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Committee on Technical Barriers to Trade

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THEMATIC SESSION ON GOOD REGULATORY PRACTICE

5 MARCH 2013

Moderator's Summary

This statement was delivered by the Moderator¹ of the Thematic Session on Good Regulatory Practice (GRP) at the TBT Committee meeting of 6-7 March 2013.

1.1. At the Sixth Triennial Review, the Committee agreed to hold a thematic session on Good Regulatory Practice (GRP) in response to specific decisions and recommendations contained in past and present triennial review reports.² During the Session, Members shared experiences on elements of GRP, and discussed the way forward for the Committee's work. The final programme, containing the names and titles of the presentation made during the thematic session, is annexed to this statement. The Secretariat provided a background document contained in JOB/TBT/44.

1.2. First we heard a presentation by **China**. China shared its experience on the implementation of good regulatory practice in Chinese legislation, focusing on liability-rules for the repair, replacement and return of household automotive products. Using this example, China showed how it employed an extensive public consultation process, including forums and seminars with a broad range of stakeholders. As a result of this process, relevant rules were reviewed and amended.

1.3. The **European Union** (EU) stressed the importance of transparency and stakeholder consultation in its regulatory lifecycle. The general framework, principles and minimum criteria of public consultation, and its key role in operationalizing GRP in the EU, were explained. Information was also shared on other elements of GRP, including: assessing the need to regulate; impact assessment; links with TBT Agreement transparency obligations; guidance for implementation and enforcement; and, ex-post evaluation of legislation through "fitness checks".

1.4. **Indonesia** shared information on the work of the APEC Sub-Committee on Standards and Conformance (SCSC) in the area of GRP, including conferences and studies which would continue in 2013. Moreover, in response to the 2013 Leaders Commitments, APEC Members were encouraged to take a whole of government approach for development of regulations, to use Regulatory Impact Assessment, and to implement the 2005 APEC-OECD Integrated Checklist on Regulatory Reform.

1.5. The representative of the **United States** discussed intersections between trade, GRP and implementation of the TBT Agreement. Emphasis was placed on embedding GRP mechanisms into institutional and other mechanisms for implementation of the TBT Agreement, including in respect of: operation of National Enquiry Points; Article 15.2 statements of implementation; TBT notification obligations and, multilateral review of specific trade concerns in the TBT Committee.

¹ Mr. Xinhua SUN (China). This summary is provided under the Moderator's own responsibility.

² The latest decisions and recommendations are contained in Section A of G/TBT/32. Previous decisions and recommendations on Good Regulatory Practice are contained in Section I of G/TBT/1/Rev.10.

1.6. In the **general discussion**, Members provided some preliminary comments on the suggested elements of the non-exhaustive list of mechanisms and related principles of GRP contained in Table 1 of JOB/TBT/44 (the Secretariat background note). Some specific comments were provided. For instance, it was suggested that structure of the list could be refined to reflect the chronology, or sequence, of the regulatory lifecycle as envisaged in the TBT Agreement (preparation, adoption and application). In general, Members agreed that the paper provided a good basis for further work – and that this work should be pursued along the lines of the Committee's "triennial review" work process. Thus it was agreed that Members will provide written comments on the background paper by 5 April 2013, and that, based on these, the Secretariat will revise the list of suggested elements contained in Table 1 for further discussion and comment by Members.

1.7. On a **personal note**, I think the session provided a good opportunity for Members to continue to exchange national and regional experience and information on GRP: it focused on some of the key mechanisms and principles of GRP, particularly openness, transparency, internal coordination, stakeholder consultation, balancing stakeholders' interest, regulatory impact assessments and legislative reviews. I think it is particularly useful that Members highlighted the importance of better incorporating GRP in Members' different contexts in order to achieve more effective and improved implementation of the TBT Agreement. I thank Members for the active participation in this event, and believe that the Committee should maintain its momentum in this work.

ANNEX

FINAL LIST OF PRESENTATIONS¹

The following presentations were made during the Thematic Session:

- **China:** Rules on the Liability for the Repair, Replacement and Return of Household Automotive Products. Presentation by Mr. XU Xinjian, Deputy Director-General of the Department of Legislation, General Administration of Quality Supervision, Inspection and Quarantine of China.
- **European Union:** Transparency and stakeholder consultation mechanisms in the European Union. Presentation by Mr. Fabrizio Sacchetti, European Commission, Directorate-General for Enterprise and Industry.
- **Indonesia:** APEC Sub-Committee on Standards and Conformance work on GRP. Presentation by Mr. Teungku Rahman Hanafiah, Deputy Chairman for Research and Cooperation on Standardization.
- **United States:** The link between TBT obligations and GRP in advancing a proactive trade agenda. Presentation by Julia Doherty, Senior Director, Technical Barriers to Trade, WTO and Multilateral Affairs, USTR.

¹ Draft programmes were circulated by a fax from the Chairman on 19 December 2012, and, reflecting further input from Members, on 18 February 2013 (JOB/TBT/43) and 26 February 2013 (JOB/TBT/43/Rev.1).