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Committee on Technical Barriers to Trade

DECISIONS AND RECOMMENDATIONS ADOPTED BY THE WTO COMMITTEE ON TECHNICAL BARRIERS TO TRADE SINCE 1 JANUARY 1995

Note by the Secretariat¹

Revision

The present document contains the tenth revision of the compilation of the TBT Committee's Decisions and Recommendations. The first compilation, circulated on 22 June 1995 (G/TBT/1), has been revised nine times (Revs. 1 – 9). The present revision, which supersedes all previous G/TBT/1 documents, is in two parts. Part 1 contains the Committee's decisions and recommendations adopted since 1 January 1995. Part 2 contains the Committee's Rules of Procedure including Guidelines for Observer Status for Governments and International Intergovernmental Organizations.

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members and to their rights and obligations under the WTO.

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**PART 1:
DECISIONS AND RECOMMENDATIONS ADOPTED BY THE
COMMITTEE ON TECHNICAL BARRIERS TO TRADE**

I. GOOD REGULATORY PRACTICE

1. Good Regulatory Practice can contribute to the improved and effective implementation of the substantive obligations under the TBT Agreement. Effective implementation through best practices is seen as an important means of avoiding unnecessary obstacles to trade. Institutionalizing the various mechanisms, processes and procedures of Good Regulatory Practice through laws, regulations and guidance, as well as through the creation and designation of institutions within Member governments to oversee regulatory processes, is seen as a means of giving effect to Good Regulatory Practice. Effective internal policy coordination, including among regulators, standardizing bodies and trade officials implementing the TBT Agreement, is stressed. Additionally, regulatory cooperation between Members is an effective means of disseminating Good Regulatory Practice.²

A. GENERAL

Recommendation

- (a) In 1997, in order to assist the implementation of the relevant provisions of the Agreement, the Committee agreed to the following³:
- (i) when considering the preparation of a technical regulation, it is important for Members first to identify the related problem, including its magnitude and the legitimate objective; and then consider all options available consistent with the Agreement, bearing in mind that in accordance with Articles 2.2 and 2.3 a technical regulation shall not be more trade restrictive than necessary to fulfil a legitimate objective, and shall not be maintained if the circumstances or objectives giving rise to its adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner. If a technical regulation is required, it shall comply with the relevant provisions of the Agreement, including Articles 12.3 and 12.7;
 - (ii) to avoid duplication of work and to ensure effective implementation of the Agreement, coordination between governmental regulatory authorities, trade officials and national standardizing bodies is essential.

B. INFORMATION EXCHANGE

Recommendations

- (a) Since the entry into force of the Agreement, the Committee has engaged in an in-depth exchange of experiences on various aspects of Good Regulatory Practice in order to foster a common understanding of the issues involved.⁴ In 1997 and in 2000,

² G/TBT/26, 13 November 2009, paras. 8-9, and 14.

³ G/TBT/5, 19 November 1997, para. 24 (a)-(c). At the subsequent Triennial Review (the Second), the Committee agreed to continue this exchange of information (G/TBT/9, 13 November 2000, para. 37).

⁴ G/TBT/5, 19 November 1997, paras. 23-24; G/TBT/9, 13 November 2000, para. 37; G/TBT/13, 11 November 2003, para. 14; G/TBT/19, 14 November 2006, para. 19; G/TBT/26, 12 November 2009, paras. 11 and 16.

in order to assist the implementation of the relevant provisions of the Agreement, the Committee agreed⁵:

- (i) to invite Members, on a voluntary basis, to submit descriptions of their approach to technical regulations; and
 - (ii) to examine the various approaches to the preparation, adoption and application of technical regulations and their consequences for market access, with a view to assisting regulatory authorities through promoting awareness of their rights and obligations under the Agreement.
- (b) In 2003, noting that the issue of good regulatory practice is important, evolving, and worthy of further discussion in the TBT Committee, to further its work on good regulatory practice, the Committee agreed⁶:
- (i) to invite Members to exchange experiences related to the identification of elements of good regulatory practice at the domestic level;
 - (ii) to continue its exchanges on Members' experiences and focus its discussion on, *inter alia*, choice of policy instruments, mandatory versus voluntary measures, and the use of regulatory impact assessments to facilitate good regulatory practice; and
 - (iii) to initiate a process of sharing experiences on equivalency in the Committee particularly with regard to how the concept is implemented in practice.
- (c) In 2006, with a view to deepening understanding of the contribution good regulatory practice can make to the implementation of the TBT Agreement, the Committee agreed to share experiences on⁷:
- (i) factors used by regulators to determine whether there is a need to regulate in a given situation or whether other instruments are better suited to fulfil the legitimate objective sought;
 - (ii) the use of tools, such as regulatory impact assessment, to assist regulatory decision-making (including with respect to (i) above);
 - (iii) the use of performance-based regulations by Members;
 - (iv) how good regulatory practices have been integrated into Members' regulatory structures, including the use of mechanisms to ensure openness, transparency and accountability of the regulatory processes;
 - (v) the establishment of domestic administrative mechanisms to facilitate cooperation and coordination between competent authorities and coordination with other stakeholders;
 - (vi) how regulatory cooperation between Members has contributed to the avoidance of unnecessary regulatory differences; and

⁵ G/TBT/5, 19 November 1997, para. 24(c); G/TBT/9, 13 November 2000, para. 37.

