SPECIFIC TRADE CONCERNS (Retirado do documento G/TBT/M/41)

New Concerns

UE x China - Unified charges for telecom terminals

China – Unified charges for telecom terminals

The representative of the European Communities expressed concern about a possible future requirement on all new type approvals of telecom terminals. The European Communities asked for an update on the status of the recently adopted Chinese standard for unified charges and asked, in particular, whether compliance with the standard would be mandatory or not.

The representative of China took note of the concern.

UE x Filipinas - Ceramic wall and floor tiles

Philippines - Ceramic wall and floor tiles (G/TBT/N/PHL/77)

The representative of the European Communities drew the Committee's attention to the link between the above-mentioned notification and two other Philippines notifications raised previously in the TBT Committee (PHL/60 and 63). After examination, the newly notified draft standard (standard 154/2007) had been considered as practically identical with the standard of 2005. The international standard ISO 13006 had not been taken into account as stated in the foreword and the notification was therefore not in compliance with Article 2.4 of the TBT Agreement. The European Commission invited the Philippine authorities to engage in a constructive discussion with the EC authorities in order to avoid the adoption of technical regulations which would be more restrictive than necessary.

The representative of the Philippines took note of the points raised and informed the Committee that the deadline for the comments was 7 April 2007.

Japão x China - Requirements for Concentration Limits for Certain Hazardous Substances in Electronic Information

China - Requirements for Concentration Limits for Certain Hazardous Substances in Electronic Information

The representative of Japan referred to an announcement made by China on 14 November 2006 regarding three sectoral standards based on the above-mentioned regulation. China was requested to notify these standards to the WTO, in line with Article 2.9 of the TBT Agreement.

The representative of China informed the Committee that the Chinese Ministry of Information Industry had issued a standard entitled Requirements for Concentration Limits for Certain Hazardous Substances in Electronic Information Products on 7 November 2006. This involved three standards: marking for control of pollution; cost of electronic information products; and testing methods for hazardous substances in electronic information products. As these standards were *not*

mandatory (they were industrial recommended standards), China did not consider that there was an obligation to notify them under the TBT Agreement.

UE x Coréia do Sul - Safety criteria for various products

Korea – Safety criteria for various products (G/TBT/N/KOR/127)

The representative of the European Communities was concerned about a proposal from Korea regarding safety criteria on 47 different product, in particular with respect to proposed requirements on tires and safety glass for road vehicles. The European Communities informed the Committee that Korea was a signatory party to the UNECE Agreement of 1958 and that the UNECE regulation Number 43 was about safety glass and the regulation Number 30 concerned tires. These two UNECE regulations were considered to be international standards, and, therefore, in line with Article 2.4 of the TBT Agreement, Korea was invited to adopt a specification of those standards instead of adopting specifications which were purely of national origin.

The representative of Korea informed the Committee that the Korean government had adopted an ISO standard and was, hence, in compliance with Article 2.4 of the TBT Agreement.

EUA x Tailândia - Labelling Requirement for Snack Foods

Thailand – Labelling Requirement for Snack Foods (G/TBT/THA/215)

The representative of the United States expressed concern about the above-mentioned notification from Thailand in October 2006 to which the United States had submitted questions that had not been clarified. In particular, the United States did not have a clear understanding of the criteria used to add or remove foods to or from Thailand's list of applicable foods, and the reasons why some categories had been included and others not – as was the case for ice cream. The representative of the United States also inquired about the scientific basis for the ranges set forth in the proposal for colour grades and whether there was any consumer data showing that consumers would not be mislead by this information on the labelling. She was concerned that the food on the list would be "demonized" whereas this food could be part of a healthy diet if eaten with moderation. Moreover, the United States also questioned the merits of putting colour codes on the label as colour grading for the same food could change based on package size – an inconsistency that could be confusing to the consumer. It was the US understanding that the regulation was currently not in force.

The representative of Thailand noted the concerns raised.

China x EUA - Children's jewellery

United States – Children's jewellery (G/TBT/N/USA/232)

The representative of China appreciated the objective of the US draft regulation to protect children's health and informed the Committee that comments had been submitted to the United States. China was of the view that the lead requirement was not in compliance with the least trade restrictive

principle specified in the TBT Agreement. The US requirements did not take into account that the coating provided protection to children and reduced the risk of the exposure. In addition, there was a difference between soluble and insoluble lead. The United States needed to take into account both the exposure and the content of soluble lead rather than focusing on the total lead content in the jewellery. In China's view there was a lack of scientific evidence regarding the lead content requirements. The United States was requested to undertake a risk assessment to ensure that the new regulation did not create unnecessary obstacles to international trade.

The representative of China recalled that Article 2.4 of the TBT Agreement required Members to adopt international standards as a basis for their technical regulations. In this regard, China noted that there was an ISO standard on the safety of toys (ISO 8124), which specified the lead content. China suggested that the United States adopt this standard as a basis for its draft regulation. It was also pointed out that other alternatives to protect children's health were available (rather than setting the tolerance of lead content), for instance, the use of warning labels or marks on Children's metal jewellery. Another concern was the lack of specificity regarding the definition of children's metal jewellery. This could lead to an extension to other products which would lead to an increase of testing and production costs. The representative of China urged the United States to clarify the definition, coverage and the list of children's metal jewellery concerned by the measure.

