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Committee on Technical Barriers to Trade

**THEMATIC SESSION ON CONFORMITY ASSESSMENT PROCEDURES AND  
TECHNICAL ASSISTANCE AND SPECIAL AND DIFFERENTIAL TREATMENT**

**REPORT BY THE CHAIRMAN TO THE TBT COMMITTEE<sup>1</sup>**

This Report was delivered by the Chairman of the WTO TBT Committee at the meeting of 5-6 November 2014.

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At the Sixth Triennial Review, the Committee agreed to hold thematic sessions in response to specific decisions and recommendations before the Committee.<sup>2</sup> The thematic session held on 4 November focused on the topics of *conformity assessment procedures*<sup>3</sup> and *technical assistance and special and differential treatment*.<sup>4</sup> The final programme as contained in JOB/TBT/111/Rev.1 is annexed to this summary report. The presentations are available as Room Documents on Document Online (under Documents for meetings) and will also be made available on the TBT gateway of the WTO website.

**1 CONFORMITY ASSESSMENT PROCEDURES**

1.1. The thematic session started with a presentation by **Mr Fabrizio Sacchetti from the European Commission** on the Choice of Conformity Assessment Procedures in Relation to Market Surveillance Mechanisms and Product Liability Regimes. In the EU, market surveillance was the combination of activities and measures taken by public authorities to ensure that products comply with the requirements set out in the relevant legislation for the protection of health, safety or other public interests. He noted that, in the European Union, conformity assessment and market surveillance functions were strictly separated and the product liability regime placed the ultimate responsibility on the manufacturer or the importer. An appropriate level of market surveillance was necessary regardless of the applicable conformity assessment procedures: there was empirical evidence of non-compliant products also when third-party conformity assessment was mandatory; in addition there were instances of non-compliance that could only be tackled through market surveillance (e.g. products sold on-line, products with counterfeited conformity marks and related certificates; products placed on the market that differ from the samples submitted for certification, etc.) A well-functioning market surveillance mechanism was therefore necessary to ensure proper enforcement of applicable requirements. Furthermore, it gave the regulator the possibility to opt for less burdensome conformity assessment procedures in case of low risk products and rely in such cases, for example, more on supplier's declaration of conformity (SDoC) and less on third-party certification. He underlined the need for finding the right balance between conformity assessment procedures and market surveillance mechanisms for an efficient protection of consumers and other policy objectives, as well as to guarantee a level playing field for business. Finally, the representative of the EU referred to three areas currently under consideration in the EU which showed interesting examples of possible convergence / interaction between conformity assessment and market surveillance in order to make the latter more efficient: (i) pilot voluntary

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<sup>1</sup> Mr. Filipe Ramalheira (Portugal). This Report is provided on the Chairman's own responsibility.

<sup>2</sup> G/TBT/32, paragraph 26.

<sup>3</sup> The latest decisions and recommendations on conformity assessment procedures are contained in Part 1, Section 2 of G/TBT/1/Rev.11. The summary report of the last thematic session on conformity assessment procedures (29 October 2013) is contained in document G/TBT/GEN/155.

<sup>4</sup> The latest decisions and recommendations on special and differential treatment are contained in Part 1, Section 6 of G/TBT/1/Rev.11. The summary report of the last thematic session on special and differential treatment (29 October 2013) is contained in document G/TBT/GEN/156.

compliance schemes operated by market surveillance authorities to integrate the concept of market surveillance into the supply chain; (ii) e-compliance schemes creating a repository of documents related to conformity assessment procedures of products and allowing for better risk profiling of products / economic operators; and (iii) market surveillance schemes for products sold online, for instance by making online traders "co-responsible" for ensuring conformity with the requirements of the country where the product is sold.