⁶ G/TBT/13, 11 November 2003, para. 14.

⁷ G/TBT/19, 14 November 2006, para. 19.

- (vii) steps taken and criteria used to arrive at an equivalency decision between Members (Article 2.7), or harmonization on the basis of international standards (Article 2.6).
- (d) In 2009, with the purpose of enabling Members to ensure improved compliance with the obligations set out in the TBT Agreement in the preparation of technical regulations and conformity assessment procedures, the Committee agreed⁸:
 - (i) to compile a list of guidelines for Good Regulatory Practice taking into account Members' experiences and existing relevant work of other organizations;
 - (ii) to prepare an illustrative list of mechanisms used for the implementation of Good Regulatory Practice based on contributions from Members including, for instance, mechanisms used for: public consultation; use of RIA tools; use of performance-based regulations; use of relevant international standards, guides or recommendations as a basis for technical regulations and conformity assessment procedures; and methods of referencing standards in regulations; and
 - (iii) to continue to share views and experiences on aspects of regulatory coordination and administrative mechanisms to facilitate internal coordination between competent authorities, including between trade policy and regulatory authorities, and interested parties.
- (e) In 2009, in order to further enhance information on regulatory cooperation between Members, the Committee agreed⁹:
 - (i) to exchange information on the different approaches to regulatory cooperation between Members that aim at, *inter alia*, enhancing mutual understanding of regulatory systems and identifying, where possible, avenues for greater regulatory convergence; and
 - (ii) to hold a workshop on regulatory cooperation.

Event

- (a) On 18-19 March 2008, with a view to advancing its work on good regulatory practice, the Committee held a Workshop on Good Regulatory Practice, which addressed, among other topics, regulatory impact assessment.¹⁰

⁸ G/TBT/26, 12 November 2009, para. 11.

⁹ G/TBT/26, 12 November 2009, para. 16.

¹⁰ A Summary Report of the Workshop is contained in G/TBT/W/287, 6 June 2008. The Chairman's Report of the Workshop to the TBT Committee is contained in G/TBT/M/44, 10 June 2008, Annex 1. The Workshop was held in response to the recommendation contained in G/TBT/19, 14 November 2006, para. 20.

II. CONFORMITY ASSESSMENT

2. Five articles of the TBT Agreement address conformity assessment procedures, and establish obligations of a substantive and procedural nature. Articles 5 and 6 contain disciplines applying to central government bodies. Articles 7, 8 and 9 relate to conformity assessment procedures of local government bodies, non-governmental bodies and international and regional systems. The definition of a conformity assessment procedure is contained in Annex 1, Paragraph 3 of the Agreement.

A. GENERAL

Recommendations

- (a) In 1997, in order to further the objectives of Articles 5 and 6, including in particular the need to avoid the creation of unnecessary obstacles to international trade due to conformity assessment procedures, and with a view to making recommendations to remove any unnecessary duplication of conformity assessment, the Committee agreed to the following¹¹:
- (i) the Committee will pursue further discussions on ISO/IEC Guides. Members are invited, on a voluntary basis, to continue providing information on their experience in using relevant international guides and recommendations on conformity assessment, and the extent to which these guides and recommendations have served as a basis for the recognition of conformity assessment procedures adopted by bodies in their territories and in regional and international conformity assessment systems, or as a harmonized approach to conformity assessment. In the light of this exercise, the Committee will consider ways and means for better implementation of Articles 5 and 6;
 - (ii) for transparency purposes and to support the work of the Committee, a list of relevant international guides and recommendations related to conformity assessment procedures will be consolidated, circulated and updated regularly by the Secretariat for the information of Members;
 - (iii) the Committee will review the role of regional and international systems for conformity assessment as covered by Article 9 and how these systems could contribute to solving the problems of multiple testing and certification/registration for traders and industries, including in particular small and medium size enterprises. This exercise will also address the extent to which international guides and recommendations contribute to the establishment of these systems, and the possible technical assistance needed for developing countries to develop operational conformity assessment procedures within the context of Articles 11.6, 11.7 and 12.5; and
 - (iv) the Committee will review the operation of Articles 6, 10.7 and other relevant provisions which contain disciplines with respect to recognition of the results of conformity assessment procedures. In this regard, Members are invited, on a voluntary basis, to exchange information. The review will also address the possible difficulties and problems associated with MRAs. In the light of this exercise, the Committee may consider the usefulness of drafting guidelines, *inter alia* for MRAs.

¹¹ G/TBT/5, 19 November 1997, para. 29 (a)-(e).

- (b) In 2000, the Committee developed an indicative list describing different approaches to facilitate acceptance of results of conformity assessment. This list is contained in Annex A (on page 44 of this document). The Committee noted the following in respect of this list¹²:
- (i) the list was not intended to prescribe particular approaches that Members might choose to adopt as it was recognized that the application of different approaches would depend on the situation of Members and the specific sectors involved; and
 - (ii) governments and non-governmental bodies might choose to apply different approaches across different sectors, or apply more than one procedure within individual sectors, taking into account variations in procedures in different Members and perceived levels of risk in the acceptance of results in different sectors.

