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Committee on Technical Barriers to Trade

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THEMATIC SESSION ON STANDARDS

18 MARCH 2014

Chairman's Report

Addendum

This Report was delivered by the Chairman¹ of the WTO TBT Committee at the meeting of 19-20 March 2014.

1.1. At the Sixth Triennial Review, the Committee agreed to hold thematic sessions on standards in response to specific decisions and recommendations contained in past and present triennial review reports.² The first thematic session on standards took place on 5-6 March 2013.³ This second thematic session on standards was held on 18 March 2014, and addressed the topics of (i) standards and technical infrastructure; (ii) use of standards in technical regulations; and (iii) information on standards from other organizations. The final programme is annexed to this statement. The full presentations are available as Room Documents on WTO Documents Online (under "Documents for meetings").

1.2. The thematic session started with a presentation from **Malaysia** on its experience with standards and conformity assessment infrastructure. It focused on the role that Standards Malaysia plays in the country's standards, quality management, accreditation, and metrology infrastructure (SQAM). It was noted that Standards Malaysia opened up the functions of standards development in 2012 to other agencies beyond the traditional three bodies, while retaining SIRIM BERHAD's role as the notification and enquiry point. A new standards development process was instituted in January 2012 that further rationalized the distribution of responsibilities between the standards development agencies, Standards Malaysia, the Ministry of Science, Technology & Innovation, and others. This process succeeded in reducing the time of adoption of international standards by three to five months, and in reducing the time required to develop domestic standards by over one year on average. More recently, the government took steps to systematize the justification of government intervention when implementing regulations, and has also sought to promote better coordination among bodies involved in technical regulations, including the identification of "no man's land" areas where existing standards coverage may be insufficient.

1.3. We next heard from the representative of **Peru**, who described the history, current status, and future trajectory of the country's national plan for quality infrastructure. Despite Peru's impressive record of export-driven economic growth over the past decade (with exports increasing 565% over that period), it was recognized that such growth rates would only continue as the result of dedicated efforts to improve competitiveness and facilitate international trade through

¹ Mr. Jingo Kikukawa (Japan). This summary is provided under the Chairman's own responsibility.

² The latest decisions and recommendations on standards are contained in Section 3 of G/TBT/1/Rev.11. A Secretariat background note with an overview of the Committee's work on standards is contained in JOB/TBT/42 and Corr.1 (5 February 2013).

³ The summary report of the last thematic session on standards (5-6 March 2013) is contained in document G/TBT/GEN/144. The March 2013 session considered the topics of (i) the Code of Good Practice; (ii) the use of the "Six Principles"; and (iii) transparency in standard-setting.

both macroeconomic and microeconomic measures. A careful assessment of Peru's national quality system (NQS) found that it was not sufficiently institutionalized, that conflicts of interest persisted, and that economic growth had led to complacency in implementing constructive regulatory reforms. In response, the National Competitiveness Council in 2010 created a competitiveness agenda that focused on generating demand for quality products ("pull"), generating supply of quality tools ("push"), and a new legal framework for the NQS ("coordination"). By 2016, Peru hopes to have 4600 Peruvian standards, 130 technical committees, and 48 committees in ISO.

1.4. Next, moving to the usage of standards in technical regulations, the representative of the **European Union** emphasized that while standards are a form of "self-regulation" they are *not* in and of themselves regulation. She underlined the basic distinction between regulation (mandatory) and standards (voluntary) and stressed that the EU's "New Approach" refers to standards by indirect reference, which therefore remain of voluntary application. In other words, the EU avoids direct references to standards as this can stifle innovation by mandating compliance with the technological specifications set out in a standard and thereby preventing compliance by other (perhaps better) means. Thus, in practice, a direct reference could have the perverse result of necessitating the revision of legislation every time a standard was revised. So the objective of the EU approach was to remove unnecessary barriers to trade through the sharing of tasks: legislation specifies essential product requirements (health, safety and environment) in terms of performance while standards support legislation giving one – or more ways - of meeting that policy objective (as expressed in the essential requirements). The EU expert underscored the importance of the EU's "one product, one standard" approach, and described the 2014 Annual Union Work Programme for Standardisation as an opportunity for the European Commission to submit non-binding requests to European standards bodies for the development of certain product standards. In terms of the financing of standardization activities, it was noted that in the EU, industry bears 93-95% of the cost of standards development, with national governments (3-5%) and the EU (2-3%) covering the remainder.