1.2. The next three presentations addressed International and Regional Systems for Conformity Assessment (covered under Article 9 of the TBT Agreement). **Mr Andy Henson from the Bureau International des Poids et Mesures (BIPM)** made a presentation on the role of metrology in conformity assessment. Metrology, he said, was the "science and practice of measurement" with the objective of ensuring that measurements were stable, comparable and coherent and met the evolving needs of the economy, society and citizens. After an overview of the three subfields of metrology (scientific or fundamental metrology, applied and industrial metrology, legal metrology), he underlined the importance for international trade of a common understanding and application of metrology worldwide, through the equivalent technical infrastructure of the BPIM, OIML, ILAC and ISO and through common guides on definitions and measurement uncertainty. The important role of the National Metrology Institutes (NMIs) and legal metrology authorities was emphasised. He noted that there were also regional metrology organisations supporting and complementing the work of international organisations. He also pointed out that to go up the value chain, it was important to be a part of the international metrology system.

1.3. **Ms Ileana Martinez from the United States** made a presentation on the Quality Infrastructure Council of the Americas (QICA), an initiative launched by the Ministers of Science and Technology of the Organization of American States (OAS) in November 2011. The initiative aimed to foster competitiveness, innovation, trade and consumer safety by enhancing the ability of OAS member states to have access to internationally recognized quality infrastructure services. The three conceptual pillars of a National Quality Infrastructure (NQI) were identified as standardization, accreditation and metrology. The three regional organizations (COPANT, SIM and IAAC) that ensure regional cooperation in these three areas had signed an MOU in August 2014 to create the Quality Infrastructure Council of the Americas (QICA) and provide a single point of contact for action and collaboration to strengthen the national quality infrastructure in the Americas. The proposed activities included awareness raising events, joint seminars and training courses as well as initiatives to promote cooperation at the national level among those engaged in the three pillars.

1.4. **Mr Ron Josias from South Africa** made a presentation on Building Quality Infrastructure in Africa. Referring to the key role of accreditation in the chain of trust from manufacturer to consumer, he noted that there had been significant developments in this area in Africa in the past 10 years, linking Africa more strongly to the international framework of quality infrastructure. There were an increasing number of internationally recognized accreditation bodies in Africa (for example from Egypt and Tunisia). In addition, the African Accreditation Cooperation (AFRAC) had been launched in 2010, creating the link between national accreditation bodies and the global system (ILAC/IAF). He also presented the Pan-African Quality Infrastructure (PAQI) initiative, which coordinated regional efforts on the three independently managed but interlinked elements of metrology, standardization and accreditation of conformity assessment services. The regional bodies involved in this initiative (AFRAC, AFRIMETS, AFSEC and ARSO), which provided the link to the international quality infrastructure, had had their first official meeting with the African Union Commission (AUC) in September 2014. The presentation showed that Africa's quality infrastructure had made significant progress.

## 2 TECHNICAL ASSISTANCE AND SPECIAL AND DIFFERENTIAL TREATMENT

2.1. **Ms Jennifer Stradtman from the United States** made a presentation on Advancements in APEC on e-rulemaking in the Internet era. In particular, she outlined the steps taken to implement the call of APEC Leaders in 2011 for strengthening the implementation of good regulatory practices by conducting public consultations, ensuring internal coordination of regulatory work and assessing the impact of regulations. She noted that the internet had revolutionized public consultation mechanisms, easing access and facilitating higher quality comments from around the world. APEC Workshops on e-rule-making and public consultation in the internet era had been held in 2013 and 2014. The topics discussed had included establishing the legal, technical and administrative framework, developing whole-of-government websites for conducting public consultations,

standardizing procedures across ministries and providing opportunities to comment on regulatory impact analysis. APEC was continuing to work on strengthening the implementation of public consultations through information technology, under the Chairmanship of China in 2014 and the Philippines in 2015.

2.2. **Ms Susannah Leslie from New Zealand** presented APEC's efforts to improve regulatory coherence in wine trade across APEC economies. She pointed out that the regulatory environment was out of step with the increase in wine trade and noted that regulations could result in unnecessary obstacles to trade and increased costs for producers, without any demonstrable benefit to consumers, producers and regulators. The World Wine Trade Group (WWTG) and the APEC Wine Regulatory Forum (WRF) were government and industry partnerships, which worked together to facilitate trade in wine and represented significant examples of how governments and industry could work together to advance good regulatory practices. The World Wine Trade Group, founded in 1998, brought together mainly wine producing countries while the APEC Wine Regulatory Forum, established in 2008, was younger with more diverse participants, but had already taken significant steps, such as a consolidated US/China certificate. The work of both groups had led to the reduction of barriers to trade in wine and cooperation was being further enhanced.

