



Committee on Technical Barriers to Trade

**GOOD REGULATORY PRACTICE (GRP)
VOLUNTARY MECHANISMS AND RELATED PRINCIPLES**

REPORT BY MR. JINGO KIKUKAWA¹ TO THE TBT COMMITTEE

This Report was delivered by the former Chairman of the WTO TBT Committee at the meeting of 18-19 June 2014.

1. In my capacity and responsibility as former Chairman, and with a view to respecting our principles of transparency and inclusiveness, I would like to report to the Committee on where I think we stand today on our work on GRP.

2. As you know, the Sixth Triennial Review gave the Committee a clear mandate "to identify a Non-Exhaustive List of Voluntary Mechanisms and Related Principles of Good Regulatory Practice".² We began our work on this mandate in February 2013, when the first version of the Secretariat draft was circulated (JOB/TBT/44). Since then there has been broad-based and substantive engagement from Members. Considerable work was done. We have produced five successive drafts of the GRP list. Sixteen Members – including developed, developing and least developed country (LDC) Members – submitted 26 different papers and comments on the various drafts.

3. But this work goes back even further. It builds on a longstanding exchange of experiences in the TBT Committee on the topic of good regulatory practice. Since 1997, over 60 documents on the topic of GRP have been submitted by Members, and specific recommendations on GRP were made by the Committee in the Third, Fourth, Fifth and Sixth Triennial Reviews of Implementation and Operation of the TBT Agreement.

4. As you know – and as it was flagged to you in March this year – my intention was to finalize our work at this meeting based on the valuable work done by all of us. To this end, I had asked Members at the last Committee meeting to submit written comments on the fourth version of the Non-Exhaustive List of Voluntary Mechanisms and Related Principles of Good Regulatory Practice (JOB/TBT/44/Rev.3) by the deadline of 30 April 2014. On this basis, the Secretariat prepared a fifth and final version of the non-exhaustive voluntary GRP list, circulated to all Members on 23 May 2014. This is the document that we have before us today: JOB/TBT/44/Rev.4.

5. This week I held a number of consultations with Members in various formats with a view to arriving at a consensus. At the beginning of the week, a few Members raised a concern about the legal status of this document, and more specifically what "interpretative value" – once agreed by the Committee – it might have in WTO dispute settlement proceedings. Other Members stressed that the document is clearly framed as voluntary, non-exhaustive, non-prescriptive, providing only an illustrative list of mechanisms and suggested steps.

6. Unfortunately, as reported to the Committee on Wednesday morning, I have been unable to bridge these differences. Despite efforts made by Members to possibly reach some compromise language clarifying that this GRP list would neither add nor diminish the rights and obligations of WTO Members, one Member in particular still remains concerned.

¹ Outgoing Chairman of the TBT Committee (2013-14).

² G/TBT/32, para 4(a).

7. I also would like to stress that due to the last-minute concerns on the legal status and interpretative value of the document - both developed and developing country Members have missed the opportunity to discuss other important issues in GRP, including new ideas which could help operationalize Special and Differential Treatment, as well as Technical Assistance. I personally regret this missed opportunity.

8. I, as former Chairman, wish to thank Members for their engagement and hard work this week – and, indeed over the past year and a half. I hope that this spirit of engagement will continue. It would be a pity to see the practical, pragmatic focus of this Committee diluted. Finally, I would encourage Members to reflect on the systemic implications this may have on future work of the Committee.