The representative of the United States noted that her authorities were still considering China's comments; these would be taken into account in the final draft.

UE x Índia - Electrical products

India – Electrical products (G/TBT/N/IND/30 and Add.1)

The representative of the European Communities informed the Committee that comments had been submitted to India regarding the above mentioned notification. He drew the Committee's attention to the related list of electrical products (plugs, sockets or certain electrical households appliances) which would require a mandatory certification from the Indian Bureau of Standards (BIS). The representative of the European Communities asked if these requirements were based on an international standard. He was particularly concerned about the requirements regarding mandatory certification; it was pointed out that alternative measures, which were less restrictive to trade and which nevertheless ensured a high level of safety, could be considered. The European Communities suggested, in this regard, that it could share with India its experience with its Low Voltage Directive.

The representative of India took note of the comments and proposal made.

UE x Índia - Notification on protective headgear

India - Notification on protective headgear (G/TBT/N/IND/31 and Add.1)

The representative of the European Communities requested India to specify whether the above-mentioned notification was based on the international standard UNECE regulation No 22 which provided for uniform provisions concerning the approval of protective helmets and their visors for drivers and passengers of motorcycles and mopeds. If this was not the case, he invited India to

specify the differences between the Indian standard and the UNECE regulation and to outline the reasons why India considered the UNECE regulation 22 was not effective or appropriate to fulfil the legitimate objective pursued by India.

The representative of India took note of the concerns and questions raised.

Previously Raised Concern

Israel (Coréia do Sul, EUA, Brasil, Austrália e Outros - Regulation on the Registration, Evaluation and Authorisation of Chemicals (REACH)

European Communities - Regulation on the Registration, Evaluation and Authorisation of Chemicals (REACH) (G/TBT/N/EEC/52, Add. 1-3 and Add.3/Rev.1)

The representative of the European Communities made a presentation to the TBT Committee on a recently adopted European regulation entitled REACH (see above). The presentation was based on two parts: an overview of the REACH regulation; and responses to Members' concerns and questions.

Overview

The representative of the European Communities stressed that the key **objective** of the REACH regulation was the protection of health, safety and the environment. Identifying and addressing the risks of chemicals was difficult with the previous legislation and the current EU chemicals management system was inefficient. It was problematic to identify risks, and even when identified it was difficult to address the risk as there was (i) a lack of information about most substances on the market; (ii) the burden of proof rested with public authorities; and (iii) there was no efficient instrument to deal with problematic substances. Moreover, there was a lack of incentive for innovation under the previous legislation. In fact, the previous legislation discriminated against new substances in comparison with the ones that had been on the market for a long time because of the much higher requirements and associated costs. The REACH addressed this problem by proposing one system for all chemicals whether they were new to the market or concerned existing substances.

Regarding the REACH proposal itself, it was stressed that the main element was the **registration** requirement for substances imported or manufactured in a volume above one ton per year. In other words, enterprises would have to gather information on the substance, use that information to manage the substance safely and submit information to a central Agency. This information, once gathered, would be passed down the supply chain to allow the rest of the manufacturing industry to use the substances safely. It was stressed that the authorisation system would only address substances of very high concern and, in this sense, the system was built to prioritize according to the likelihood of risk: substances with the greatest potential exposures and being produced in high volumes had to be registered earlier. Moreover, the authorisation system would be tailored to apply to the highly hazardous substance, for instance with respect to substances already known to be carcinogenic, mutagenic or toxic to reproduction (CMRs).

The registration system aimed at ensuring that each EU manufacturer, importer and only representative of a substance took full responsibility for the risk management of the substance. This was done by: obtaining information to assess intrinsic hazards (e.g. through literature search, data

sharing, if necessary testing); assessing the risks from identified uses (if more than 10 tonnes per year); putting in place and recommending risk management measures; and documenting that this was carried out by sending a registration dossier to the Agency by a given deadline. It was pointed out that joint registrations would be the norm in order to reduce costs for enterprises and to minimize the need for animal testing. However, opting out from joint registration would be possible in certain cases if it could be justified on confidentiality grounds or on cost grounds.

The **authorisation** process was to ensure that risks from substances of very high concern (SVHC) were adequately controlled and that they were progressively substituted. These were concerns related to CMRs and those that had been identified as being persistent in the environment, bio-accumulative, accumulating in people's body or in animal's bodies. It was stressed that this was a small proportion of the total number of substances on the market (about 5 per cent) and would be phased into the system and subjected to specific authorisation requirements. Each substance would get an individual deadline and use would be allowed until a decision was taken on each application. The decision on use would be taken by the Commission based on Agency expert opinions. The process would be transparent, allowing applicants and interested parties to comment on the draft opinions prepared by the Agency. Downstream users (for instance those buying chemicals from manufacturers or importers) would be also able to refer to an authorisation obtained by their suppliers.

