
Committee on Trade and Environment

REPORT OF THE MEETING HELD ON 7 JULY 2003

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1. The Committee on Trade and Environment (CTE Regular) met on 7 July 2003 under the Chairmanship of Ambassador Peter Brño (Slovak Republic).

I. ADOPTION OF THE AGENDA

2. The agenda proposed in WTO/AIR/2129, dated 24 June 2003, was adopted.

II. PARAGRAPH 32¹

A. GENERAL

3. The representative of Canada introduced his delegation's proposal for a recommendation to Ministers in Cancún.² He recalled that Canada had originally raised this issue at the February 2003 meeting of the CTE Regular, and, at the April 2003 meeting, Canada had suggested that a specific recommendation be included in the CTE Regular's Report to the 5th Ministerial Session in Cancún ("Cancún Report"). It was Canada's view that Ministers would have to make a decision at Cancún on the future work of the CTE. In the absence of recommendations or proposals from Members to

¹ Paragraph numbers refer to those of the Doha Ministerial Declaration ("DMD") unless otherwise indicated.

² Canada's submission is contained in document Job(03)/105.

Cancún, Ministers were likely to direct the CTE to continue with the Doha work programme. Looking back, prior to Doha, the CTE had engaged over a period of several years in substantial discussions of a number of important items. However, since the Singapore Ministerial Conference, there had been no report to Ministers on these discussions nor a review of the original terms of reference. In fact, several of the issues had, as a result of the Doha Declaration, been taken up in other WTO bodies. This was a significant development which necessarily had implications for the CTE's terms of reference.

4. An examination of the List of Documents³ prepared by the Secretariat revealed that some items on the CTE Regular agenda had generated a number of submissions and considerable discussions. However, Members had expressed little or no interest in several other agenda items. For example, on Item 3(a)⁴, there had been only one document prepared by the Secretariat in 1997 and no submission by Members in nine years. On Item 7⁵, there were submissions by Members in the mid-1990s, but very little interest had been expressed in recent years. Similarly, on Item 9⁶, while there had been documents by the Secretariat and observers, there had been no submissions by Members. In Canada's view, more attention needed to be devoted to paragraphs 33 and 51 of the Doha Declaration and a review of the existing terms of reference could include these activities as potential items on the CTE's regular agenda.

5. The representative of Canada noted that he was open to provide Members with more precision on the fourth line of the proposal, which read "at the next session of the Ministerial Conference"; Canada would be quite willing to put in the wording "on the conclusions of this review and, as appropriate, proposals for amended terms of reference", which would be slightly more precise.

6. The representative of Switzerland considered it important that CTE's work program follow the evolution of the international agenda in the area of environment. Key issues debated in other fora deserved to be tackled in the CTE. Such an exercise would just confirm and strengthen the relevance of the CTE's work in the framework of the discussion on trade-related environmental issues. However, Switzerland noted that under its understanding of Canada's proposal, the revision would not include the three items of paragraph 32 because of the indication by Ministers of their particular importance in the framework of the Doha Agenda. Members could not go back on that decision and Switzerland asked Canada to confirm this understanding. Even if the proposed exercise could be useful, Switzerland considered that Members should not devote too much time to it before the Cancún Ministerial Conference. It was the discussion of the content that was important. To conclude, Switzerland considered that Canada's proposal was interesting but the implications and details had to be further clarified.

7. While the representative of the Philippines considered that Canada's proposal probably had some merits for certain items, it was not appropriate for Ministers in Cancún to discuss this specific proposal. This was the responsibility of CTE Members and could be discussed in the CTE. Moreover, as some issues were in common with the CTE Special Session the matter needed to be thoroughly investigated.

8. The representative of the European Communities agreed that ever since CTE's original terms of reference had been drafted, things had happened in the "real world"; this included the World Summit on Sustainable Development (WSSD). The European Communities' understanding of this proposal, as the Swiss delegation had said, was that the Doha mandate would not be touched. For the European Communities, the main issue was timing because the proposal mandated the CTE to report to the next session of the Ministerial Conference with a proposal of amended terms of

³ See WT/CTE/INF/5/Rev.1, 5 February 2003, "List of Documents", Note by the Secretariat, Revision.

⁴ Item 3(a) deals with the relationship between the provision of the multilateral trading system and charges and taxes for environmental purposes.

⁵ Item 7 deals with the issue of exports of domestically prohibited goods (DPGs).

⁶ Item 9 deals with the work terms of reference envisaged in the decision on Trade in Services and the Environment.

reference. The European Communities was still reflecting on that level of ambition considering that Members needed to concentrate their efforts on the Doha Development Agenda negotiations. Therefore, the European Communities would prefer a more forward-looking time perspective. However, on the substance, and irrespective of timing, the case could be made that there was a need to look at some issues in order to have a more focused and productive work in the CTE.

9. The representative of Norway was of the view that the discussions in the CTE based on its current work programme had helped Members to gain greater understanding of the relationship between trade and environment. It had been a long time since the terms of reference were last revised and Norway agreed with Canada that Members might benefit from reviewing the CTE's work program in order for the CTE to remain a dynamic and relevant forum for discussion of trade and environment issues. Norway had some sympathy for the EC's comment regarding timing. In general, Norway considered that there might be a need for a more comprehensive discussion before Members could agree.

10. The representative of India agreed with Canada that there were some items on the work programme on which the CTE could come to a conclusion. However, India was opposed to the CTE making a proposal to the Ministerial Conference for a mandate to work on an amendment its terms of reference. The CTE needed first to discuss *what* changes were required and, based on such a discussion, a decision could be made. There was no need for the CTE to seek a new mandate from the Ministerial Conference for that purpose. The CTE already had a mandate and Terms of Reference within which, if the CTE so decided, it could make a recommendation that no further work was required on certain items.

11. The representative of Malaysia agreed with the Philippines and India that there was neither a need for reviewing the CTE's work programme nor for seeking a new mandate from Ministers in this respect. Although the agenda of the CTE had remained the same since 1995, Malaysia noted that some of these issues might have received less attention than others simply because the CTE agenda was very long and exhaustive. Malaysia wished to hear more details on the basis for the Canadian proposal which was very preliminary in nature.

12. The representative of Brazil was of the view that while the proposal had some merit, it was not necessary for the CTE to engage in such a discussion for the moment. In this regard, Brazil agreed with Malaysia, the Philippines and India. Moreover, Brazil noted that it was not appropriate for the CTE to engage in an exercise of picking and choosing which elements were or were not necessary for its work. Members could nevertheless consider reverting to this issue at future meetings and listen to more detail from Canada. Brazil did not favour that the Cancún Report include any recommendation.

13. The representative of Thailand considered, like others, that it was not the appropriate time to look at this proposal. The CTE work programme, with its ten items, included a wide range of issues and covered all interests of Members. The fact that some issues were not actively discussed did not mean that it was *not* necessary to have these issues on the CTE agenda. Furthermore, Thailand sought further clarification from Canada on how this proposal related to paragraph 32 of the Doha mandate. Finally, Thailand recalled that it had opposed, at the informal meeting of the CTE on 30 June 2003, to have a separate section on recommendations in the CTE Cancún Report.

14. The representative of Indonesia supported the statements made by representatives of Thailand, Malaysia, the Philippines, Brazil and India. It was also Indonesia's view that there was more work that needed to be done before embarking on the issue proposed by Canada. Indonesia did not see the need for Ministers to dwell on this issue before there was a consensual decision in the CTE whether or not to review the terms of reference. Like others, Indonesia was hesitant to discuss the issue any further before receiving more detail from Canada.

15. The representative of Cuba shared the views expressed by other delegations regarding the fact that the Canadian proposal had not been discussed sufficiently within the CTE. At the moment, Cuba needed time because some of the issues, which had not been discussed over the last few years, were of interest to many Members, including Cuba. Indeed, such an exercise would require Members to comment and decide which issues should remain on the list and which should not. Cuba believed that it would be premature for the Cancún Ministerial Conference to approve a recommendation that would lay down guidelines for changing this work program. Cuba joined in with what had been said by the Philippines, namely that the CTE would have sufficient time *after* Cancún to debate on this issue.