2.3. The final speaker was **Mr Melvin Spreij** from the Standards and Trade Development Facility (STDF) who provided an overview of the Coordination and Funding Role of the STDF in SPS-related technical assistance. He explained that the STDF helped to: (i) increase awareness on the importance of building SPS capacity; (ii) mobilize Aid for Trade resources, (iii) strengthen collaboration among providers of assistance; and (iv) identify and disseminate good practice. On-going thematic work focused on trade facilitation in the context of the SPS Agreement, prioritization of SPS investment options for market access and public-private partnerships to build SPS capacity. The STDF also provided support and funding for the development and implementation of projects that promote compliance with international standards and SPS requirements. The STDF Working Group brought together representatives from STDF's founding partner agencies - namely FAO (including Codex and IPPC), OIE, World Bank, WHO, WTO -, donors, selected developing country SPS experts and other relevant agencies such as ITC and UNIDO. Its Secretariat was housed at the WTO. In response to queries as to whether certain TBT issues could be incorporated in STDF's work, he indicated that while there was scope for benefitting from synergies, for example in the area of laboratory infrastructure, the mandate of the STDF was limited to SPS issues. Further information on the STDF, the secretariat of which is housed at the WTO, is available on their newly upgraded website: <http://www.standardsfacility.org>.

2.4. On a **personal note**, I found it to be a very fruitful thematic session. We touched upon a wide-array of topics under conformity assessment and looked at practices and approaches followed in several regions. The presentations highlighted the hard task that falls on regulatory bodies and the need for them to keep pace with trends in international markets –such as in e-commerce. The emphasis of discussions in the area of *technical assistance and special and differential treatment* was on regional and international initiatives, underlining the importance of working together in various fora to promote good practices in regulatory cooperation and technical assistance.

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## **ANNEX**

### **PROGRAMME<sup>1</sup>**

#### **1 CONFORMITY ASSESSMENT PROCEDURES**

- a. Choice of Conformity Assessment Procedures in Relation to Market Surveillance Mechanisms and Product Liability Regimes - Fabrizio Sacchetti, Directorate-General for Enterprise and Industry, European Commission
- b. International and Regional Systems for Conformity Assessment (Article 9)
  - i. Role of Metrology in Conformity Assessment - Andy Henson, Director, International Liaison and Communication Department, Bureau International des Poids et Mesures (BIPM)
  - ii. Building Quality Infrastructure in the Americas: MOU among Inter-American Accreditation Cooperation (IAAC), Inter-American Metrology System (SIM) and the Pan American Standards Commission (COPANT) - Ileana Martinez, National Institute of Standards and Technology (NIST), Chair IAAC, United States
  - iii. Building Quality Infrastructure in Africa: Overview of Accreditation and the Pan African Quality Infrastructure (PAQI) - Ron Josias, Chief Executive Officer, South African National Accreditation System (SANAS) and Chairperson, African Accreditation Cooperation (AFRAC)

#### **2 TECHNICAL ASSISTANCE AND SPECIAL AND DIFFERENTIAL TREATMENT**

- a. Advancements in Asia-Pacific Economic Cooperation (APEC) on E-rulemaking in the Internet Era - Jennifer Stradtman, Director, Technical Barriers to Trade at Office of the U.S. Trade Representative
- b. APEC Wine Regulatory Forum: Improving regulatory coherence in the wine trade across APEC economies - Susannah Leslie, Policy Officer, New Zealand Ministry of Foreign Affairs and Trade
- c. The Coordination and Funding Role of the STDF in SPS-related technical assistance - Melvin Spreij, Counsellor, Agriculture and Commodities Division, WTO and Secretary, Standards and Trade Development Facility (STDF)

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<sup>1</sup> The final programme was circulated as JOB/TBT/111/Rev.1 on 31 October 2014