It was the view of the European Communities that the authorisation system was both risk-based and proportional because of the two ways in which an authorisation could be obtained. First, authorisations could be granted if the applicant was able to demonstrate adequate control of risks. Second, authorisation could also be granted if there was no alternative substance or technology (even if the risks were not adequately controlled) and socio-economic benefits outweighed the risks. The system also took into account risks of alternative substances and research activities considered. Moreover, it was pointed out that the authorisation would be associated with a review period based on substitution plans.

The representative of the European Communities recalled that the review of the previous regulation had begun in 1998 and that a first concrete result (the White Paper) setting out the structure of the proposed REACH regulation had been tabled in February 2001. In May 2003 the internet consultation was launched and an early notice was made to WTO Members (G/TBT/W/208). In October 2003, the modified draft REACH regulation was adopted by the European Commission, and was notified to the WTO in January 2004 (G/TBT/N/EEC/52). The notification was later updated to reflect the Common Position (10 August 2006) and, on 18 December 2006, REACH was adopted by the European Council. A latest notification to the WTO, dated 9 February 2007, is contained in G/TBT/N/EEC/52/Add.3/Rev.1.

WTO Members' concerns

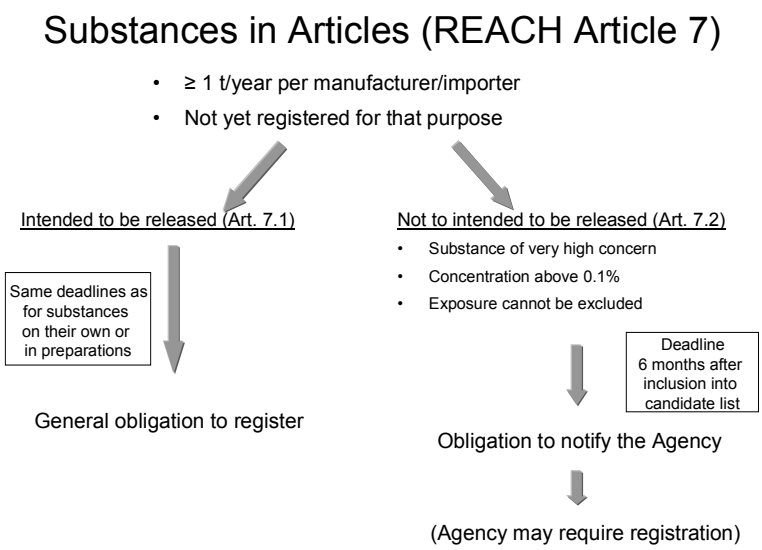
The representative of the European Communities noted that, in general, Members recognized the legitimacy of the goals REACH set out to address: health and environmental protection. Moreover, Members had also recognized that the proposal and final regulation had been developed in a transparent way (2003 internet consultation, numerous bilateral discussions, early WTO notification and several updates and significant changes made in the legislative process).

Nevertheless, concerns remained regarding the nature of the regulation and the way it would be implemented. A first group of issues raised concerned non-discrimination with respect to "Substances in articles" (Article 7) and the application of REACH to EU and non-EU manufacturers. Another group of questions was about the least trade restrictiveness. Other

individual concerns had also been raised. These included concerns relating to: the inconsistent application by EU Member States; compatibility with international efforts; minerals and ores; monomers in polymers; authorisation and substitution; protection of confidential information and technical assistance and capacity building for developing countries.

Regarding **substance in articles** (Art. 7.1), it was stressed that the REACH Regulation distinguished between substances in articles that were intended to be released and those that were not (Figure 1 below). For those *intended to be released*, there was a general obligation to register (unless a registration had already been made by another registrant). In this respect, the Commission was still studying how many of those substances or articles would be affected by this requirement. With regard to the second category, substances that were *not intended to be released* (Art. 7.2), the REACH text focussed on substances of very high concern. These substances had been defined as those which were a carcinogen, mutagen or substance toxic to reproduction (CMR) as well as those that were persistent, bioaccumulative and toxic, those that were very persistent and very bioaccumulative, and those that were of equivalent level of concern. For these substances, a notification to the Agency (and not a full registration) would be necessary in order to ensure that the Agency would be aware of the substances of very high concern used in both imported and EU manufactured articles. However, it was stressed that the notification would not trigger any testing of the substance except in special cases where the Agency considered that there might be a considerable risk.

Figure 1



Regarding the alleged **discrimination** against non-EU producers of articles that were imported into the European Union, it was stressed that Article 7 was not discriminatory against articles imported into the European Union. EU producers and importers had the same duties, this was important and essential as otherwise there would be a loophole in protection sought. The concept of a "candidate list" had been included in REACH to force transparency and a certain degree of predictability, as well as to have a closed list of substances to which the Article would apply.