16. The representative of China shared the views expressed by the previous speakers. The work programme of the CTE was something substantive; therefore, if there was any amendment to be made, it needed full discussion and consensus. On this basis, a decision or recommendation from the CTE might be submitted to higher level. Second, even if consensus on this issue was possible at the present time, in China's view, it was not necessary to put it to the Ministerial Conference. Ministers would have more substantive, important, and complex issues to deal with and would not have time to address such a recommendation. Therefore, China considered that a full discussion was needed on this issue *after* the Cancún Ministerial Conference. Based on this discussion, Members would see whether a consensus was possible, and, if there was a consensus, the CTE could put this issue to the General Council rather than to the Ministerial Conference.

17. The representative of Ecuador believed that for the time being it would not be appropriate for Canada's proposal to be considered in Cancún. Nevertheless, Ecuador thought that Members should start a discussion on substantive issues which, because they had not been touched upon since 1996, deserved a review. While Canada's proposal might seem too ambitious at the current juncture, it would be useful to examine CTE's work programme.

18. The representative of Argentina considered that it was premature for the CTE to embark on an update of its work programme. Argentina believed, as noted by China, that this was an important issue which could be discussed later. Argentina was of the view that because negotiations were being carried out in other bodies, which also involved issues of relevance to the CTE's work programme, more certainty was needed regarding the results of these discussions and negotiations.

19. The representative of Chile shared some of the ideas in the Canadian proposal and considered that the terms of reference of the CTE would have to be reviewed because some issues had not been discussed for many years. Chile agreed, however, with what had been said by many other delegations, namely that the CTE should not issue a recommendation to Ministers at this point. Furthermore, this proposal, as well as discussions held during this meeting of the CTE, should be reflected in the Cancún Report. The report needed also to indicate the convergence of views on the need to discuss the terms of reference of the CTE after the Cancún Ministerial Conference.

20. The representative of Japan expressed sympathy for the Canadian proposal which had pointed out that there were a number of issues which had not been touched upon by the CTE for many years. As the CTE needed some credibility in the outside world, there needed to be some mechanism of reflection aimed at considering whether the CTE was actually responding to the needs of the "real world" or not. However, Japan also shared the view of other delegations that it might be a bit too much to include this proposal as part of a recommendation to the Ministerial Conference. Nevertheless, Japan was quite flexible on that point as in Japan's view the CTE needed to review its terms of reference to see if the current items on the CTE agenda had the same value as when they had been drafted, about ten years ago.

21. The representative of Egypt commented on the Chilean intervention that the Cancún Report reflect in the body of the report a kind of "convergence of views" on the need to review the terms of

reference of the CTE. Egypt could not go along with this suggestion until Canada came with a very complete proposal on which issues were to be added or deleted.

22. The representative of Kenya added its voice to those delegations that believed that the time was not yet ripe to put the issue of the terms of reference of the CTE to the Ministerial Conference in Cancún. Kenya believed that there were many procedural and substantive issues that needed to be agreed upon and noted that one time-frame for the current discussions and negotiations went up to January 2005.

23. The representative of Malaysia, responding to Chile's intervention, could not agree to the review as such. Nevertheless, Malaysia was prepared to hear more from Canada on the basis of its proposal so that Members could discuss whether there was a necessity for a review in the first place.

24. The representative of Pakistan shared the view of Malaysia and Egypt. While Canada's proposal merited more discussion, Pakistan would rather discuss it at the next CTE meeting.

25. The representative of Brazil, like Malaysia, stressed that Brazil had not agreed on reviewing the mandate, only that it would like to have more detail on the Canadian proposal.

26. The representative of Korea shared the view of Canada on the necessity of reviewing the CTE's work programme. Korea considered that the proposal made by Chile was a very practical step forward, therefore Korea joined Chile and Japan on this point.

27. The representative of Philippines, in response to Chile's proposal, said that there was absolutely no convergence on the proposal of Canada and that there should not be any reference to this in the Cancún Report.

28. The representative of Indonesia supported what had just been said by the Philippines, Malaysia, Pakistan and Egypt. Indonesia was still questioning the basis for such a review, therefore, to describe the discussion in terms of "convergence" was not correct.

29. The representative of Canada was surprised that such a procedural proposal could cause such passion. The purpose of Canada's proposal was only to get a review done. After nine years, most agendas were reviewed and there was nothing else in the WTO which was quite as static as the CTE's work programme. Since both the original Marrakesh agenda and the special Doha mandate came from Ministers, Canada's suggestion was that Ministers instruct Members to look at the CTE's agenda in the next two years after Cancún, in order to suggest, presumably in 2005, what that new agenda could be. It could be a revised agenda or the exactly same one, if that was what Members wanted. It was one way of getting Members to look at their own agenda. Going from the comments made by delegations, in some cases there was not even a willingness to look at this agenda. These comments seemed to imply that perfection was reached nine years ago, that nothing had changed since, and that there was no reason to add or subtract, or to ever report on anything, and that Members could just go on and discuss forever. Canada's proposal was to look at this agenda and consider whether it really served Members' purposes. Obviously the proposal did not reach a consensus. But Members needed to pursue discussion on this issue after Cancún, express views and forward these views to Ministers or to the General Council. Canada believed that the present agenda was not perfect and if it was, then Members could confirm this perfection.

30. The Chairman noted the interest on the issue. However, it was clear that it was premature to forward any recommendation for Ministers in Cancún on this proposal. Many Members had asked for more detail and information on Canada's proposal. The October meeting would probably be the appropriate occasion to start such a discussion and the Chairman invited Canada to elaborate on this proposal for the next meeting. The conclusion was that there was no consensus on the proposal for recommendation and that the CTE would continue its deliberation on this issue at a later stage.

B. PARAGRAPH 32(i) (MARKET ACCESS)

The effect of environmental measures on market access, especially in relation to developing countries, in particular the least developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development.

1. Market Access

31. No developments have been reported with regard to this matter.

2. Sector analysis ("win-win-win")

(i) Forestry

32. The representative of Japan recalled that at the CTE meeting of June 2002 Japan had submitted a document entitled "Issues on Forestry Products Trade and Environment"⁷. In this document, Japan had stressed that when addressing the issue of illegal logging it was important to examine possible international approaches from a trade viewpoint as well as the implementation of domestic measures. It was also mentioned that discussions in other international fora needed be taken into account. Illegal logging was a major obstacle to the sustainable management of forests in each country and to the development of the conservation of environment world-wide.

33. Since the G8 Summit held in Okinawa in 2000, Japan had underlined in various international conferences how important it was to tackle the problems of illegal logging based on the principle that illegally harvested timber should not be used. The final report of the G8 on the Action Program on Forests, which was submitted in June 2002, at the meeting of the Foreign Affairs Ministers of the G8 and discussed at the meeting of the G8 Summit, underlined the commitment of G8 members to fight illegal logging. In addition, the WSSD adopted in September 2002 the Plan of Implementation, which reaffirmed the need to take international actions against illegal logging, including forest law enforcement and actions against illegal international trade in forest products. Both the 2002 G8 Summit in Canada, and the WSSD acknowledged that there was already an international consensus on the need and importance to combat illegal logging and related trade, which was now at a stage of implementation of specific measures.

34. On 24 June 2003, a "Joint Announcement" on the cooperation to combat illegal logging and related trade was signed between Japan and Indonesia. This Joint Announcement was signed for Japan by the Minister of Foreign Affairs and the Minister of Agriculture, and, for Indonesia, by the Minister of Forestry. The Ministers of these countries also signed an "Action Plan" attached to this declaration in the presence of the Japanese Prime Minister and the President of Indonesia.

35. Therefore, Japan wished to present the activities which were carried out in the context of this Action Plan with the hope that such plans be developed in other regions; this would enable Members to contribute to sustainable forestry management and to the conservation of the global environment. This Action Plan aimed at implementing bilateral cooperation between Japan and Indonesia in the short-, medium-, and long-term. The elements of this Action Plan consisted in: (i) implementing in Indonesia a mechanism to identify legally harvested from illegally harvested timber through the cooperation between Japan and Indonesia; (ii) studying possible measures relating to distribution and export of illegally harvested timber; and (iii) conducting monitoring of the implementation of the mechanism with the participation of the civil society. The restrictions on imports and other trade measures related to illegally harvested timber would be reviewed taking into account the regulations

⁷ WT/CTE/W/211, 11 June 2002, "Issues on Forestry Products Trade and Environment", Submission by Japan.

already enforced. The aim of the Joint Announcement was to insist on the principle of cooperation between Japan and Indonesia in the combat of illegal logging.