B. INFORMATION EXCHANGE

Recommendations

- (a) The Committee has regularly engaged in information exchange on the use of conformity assessment procedures with a view to improving Members' implementation and understanding of Articles 5-9.¹³
- (b) In 1997, in order to further the objectives of Articles 5 and 6, including in particular the need to avoid the creation of unnecessary obstacles to international trade due to conformity assessment procedures, and with a view to making recommendations to remove any unnecessary duplication of conformity assessment, the Committee agreed to invite Members, on a voluntary basis:
- (i) to exchange information on their experience in the various types of conformity assessment procedures and their conditions of application. In the light of this exercise, the Committee will consider making recommendations aimed at ensuring that procedures for the assessment of conformity avoid the creation of unnecessary obstacles to international trade¹⁴; and
 - (ii) to exchange information on the operation of Articles 6, 10.7 (II.A.(a)(iv), above) and other relevant provisions which contain disciplines with respect to recognition of the results of conformity assessment procedures.¹⁵

¹² G/TBT/9, 13 November 2000, para. 27 and Annex 5.

¹³ G/TBT/5, 19 November 1997, para. 29(c); G/TBT/9, 13 November 2000, paras. 28 and 33; G/TBT/13, 11 November 2003, para. 40; G/TBT/19, 14 November 2006, para. 46; G/TBT/26, 13 November 2009, para. 19. In 1996, the Committee established a Technical Working Group to examine certain ISO/IEC Guides on conformity assessment procedures (G/TBT/M/6, 6 December 1996, para. 14). The Working Group met three times and the Reports are contained in G/TBT/M/7-8 and 10 (1997).

¹⁴ G/TBT/5, 19 November 1997, para. 29(c).

¹⁵ G/TBT/5, 19 November 1997, para. 29(e).

- (c) In 2000, the Committee agreed to invite Members, on a voluntary basis:
- (i) to supply further information on the different mechanisms used in their jurisdiction for acceptance of results of conformity assessment¹⁶;
 - (ii) to further exchange information on their experience in the use of supplier's declaration of conformity (SDoC).¹⁷
- (d) In 2003, with a view to improving Members' implementation of Articles 5-9 of the Agreement and promoting a better understanding of Members' conformity assessment systems, the Committee agreed to a work programme¹⁸:
- (i) to exchange information and experiences on existing conformity assessment procedures and practices, the use of relevant international standards, guides and recommendations, and the participation of Members in national, regional and international accreditation schemes;
 - (ii) to exchange information and experiences and hold a workshop on SDoC covering issues such as: the regulatory authorities, sectors and suppliers which use SDoC; the surveillance mechanism, liability law and penalties used to ensure that products comply with requirements; the incentives for suppliers to comply with requirements; and the legislation that underpins the relationship between buyers and sellers;
 - (iii) to invite representatives from relevant international and regional accreditation fora to provide information on their operation and the participation of Members, in particular, developing country Members, in their systems. Moreover, users, such as certification bodies, should also be invited to share their experiences in this respect;
 - (iv) to hold a workshop on the different approaches to conformity assessment, including on the acceptance of conformity assessment results; and
 - (v) to take stock of the progress made on this Work Programme and reflect it in its Annual Report to the Council for Trade in Goods.
- (e) In 2006, with a view to furthering the understanding of the implementation of Articles 5-9 of the Agreement, the Committee agreed to continue sharing experiences on¹⁹:
- (i) approaches to conformity assessment, and in particular on:
 - various considerations that are relevant when deciding on the need for a conformity assessment procedure and on the type of procedure, including the level of risk associated with products;
 - the use of different types of conformity assessment procedures;

¹⁶ G/TBT/9, 13 November 2000, para. 28.

¹⁷ G/TBT/9, 13 November 2000, para. 33.

¹⁸ G/TBT/13, 11 November 2003, paras. 40 and 41.

¹⁹ G/TBT/19, 14 November 2006, para. 46.

- the design and implementation of SDoC and situations for which SDoC may be a suitable conformity assessment procedure; and
- the use of accreditation to qualify the technical competence of conformity assessment bodies.
- (ii) the use of international standards, guides or recommendations in Members' domestic conformity assessment procedures;
- (iii) recognition of conformity assessment results, and in particular on:
 - unilateral recognition of results of foreign conformity assessment, including on existing government designation schemes in relation to Article 6.1.2;
 - the participation of foreign conformity assessment bodies in domestic conformity assessment procedures pursuant to Article 6.4;
 - the operation of existing MRAs, including cases where implementation has not been deemed satisfactory; and their cost-effectiveness; and
 - voluntary mutual recognition arrangements and on the extent to which results of conformity assessment are accepted by regulators.
- (f) In 2009, with a view to facilitating trade, the Committee agreed²⁰:
 - (i) to continue to exchange information on different approaches to facilitating acceptance of conformity assessment results;
 - (ii) to exchange information on the criteria, methods of analysis and concepts used by Members to inform their evaluation of the range of choices in conformity assessment procedures, including in the context of a risk management framework;
 - (iii) based on these exchanges, and those referred to on page 6 of this document (I.B.(e), above), to initiate work on developing practical guidelines on how to choose and design efficient and effective mechanisms aimed at strengthening the implementation of the TBT Agreement, including the facilitation of acceptance of conformity assessment results (*inter alia* MRAs, equivalence agreements and Supplier's Declaration of Conformity (SDoC)); and
 - (iv) to consider, in light of the above work, the need to build on the current "Indicative List of Approaches to Facilitate the Acceptance of the Results of Conformity Assessment".