Regarding the application of REACH to EU and non-EU manufacturers and the alleged discrimination to the effect that it was more difficult for non-EU manufacturers to comply than for

EU manufacturers, it was pointed out that REACH applied equally to EU and non-EU-producers. In fact, most WTO Members had national legislations in place (with respect to risks of chemicals to health and safety) which non-national manufacturers had to comply with. Regarding confidentiality concerns, non-EU manufacturers could appoint an "only representative" (Article 8). Moreover, the European Comission was preparing extensive guidance material for all actors. The European Communities was, hence, of the view that REACH was compatible with Article 2.1 of the TBT Agreement.

Regarding the principle of **least trade restrictiveness** and the concern that REACH was more trade restrictive than necessary a number of points had been raised: that there was potential for duplication of testing and risk assessments; that authorisation was neither proportionate not based on hazard; and general concerns about the workability and burden on industry. The representative of the European Communities reiterated that REACH was necessary to protect health and the environment and it complemented existing international programmes like the high production volume (HPV) chemicals programmes. Existing information could be used and new testing was only a last resort. It was also stressed that authorisation was limited to highly dangerous chemicals and decisions were taken based on risk. Impact assessments had demonstrated that the benefits outweigh costs. Finally, the REACH would be phased in over 11 years. Considering this, the representative of the European Communities was of the view that REACH was fully compatible with the Article 2.2 of the TBT Agreement.

Another concern raised by Members was that EU member States might not apply and enforce REACH consistently, leading to **uncertainty** for importers and therefore to trade barriers. In this regard, it was stressed that the REACH Regulation was directly applicable in member States instead of being individually transposed as had been the case with the previous directive. This approach would ensure more consistency. Moreover, the Agency had been empowered to take decisions and to ensure consistency; it would play a strong coordination role and would ensure more consistency. In addition, within the Agency structure, a Forum for the Exchange of Information on Enforcement would be held in order to both favour the exchange of experience amongst the member States and to make sure that there would be consistency in the approach to enforcement. Extensive guidance documents would be updated by the Agency and this would promote the consistent interpretation and application of REACH. Finally, it was pointed out that if companies did not agree with certain decisions, it would be possible to appeal both to the Agency or to the European Court of Justice. In conclusion, it was stressed that compared to the current situation, REACH would significantly improve consistency within the EU and therefore facilitate trade flows.

There had also been concerns that REACH allegedly would be incompatible with **international** initiatives, such as the International Council of Chemical Associations (ICCA) HPV Program and the Globally Harmonized System (GHS). In response it was point out that REACH was complementary to such programmes. REACH implemented a large number of the SAICM objectives (Strategic Approach to International Chemicals Management). Moreover, information generated under the HPV programme could be used for REACH, as long as registrants could demonstrate they had a right to use studies. Any information generated under other programmes could be used if appropriate. It was also noted that the European Union was committed to the GHS (Globally Harmonized System) for the classification and labelling of chemicals. Therefore the representative of the European Communities was of the view that REACH was compatible with all international initiatives to control chemicals risk, and, moreover, supportive of many of them.

On the specifics, it was noted that **minerals, ores and ore concentrates** were exempted from registration as long as they were not chemically modified. In respect of authorisation, it was noted that substances of very high concern in minerals, ores and ore concentrates could, at some stage,

become subject to authorisation. The priorities for subjecting substances to authorisation were based on three criteria that would not be likely to apply for minerals and ores: (i) substances with PBT (Persistent, bioaccumulative and toxic) and which had vPvB properties (very persistent and very bioaccumulative); (ii) with wide dispersive use; and (iii) high volumes. In addition, certain uses of highly dangerous substances could be exempted from authorisation. In other words, even if a substance, present in minerals, would be subject to authorisation at some stages, it would still be possible to exempt certain uses in particular if they were controlled under other community legislation.

Regarding **substitution**, it was pointed out that REACH encouraged the substitution of dangerous substances. This was particularly relevant to: CMRs Categories 1 and 2, PBTs, vPvB and Substances of equivalent concern (on a case-by-case basis, e.g. hormone disturbing substances). Progressive substitution was, in the view of the European Communities, a proportionate measure to protect health and environment if the risk could not be adequately controlled and a suitable alternative existed.

Regarding **monomers in polymers**, it was noted that two principles had been used in this area. First, polymers were exempted from registration. Second, monomers had to be registered because even though they reacted fully to create polymers, free monomers and oligomers would be left creating the hazard profile of polymers. It was pointed out that many oligomers were bioavailable and posed a risk. Monomers would be used to assess the risks of polymers.

Regarding the concern that REACH would allegedly not sufficiently protect **confidential information**, the representative of the European Communities stated that Article 105 of the REACH regulation required those who dealt with the information (both technical experts and Agency staff) to maintain confidentiality, even after they left the Agency. Moreover, Articles 118 and 119 regulated the access to documents and to information and a number of safeguards would protect the confidentiality of information. However, although certain information would be always considered confidential, it was noted that some key health safety and environmental information could be made available. Nevertheless, in such cases, the Agency would consult the owner of the information. Finally, it was pointed out that it would be possible to appeal decisions.