36. Regarding the implementation of the activities of the Action Plan, Japan and Indonesia would call upon various means such as: (i) the financing of various projects by the International Tropical Timber Organization (ITTO); (ii) the bilateral cooperation between Japan and Indonesia; (iii) the alignment with the activities of the partnership of the forest industries in Asia. In order for the Indonesian Government to restrict exports of illegally harvested timber and to enable the Japanese Government to cooperate, it was essential to establish in Indonesia a mechanism providing for the possibility of tracking the origin of illegal timber exports, monitoring all the stages of the process from the logging to the export, with a view to detecting timber exports from a legal origin. Japan would present in the next regular meetings of the CTE the measures that would be taken in accordance with the Joint Announcement and the Action Plan.

37. The representative of Malaysia noted that the information provided by Japan represented a useful area of cooperation between two countries. As Malaysia had already stated in previous interventions, this issue was more adequately dealt with bilaterally and in the relevant regional and multilateral organizations. Malaysia highlighted that the underlying economic reasons that gave rise to this issue, such as poverty, needed also to be addressed, and the issue of a high tariffs on processed products should be looked at as well.

38. The representative of Indonesia stressed that the cooperation between Indonesia and Japan showed the seriousness of both countries in addressing the issue of illegal logging. Indonesia had also signed a Memorandum of Understanding with the United Kingdom on cooperation to improve forest law enforcement and governance and to combat illegal logging and international trade in illegally logged timber and wood products. Indonesia had done the same with Norway, Finland and had an exchange of information on illegal logging and trading of tropical timber with China.

39. The representative of Brazil added her voice to what Malaysia said on the question of sustainable timber harvesting. Brazil believed that it was being dealt with appropriately in relevant fora such as the ITTO and the United Nations Forum on Forest (UNFF). For Brazil, there was no need to discuss this issue in the WTO. In addition to what Malaysia had stated, Brazil stressed that in dealing with the issue of illegal international trade of timber, it was important to take into account the demand side of the problem. Brazil stressed the importance of financial technical assistance for countries to implement their forest legislation. Some countries, especially developing ones, had appropriate legislation but unfortunately there was no means to implement them in a proper way.

40. The representative of Japan recalled that since the submission of his delegation's paper in June 2002, some Members had asked Japan to clarify its intentions and approach. As explained at previous meetings, Japan sought a contribution from the WTO to fight illegal forestry exploitation. Japan was aware of the fact that this problem depended on the national policy of each country and Japan had no objection to other international fora discussing this issue. The Japan/Indonesia cooperation plan to combat illegal logging consisted mainly in implementing, in an exporting country, a mechanism to identify the legal or illegal origin of timber in cooperation with the importing country. It also entailed the consideration of restrictive measures against the distribution and export of illegally harvested timber. The idea was to promote activities to fight illegal exploitation of timber on a regional scale and then on a global scale, of course, subject to an understanding between Members. It was obvious that export restrictions and other trade measures concerning illegally harvested timber had to be compatible with WTO rules. It was important that the entire world contribute to the fight against illegal logging, including with trade measures. Japan intended to make a positive contribution in this direction. Taking into account the opinions expressed by Members, Japan would contribute more in-depth to the debate at future meetings of the CTE.

(ii) *Agriculture*

41. The representative of Korea reiterated the position of his delegation on agriculture subsidies. Agriculture had many other functions apart from simply providing food. Many of those functions were environmental in nature, such as the maintenance of landscape, preservation of biodiversity and management of water resources. Certain agricultural subsidies had positive effects on sustainable development by maintaining a certain level of agricultural production, especially in those countries where agriculture was the primary land use, as was the case with Korea. Korea considered that the phasing out of all agriculture subsidies could undermine agriculture production in some countries and thereby impair the environmental functions of agriculture.

42. The representative of the European Communities reiterated that a certain level of support in agriculture was necessary to maintain a number of environmental benefits which could arise from agricultural production. The European Communities had made reference to objectives like the maintenance of agricultural landscape, land conservation, water resources management, preservation of biodiversity, etc. The European Communities stressed that the statement was purely intended to dissipate any possible misunderstanding on this particular point.

43. The representative of the United States sensed with respect to the previous two references to agriculture an effort to justify text in the draft Cancún Report. The United States recalled the view that it had expressed previously in the CTE, particularly under paragraph 51 of the Doha Declaration, that a more market oriented agricultural system could foster innovation and efficiency allowing Members to meet growing demand for food in an environmentally sustainable way. Proposals for agricultural reform, in particular the reduction and elimination of subsidies, could lead to more sustainable resource use and production.

44. The representative of Brazil supported what had been said by the United States on agriculture.

45. The representative of Chile supported what the United States had said. He recalled the position of his delegation, namely that eliminating subsidies, which distorted trade and promoted intensive agricultural practices, would have environmental benefits.

46. The representative of Czech Republic indicated that his delegation had consistently supported the concept presented here by Korea and the European Communities and attached great importance to it.

47. The representative of Ecuador stated that the issue of market access was very important to Ecuador. Under principle 11 of the Rio Declaration⁸, the implementation of environmental standards should obviously not create unnecessary barriers to trade or incur additional costs for exporting sectors. However, Ecuador acknowledged that there were legitimate national and environmental objectives, which often created additional costs for developing countries. Regarding the sectoral aspect, Ecuador also believed that the elimination of subsidies in agriculture, fisheries, energy and forestry would contribute to sustainable development in that it would avoid distortions in price leading to intensive use of natural resources and would allow for state income to be better distributed in order to fight poverty, which was the main cause of environmental degradation.

48. The representative of Japan fully supported the European Communities' and Korea's comment. Agricultural non-trade concerns were of vital importance to developing and developed country Members alike. A one-size-fits-all approach would not be appropriate to address such concerns; the diversity of country situations needed to be sufficiently taken into account.

⁸ Principle 11 reads as follows: "States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and development context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries".

49. The representative of Thailand supported the statement by the United States on agriculture. Thailand's view was that most of the environmental degradation in developing countries was the result of poverty.

50. The representative of New Zealand recalled that the purpose of this item of the CTE agenda, when Ministers adopted it in 1996, was genuinely environmental. The aim was to debate in the WTO ways in which to support environmental objectives through a trade vehicle. It was fair to say that much of the work done in the early years of the CTE did indeed support that objective. New Zealand gave the example of the issue of fisheries subsidies, which had manifestly an environmental objective. New Zealand feared that the discussion had degenerated into a game of ping-pong which was a proxy for negotiations underway in the Doha mandated negotiating groups on agriculture and non-agricultural market access. New Zealand would prefer to focus, in this part of the agenda, on those issues where there was a genuine environmental motivation and on how to achieve that environmental purpose through trade instruments.

51. The representative of Australia supported New Zealand's comments. The purpose behind this item was well known. The importance of agricultural trade liberalization to environment and to development were issues which had been well enunciated by Ministers in Doha and in a number of other fora. Therefore, Australia also believed that there was a need to concentrate on the substance of the issue. What had happened at this meeting was that a number of delegations stated, for the record, a position which they realized at the last minute had not been adequately enunciated over the last two years of discussion in the CTE. The position of Australia and of a vast majority of Members had been well and truly made known.

52. The representative of Hungary joined its voice to what had been said by the European Communities and the Czech Republic to the effect that some agricultural subsidies served environmental purposes.

C. PARAGRAPH 32(ii) (TRIPS)

The relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

53. No developments have been reported with regard to this matter.

D. PARAGRAPH 32(iii) (LABELLING)

Labelling for Environmental Purposes

54. The representative of the European Communities informed Members on a document prepared in April/June 2003 by the Global Eco-labelling Network (GEN)⁹. The document, which looked at all the various aspects of eco-labelling, noted that the interests in new programs came largely from developing countries. In the conclusion part of this document, it was noted: (i) that eco-labelling was growing around the world, both in developed and developing countries; (ii) that the environmental attributes of products had the potential to create trade opportunities particularly for goods aimed at developed country markets regardless of the point of origin; and (iii) that there was a need to find sustainable solutions instead of being overly preoccupied with the more negative aspects of the debate.