Events

- (a) A Symposium on Conformity Assessment Procedures was held on 8-9 June 1999.²¹
- (b) A Special Meeting dedicated to Conformity Assessment Procedures was held on 29 June 2004.²²

²⁰ G/TBT/26, 12 November 2009, para. 19.

²¹ G/TBT/9, 13 November 2000, Annex 1.

- (c) A Workshop on Supplier's Declaration of Conformity (SDoC) was held on 21 March 2005.²³
- (d) A Workshop on the Different Approaches to Conformity Assessment, including on the Acceptance of Conformity Assessment Results, was held on 16-17 March 2006.²⁴

III. STANDARDS

3. The provisions concerning the preparation, adoption and application of standards are contained in Article 4 of the TBT Agreement and in the Code of Good Practice for the Preparation, Adoption and Application of Standards (the "Code of Good Practice"). In addition, Articles 2.4, 2.5, 5.4, and Paragraph F of Annex 3 of the Agreement promote the use of relevant international standards, guides and recommendations as a basis for standards, technical regulations and conformity assessment procedures. Articles 2.6, 5.5 and Paragraph G of Annex 3 emphasize the importance of Members' participation in international standardization activities related to products for which they have either adopted, or expect to adopt, technical regulations.²⁵

4. In 2000, at the Second Triennial Review of the Agreement, the Committee noted that in order for international standards to make a maximum contribution to the achievement of the trade facilitating objectives of the Agreement, it was important that all Members had the opportunity to participate in the elaboration and adoption of international standards. Adverse trade effects might arise from standards emanating from international bodies as defined in the Agreement which had no procedures for soliciting input from a wide range of interests. Bodies operating with open, impartial and transparent procedures, that afforded an opportunity for consensus among all interested parties in the territories of at least all Members, were seen as more likely to develop standards which were effective and relevant on a global basis and would thereby contribute to the goal of the Agreement to prevent unnecessary obstacles to trade. In order to improve the quality of international standards and to ensure the effective application of the Agreement, the Committee agreed that there was a need to develop principles concerning transparency, openness, impartiality and consensus, relevance and effectiveness, coherence and developing country interests that would clarify and strengthen the concept of international standards under the Agreement and contribute to the advancement of its objectives. In this regard, the Committee adopted a Decision containing a set of principles it considered important for international standards development. These principles were seen as equally relevant to the preparation of international standards, guides and recommendations for conformity assessment procedures. The dissemination of such principles by Members and standardizing bodies in their territories would encourage the various international bodies to clarify and strengthen their rules and procedures on standards development, thus further contributing to the advancement of the objectives of the Agreement.²⁶

²² A Report of the special meeting is contained in G/TBT/M/33/Add.1, 21 October 2004.

²³ A Report of the workshop is contained in Annex 1 of G/TBT/M/35, 24 May 2005.

²⁴ A Report of the workshop is contained in G/TBT/M/38/Add.1, 6 June 2006.

²⁵ G/TBT/26, 12 November 2009, para. 20.

²⁶ G/TBT/9, 13 November 2000, para. 20 and Annex 4.

A. GENERAL

Decision

- (a) In 2000, the Committee adopted a Decision on Principles for the Development of International Standards, Guides and Recommendations with Relation to Articles 2, 5 and Annex 3 of the TBT Agreement. This Decision is contained in Annex B (on page 46 of this document).²⁷

Recommendations

- (a) In 1997, with a view to developing a better understanding of international standards within the Agreement, the Committee agreed²⁸:
- (i) to explore ways and means of improving the implementation of Articles 2.6, 5.5, 11.2, 12.5 and paragraph G of the Code with a view to enhancing Members' awareness of, and participation in, the work of international standardizing bodies. As appropriate, the Committee will consider the usefulness of communicating its views to the relevant international standardizing bodies for their consideration;
- (b) In 2009, the Committee recognized the need for international standards to be relevant and effectively respond to regulatory and market needs, as well as scientific and technological developments, while not creating unnecessary obstacles to international trade. In light of the above, the Committee²⁹:
- (i) encouraged Members, Observer organizations and relevant bodies involved in the development of standards to exchange experiences and circulate case studies – or other research – on the impacts of standards on economic development and international trade;
 - (ii) stressed the importance of ensuring the effective application of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the TBT Agreement); and
 - (iii) encouraged the full application of the six principles set out in the above-mentioned Decision, and the sharing of experiences in respect of their use.
- (c) In 2009, the Committee noted that several Members had raised concerns regarding "private standards" and trade impacts thereof, including actual or potential unnecessary barriers to trade. The Committee also noted that other Members considered that the term lacks clarity and that its relevance to the implementation of the TBT Agreement had not been established. Without prejudice to the different views expressed, the Committee recalled that Article 4.1 of the TBT Agreement requires that Members shall take such reasonable measures as may be available to them to ensure that standardizing bodies accept and comply with the Code of Good

²⁷ G/TBT/9, 13 November 2000, para. 20 and Annex 4.

²⁸ G/TBT/5, 19 November 1997, para. 22(a).

²⁹ G/TBT/26, 12 November 2009, para. 25.