Regarding the concern that REACH might be difficult for **developing countries** to apply, the European Commission recognized its obligations under Article 11.3 of the TBT Agreement. Therefore, extensive guidance material, technical assistance and capacity building was planned. The Committee was informed that "trial runs" had taken place in 2004-2005 with European industries. The "strategic partnership with industry" had made it possible to test the REACH system in some cases and to establish and improve the workability of the process. It was noted that a Help Desk would be housed within the Agency and within each member State which would serve as a single access point for EU and non-EU manufacturers should they have questions about REACH. The guidance package would contain three elements: (i) start pages (with general information on REACH and a summary of the processes); (ii) a "Guidance Navigator" (with the roles and obligations based on flow charts/decision rules to guiding the user to relevant detailed guidance); and (iii) detailed guidance on steps (roles, obligations and actions) and methods to be used in these steps. This guidance document would be available on the internet in June 2007.

The representative of Israel noted that most of his delegation's concerns had been addressed by the REACH presentation. However, he was still concerned by the treatment of small and medium enterprises (SMEs). In his understanding, SMEs were entitled to some form of special treatment but, nevertheless, in his view, such a treatment would become ineffective once the registration was required for local importers within the Communities.

The representative of Korea shared the concern expressed by Israel in particular regarding the effects on SMEs and possible special treatment.

The representative of the United States recalled that the WTO did not allow Members to make any interpretations about the compliance of specific measures with a WTO Agreement. She requested the European Communities to: (i) provide more information about efforts to educate the business community, especially outside Europe; (ii) provide more information on the implementation of the new regulation; and (iii) to respond directly to the questions raised because of the necessity for the delegations to communicate them to the their constituents and interested parties.

The representative of Brazil requested more information on the concrete steps and programmes that had been taken to provide technical assistance to developing countries.

The representative of Australia was disappointed that the amendment excluding minerals and ores from the registration process had not been adopted. However, she noted that minerals, ores and concentrates would, in certain cases, not need to be authorized and welcomed this clarification. The implementation process of REACH would be followed very closely by Australia to assess its impact on the Australian industry over the coming years.

The representative of Japan expressed his regret that the issue regarding the registration of monomers and polymers had not been solved in the final draft. In addition, he asked the European Communities to clarify the details on the development of the REACH guidance.

The representative of Chile was concerned about the potential impact of REACH on Chilean exports, in particular regarding the SMEs. First, she informed the Committee that Chile promoted the use of scientific basis as well as the non-application of the precautionary principle and her delegation, was, in this regard, sceptical regarding the implementation of REACH. She was particularly concerned with the criteria used in risk management that might ban substances branded as dangerous because of some of their characteristics, even though the risks of certain substances might be properly managed. She raised the issue regarding the capacity of Chilean labs to conduct the tests called for by the regulation. The European Communities was requested to provide further information on how technical assistance to third countries would be granted and expressed her delegation's wish to participate in consultation on the guidelines that would determine how REACH would be applied.

The representative of Canada noted that although his delegation supported the health and environmental objectives of REACH, he had a number of specific questions. First, it was his understanding that the polymer importer would be responsible for the registration of substances. Yet, the supplier might not know the identity of the monomers used in the polymer and believed that this requirement would disadvantage the importers. A risk-based approach would have focused on unreacted monomers in the polymers that were present in sufficient concentrations to present a risk to humans or the environment. He asked the European Communities to confirm that the requirement to register would apply only to unreacted monomers in polymers.

Regarding transported intermediates, even though the REACH regulation included an exemption for transported isolated intermediates in quantities under a thousand tonnes per year, Canada was concerned that imported intermediates would have to face more stringent assessment requirements than locally produced onsite intermediates, potentially placing foreign manufacturers at a competitive disadvantage. Therefore, he requested the European Commission to provide information on how it would intend to implement these requirements so that they would not create unnecessary barriers to trade.

With regards to exemptions for non-chemically modified concentrates, the representative of Canada was of the understanding that mineral ores and non chemically modified concentrates were not subject to registration and evaluation but potentially subject to authorisation. Canada sought clarification about the EC interpretation of "chemically modified" in the context of mineral ores and concentrates: would the European Communities interpret and equate a chemical surface treatment of an ore or concentrate that did not alter the bulk composition of the concentrate to be equivalent to a chemical modification of the concentrate?

Regarding the review of exemptions (Annexe 4 and 5) that the representative of Canada understood would be made within one year of the entry into force of REACH, he asked if the European Commission planned to consult its trading partners. The representative of Canada hoped that his delegation would be consulted in other reviews, in particular regarding the criteria for persistence bioaccumulation, the possible inclusion of polymers, and the assessment requirements for substances between one and ten tonnes. The European Communities was also asked to clarify the concept of "trading partners".

On substances in articles, the representative of Canada considered that a risk-based approach to substances in articles would focus on the intentional release of dangerous substances and the release of substances subject to authorisation. Therefore, he asked if the European Chemical Agency would be empowered to request that a registration be submitted if it had grounds to suspect that the release of a substance from an article may present a risk to human health or the environment even if that release was unintentional.