55. The representative of the European Communities then went on to introduce a proposal for a recommendation to Ministers on labelling.¹⁰ He noted that the GEN document showed that the EC

⁹ "Trade as an Environmental Policy Tool? Environment as a Trade Policy Tool?", Global Eco-labelling Network, June 2003. The paper can be found at <http://www.gen.gr.jp>.

¹⁰ Document Job(03)/130.

proposal on labelling actually corresponded to a need on the market-place and not only to what Ministers had underlined at the WSSD on the role of voluntary tools in promoting sustainable trade. The European Communities made this point in order to reassure delegations that the EC proposal on labelling was *not* another negotiating agenda and *not* another point under the single undertaking. Rather, it was a practical solution to address what had been highlighted in an earlier EC submission on eco-labelling¹¹, i.e. the need to have an in-depth discussion on eco-labels, and in particular those based on the life-cycle analysis (LCA).

56. In the proposed recommendation, the European Communities had provided some detail on what such dedicated sessions could look at. It was clear that a positive approach meant looking at: (a) trade enhancement; (b) trade creation; (c) increase of market opportunities; (d) how to help developing countries to cope with the ever growing number of eco-labels; and (e) how to ensure that they were administered and run in a non-discriminatory WTO compatible or ISO compatible way. There was also an interesting point under sub-paragraph (iv) of the proposal on the question of mutual recognition and equivalency. The European Communities embed the whole work programme in the ongoing work in the WTO to make sure that TBT colleagues brought in their technical expertise, which they would deepen in a workshop to be held in October 2003. This would also make sure that all programs, such as GEN and the relevant international organisations, such as UNCTAD and UNEP, came in to support that work programme. Concerning the EC proposed recommendation, Ministers needed to send a political signal that a modern market needed this sort of work and that market access could only be secured on a non-discriminatory and transparent basis if these issues were examined in-depth within the WTO.

57. The representative of the Philippines asked first how the European Communities intended the WTO to intervene in the non-governmental or private standard-setting process. Moreover, the Philippines noted that there was no fundamental agreement at present on whether the WTO considered eco-labelling as compatible to its rules. This issue had been discussed extensively in the past by the CTE and the TBT Committee and no consensus had ever been reached on the WTO compatibility of eco-labelling. On the contrary, the Philippines felt that the debate so far had clearly pointed out that eco-labelling schemes, despite their voluntary nature, were not automatically consistent with the WTO. Second, the proposal implied that there was a recognition of the legitimacy of the life-cycle approach in the WTO. For the Philippines, the concept of LCA was closely linked to the issue of non-product related processes and production methods (PPMs), which several delegations, including the Philippines, believed was not within the scope of the WTO.

58. On the proposal by the European Communities for dedicated sessions, the Philippines needed clarification on what was meant by "instruments to facilitate applications for eco-label from companies in developing countries". The Philippines foresaw that this would put onerous obligations on exporters from developing countries for eco-labels with which they might not be able to comply. While the proposal intended to improve market access for developing countries, it also denoted an undertaking, or certain legal obligations, with respect to these measures. With regard to sub-paragraph (iii), in the Philippines' view, the TBT Agreement was adequate to gauge whether an eco-label scheme was being used as a protectionist tool or applied in a discriminatory manner; there was therefore no need to establish additional guidelines, especially for the private sector side. The Philippines needed some clarification on the suggestion of the European Communities that the CTE should "examine ways to increase ... publicity for existing and new schemes".

59. The representative of Australia had questions similar to the ones raised by the Philippines. Given the late submission of the recommendation, Australia had only had the opportunity for an initial consideration of the paper. To begin with, Australia recalled its previous position on whether or not to have recommendations and nothing had changed in that regard. Indeed, the lateness of this

¹¹ WT/CTE/W/225, 6 March 2003, "Labelling for Environmental Purposes", Submission by the European Communities under Paragraph 32(iii).

proposal made it very difficult for Australia to see how to do any justice to a proper discussion of the issues it raised. In terms of whether this was the right time and place for such a proposal, Australia was concerned that the EC proposal had the potential to duplicate work underway in other fora, in particular in the TBT Committee. Australia drew Members' attention to the labelling learning event scheduled after Cancún.¹² Australia was not quite sure how the two activities would relate to one another. Australia's view was that the TBT Committee was the appropriate forum to discuss issues relating to labelling.

60. Concerning the substance of the proposal, Australia noted its focus on voluntary eco-labelling schemes. Australia questioned, however, the suggestion that this focus be narrowed to LCA; especially since many Members in the CTE, including Australia and the Philippines, had raised concerns about the meaning and implications of LCA. Australia noted the comment at the end of the proposal that the work programme was without prejudice to other issues, including mandatory labelling; This was not particularly reassuring. Australia also had some questions about the reference to paragraph 15 of the WSSD Plan of Implementation¹³ on sustainable consumption and production patterns, which referred, in fact, to voluntary, effective, transparent, verifiable, non-misleading and non-discriminatory consumer information tools. Any study, in Australia's view, that was referenced to the WSSD Plan of Implementation would therefore need to look at consumer information tools as a whole rather than just labelling alone. Australia had listened to the introduction by the European Communities on how its proposal corresponded to the needs of the market-place and believed that Members needed to look at it in a much more holistic fashion, including other consumer information tools.

61. The proposal made certain assumptions which Australia questioned. For example, the proposal opened with the words "in order to enhance the mutual supportiveness of trade, environment and development policies ...". This assumed that eco-labelling schemes achieved environmental objectives and assisted Members' trading based on their comparative advantage. Australia considered that there was a need to examine whether this was in fact the case before embarking on such a work program. The wording in paragraph 3 of the proposal, which read: "in view of the role of voluntary eco-labelling schemes as market-based tools to promote more sustainable production and consumption patterns", also made assumptions. The role of these schemes needed to be distinguished from their objectives; and other fora were analysing whether the role that these schemes were playing in reality matched their objectives. This same assumption was made in sub-paragraph (i) of the paper. Concerning the suggestion, contained in sub-paragraph (i), that the CTE aim at identifying instruments to facilitate applications for eco-labels from companies located in developing countries, Australia noted that the TBT Agreement had obligations in relation to the development and implementation of standards (Code of Good Practice for the Preparation, Adoption and Application of Standards, Annex 3 of the TBT Agreement). Therefore, Australia questioned whether the EC paper was proposing to duplicate work which was taking place elsewhere. Australia would continue to examine the more specific proposals made in sub-paragraphs (ii), (iii) and (iv). Australia's initial thoughts were that there were some interesting suggestions but there was a need to avoid duplication with work that was going on elsewhere.

62. In conclusion, Australia's initial reaction to the proposal for three dedicated meetings was that this might be going too far on the specifics before there having been an opportunity to discuss the proposal in detail. Moreover, it was not clear to Australia why there should be three meetings on this issue and how this would match with work under the other areas of paragraph 32.

63. The representative of Canada found the European Communities' proposal useful and constructive for the work in the CTE on voluntary eco-labelling programs. Whether or not the CTE received further direction from Ministers at Cancún on this item, Canada believed this submission

¹² The TBT learning event on labelling will held on 21-22 October 2003.

¹³ See WT/COMTD/W/106/Rev.1, WT/CTE/W/220/Rev.1, 20 December 2002, "Report of the World Summit on Sustainable Development", Note by the Secretariat, Revision.

could be a useful basis for discussion in the CTE after Cancún, and noted that the proposed work was focussed on voluntary eco-labelling programs without prejudice to other types of environmental labelling programs. Canada also supported ongoing work in the TBT Committee to develop a program for a learning event on labelling and believed that the work in the TBT Committee *and* in the CTE could and should be complementary and mutually beneficial. However, Canada noted that there did not seem to be a proposal for a focus on eco-labelling in the TBT learning event. Therefore, those delegations interested in this issue should push on that item. Labelling fell under the disciplines of the TBT Agreement and Canada continued to encourage a dialogue between the CTE and the TBT Committee, including on voluntary schemes. Canada had one specific comment on sub-paragraph (ii) of the European Communities' proposal: all Members, not just developing countries, would benefit from the fullest possible access to the definition and operation of such schemes. Finally, Canada drew Members' attention to its communication on labelling¹⁴, which had been previously circulated in the TBT Committee. Since this document was discussed at a previous meeting of the CTE, Canada had requested the Secretariat to circulate it in the CTE.