Practice. The Committee further expressed the need to strengthen implementation of Article 4. In view of this, the Committee³⁰:

- (i) recalled its discussion in the Third Triennial Review³¹ regarding standards developed by bodies that are not commonly considered standardizing bodies;
- (ii) reiterated its 1997 invitation to Members to share their experiences with respect to steps taken to fulfil their obligations under Article 4, and to exchange information regarding the reasons some standardizing bodies have not yet accepted the Code of Good Practice³²; and
- (iii) with a view to facilitating an informed discussion on the development and use of standards in general, including with regard to standards developed by non-governmental bodies, Members were invited to share their experiences related to the implementation of the TBT Agreement, including the Code of Good Practice. Discussions would neither prejudice the role of the TBT Committee nor the scope of the TBT Agreement with respect to any issue that may arise.

B. INFORMATION EXCHANGE

Recommendations

- (a) In 1997, the Committee agreed to seek information from international standardizing bodies regarding their procedures to ensure cooperation with their national members and regional standardizing bodies and to consider the usefulness of communicating the Committee's views to the relevant international standardizing bodies.³³ Also, with a view to developing a better understanding of international standards within the Agreement, the Committee agreed³⁴:
 - (i) to invite Members, on a voluntary basis, to submit specific examples to the Committee addressing the difficulties and problems they encounter in relation to international standards, including those mentioned in paragraph 18 above, taking into account Article 12.4. This information exchange process, as well as the indications obtained through the notifications of draft regulations and conformity assessment procedures, would provide relevant information on the national practices of Members, and on the manner in which international standardizing bodies developed standards. In the light of this experience sharing exercise, the Committee may consider the usefulness of communicating its views to relevant international standardizing bodies for their consideration;
 - (ii) to consider the appropriate means for the Committee to express its views to relevant international standardizing bodies regarding the preparation of international standards, and to invite international standardizing bodies to follow the relevant principles of the Code of Good Practice; and

³⁰ G/TBT/26, 12 November 2009, para. 26.

³¹ G/TBT/13, para. 25.

³² G/TBT/1/Rev.9, p.21.

³³ G/TBT/5, 19 November 1997, para. 13.

³⁴ G/TBT/5, 19 November 1997, para. 22 (b)-(d).

- (iii) in accordance with the rules of procedures of the Committee and on an ad hoc basis as agreed, relevant international standardizing bodies will be invited to meetings of the Committee to enable them to take into account the on-going discussions in the WTO, and to increase Members' awareness of the activities of these organizations. Relevant international standardizing bodies will be invited to provide prior information concerning their activities.
- (b) In 2009, the Committee recognized the advances made in increasing meaningful participation by developing country Members in standardizing activities in areas of interest to them, but noted that for many developing country Members challenges remain, both financially and technically. In view of achieving further progress, the Committee³⁵:
 - (i) encouraged Members, Observer organizations and relevant bodies involved in the development of standards, to exchange information on initiatives implemented, successes achieved and obstacles encountered.

Events

- (a) An Information Session of Bodies Involved in the Preparation of International Standards was held on 19 November 1998.³⁶
- (b) A Workshop on the Role of International Standards in Economic Development was held on 16-17 March 2009.³⁷
- (c) The Sixth Special Meeting on Procedures for Information Exchange, held on 22 June 2010, included a session on Transparency in Standard Setting.³⁸

C. REGIONAL STANDARDS-RELATED ACTIVITIES

Decision

- (a) In 1995, the Committee noted that the Agreement contains a number of provisions on regional standardizing bodies and systems for conformity assessment. In order to keep abreast of the activities of such bodies and systems, the Committee agreed³⁹:
 - (i) that representatives of regional standardizing bodies and systems for conformity assessment may be invited to address the Committee on their procedures and how they relate to those embodied in the Agreement, on the basis of agreed lists of questions.

³⁵ G/TBT/26, 12 November 2009, para. 27.

³⁶ G/TBT/9, 13 November 2000, Annex 1.

³⁷ G/TBT/M/47, 5 June 2009, pp. 81-83.

³⁸ G/TBT/M/51, 1 October 2010, pp. 82-88.

³⁹ G/TBT/M/3, 5 January 1996, para. 15; G/TBT/W/14, 29 September 1995, p. 4.

Recommendation⁴⁰

- (a) In 2006, with regard to the acceptance of the Code of Good Practice by regional standardizing bodies, the Committee agreed⁴¹:
 - (i) to encourage regional standardizing bodies to accept the Code of Good Practice and to notify their acceptance of the Code to the ISO/IEC Information Centre.

IV. TRANSPARENCY

5. The TBT Agreement contains transparency provisions in: Articles 2 and 3 (technical regulations); Articles 5, 7, 8 and 9 (conformity assessment procedures); Annex 3, paragraphs J, L, M, N, O & P (standards); and Articles 10 (general transparency provision) and 15 (final provisions). A number of decisions and recommendations have been made with a view to facilitating access to information and further improving the implementation of transparency procedures under the Agreement.

A. GENERAL

Recommendation

- (a) In 2009, the Committee reiterated the importance of Members fully complying with their transparency obligations under the TBT Agreement and in particular those related to the notification of technical regulations and conformity assessment procedures, as required under Articles 2.9, 2.10, 5.6, 5.7 and 10.7. The Committee stressed that transparency is a fundamental pillar in the implementation of the TBT Agreement and a key element of Good Regulatory Practice.⁴² The Committee noted the significant stock of decisions and recommendations that it has developed since 1995, and agreed⁴³:
 - (i) to stress the importance of full implementation of this existing body of decisions and recommendations by Members.