Finally, Canada echoed the positive comments made by other delegations on the transparency of the whole process of developing REACH and asked the European Commission to continue with this transparent approach and to notify its draft technical guidance documents that had been developed under the REACH implementation project.

The representative of the European Communities noted, in respect of SMEs, that REACH by nature could only apply to EU companies, in other words it did not apply directly to SMEs from third countries. There were two aspects of REACH that would in fact help the SMEs. First, the afore-mentioned guidance that would be made available on the Internet and in particular the Navigator Tool that would identify the role and the obligation of the industries under REACH. Second, the structure of the regulation itself (on volumes) would help SMEs as these enterprises, by their nature, produced lower volumes of chemicals, they would be required to generate less information and hence would benefit from lower cost and lower associated fees.

More specifically on *technical assistance*, it was pointed out that, in addition to the above-mentioned assistance (Help Desk, guidance documentation), under the Strategic Approach to International Chemicals Management (SAICM process) funds had been made available under a "quick start programme". More information on other assistance programmes in the pipeline was available at the DG Environment.

Regarding the concern raised by Japan, the representative of the European Communities noted that the European Commission was working on clarifying some technical aspects in the guidance material. On Chile's concern about a ban on substances, it was recalled that REACH was a risk based system and that, therefore, there was no intention of banning substances if the risks were adequately managed. Regarding the question about the capacity of laboratories to perform tests, it was noted that the test should be performed according to the OECD code of good laboratory practice (GLP); some suggestions were available in the Room Document regarding cooperation with the OECD on good laboratory practice.

In respect of Canada's comments and questions, the representative of the European Communities noted that the detailed answers of the four first questions were available in the Room Document. Regarding the consultation of trading partners on the review of polymer requirements, he explained to the Committee that stakeholders would be consulted but that the deadlines would not allow for a formal consultation process in this forum. However, the representative of the European Communities would consider other possibilities in the time available. Regarding the question on substances in articles, it was confirmed that the Agency could request a registration if there was a non intentional release. Finally, the European Communities would look into how to notify the technical guidance documents to the TBT Committee.

Japão (Coréia do Sul, Filipinas, Tailândia e EUA) x UE - Draft Commission Decision regarding the Classification of the Reaction to Fire Performance of Construction Products

European Communities - Draft Commission Decision regarding the Classification of the Reaction to Fire Performance of Construction Products (G/TBT/N/EEC/92 and Add.1)

The representative of Japan continued to be concerned that the above-mentioned draft directive would discriminate against PVC coated cables in trade. In accordance with Article 2.5 of the TBT Agreement, she asked the European Communities for further explanations. Japan asked why the acidity was used as a safety criterion. Japan was of the understanding that the European Communities had implied the incapacitation risk to be explained by the acidity criterion, but Japan wanted to know whether this linkage derived from a risk assessment; if so, what was the scientific evidence? The representative of Japan also asked the European Communities to further clarify the concept of acidity criteria.

The representatives of the Korea, Philippines, Thailand and the United States supported the comments made by Japan.

The representative of the European Communities noted in respect of the acidity criteria, that his delegation's written reply made reference to several studies that had lead up to the choice of the acidity criteria. Regarding the scope of the construction works, the representative of the European Communities pointed out that the European Commission's decision did not make the use of the acidity criterion mandatory: this choice was left for member States.

Nova Zelândia (Noruega e UE) x Coréia do Sul - Import of Fish Heads

Korea – Import of Fish Heads

The representative of New Zealand recalled that when this issue had last been raised in the TBT Committee, Korea had indicated its willingness to establish workable import conditions for New Zealand fish hake heads. Nevertheless, the representative of New Zealand informed the Committee that Korea had not shown that it would formally recognize edible hake heads as a food product by 1 January 2007 and, moreover, Korea had recently announced to New Zealand that it would not be taking this step until 2008. New Zealand did not find this delay acceptable.

The representative of Norway echoed these concerns and urged Korea to take steps to find a mutually satisfactory solution for Members concerned.

The representative of the European Communities informed the Committee that good progress had been made under the ongoing bilateral discussions and a Memorandum of Understanding was almost finalized; it was expected that the two parties would be able to sign the agreement in the coming weeks.

The representative of Korea expressed his surprise that New Zealand again raised the issue of edible hake heads. Korea and New Zealand had reached a bilateral agreement on this issue after several technical expert meetings, and, therefore, his delegation was under the impression that the issue was in the final stages. It was noted that the Korean government probably needed time to adapt its domestic legislation to implement the issue. However, both New Zealand's and Norway's concern would be reported to the capital and an answer would be provided as soon as possible.