64. The representative of Brazil considered that the EC proposal presented an unnecessary duplication of work conducted in the TBT Committee. Brazil stressed that the TBT Committee had agreed on a learning event on labelling to be held in October 2003. This event would be the appropriate moment to discuss and to enhance understanding on the issue of labelling. Moreover, Brazil's position was that the TBT Agreement already encompassed labelling for environmental purposes. Brazil reiterated its position that it did not favour recommendations to be presented to Ministers in Cancún. On the proposal itself, Brazil could not agree to three dedicated sessions in the CTE; it was not clear to Brazil why labelling should be treated differently in relation to other items under paragraph 32, such as the relation between the TRIPS Agreement and the CBD. Regarding the sub-paragraphs of the proposal, Brazil was still considering them but its comments would be in line with those of the Philippines and Australia.

65. The representative of Switzerland entirely supported the EC proposed recommendation. In light of the increasing number of initiatives on eco-labelling, and the trade-related aspects of these, Switzerland believed that it was essential to continue the dialogue, particularly on LCA. Devoting a number of meetings to this subject was a good way of ensuring this. Switzerland was also of the view that the elements provided by the European Communities for the work programme were relevant, particularly in terms of the environmental dimension of eco-labelling. There was room to find solutions to the difficulties and needs faced by developing countries. Moreover, there was a need to encourage transparency, cooperation and coordination at different levels and between different WTO Committees, as well as with other international organizations. This would enable Members to benefit from the expertise available and avoid duplication. As suggested by the European Communities, Switzerland agreed that efforts be focussed for the time being on voluntary eco-labelling, which today represented the major part of eco-labelling initiatives. This would not, however, prejudice possible discussions in the future on mandatory eco-labelling.

66. The representative of Thailand agreed with the statements made by the Philippines, Australia and Brazil. Thailand did not see the need for Ministers to take a decision on this issue considering their heavy workload and that this issue was in any case on the agenda of the CTE. Thailand agreed with Australia on the need to avoid duplicating work taking place in the TBT Committee; it was the TBT Committee that had the expertise and the competence to discuss eco-labelling as a whole. In addition, there was to be a TBT workshop on the subject and Members could therefore wait for the result of that event. Thailand nevertheless saw merit in the proposal of the European Communities in respect of sub-paragraph (iv) on mutual recognition and equivalency agreement for eco-labelling schemes.

¹⁴ WT/CTE/W/229, 23 June 2003 "Labelling and Requirements of the Agreement on Technical Barriers to Trade (TBT): Framework for Informal, Structured Discussions", Communication from Canada. This document was originally circulated in the TBT Committee under the symbol G/TBT/W/174/Rev.1.

67. The representative of China stressed the need for more time to consider the implications of the EC proposal, particularly for developing countries, before giving an official position on the proposal. It was noted that eco-labelling was a complex issue which had been discussed at length. The issue was also related to the work of the TBT Committee, the Committee on Agriculture as well as the Committee on Trade and Development (CTD). Moreover, there was some relevance to the work of UNEP and ISO. China further stressed that the workload in the area of trade and environment was already very heavy and that it was not appropriate to add to it if Members wanted to complete the negotiations by 1 January 2005. The proposals put forward in the context of the CTE Special Session also needed to be considered. Considering the above, the decision to put this issue to Ministers was premature.

68. The representative of Hong Kong, China shared a number of concerns expressed by the Philippines, Australia, Brazil and Thailand namely: (i) the duplication of work with the TBT Committee (which was the appropriate forum to discuss the issue); (ii) the LCA approach; and, (iii) the need for dedicated sessions since the CTE had already been entrusted by Ministers in Doha to address this issue under paragraph 32.

69. The representative of Cuba indicated that there was no reason for the debate on labelling to be individualised in dedicated sessions. There were other fora to deal with these issues and, in any case, it was already on the agenda. Like others, Cuba considered that such an approach was an unnecessary duplication of work. Moreover, Cuba was concerned with the LCA concept and preferred that this type of analysis was not undertaken. Cuba stressed the difficulties small delegations had with respect to the burden of work. The proposal to have dedicated sessions would mean an additional burden for Cuba. Therefore, Cuba supported those delegations who were against forwarding the recommendation to Cancún.

70. The representative of the United States noted that since this proposal was tabled very late, Members could not expect to reach a consensus on any possible recommendation of this nature at the current meeting. A number of other delegations, including Australia, the Philippines, and Brazil, had made points that reflected the United States' fundamental view on these issues and which the United States had also expressed in previous discussions under paragraph 32. The United States believed that eco-labelling would be most appropriately and meaningfully addressed in the TBT Committee, particularly in the context of the Third Triennial Review, which was currently underway. There were no particular characteristics of eco-labelling, including their potential trade restrictiveness, that were not present in other types of labelling programs and that raised concerns that could not be adequately addressed under the disciplines of the TBT Agreement. In fact, continuing attempts to single out eco-labelling beyond the Doha mandate, could only further contribute to the misperception that these schemes were somehow unique. Like other delegations, the United States was concerned by the focus on LCA in voluntary labelling schemes. The United States was also surprised by the ambitiousness of the suggested *three* dedicated sessions. Finally, the United States was concerned with the expectation that the CTE would intensify work on this issue and even anticipate recommendations for more future action rather than wrapping up this work under paragraph 32(iii).

71. The representative of Japan considered the European Communities' proposal to be a good one. The issue was of high interest to the society, industry and consumers. As had been pointed out by Japan on a number of occasions, consumers' and industries' concerns on environmentally friendly products were increasing and this tendency was not limited to developed countries. For reasons of market share, it was increasingly important for developing countries. Therefore, the CTE needed to continue the discussion. Japan wondered, as other delegations had, why the European Communities highlighted only eco-labelling schemes based on LCA. Japan's industry had questioned – with regard to paragraph 32(iii) – the scope of the term "labelling requirements for environmental purposes". The industry was concerned with the relationship of WTO rules with Type II eco-labelling schemes. With regard to the proposed dedicated sessions, while Japan considered that such session could be useful,

three such sessions could be too burdensome for the CTE. One possible idea would be to have regional dedicated seminars since, as pointed out by the European Communities, the major beneficiaries were developing countries.

72. The representative of the Czech Republic fully supported the EC proposal to organize dedicated sessions and engage in a positive dialogue among Members on voluntary eco-labelling schemes. This would be a useful first step to reach improvement on labelling requirements for environmental purposes – which was in the interest of all Members. Further, while the Czech Republic agreed that the TBT Committee had technical expertise on the subject matter, he had a problem in limiting the discussion of labelling for *environmental* purposes to that Committee.

73. The representative of Indonesia noted that after hearing statements from many delegations, including the Philippines, Thailand, Australia, Hong Kong China, Brazil, Cuba and the United States, it was evident that there was no consensus to take action in the CTE. The TBT Committee was the right Committee to address this issue. Indonesia stressed the need to avoid duplication. As had been mentioned by Thailand, there were various activities undertaken in the TBT Committee on labelling which would be appropriate enough. Moreover, the work burden for small delegations needed to be considered. On substance, there had been no conclusion on the discussion of the issue of LCA or PPMs; much needed to be done and Members were not likely to come up with any recommendation referring to this issue. On the role of voluntary eco-labelling schemes as a market-based tool to promote more sustainable production and consumption patterns, Indonesia understood that the issue was quite important in line with what was stipulated in Agenda 21 and the WSSD Plan of Implementation. However, Indonesia stressed that voluntary eco-labelling schemes were not the only tools to promote sustainable production and consumption patterns, there were other ways to do this. Indonesia referred, for instance, to the question of adequate financing. As Indonesia's concerns on the issue of eco-labelling were clear, and had already been reflected, the representative of Indonesia stressed the fact that there was no need for Ministers to address the issue if consensus had not been reached.

