that had been endorsed by the TBT. Amongst the work items under consideration, there were two to which the ISO Council had asked to give urgent attention. They were the mutual recognition of certification bodies and, more specifically, the feasibility of establishing an international mechanism for the recognition of quality system registration bodies. These ideas were being actively studied, taking into account activities of other bodies, and notably a British feedback on "Peer evaluation of Certification bodies", as well as experience with the international systems operated by the IEC. The ultimate aim was the recognition of the results of the quality assessment systems conducted by certification bodies. A workshop would be held on 3-4 May 1993 in conjunction with the next CASCO meeting, and it would provide an opportunity to have these two topics discussed in depth.

76. He reported that an ISO/IEC Code of Good Practice for Conformity Assessment was being prepared which would replace the ISO/IEC Guide 16. A draft prepared within the IEC would be used as a basis for development and due account would be taken of relevant provisions of the GATT TBT Agreement, in order to avoid any contradictions.

77. Concerning the ISO/IEC Code of Good Practice for Standardization, he said that a further review of the ISO/IEC draft had been made in the light of Annex 3 of the Uruguay Round TBT Agreement. He said that the Chairman of the GATT TBT Committee had suggested that Mr. Kari Bergholm from Finland cooperate in the work, and Mr. Bergholm's comments had been duly considered

and referred to when presenting an interim draft to the ISO and IEC Council. The ISO Council, at its September-October meeting, had noted that the draft ISO/IEC Code of Good Practice for Standardization was a well-developed, interim document which in its current form was concurrent with the Uruguay Round TBT Agreement. ISO/IEC had decided that the ISO/IEC Code should be further developed with ITU and with GATT participation in an attempt to include provisions that would make it compatible with the Uruguay Round TBT Agreement and enable GATT to endorse it as an alternative for voluntary consensus standardising bodies. ISO/IEC requested that work continue with IEC, ITU and GATT with a view to obtaining a document which would serve the purposes of both GATT and ISO/IEC/ITU: (1) for submission to ISO/IEC (and ITU) members for their formal support by accelerated procedures; and (2) for submission in parallel to the GATT Secretariat by the end of 1992, so that the GATT TBT Committee could discuss the question at its first meeting in 1993 and take a decision. In line with the above, an ad hoc meeting would take place in Geneva on 19-20 November with the participation of Mr. Bergholm as a liaison officer and hopefully the GATT/TBT Secretariat; he hoped that this cooperation would permit a useful document to be produced.

78. He said that an International Classification for Standards (ICS) which could be used as a numerical system of standards had been published recently and would be useful for the implementation of Annex 3 of the Uruguay Round TBT Agreement. Finally he informed the Committee that INFCO and also the ISONET would meet at the end of October 1992 in parallel with the GATT TBT enquiry point meeting.

79. Taking into account the discussion which the Committee had had on item 2.1 of the agenda in the field of environment, he reported that ISO was planning to set up a technical committee on environmental management. The activities included environmental management systems, environmental auditing, environmental performance evaluation, environmental labelling and life cycle analysis. Preliminary work had been going on last year and the working documents would be used to prepare international standards. The first meeting was foreseen for end of May 1993.

80. The Chairman thanked the observer from ISO for his briefing and said that the Committee looked forward to hearing an update on various ISO activities in the future. He drew the attention of the Committee to a note TBT/W/158 prepared by the Secretariat after participating in an ad hoc ISO/IEC meeting on Code of Good Practice for Standardization on 22 May. He told the Committee that at the request of the ISO and IEC Presidents, he had proposed Mr. Kari Bergholm to assist the ISO/IEC on its work in further improving their Code. He pointed out that Mr. Bergholm's participation in the work was in his own personal capacity, and he hoped that the Committee would find it useful for him to provide updates on progress of the drafting.

81. The representative from the European Communities welcomed the news that ISO had been able to finalise the classification system for standards and thought that it would be very useful for everybody. He was concerned to hear that a liaison officer had been appointed to work on the ISO Code of good practice. He said that although Mr. Bergholm's participation in

the work was in his personal capacity, since Mr. Bergholm had been, as some of the others, heavily involved in discussions of negotiations, he would have preferred the Committee to have held discussions before delegating someone to do the job.

82. He was also very concerned about hearing the word of an "alternative" to the GATT Code of Good Practice. He said that the Committee had had very long discussions on this matter at the last meeting. He hoped that the Committee would not have to go back again to the same discussion. He emphasized that while he encouraged the ISO Code to develop on the basis of the Uruguay Round TBT Agreement, it was not acceptable to hear again about an alternative to the Code in the Uruguay Round TBT Agreement.

83. The representative from the ISO, in answering, said that ISO just wanted their Code of Good Practice to be compatible with the one that had been developed in GATT.

84. The Chairman thought that the meeting should draw a very basic line under the present discussion. It was quite clear that the observer from the ISO had been simply offering an informative briefing on his organization's activities and any discussion on the question of the relationship between the two Codes was not standard work of this Committee. He asked the Committee to take note of the statements made.

85. Concerning the nomination of Mr. Bergholm, he said that he had been approached by the Presidents of the ISO/IEC and had been invited to nominate an individual who could be relied upon to bring his experience and knowledge to assist the ISO to work on its Code, with the aim of ensuring compatibility or at least no inconsistency with the Uruguay Round TBT Agreement. He said that he had taken a decision based on practical ground to invite Mr. Bergholm, in his personal capacity, and that was quite clear. He took full note of the point made by the delegate from the European Communities.

86. The Committee agreed to the Chairman's proposal that the date and agenda of the next Committee meeting be worked out by himself in consultation with delegations.