Israel (Jordânia, Eua e Japão) x Suécia - Restrictions on the use of Deca-bromo diphenylether (deca-BDE)

Sweden – Restrictions on the use of Deca-bromo diphenylether (deca-BDE) (G/TBT/N/SWE/59)

The representative of Israel informed the Committee of the negative impact of the above-mentioned measure on Israel's exports. He recalled that this concern had been raised before its entry into force on 1 January 2007. He was of the view that, in line with Article 2.2 of the TBT Agreement, the prohibition was an unnecessary obstacle to trade: Sweden had not demonstrate the existence of a risk affecting human health or the protection of the environment. It was recalled that the European Commission, after having undertaken a comprehensive risk assessment, had concluded that there was no need for risk reduction measures beyond those that were already in place. Therefore, Israel suggested that Sweden adopt less trade-restrictive measures similar to those adopted in the European Union as, for instance, an emission reduction programme and bio-environmental monitoring. The representative of Israel objected to the alleged urgent nature or the problem, based on Article 2.10 of the TBT Agreement. He considered that the lack of demonstration of the existence of a risk implied that the measure did not concern an urgent risk to safety, health or environmental protection.

The representatives of Jordan, the United States and Japan associated themselves with the statement made by Israel and requested an update by the European Communities on internal discussions regarding the measure.

The representative of the European Communities took note of the concern but was not in a position to provide a substantive response; the European Commission and the Swedish authorities were still discussing the matter.

Japão x Noruega - Restrictions on the use of Deca-bromo diphenylether (deca-BDE)

Norway - Restrictions on the use of Deca-bromo diphenylether (deca-BDE) (G/TBT/N/NOR/6)

The representative of Japan, supported by Israel, expressed her delegation's interest in the scientific evidence and the results of the public hearings regarding the above-mentioned prohibition. She also

requested Norway to explain the justification of the regulation in line with Article 2.5 of the TBT Agreement.

The representative of Norway pointed out that the prohibition of deca-BDE was still being assessed and had, therefore, not entered into force on 1 July 2006 as had been originally proposed in the draft sent to the public hearing. However, Norway was concerned that deca-BDE had been found in birds and polar bears in Arctic areas and according to a risk assessment report of May 2004, there were concerns relating to neurotoxic effects and possible formations of more toxic and accumulative products. Therefore, Norway intended to reduce emissions from brominated flame retardants substantially by 2010 in order to reduce or avoid risk of its hazardous properties to human health and the environment.

Japão e UE x China - Revision of the list of toxic chemicals severely restricted in the People's Republic of China in the regulation for environmental management on the first import of chemicals and the import and export of toxic chemicals

China - Revision of the list of toxic chemicals severely restricted in the People's Republic of China in the regulation for environmental management on the first import of chemicals and the import and export of toxic chemicals

The representative of Japan expressed her delegation's concern regarding the revision and enforcement of the above-mentioned regulation. She recalled that questions had been posed at the last meeting of the Committee and noted that the provided answers had not been detailed enough. Japan was of the view that SEPA's announcement regarding the revised list (on 30 December 2006) and the implemented enforcement based on it (since 1 January 2007) had not followed the appropriate procedure and were therefore inconsistent regarding Article 2.9 of the TBT Agreement. Moreover, the representative of Japan requested China, in accordance with Article 2.9 of the TBT Agreement, to notify any potential additional chemicals on the list at the early appropriate stage.

The representative of the European Communities asked China for an update on the current developments regarding the operation of requirements on mixtures and articles containing substances that were strictly restricted. In addition, the European Communities expressed its concern regarding the registrations fees and urged China to lower them in accordance with the real administrative cost rendered by the service.

The representative of China noted that the announcement (65/2005) was related to a list of toxic chemicals with two purposes: (i) the protection of human health and environment by fulfilling the PIC and POPs conventions (relevant international conventions), and (ii) the management of risk with respect to chemical substances which, in any case, were already listed in other countries. Therefore, domestic manufacturers of the listed restricted toxic chemicals would be subject to an environmental registration and regulation on entry and exit of toxic chemicals.

Canadá e Noruega x Bélgica e Holanda - Seal products

Belgium and The Netherlands – Seal products (G/TBT/N/BEL/39 and G/TBT/N/NLD/68)

The representative of Canada expressed his continued concern about the above-mentioned notified regulations and recalled previous discussions on the subject. He reminded EU member States that Canada, in a series of science based information sessions with senior EU officials had emphasized that the seal hunt was both sustainable and humane. The Canadian seal population was not endangered and the hunting methods satisfied both the Canadian and American Veterinary Association for Humane Killing and Euthanasia. Moreover, the seal hunt was a cultural tradition as well as a significant source of income for sealing communities in Atlantic Canada. Canada was of the understanding that the European Commission would examine available information and take measures to ascertain the use of humane hunting standards *before* taking further action regarding the import of seal products. It was suggested that the European Commission work with Canadian officials to expand its examination beyond seals to reflect upon all commercial hunting practices both inside and outside the European Union. Canada was particularly concerned about a recent session of the European Parliament where EU member States were encouraged by the European Commission to introduce their own legislation against the importation of seal products. The representative of Canada requested therefore the European Commission to take strong steps to discourage EU member States from so proceeding.