B. STATEMENT ON IMPLEMENTATION AND ADMINISTRATION OF THE TBT AGREEMENT (ARTICLE 15.2)

- (a) Pursuant to Article 15.2, Members have an obligation to submit a statement on the measures in existence or taken to ensure the implementation and administration of the Agreement, including the provisions on transparency. Such statements, to be made by a Member promptly after the date on which the WTO Agreement enters into force for it, give a brief overview of how individual Members implement the TBT Agreement. Since the establishment of the Committee, Members have emphasized the importance of fulfilling their obligations under Article 15.2.⁴⁴

⁴⁰ This recommendation is also reproduced under the Section on Transparency under IV.C.2(i), on p. 25.

⁴¹ G/TBT/19, 14 November 2006, paras. 66-67 and 68(g)(i).

⁴² G/TBT/26, 12 November 2009, para. 29.

⁴³ G/TBT/26, 12 November 2009, para. 32.

⁴⁴ G/TBT/5, 19 November 1997, para. 7; G/TBT/9, 13 November 2000, para. 9; G/TBT/13, 11 November 2003, para. 7; G/TBT/19, 14 November 2006, para. 6.

Decision

- (a) In 1995, with respect to the contents of Article 15.2 statements, the Committee agreed⁴⁵:
- (i) the statement should cover the legislative, regulatory and administrative action taken as a result of the negotiation of the Agreement or currently in existence to ensure that the provisions of the Agreement are applied. If the Agreement itself has been incorporated into domestic law, the statement should indicate how this has been done. In other cases, the statement should describe the content of the relevant laws, regulations, administrative orders, etc. All necessary references should also be provided.
 - (ii) in addition, the statement should specify:
 - the names of the publications used to announce that work is proceeding on draft technical regulations or standards and procedures for assessment of conformity and those in which the texts of technical regulations and standards or procedures for assessment of conformity are published under Articles 2.9.1, 2.11; 3.1 (in relation to 2.9.1 and 2.11); 5.6.1, 5.8; 7.1, 8.1 and 9.2 (in relation to 5.6.1 and 5.8); and paragraphs J, L and O of Annex 3 of the Agreement;
 - the expected length of time allowed for presentation of comments in writing on technical regulations, standards or procedures for assessment of conformity under Articles 2.9.4 and 2.10.3; 3.1 (in relation to 2.9.4 and 2.10.3); 5.6.4 and 5.7.3; 7.1, 8.1 and 9.2 (in relation to 5.6.4 and 5.7.3); and paragraph L of Annex 3 of the Agreement;
 - the name and address of the enquiry point(s) foreseen in Articles 10.1 and 10.3 of the Agreement with an indication as to whether it is/they are fully operational; if for legal or administrative reasons more than one enquiry point is established, complete and unambiguous information on the scope of responsibilities of each of them;
 - the name and address of any other agencies that have specific functions under the Agreement, including those foreseen in Articles 10.10 and 10.11 of the Agreement; and
 - measures and arrangements to ensure that national and sub-national authorities preparing new technical regulations or procedures for assessment of conformity, or substantial amendments to existing ones, provide early information on their proposals in order to enable the Member in question to fulfil its obligations on notifications under Articles 2.9, 2.10, 3.2, 5.6, 5.7 and 7.2 of the Agreement.

Recommendations

- (a) In 1997, in order to ensure the submission of statements under Article 15.2 and to improve the implementation and administration of the Agreement, the Committee agreed⁴⁶:

⁴⁵ G/TBT/M/2, 4 October 1995, para. 5, G/TBT/W/2/Rev.1, 21 June 1995, p. 2.

- (i) with due consideration to the obligations under Article 15.2 to inform the Committee of measures in existence or taken to ensure the implementation and administration of the Agreement, Members who have not submitted such information are expected to do so without further delay. They are invited to indicate any difficulties and needs in this respect, so that technical assistance may be provided as appropriate;
 - (ii) for the purpose of information exchange, Members are invited, on a voluntary basis, to make oral presentations to further elaborate on the arrangements they have in place to achieve an effective implementation and administration of the provisions of the Agreement, including those under Article 12. This exercise would be a useful means of sharing information with respect to good practices and in meeting the needs of those Members that may be seeking assistance.
- (b) In 2000, the Committee agreed⁴⁷:
- (i) to encourage Members to continue sharing their experiences on the arrangements they had in place to achieve an effective implementation and administration of the provisions of the Agreement.
- (c) In 2003, in order to assist Members in meeting their obligations under Articles 15.2 and 10.1, the Committee⁴⁸:
- (i) invited Members to seek assistance from other Members that had met their 15.2 obligations to share their knowledge and experience in this regard.

Documents

- (a) Members' Statements on Implementation and Administration of the Agreement are contained in the G/TBT/2/Add - series.
- (b) A list of Members having submitted their 15.2 Statements is maintained in the G/TBT/GEN/1/ - series.