74. The representative of Poland was of the opinion that the EC proposal was realistic and well drafted and he shared Canada's view that it was useful and constructive. The issue of eco-labelling was very important and the discussion on this topic needed to continue. Poland considered that this proposal was a good and proper way to fulfil the CTE's obligation under the Doha mandate.

75. The representative of Malaysia shared the concerns of many delegations including the Philippines, Australia, Thailand, Brazil, Indonesia and Cuba on the EC proposal. Malaysia did not support any recommendation to Ministers regarding dedicated sessions as suggested by the European Communities. Like other delegations, Malaysia questioned the basis for an approach focused on LCA and, like the Philippines, noted the links to non-product related PPMs. Labelling requirements, even those for environmental purposes, were part of technical regulations and standards; if there were problems with the implementation of environment labelling schemes, it would be preferable to deal with them under issues related to transparency, conformity assessment and good regulatory practices. These were being adequately dealt with in the TBT Committee and duplication needed to be avoided. Malaysia agreed with the United States that the work in the CTE should be wrapped up in this respect.

76. The representative of Cyprus expressed his delegation full support for the EC proposal.

77. The representative of Nicaragua supported what Brazil, Cuba, the Philippines, China and the United States had stated. Nicaragua believed that the TBT Committee was the appropriate forum to deal with eco-labelling; duplication needed to be avoided. Regarding dedicated sessions, Nicaragua generally felt that it was important to disseminate information but did not believe that it was appropriate to have these sessions as part of the programme of work of the CTE. Regarding the focus on LCA, Nicaragua considered that this issue needed to be approached in a way which would allow

for a broad coverage of the interests of all WTO Members. Finally, Nicaragua did not favour that this issue be tackled specifically within the CTE. If that were to be the case, it would also be important to address the issue of the use of criteria other than the LCA, which were more comprehensive, and which also took into account the different approaches that already existed.

78. The representative of India, considering the views expressed by India and other delegations on the legal status of voluntary eco-labelling schemes based on LCA, was concerned about the focus on such schemes. India was also concerned with the proposal for dedicated sessions. There were many different sessions in the CTE: there was the "regular session", the "special session", the "information exchange sessions", and now a proposal for "dedicated sessions". It could be difficult for a number of delegations to cover all these sessions. The first element proposed by the European Communities was about fostering trade and environmentally friendly products from developing countries. India would welcome further work by UNCTAD, UNEP and other organizations on this issue. The second element was about technical assistance to developing countries, designing eco-labelling schemes, participation in international standardization process, information about eco-labelling schemes and difficulties in applying eco-labels in the export market. Again, India welcomed the continuation of this type of work in UNCTAD and other organizations such as UNEP and the International Trade Centre (ITC). However, India did not see what role could be played by the CTE in this regard. The third element proposed by the European Communities related to ensuring that eco-labelling schemes were developed and administered in a non-protectionist, non-discriminatory, transparent and participatory way, in particular examining the ways to increase transparency and publicity of schemes. This was an important issue. India recalled that the TBT Committee had taken a decision about notification of voluntary schemes during its first triennial review. That decision had played an important role in bringing transparency in eco-labelling schemes. India believed that the TBT Committee could continue to discuss this issue. The fourth element was about mutual recognition and equivalency agreements. India had also been highlighting this issue for quite some time. However, being voluntary schemes, the work on this issue had mainly to be done at the bilateral level. Nevertheless, the TBT Committee could further discuss this issue. The European Communities had raised important issues with regard to voluntary eco-labelling schemes. India believed that the TBT Committee could further work on this and there was no need for any duplicity of work with the CTE in this regard. India did not think that there was a need for the CTE to make a recommendation on these issues to the Ministerial Conference or to seek political guidance from Ministers.

79. The representative of Korea was sympathetic to the EC proposal and believed that CTE work needed to add value to the relevant ongoing work in the WTO. The relationship between the LCA and the non-product related PPMs was not clear and there were concerns related to this approach. Korea understood that these concerns arose from the assumption that adopting the EC proposal might lead to a *de facto* recognition by the WTO on the non-product related PPM principle. In light of this, and as a practical step forward, Korea suggested that the concept of LCA be deleted from the EC proposal. Korea was also of the view that it would be much easier to have a consensus in the CTE if the proposal was simplified, thus providing only general direction to the work on voluntary labelling. Finally, Korea emphasized the importance of transparency, mutual recognition and capacity building in respect of labelling schemes in developing countries.

80. The representative of Ecuador expressed concern on the scope of a life-cycle based approach. Ecuador did not understand the reason for focussing on eco-labelling as the other paragraph 32 issues might be of equal importance to a number of countries. Therefore, Ecuador considered that it was inappropriate to forward this as a recommendation to Ministers in Cancún.

81. The representative of Egypt said his concerns had been reflected by other delegations. For Egypt, this ongoing debate was very much related to the Canadian proposal on the review of the CTE's work program. Egypt considered that when starting that exercise, this item should be the first one to be re-visited, deleted and conferred totally to the TBT Committee.

82. The representative of Colombia was of the view that the proposal would lead to a duplication of work with the TBT Committee. For small delegations from developing countries, like Colombia, this would also mean a duplication of work and effort for the officials concerned. Therefore, Colombia did not think that it was necessary to devote three sessions to this issue and was not able to support this recommendation to Ministers.

83. The representative of Canada pointed out that there was no discussion in the TBT Committee on eco-labelling, although Members kept talking about overlap. Even when Members could have had it on the agenda of the TBT learning event, it was not done. Therefore, Members needed not to worry; it was a CTE issue. The TBT Committee did not want to take it away from the CTE. In fact, the TBT Committee should be helping the CTE, but it was not. Canada believed that among all items on the CTE agenda it was the least likely item to come off it.

84. The representative of Argentina shared many of the concerns expressed by other delegations, including the Philippines, namely that it was not advisable to forward a recommendation from Ministers in Cancún nor was it possible to dedicate three sessions to the detriment of other points in paragraph 32. Argentina considered that the balance needed to be maintained. Concerning the concept of LCA, Argentina had major concerns and would need time to consider it as it involved crucial issues in international trade, such as elements not related to the characteristics of the product. In response to Canada's statement, Argentina stressed that what the TBT Committee had agreed to was an informal meeting, a learning event, to address all the issues connected to labelling, including environmental labelling. There was nothing that precluded the subject of environmental labelling to be included in the learning event. This event was organized on the basis of proposals from Members. Members had decided and discussed which was the most appropriate forum for the discussion of this issue and Argentina shared the view of many delegations that the TBT Committee was the best forum. Discussions in the TBT Committee would be much more productive and enlightening than if they were held in the CTE. Similarly, concerning paragraph 32(ii) and the relationship between the CBD and the TRIPS Agreement, many delegations thought that this issue would be best addressed in the TRIPS Council.

85. The representative of Hungary did not consider that Members discussing eco-labelling in the CTE was a duplication of work. Hungary had a problem with the association of environmental purposes with pure technical understanding of technical barriers to trade. Hungary welcomed the EC submission and supported all items and issues included in it.

86. The representative of Mexico, reacting to Canada's statement, noted that the issue of eco-labelling was an issue of interest to all Members. There was an interest to ensure that these types of measures were not translated in technical barriers to trade, and that Members complied with the rules of transparency. Several delegations had referred to the Third Triennial Review of that Agreement. If no formal contribution had been made in the TBT Committee, this was the full responsibility of Members. Therefore, the fact that the issue had not been considered specifically was really dependent on Members. Eco-labelling was part of the general subject of labelling, which was part of technical regulations. Mexico felt that there should be no distinction between technical regulations on labelling and labelling for safety or other concerns. Therefore, the TBT Committee and the TBT Agreement granted sufficient space to address this issue and to avoid that any technical regulation - not just eco-labelling regulations - constituted unnecessary barriers to international trade. On the learning event, Mexico considered that there was the possibility of approaching the subject of environmental labelling and addressing it. In fact, there were a number of examples in the programme of this event which would make it possible to address some of the concerns of Members in this respect. In conclusion, Mexico believed that there should not be an overlap between the work of both Committees.

