



4 November 2013

(13-6094)

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Committee on Technical Barriers to Trade

Original: English

**THEMATIC SESSION ON SPECIAL AND DIFFERENTIAL TREATMENT
AND TECHNICAL ASSISTANCE**

29 OCTOBER 2013

Chairman's Report¹

This Report was delivered by the Chairman of the WTO TBT Committee at the meeting of 30-31 October 2013.

1. The Sixth Triennial Review emphasized the need to focus and deepen the work of the Committee on Technical Barriers to Trade (the "TBT Committee") in specific areas, including special and differential treatment (SDT) and technical assistance (TA). In order to further this work, Members agreed to dedicate time to topics addressed in decisions and recommendations agreed during triennial reviews.² I would like to report on the session held on 29 October on SDT and TA. The final programme containing the names and titles of the presentations made during the thematic session is annexed to this statement. I also recall that the Secretariat provided a background document contained in JOB/TBT/65.

2. On technical assistance and special and differential treatment, we had a rich exchange about lessons learned and remaining challenges based on the experiences of the EU, Germany, Kenya, Sweden, Korea, the United States and China. Useful interventions were also made from several delegations. On technical assistance in particular, the presentations illustrated the commitment by donors and recipients to improve the implementation of the TBT Agreement, foster good regulatory practice through the reinforcement of national and regional legal frameworks on TBT, and strengthen the various elements of technical infrastructure.

3. Several delegations emphasized that technical assistance should be demand driven, and should take place against the backdrop of a high degree of donor coordination and an appropriate level of political support. It was noted that there is "no one size fits all", and that technical assistance should take fully into account the conditions prevailing in recipient countries. Tailoring technical assistance to the specific needs of recipients through appropriate needs and risk assessments is considered critical in this regard.

4. Other "best practices" that can increase the efficiency and effectiveness of TBT-related TA were also highlighted. These include: setting measurable targets; favouring long-term partnerships between donor and recipients instead of one-off support; and, fostering channels between national TBT structures on the one hand, and regional and international structures on the other. In addition, it was deemed important to find ways to maximize synergies among regional partners, while simultaneously pursuing cooperation on a bilateral basis. Regarding stakeholder participation, it was suggested that the involvement of local experts is a critical condition to increase the degree of technical assistance "ownership" by recipients.

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

² The latest decisions and recommendations are contained in Sections E and F of G/TBT/32. Previous decisions and recommendations are contained in Sections V and VI of G/TBT/1/Rev.10.

5. In terms of challenges, although increasing the engagement of the private sector was found to pose a particular challenge in some developing country Members, it was emphasized that such engagement is essential; it allows regulators to draw on the expertise of the private sector in the development and use of standards and regulations, and could be a good way of identifying trade-related concerns.

6. More specifically on special and differential treatment, we heard how the EU has integrated the development dimension into its rulemaking process. Specifically, under the European Commission's Impact Assessment Guidelines, impact assessment should establish, among other things, whether a proposed initiative by the EU has international impacts, including on trade relations with third countries, including developing countries – taking as benchmark the EU's own development policy. Economic, social, and environmental impacts on developing countries are considered in the impact assessment. The EU emphasized that, in designing rules, EU regulators must strike an appropriate balance between the various interests at stake. This happens on a case-by-case basis and is not subject to any "hard and fast" rules. For example, while the Commission may consider alternative options if an impact assessment finds adjustment costs on developing countries to be disproportionate in relation to the legitimate objectives being pursued, at other times the public policy objective in question may be important enough to override such considerations.

7. Also on SDT, we heard from the WTO Secretariat on relevant work in the Committees on Trade and Development (CTD) and Sanitary and Phytosanitary Measures (SPS). It was noted, for example, that in 2004 the SPS Committee had adopted a notification procedure (revised in 2009) to enhance transparency of SDT in favour of developing Member countries, but this procedure had not been used to date.

8. In the **general discussion**, China presented some preliminary ideas and views on possible actions by the Committee in the area of SDT, and proposed the development of guidelines in this regard. Reference was made to an earlier submission from Ecuador (JOB/TBT/49) – and Ecuador too made a statement in this regard (circulated as JOB/TBT/71 on 30 October 2013). Several Members supported China's proposal. Other Members considered that there was significant scope for the Committee to continue information exchange to seek concrete ideas on how to move forward before considering a discussion of guidelines.

9. On a **personal note**, I think the thematic session was useful. It was an in-depth consideration of both SDT and TA in the TBT area – and it exposed the links between the two. As stressed by several of you at our informal meeting earlier this week, this is the intended purpose of the thematic sessions: information exchange. I would emphasize two points from the session. First, it became apparent to me how far some Members have come in addressing challenges in the TBT area; yes, challenges remain and I recognize this – but clearly significant progress has also been made. Second, the link between TA and SDT is strong. There are a range of on-going efforts on technical assistance that may be relevant to the implementation of both Articles 11 and 12 of the TBT Agreement. In line with the recommendation from the Sixth Triennial Review, I would encourage Members to exchange views and explore ideas on the implementation of Article 12, as well as on how to enhance the effective operation of this Article³ - but the Committee needs also to keep up the important work related to Article 11, on technical assistance. I take this opportunity to stress again that this Committee has shown a strong appetite for concrete and practical progress while remaining Member-driven – so I wish to encourage Members to continue their engagement on these two important topics.

³ G/TBT/32, paragraph 22.

ANNEX

FINAL LIST OF PRESENTATIONS¹

1. Members' exchange of experiences

- a. **European Union:** "EU approach to Special and Differential Treatment and TBT-related Technical Assistance", Mr. Fabrizio Sacchetti, European Commission; and, "Experiences of German development cooperation in the field of quality infrastructure", Ms Melanie Grad, German Federal Ministry for Economic Cooperation and Development.
- b. **Kenya and Sweden:** "The Swedish TBT-Mentorship Programme", Ms Lucy Wanjiru Ikonya, Kenya Bureau of Standards; and, "Experiences gained from TBT-related projects", Ms Heidi Lund, Swedish National Board of Trade.
- c. **Korea:** "The International Standards Infrastructure Cooperation Program - How to share our experience with partner countries", Ms Sunghyun Park, Senior Researcher, Korean Standards Association.
- d. **United States:** "The Standards Alliance: Linking the TBT Agreement with Technical Infrastructure Development", Mr Gary Kushnier, Vice President for International Policy at the American National Standards Institute (ANSI).

2. Other speakers

- a. Relevant work in the WTO Committee on Trade and Development (CTD Secretariat, Mr. Harish Iyer).
- b. Relevant work in the WTO SPS Committee (SPS Secretariat, Mrs Christiane Wolff).

3. Discussion

- a. **China:** Working towards Guidelines on Implementation of Special and Differential Treatment Provisions of the WTO TBT Agreement (Mr. Xinhua Sun, First Secretary, Permanent Mission of the Peoples' Republic of China to the WTO).

¹ Draft programmes were circulated on 11 July 2013 (JOB/TBT/50), and, reflecting further input from Members, on 1 October 2013 (JOB/TBT/50/Rev.1), and again on 21 October 2013 (JOB/TBT/50/Rev.2).