

**PART 1:
DECISIONS AND RECOMMENDATIONS ADOPTED
BY THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE**

I. GOOD REGULATORY PRACTICE

1. Good regulatory practice is about the practical implementation of the TBT Agreement. Effective implementation through best practices is seen as an important means of avoiding unnecessary obstacles to trade.

A. GENERAL

Recommendation

- (a) In 1997, in order to assist the implementation of the relevant provisions of the Agreement, the Committee agreed:²
 - (i) When considering the preparation of a technical regulation, it is important for Members first to identify the related problem, including its magnitude and the legitimate objective; and then consider all options available consistent with the Agreement, bearing in mind that in accordance with Articles 2.2 and 2.3 a technical regulation shall not be more trade restrictive than necessary to fulfil a legitimate objective, and shall not be maintained if the circumstances or objectives giving rise to its adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner. If a technical regulation is required, it shall comply with the relevant provisions of the Agreement, including Articles 12.3 and 12.7;
 - (ii) to avoid duplication of work and to ensure effective implementation of the Agreement, coordination between governmental regulatory authorities, trade officials and national standardizing bodies is essential; and

B. INFORMATION EXCHANGE

Recommendation

- (a) Members have engaged in information exchange on various aspects of good regulatory practice.³ In 1997 and in 2000 in order to assist the implementation of the relevant provisions of the Agreement, the Committee agreed:⁴
 - (i) to invite Members, on a voluntary basis, to submit descriptions of their approach to technical regulations;
 - (ii) to examine the various approaches to the preparation, adoption and application of technical regulations and their consequences for market access, with a view to assisting regulatory authorities through promoting awareness of their rights and obligations under the Agreement.

² G/TBT/5, 19 November 1997, para. 24 (a)-(c). At the subsequent Triennial Review (the Second), the Committee agreed to continue this exchange of information (G/TBT/9, 13 November 2000, para. 37).

³ G/TBT/5, 19 November 1997, paras 23-24; G/TBT/9, 13 November 2000, para. 37; G/TBT/13, 11 November 2003, para. 14; G/TBT/19, 14 November 2006, para. 19.

⁴ G/TBT/5, 19 November 1997, para. 24 (a)-(c); G/TBT/9, 13 November 2000, para. 37.

- (b) In 2003, noting that the issue of good regulatory practice is important, evolving, and worthy of further discussion in the TBT Committee, to further its work on good regulatory practice, the Committee agreed to:⁵
- (i) invite Members to exchange experiences related to the identification of elements of good regulatory practice at the domestic level;
 - (ii) continue its exchanges on Members' experiences and focus its discussion on, *inter alia*, choice of policy instruments, mandatory versus voluntary measures, and the use of regulatory impact assessments to facilitate good regulatory practice;
 - (iii) initiate a process of sharing experiences on equivalency in the Committee particularly with regard to how the concept is implemented in practice.
- (c) In 2006, with a view to deepening understanding of the contribution good regulatory practice can make to the implementation of the TBT Agreement, the Committee agreed to share experiences on:⁶
- (i) factors used by regulators to determine whether there is a need to regulate in a given situation or whether other instruments are better suited to fulfil the legitimate objective sought;
 - (ii) the use of tools, such as regulatory impact assessment, to assist regulatory decision-making (including with respect to (a) above);
 - (iii) the use of performance-based regulations by Members;
 - (iv) how good regulatory practices have been integrated into Members' regulatory structures, including the use of mechanisms to ensure openness, transparency and accountability of the regulatory processes;
 - (v) the establishment of domestic administrative mechanisms to facilitate cooperation and coordination between competent authorities and coordination with other stakeholders;
 - (vi) how regulatory cooperation between Members has contributed to the avoidance of unnecessary regulatory differences;
 - (vii) steps taken and criteria used to arrive at an equivalency decision between Members (Article 2.7), or harmonization on the basis of international standards (Article 2.6).

Action on Information Exchange

- (a) On 18-19 March 2008, with a view to advancing its work on good regulatory practice, the Committee held a Workshop on Good Regulatory Practice, which addressed, among other topics, regulatory impact assessment.⁷

⁵ G/TBT/13, 11 November 2003, para. 14.

⁶ G/TBT/19, 14 November 2006, para. 19.

⁷ A Summary Report of the Workshop is contained in G/TBT/W/287, 6 June 2008. The Chairman's Report of the Workshop to the TBT Committee is contained in G/TBT/M/44, 10 June 2008, Annex 1. The Workshop was held in response to the recommendation contained in G/TBT/19, 14 November 2006, para. 20.