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E-MAIL

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Number of pages: 1 + 2

Subject: **G/TBT/N/IND/44 -**
Electronics and Information Technology Goods (Requirements
for Compulsory Registration) Order, 2012
EU Comments

Message:

Dear Sir or Madam

Please find attached the comments from the European Union on the above-mentioned notification.

Could you please acknowledge receipt of this e-mail? Thank you.

Yours faithfully

Giuseppe Casella
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**EU COMMENTS ON THE TECHNICAL REGULATION
"ELECTRONIC AND INFORMATION TECHNOLOGY GOODS (REQUIREMENTS
FOR COMPULSORY REGISTRATION) ORDER, 2012"
G/TBT/N/IND/44**

The European Union (EU) would hereby like to submit comments on the draft technical regulation "Electronic and information technology goods (Requirements for compulsory registration) Order, 2012" which was notified on 19 October 2012.

The EU appreciates that the draft technical regulation has been notified, however, wishes to express the following concerns related to it.

1. The EU notes that Section 3 (1) of the notified draft technical regulation states that only products complying with the relevant Indian standards might be manufactured or stored for sale, import, selling or distribution. In the 'Schedule' attached to the notified draft technical regulation a reference to these Indian standards is given in respect of all 15 product types listed. The EU would like to receive information as to whether the referenced Indian standards are equivalent to the relevant international standards (International Electrotechnical Commission standards) in this field.

In this respect the EU would like to recall that according to Article 2.4 of the TBT Agreement existing relevant international standards should be used as a basis for technical regulations.

2. The EU also notes that according to Section 5 of the notified draft technical regulation, a system of registration is to be set up for the products covered. The EU considers that this is unnecessary and would lead to delays and extra costs.

In addition, the system of registration seems to be executed through a type approval system. The EU considers that a type approval system is only necessary and justified in the case of high risk products, since for those products, without such type approval the legislation on liability and on consumer protection would not be sufficient to deter manufacturers from placing unsafe products on the market.

In the view of the EU, the products covered by the notified draft technical regulation, which are low voltage products, are not to be considered as high risk products.

Therefore, the EU considers that the system of registration as well as the type approval system seem to contravene Article 5.1.2 of the TBT Agreement, as they would establish a conformity assessment procedure which is more strict than is necessary, taking into account the risks non-conformity would create.

In this respect, the EU would like to shortly present to the Indian authorities the system of the Supplier's Declaration of Conformity (SDoC), the conformity assessment procedure which is applied in the EU for the products covered by the notified draft technical regulation.

For electrical equipment designed for use within certain voltage limits, no third party intervention is required. The manufacturer itself undertakes the conformity assessment, as it

is considered best placed to carry out the complete conformity assessment procedure due to its detailed knowledge of the design and production process.

After conducting the conformity assessment, the manufacturer issues the Supplier's Declaration of Conformity by which it declares that the product is in conformity with all applicable requirements in the EU (for example with European or international standards which provide a presumption of conformity) and that it takes full responsibility therefor. As an additional safeguard, the manufacturer has to maintain a technical file which enables the market surveillance authorities to verify the product compliance at any time.

Furthermore, the EU SDoC scheme is open for products from third countries which comply with applicable EU or international requirements. In this case, the importers of those products have to make sure that the conformity procedure has been carried out by manufacturers and that documentation drawn up by manufacturers is available for inspection by market surveillance authorities.

The EU would suggest to the Indian authorities that in order to avoid contravening Article 5.1.2 of the TBT Agreement, they move to a conformity assessment system which is not more strict than necessary, such as the SDoC applied in the EU.

As explained above, the EU considers third party certification more strict than necessary, however, if India still chooses to follow such a system, then the EU invites the Indian authorities to accept the certificates issued by the members of the IEC Certification Bodies' Scheme as well.

3. Furthermore, the EU would like to request information on the following specific questions.

Section 5 (4) of the notified draft technical regulation states that the testing of the product has to be done at least every two years for the products covered by the draft technical regulation. In this respect, the EU would like to receive information for the reasons necessitating the need for testing every two years. In this respect, the EU would like to underline that in the EU even for products where third party certification is required the testing has to be re-done only if the product has been changed substantially.

Section 5 (8) of the notified draft refers to a 'laboratory recognised by the Bureau' as the one to conduct the testing of the product. In this respect, the EU would like to receive information as to what is meant by a recognised laboratory. Would this term cover only Indian laboratories or also laboratories accredited by the International Laboratory Accreditation Cooperation (ILAC) or by the International Accreditation Forum (IAF)?

The EU thanks the Indian authorities in advance for taking into account the above comments and looks forward to receiving a reply to these comments.