1.5. The representative of the **United States** said that US agencies rely on private sector voluntary standards to meet regulatory needs⁴ and that this basic guidance is set out in the US Office of Management and Budget's (OMB) Circular A-119. This Circular was currently being updated: together with the USTR and the National Institute of Standards and Technology (NIST) a comprehensive proposal to update Circular A-119 had been published for comment. The revised Circular would maintain a strong preference for using voluntary consensus standards in Federal regulation and procurement – but would also acknowledge that there are standards not developed using a consensus-driven process that are in use in the market—particularly in the information technology space—and that may be relevant (and necessary) in meeting agency missions and priorities. Additionally, in this work, the US had sought among other things: to provide guidance to agencies on international trade obligations with respect to their use of standards; to provide guidance to federal agencies' participation in standards development; to encourage consideration of international and private sector conformity assessment schemes; and, to balance transparency with respect for copyright protections. Importantly, the revised Circular would also encourage agencies to consider *international* conformity assessment schemes and private sector conformity assessment activities in lieu of conformity assessment activities or schemes developed or carried out by the government. The United States noted that comments were welcome on the proposed revision of OMB A-119.⁵

1.6. We then heard two presentations from observers in the TBT Committee – **UNCTAD** and the **ITC** – on their efforts to promote greater awareness of, and engagement with, voluntary sustainability standards (VSS). The representative of UNCTAD provided an update on the work program of the UN Forum on Sustainability Standards. He stressed that the challenges created by VSS could not be solved through trade policy alone; a strong government commitment and the building of technical and institutional capacity were, among other things, essential. Also, the political will to address specific problems – rather than just raise general objections – required a realistic and informed assessment of the situation. A proactive approach could enable developing countries not only to minimize the potential costs associated with adjustment to VSS, but also to maximize the

⁴ It was noted that, in some sectors, voluntary consensus standards are developed in intergovernmental bodies, such as Codex and UNECE WP29.

⁵ <https://www.federalregister.gov/articles/2014/02/11/2014-02891/request-for-comments-on-a-proposed-revision-of-omb-circular-no-a-119-federal-participation-in-the>

related economic, social and environmental benefits.⁶ The ITC presented the most recent iteration of its online “standards map”, an interactive portal providing information and comparability across private standards as well as national specific sustainability standards (such as USDA or EU organic standards). The map consolidated the more than 130 VSS in existence, and included over 700 different criteria in the database. The ITC saw the Standards Map as a tool for better linking sustainable product supply with demand, and ultimately advancing both the market and the field of standards.

1.7. On a **personal note** I found the event to be both comprehensive and informative, and also useful in terms of building a mutual understanding between Members on what is clearly a very complex topic. I would particularly note the close relationship between standards, on the one hand, and regulatory activities on the other. Clearly, governments have different approaches to this – and sometimes the terminology is different, even confusing! But one thing that came across loud and clear is the importance of distinguishing between the activity of setting standards and the activity of regulating. The former (standard-setting) can be done by many different types of bodies, including private. Regulating, however, is the domain of governments: governments set policy, not standardizing bodies. Moreover, this is a complementary relationship because policy-makers can draw on standards as a basis for regulation. This type of discussion, I believe, should help appropriate coordination between standards bodies and regulators.

⁶ More information, including discussion papers, figure on the UNFSS website at www.unfss.org. The full statement made is available as a "Room Document" on the Members website.

ANNEX

PRESENTATIONS

The following presentations were made during the Thematic Session:

- a. Standards and Technical Infrastructure
 - i. **Malaysia:** Standards and conformance infrastructure: Malaysia's experience (Ms Siti Mariam Mohd Din)
 - ii. **Peru:** Peru's national plan for quality infrastructure (Mr Augusto Mello)
 - b. Use of standards in technical regulations
 - i. **European Union:** Referencing Standards in Regulation (Ms Silvia Vaccaro)
 - ii. **United States:** Revision of OMB Circular A-119 (Ms Julia Doherty)
 - c. Information on standards from other organizations
 - i. **UNCTAD:** Update on developments in the UNFSS (Mr Ulrich Hoffmann)
 - ii. **ITC:** The "ITC Standards Map" (Mr Joseph Wozniak, Mr Mathieu Lamolle)
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