87. The representative of the European Communities recalled that only two weeks earlier the European Commission had received a letter from European business asking for negotiations on this

very subject. Therefore, this was not something that the European Communities had simply invented - it was an issue of importance to the business community. It seemed that all delegations needed a bit more time to reflect on what was actually proposed. The representative of the European Communities questioned whether the proposal was really something which was so incompatible with Members' own agenda. He failed to understand how delegations could argue that this issue needed to be taken off the agenda if, at the same time, Ministers in Doha had agreed to give a particular focus to it. It was not without reason that this issue had been singled out. Some delegations even failed to see why this issue was unique. However, there certainly seemed to be a demand, formulated in the Doha Declaration, to look at this in a specific way, and that was exactly what was proposed: to focus the CTE's work on this particular item. The European Communities did not understand how it could be claimed that this was a duplication of work since delegations were opposed to an eco-labelling window in the TBT learning event and, as Canada had pointed out, this would *not* be a main focus of the Triennial Review. For the European Communities, those delegations that did not want to discuss this issue in the CTE were in a sort of negative coherence. In the CTE, Members had a mandate, which they needed to fulfil.

88. On the Philippine point, to the effect that the European Communities were intruding into purely private initiatives, there was a slight misunderstanding. It was not so that all voluntary labelling initiatives were private; and even if they were private, the TBT Agreement had something to say about the operation of private labelling schemes. There was also a question of what was meant by the word "instruments" in the first sub-paragraph. This could be, for example, an instrument to foster participation of developing countries by giving them reduced fees for certification or access to labels. Australia had said that this issue should be dealt with in the TBT Committee. However, the European Communities recalled that Australia was one of the delegations that did not want to address this topic in the TBT Committee either. Regarding the WSSD focus on consumer information tools, the European Communities would not be against further expansion of what was covered. But as far as could be seen on the market, it was basically labelling which was assuming that role, but there might be other means.

89. The European Communities welcomed the comments from Canada, which had put some of the points into perspective. The European Communities agreed that it was not only developing countries who would benefit from the optimal operation of some of these schemes. There were a number of comments from Brazil and others about singling out this issue from labelling. The European Communities believed that the mandate spoke for itself; moreover, if one looked at notifications, it was particularly interesting to see how many related to labelling as such and how many related to eco-labelling. It showed that there was a real demand for this particular item. The question of LCA and whether that was an adequate focus of work had been put forward by some delegations. The European Communities drew Members' attention to a GEN document¹⁵ which actually did look at the meaning of LCA and what criteria were usually used to define LCA. This preliminary study showed that only 10 per cent of the criteria were actually non-product related PPMs. LCA was hence broader and that was the reason why a debate was needed. This was not just the "back door" for PPMs as some delegations feared.

90. The European Communities welcomed the comments from Japan, and in particular the idea to use regional seminars as a way to focus on the window of capacity building. Regional seminars were sometimes more efficient than bringing people to Geneva, or bilateral work. Indonesia made some comments about linking this to financing and the WSSD in a broader context - a point which was well taken. On technical assistance, the European Communities concurred with India which had mentioned work going on in UNEP and other organizations. However, these organizations could not do the job on their own. What the trade community wanted was that the WTO, which was the only organization that administered rules, had a say in that discussion.

¹⁵ Footnote 9, *supra*.

91. The European Communities recalled that Australia, for example, had gone through great trouble to bring to Members' attention a APEC workshop in order to make Members aware of the fact that there was an agreement among countries on a Chairman's statement, which excluded negotiations on eco-labelling. The European Communities had, in fact, lowered its ambition and was asking for something rather modest, i.e., a number of dedicated sessions. For those who believed that there were too many different kinds of sessions, it was pointed out that in other Committees, there were dedicated sessions on top of special sessions and regular sessions. This was therefore nothing new. The European Communities had tried to take into account many of these concerns by actually going back from the position it held before the Doha Ministerial Conference where it wanted a number of issues to be *negotiated*, including eco-labelling. The result of Doha was an enhanced work program. In other WTO Committees, the European Communities had constantly reacted quite positively to similarly focused work. The European Communities appealed to other delegations to step back and see how all this fitted into a broader context and then reconsider whether the way forward proposed by the European Communities was not a way to please everybody.

92. The representative of Australia reacted to the comments from the European Communities and those of Canada on the issue of the TBT learning event. Australia's understanding was that it was up to Members to bring forward case studies if they wanted to do so. In fact, one or two delegations were planning to put forward case studies which included eco-labelling. Australia believed that the suggestion that there was an unwillingness to discuss this issue in the TBT Committee was incorrect. Moreover, the labelling learning event was the most appropriate way to look at all the issues that arose. It was up to Members to bring issues forward.

93. The representative of the United States wished to follow-up on a point made with respect to the Doha Ministerial mandate and the direction to Members to discuss these issues in a focussed manner. The representative of the United States sensed a suggestion by the European Communities that Members might not have followed through with that mandate. He wished to clarify that in the view of the United States, Members had been proceeding with that mandate. While the mandate was associated with particular demandeurs, the US delegation had taken an active part in the discussion. But this was relatively difficult because papers from some of the demandeurs themselves arrived late. However, the continuing references to the TBT Committee and comments that these were issues that were most appropriately addressed in that forum and under that Agreement reflected the conviction of the United States. In fact, it seemed that many other delegations were similarly of the view that there were no unique characteristics to eco-labelling that would suggest a particular approach, or would suggest that the TBT Agreement was not sufficient. While the United States had come into this discussion with an open mind and a readiness to be convinced that there might be some unique characteristics, there was certainly no commitment in the Doha Declaration that Members should be so convinced. And, as a result of these discussions, the United States continued to question whether there were characteristics of eco-labelling that warranted intensification of the work program beyond the Fifth Ministerial.

94. The representative of Egypt noted that Members did have a clear mandate from Ministers to discuss this issue in paragraph 32. But whether negotiating under paragraph 31, or discussing under paragraph 32, this did *not* specifically mean that the best place to deal with the issue was the CTE – either in special or regular session. For example, in the case of environmental goods and services, Members had agreed, in the Special Session, to confer the topic to the services negotiations and to the non-agricultural market access negotiations.

95. The representative of the European Communities acknowledged that his delegation was quite late in submitting the proposal and hoped that when Members had had more time to consider, that their reflection would be more nuanced. On the mandate, the European Communities pointed out that there was a big difference between paragraph 31 – where there was no Committee ascribed to doing a negotiation on environmental goods and services – and the instruction in paragraph 32 where the CTE had explicit instructions.

96. The Chairman concluded the item by noting that there was no consensus on forwarding the proposed recommendation by the European Communities to Ministers in Cancún.

E. OTHER ITEMS

97. No developments have been reported with regard to this matter.

III. PARAGRAPH 33

98. No developments have been reported with regard to this matter.

IV. PARAGRAPH 51

99. No developments have been reported with regard to this matter.

V. ADOPTION OF THE CANCÚN REPORT

100. The Chairman recalled that the process to develop this report had been a long one. It started even before his time, under the Chairmanship of Ambassador Demiralp, of Turkey. Members had had the opportunity to discuss this report at several meetings and comment orally, as well as in writing. More recently, on 30 June 2003, the Chairman held an informal meeting during which Members had the possibility to express their concerns and comments on a second draft. These comments had been given full consideration. Therefore, in the Chairman's view, the final version reflected the appropriate balance of views. It was entirely factual in content and reflected discussions held under paragraphs 32 and 33 between Doha and the current meeting. He noted that it was, of course, difficult to make everybody perfectly happy. However, the Chairman believed that there had been enough opportunity for debate. In his view, the report, as it currently stood, reflected all concerns in a way which was carefully balanced. Therefore, the CTE had now come to the point where the report needed to be adopted. With this in mind, the Chairman formally put the report for adoption.

101. The CTE adopted the Report to the 5th Session of the WTO Ministerial Conference in Cancún pursuant to paragraphs 32 and 33 of the Doha Ministerial Declaration. The document was subsequently circulated as WT/CTE/8.

VI. ADOPTION OF THE REPORT TO THE GENERAL COUNCIL

102. The Chairman noted that in addition to the specific reporting requirement in paragraphs 32 and 33, the CTE, like all other Committees, also had to prepare a report to the General Council. The draft of this report was contained in WT/CTE/W/230. It was basically an update of the CTE's last Annual Report. It included one paragraph on each meeting held in 2003. The Chairman recalled that at the April 2003 meeting, he had suggested that the Secretariat briefly summarized the CTE Regular's activities under paragraph 51 in this report. This was now contained in paragraph 6 of the draft report to the General Council. He asked the Secretariat to read out the suggested text of paragraph 5 of the report (concerning the current meeting) and he then put it to Members for adoption.