Event

- (a) On 8 November 2007, the WTO Secretariat organized a Workshop on the Statement on Implementation and Administration of the TBT Agreement under Article 15.2.⁴⁹

C. NOTIFICATIONS

1. Technical Regulations and Conformity Assessment Procedures

6. Articles 2, 3, 5, and 7 of the TBT Agreement contain the notification obligations related to technical regulations and conformity assessment procedures. In addition, the TBT Committee has put in place detailed procedures for the implementation of these provisions (set out below), which have been refined over the years. The importance of fulfilling notification provisions has been regularly reiterated by the TBT Committee, as notifications can make an important contribution towards

⁴⁶ G/TBT/5, 19 November 1997, para. 7.

⁴⁷ G/TBT/9, 13 November 2000, para. 9.

⁴⁸ G/TBT/13, 11 November 2003, para. 7.

⁴⁹ G/TBT/M/43, 21 January 2008, para. 3-5.

avoiding unnecessary obstacles to trade and provide Members with the opportunity to influence the development of technical requirements of other Members.

7. Article 2.9 of the TBT Agreement provides that Members have an obligation to notify a proposed technical regulation whenever a relevant international standard does not exist or when the technical content of the proposed technical regulation is not in accordance with the technical content of relevant international standards and if the technical regulation may have a significant effect on trade of other Members. Similarly, Article 5.6 of the TBT Agreement provides that Members have an obligation to notify a draft conformity assessment procedure whenever a relevant international guide or recommendation issued by international standardizing bodies does not exist or the technical content of the proposed conformity assessment procedure is not in accordance with relevant international guides or recommendations issued by international standardizing bodies and if the conformity assessment procedure may have a significant effect on trade of other Members.

Recommendation

- (a) In 2009, based on experience shared between Members on the implementation of notification obligations, the Committee agreed⁵⁰:
- (i) to reiterate the importance of ensuring that Members comply fully with the notification requirements in Articles 2.9 and 5.6 of the TBT Agreement
 - (ii) to encourage Members to endeavour to submit those notifications at an early stage, when measures are still in draft form, to ensure time and adequate opportunity for comments, for comments to be taken into account and for proposed measures to be modified; and
 - (iii) to reaffirm the importance of establishing mechanisms to facilitate internal coordination for the effective implementation of the TBT Agreement's notifications obligations.
- (i) *"Significant effect on trade of other Members"*

Recommendation

- (a) In 1995, with a view to ensuring a consistent approach to the selection of proposed technical regulations and procedures for assessment of conformity to be notified, the Committee established the following criteria⁵¹:
- (i) for the purposes of Articles 2.9 and 5.6, the concept of "significant effect on trade of other Members" may refer to the effect on trade:
 - of one technical regulation or procedure for assessment of conformity only, or of various technical regulations or procedures for assessment of conformity in combination;
 - in a specific product, group of products or products in general; and
 - between two or more Members.

⁵⁰ G/TBT/26, 12 November 2009, para. 34.

⁵¹ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 8.

- (ii) when assessing the significance of the effect on trade of technical regulations, the Member concerned should take into consideration such elements as:
 - the value or other importance of imports in respect of the importing and/or exporting Members concerned, whether from other Members individually or collectively;
 - the potential growth of such imports; and
 - difficulties for producers in other Members to comply with the proposed technical regulations.
- (iii) the concept of a significant effect on trade of other Members should include both import-enhancing and import-reducing effects on the trade of other Members, as long as such effects are significant.

(ii) *Timing of Notifications*

Recommendation

- (a) In 1995, the Committee agreed that when implementing the provisions of Articles 2.9.2, 3.2 (in relation to Article 2.9.2), 5.6.2 and 7.2 (in relation to Article 5.6.2), a notification should be made when a draft with the complete text of a proposed technical regulation or procedures for assessment of conformity is available and when amendments can still be introduced and taken into account.⁵²

(iii) *Submission of Notification (Format and Guidelines)*

Decisions

- (a) The agreed version of the Guidelines and Format is contained in Annex C (on page 49 of this document).⁵³
- (b) In 2000, the Committee noted that enhancement of Internet usage can facilitate access to and exchange of information by Members. This would also facilitate and provide the maximum time possible for receiving notifications, obtaining and translating of relevant documents, and the presentation of comments. With a view to facilitating access to information by Members, as well as to strengthen the notification process, including the time needed for the publication and circulation of notification by the Secretariat, the Committee agreed⁵⁴:
 - (i) whenever possible Members should file notifications by downloading, filling out and returning the complete form by e-mail to the Secretariat. The Committee will continue to explore ways to shorten the time for the submission, publication and circulation of notifications, as well as to examine the steps that would be needed to facilitate the electronic transmission of information among Members to complement the hard copy information exchange.

⁵² G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 8.

⁵³ G/TBT/1/Rev.8, 23 May 2002, p. 11.

⁵⁴ G/TBT/9, 13 November 2000, paras. 13, 15 and Annex 3.