The representative of Norway shared the concerns of Canada and reiterated her delegation's view that the Belgian and Dutch notifications did not conform with Article 2.2 of the TBT Agreement. Moreover, Norway was of the opinion that invoking the "protection of public morality" and "reasons of public opinion and animal suffering" were neither in line with the requirements of the TBT Agreement nor with those of Article XX of the GATT. A ban on importation of seal products set a dangerous precedent for trade in animal products that were harvested in a sustainable and humane manner. Factual information on seal hunting had been provided to Belgian and Dutch authorities, as well as to the European Commission. The Norwegian seal hunt was strictly regulated and proven to be both sustainable and humane. It was reiterated that seal quotas were set on the basis of scientific advice, and that the state of seal populations was within the boundaries of sustainable management. It was pointed out that Norwegian seal hunting compared favourably to practices used in domestic livestock. She expressed surprise and concern that the European Commission had encouraged EU member States to introduce their own legislation against the importation of sealskins whereas, as had been mentioned by Canada, it had shown an intention to base its decision on a full objective assessment of hunting methods. Therefore, Norway requested the European Commission to take further steps to discourage Member states from proceeding with bans while the assessment was being conducted. Finally, Norway reserved its right to take any appropriate action necessary to defend its case under the TBT Agreement and other relevant WTO agreements.

The representative of the European Communities pointed out that the European Commission, in its response to the European Parliament, had stated that seals were not an endangered species and thus a ban on importation of seal's skin could not be imposed on conservation grounds. Nevertheless, the European Commission recognized the concerns of the public regarding the application of humane killing methods. Therefore it would conduct, in line with its commitment to high animal welfare standards, an in-depth and objective analysis of all the existing scientific information relating to the animal welfare aspect of seal hunting. The representative of the European Communities added that in the light of the outcome, the Dutch and Belgian proposed bans would be examined and conclusions would be drawn, taking into account public opinion.

UE e EUA x Índia - Pneumatic tyres and tubes for automotive vehicles

India - Pneumatic tyres and tubes for automotive vehicles (G/TBT/N/IND/20)

The representative of the European Communities recalled a previously raised concern regarding pneumatic tyres and tubes for automotive vehicles. He informed the Committee that his delegation had not received any clarification on this issue. Therefore, India was requested to give an update on the status of this regulation. Would existing international standards be considered? Would certain products, especially tyres, covered by UNECE standards, be admitted on the Indian market?

The representative of the United-States associated her delegation with the views expressed by the European Communities and added that it was her understanding that the regulation would go into force at the end of the month.

The representative of India admitted that high road temperatures was perhaps not sufficient enough a reason to justify the prescribed standard. He was willing to further discuss the issue with the European Communities and confirmed that the regulation had gone into force.

UE x China - Measures on the Environmental Management of New Chemical Substances

China - Measures on the Environmental Management of New Chemical Substances (G/TBT/N/CHN/210)

The representative of the European Communities informed the Committee that China had provided a reply to the comments made by her delegation. However, she noted that one point raised had not been clarified: the deadline of five days for notifying new substances to the Chinese authorities. She urged China to introduce a less restrictive filing record scheme. Moreover, the European Communities expressed its interest in knowing whether any modification had been introduced.

The representative of China took note of the European Communities' concern.

UE x Suíça - Draft Ordinance on Measures to Reduce Particle Emissions from Diesel Engines

Switzerland – Draft Ordinance on Measures to Reduce Particle Emissions from Diesel Engines (G/TBT/N/CHE/67)

The representative of the European Communities requested Switzerland to provide an update regarding the state of play of the above-mentioned measure which had been raised at the TBT Committee's November meeting.

The representative of Switzerland explained that the relevant Swiss ministries had not reached an agreement on the final decision and that the original deadline had been postponed. The Committee would be informed once an agreement had been reached.

UE x Uruguai - Decree on the Enrichment of Wheat Flour and Foods Prepared with Wheat Flour

Uruguay – Decree on the Enrichment of Wheat Flour and Foods Prepared with Wheat Flour (G/TBT/N/URY/2)

The representative of the European Communities was of the view that the above-mentioned notification had lead to positive developments. Some products had been excluded from the requirements of mandatory enrichment. For instance, in December 2006, the Ministerial Decree was modified by a law which introduced the possibility of granting derogations to a number of products. The European Communities expressed its interest in knowing whether this list of products had been approved and when the provision would enter into force. It was recalled that according to the TBT Agreement, the measure should be no more trade restrictive than necessary.

Japão e EUA x Arábia Saudita - International Conformity Certification Programme (ICCP)

Saudi Arabia – International Conformity Certification Programme (ICCP)

The representative of Japan informed the Committee that her delegation had submitted a questionnaire to Saudi Arabia regarding its abolition of ICCP. Japan had requested Saudi Arabia to clarify the import formalities for motor vehicles. In particular, Saudi Arabia had been asked to clarify the Certificate of Conformity for automobiles based on Ministerial Resolution No. 6386, according to which vehicle type approval certificates issued by the Gulf Standards Organization (GSO) could serve as conformity certification of imported automobile.

The representative of the United States noted that her delegation continued to be concerned about the failure of Saudi Arabia to publish in English, on its website, the details of its certificate of compliance.