103. The representative of Australia agreed that this report represented a factual account of the activities carried out by the CTE in 2003. However, Australia had one comment on paragraph 6 of this draft report concerning the sectoral briefings by the Secretariat, and in particular on agriculture. Australia noted that the second sentence of this summary of the briefing on Agriculture paraphrased a sentence used by the Secretariat in paragraph 5 of its presentation on Agriculture.¹⁶ This sentence in the Secretariat's presentation read: "the debate has been about what are the appropriate and effective instruments to achieve these objectives, and it is in this regard that there are differing views".

¹⁶ WT/CTE/GEN/8, 18 February 2003, "Environmental Issues Raised in the Agriculture Negotiations", Statement by Mr. Frank Wolter at the Regular Session of the Committee on Trade and Environment of 14 February 2003, Paragraph 51.

However, the summary in the draft report, unlike the presentation, failed to put this sentence into context. The Secretariat's presentation went on to discuss the differing views about the environmental impact of trade distorting agricultural policies. The connection between the debate on instruments and these differing views was clearly spelt out in the conclusion to the presentation by the Secretariat.¹⁷ Thus, Australia wished to add to this summary in paragraph 6 of the report "and it is in this regard that there are differing views about the environmental impact of trade distorting agriculture policies". This picked up language directly from paragraphs 5 and 6 of the Secretariat's presentation on Agriculture.¹⁸ Australia raised this issue simply to ensure that the report reflected more accurately the Secretariat's presentation and hoped this small change would be acceptable to Members.

104. The representative of the European Communities found the report, as it stood, agreeable. The European Communities noted that in these reports there seemed sometimes to be a slight misunderstanding about how many delegations were represented when the European Communities spoke. It was not "one Member", but rather 15 Members. While the European Communities did not want to re-open the text for fear of re-opening the debate, the European Communities wished to make the comment for the record. This might be a solution for Australia, i.e. to simply ensure that its comment was on the record.

105. The representative of the United States supported the change proposed by Australia; it was quite a useful point, which clearly provided a more accurate context for those discussions. However, the United States said that the section on paragraph 51 stood out from the rest of the text of the draft report, which was sequential in describing meetings. The United States would be content as an alternative to have a further distilled version of this paragraph to simply note that Secretariat reports were provided. Therefore, the United States could either go with Australia's suggestion, which did seem to reflect more accurately those discussions, or alternatively go for a reference to paragraph 51 that was simply mentioning those particular documents.

106. The representative of Brazil made a minor suggestion on the reference to paragraph 32 to the effect that the whole title of paragraph 32(i) and 32(ii) be spelt out. Moreover, Brazil supported Australia's proposal on agriculture. The United States had also made a very useful suggestion and Brazil would be flexible on that.

107. The representative of Korea was not in a position to accept Australia's proposal on agriculture for the same reason stated by the European Communities. Korea supported the text as it was.

108. The representative of Colombia considered that the report submitted by the Agriculture Division was rather well balanced since it presented the different views that were being negotiated. Therefore, Colombia supported the proposal from Australia to supplement this paragraph. But Colombia was also flexible on the US proposal to dilute this paragraph even more.

109. The representative of Australia stressed that the proposed language was not meant to be provocative but more to accurately provide context for what was there. In the interest of moving forward, Australia would be happy to take up the suggestion by the United States of merely referencing the presentations by the Secretariat instead of including the textual summary.

110. The representative of the European Communities considered it a pity to forego an opportunity to give some flavour of the debate in the report to the General Council. The European Communities had argued, like other delegations, for a long time that paragraph 51 should be a substantive part of the CTE's work. Since this paragraph only touched upon the environmental aspects of the various discussions, it was very clear that there was no language of differing views on subsidies in this report. The purpose, as could be seen from paragraph 6 (b), (c) and (d), was not to rehash the agriculture

¹⁷ *Ibid.*

¹⁸ *Ibid.*

negotiations but to highlight the environmental content of the debate. Therefore, the European Communities was perfectly happy with the text, and was not in favour of taking out any substance.

111. The representative of the United States viewed paragraph 51 as very important in terms of the Doha Mandate and had made that clear throughout the discussions in the CTE. In fact, the United States had been frustrated at times that there did not seem to be a similar commitment on the part of a number of delegations. That said, paragraph 51 had been selectively treated in terms of the time that had been devoted to it compared to paragraphs 32 and 33. Therefore, the United States believed that it might be best to simply reference these Secretariat reports rather than trying to selectively take out from those reports. Moreover, it would seem to solve an immediate problem regarding the Australian suggestion without prejudicing in any respect the views of various delegations on this particular negotiation.

112. The representative of Argentina also considered that paragraph 51 was important and considered that the Secretariat presentations were well balanced. Argentina understood that it was difficult to summarize all sorts of shades of meaning and interpretation. Argentina believed that the European Communities was right in the sense that this could perhaps give an idea of what the tone was. However, to have an idea of the tone of the report, nothing was better than reading the actual report. Therefore, Argentina agreed with the United States' proposal to just reference, and not to open up the debate on the reports, which had already been submitted and did not arouse any discussion.

113. The representative of Chile supported the US proposal and, as Argentina said, noted that what was going to be reflected here were reports from Directors of the respective divisions regarding the debate in particular areas. Therefore, Chile did not see the need to go into details. Like the European Communities, the United States and Argentina, Chile felt that paragraph 51 was important. However, Members had just received reports and had not had a substantive discussion.

114. The representative of Canada indicated that Canada could have taken the report as it was and could also accept the Australian proposal. Canada believed that the US approach had merit. However, by just referring to the documents from the Secretariat, Members would lose the flavour of the subsequent discussion; if that route was followed, there would be a need to make a cross-reference to the meetings where discussions had taken place.

115. The representative of Thailand gave high importance to paragraph 51 where both the environment and development aspects of the negotiation were stated. Thailand did not recall that, in the CTD, there was a discussion on how to report on this aspect to the General Council. Thailand believed that since there was no substantial discussion on this issue in the past, it was more appropriate, as suggested by the United States, to just quote the reports of the Secretariat.

116. The representative of Chinese Taipei added his voice to the views expressed by Korea, Japan and the European Communities.

117. The Chairman recalled that Members had agreed to include a few paragraphs on paragraph 51 in his report to the General Council at the last meeting, in April 2003. The attempted text was simply a report with some flavour of what was going on elsewhere. As a compromise text, the Chairman proposed to strike out the second sentence and replace it by the following text, taken from paragraph 5 of the Agriculture report: "The debate was about what were the appropriate and effective instruments to achieve these objectives and it was in this regard that there were different views".¹⁹ There were no objections to this modification.

118. The CTE adopted its Report to the General Council, as contained in WT/CTE/9.

¹⁹ WT/CTE/GEN/8, *op. cit.*

VII. OTHER BUSINESS

119. The representative of the European Communities drew Members' attention to an event entitled "A Sustainable Trade Day", which Commissioner Lamy would host on 9 September 2003 in Cancún. The objective was to hold a debate on the situation after the WSSD, and following one and a half years of WTO negotiations. The seminar would be broader than the Doha Development Agenda, covering issues such as private public partnerships, corporate social responsibility and sustainability impact assessment. It would engage policy makers, Ministers, civil society and academia. The European Communities encouraged delegations to share this information with their capitals and with those who had an interest. On a separate point, the European Communities announced an event organized by the European Services Forum on the state of play on environmental services from the European industries' point of view. The event would take place on 8 July 2003 in the WTO.

120. In conclusion of the meeting, the Chairman thanked delegations for their constructive approach, which had allowed the CTE to adopt two important documents: the mandated report to Ministers in Cancún on paragraphs 32 and 33 and the CTE's Report to the General Council. The report to Cancún was a particularly significant milestone as the last such substantive report was the Singapore Report (1996).

121. Finally, the Chairman recalled that the next meeting of the CTE Regular would be held on **28-29 October 2003**, followed on 30-31 October by the CTE Special Session.