Recommendations

- (a) In 1995, the Committee recommended that information contained in the notification form should be as complete as possible and no section should be left blank. Where necessary, "not known" or "not stated" should be indicated.⁵⁵
- (b) In 2000, the Committee requested that Members transmit their notifications to the Secretariat electronically via the Central Registry of Notifications (CRN) at crn@wto.org in order to accelerate their processing.⁵⁶
- (c) In 2003, with regard to the electronic transmission of information on proposed standards, technical regulations and conformity assessment procedures, the Committee agreed⁵⁷:
 - (i) to examine the feasibility of creating a central depository for notifications on the WTO website, which would enable Members to complete notification forms on line. This would complement, not replace, the submission of notifications to the CRN.
- (d) In 2009, the Committee noted that, in practice, for the sake of greater transparency, some Members choose to notify draft measures when they are in accordance with relevant international standards, guides or recommendations. With a view to increasing transparency on the use of international standards, the Committee agreed⁵⁸:
 - (i) to encourage Members, whenever possible and on a voluntary basis to indicate in Box 8 of the notification format whether or not they consider that a relevant international standard exists and, if appropriate, to provide information about deviations; and
 - (ii) to note the provisions contained in Articles 2.9.3 and 5.6.3 of the TBT Agreement stating that Members, upon request, provide other Members with particulars or copies of a proposed technical regulation or conformity assessment procedure and, whenever possible, identify the parts which, in substance, deviate from relevant international standards or from relevant guides and recommendations issued by international standardizing bodies.

Documents

- (a) Notifications under Article 2, 3, 5, and 7 are circulated in the document series G/TBT/N/[Member]/[Number].

⁵⁵ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 3.

⁵⁶ G/TBT/M/15, paras. 43 and 45; G/TBT/9, 13 November 2000, paras. 13, 15 and Annex 3; G/TBT/13, 11 November 2003, para. 26.

⁵⁷ G/TBT/13, 11 November 2003, para. 27.

⁵⁸ G/TBT/26, 12 November 2009, para. 36.

(iv) *Notification of Labelling requirements*

Decision

- (a) In 1995, with the purpose of clarifying the coverage of the Agreement with respect to labelling requirements, the Committee took the following decision⁵⁹:
- (i) In conformity with Article 2.9 of the Agreement, Members are obliged to notify all mandatory labelling requirements that are not based substantially on a relevant international standard and that may have a significant effect on the trade of other Members. That obligation is not dependent upon the kind of information which is provided on the label, whether it is in the nature of a technical specification or not.

Event

- (b) On 21-22 October 2003, with the objective of improving Members' understanding of the preparation, adoption and application of labelling requirements in the context of the implementation of the Agreement, as well as of the impact of such requirements on market access, the Committee held a Learning Event on Labelling, which focused on developing country Members' concerns.⁶⁰

(v) *Notifications of Proposed Technical Regulations and Conformity Assessment Procedures of Local Governments at the Level Directly Below that of the Central Government*

Recommendations

- (a) In 2006, with regard to the notification of proposed technical regulations and conformity assessment procedures of local governments at the level directly below that of the central government, the Committee agreed⁶¹:
- (i) to invite Members to indicate the local government bodies in their jurisdiction that are subject to the notification obligations contained in Articles 3.2 and 7.2.
- (b) In 2009, the Committee noted, despite an increase in the number of measures notified under Articles 3.2 and 7.2, that this level remained generally low. In light of this, the Committee agreed⁶²:
- (i) to recommend that Members continue to discuss possible ways to improve coordination between relevant authorities at the central level and the local level directly below the central level with respect to notifications under Articles 3.2 and 7.2, including through dissemination of good practices; and
- (ii) to request the Secretariat to remain engaged in providing statistical information with respect to Articles 3.2 and 7.2.

⁵⁹ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 11.

⁶⁰ G/TBT/13, 11 November 2003, para. 3.

⁶¹ G/TBT/19, 14 November 2006, paras. 52 and 68(b)(i).

⁶² G/TBT/26, 12 November 2009, para. 38.

(vi) *Monthly Listing of Notifications Issued by the WTO Secretariat*

Decision

- (a) In 2000, the Committee agreed on the following with a view to providing a brief indication of the notifications issued⁶³:
- (i) the Secretariat is requested to prepare a monthly table of notifications issued, indicating the notification numbers, notifying Members, Articles notified under, products covered, objectives and final dates for comments.

Documents

- (a) Monthly lists of notifications are contained in the document G/TBT/GEN/N/- series.

(vii) *Length of time allowed for comments*

Recommendations

- (a) In 2000 and 2003, with respect to time limits for presentation of comments on notified technical regulations and procedures for assessment of conformity, the Committee agreed:
- (i) the normal time limit for comments on notifications should be 60 days. Any Member which is able to provide a time limit beyond 60 days, such as 90 days, is encouraged to do so and should indicate this in the notification.⁶⁴
- (ii) in order to improve the ability of developing country Members to comment on notifications, and consistent with the principle of special and differential treatment, developed country Members are encouraged to provide more than a 60-day comment period.⁶⁵
- (b) In 2009, the Committee agreed⁶⁶:
- (i) to recall its earlier recommendation that the normal time limit for the presentation of comments should be at least 60 days, and its encouragement to Members to provide, whenever possible, a time limit beyond 60 days, such as 90 days;
- (ii) to recall that developed country Members are encouraged to provide more than a 60-day comment period, to improve the ability of developing country Members to make comments on notifications consistent with the principle of special and differential treatment; and
- (iii) to reiterate that an insufficient period of time for presentation of comments on proposed technical regulations and conformity assessment may prevent Members from adequately exercising their right to submit comments.

⁶³ G/TBT/9, 13 November 2000, para. 13 and Annex 3, p. 22.

⁶⁴ G/TBT/9, 13 November 2000, para. 13 and Annex 3, p. 22.

⁶⁵ G/TBT/13, 11 November 2003, para. 26.

⁶⁶ G/TBT/26, 12 November 2009, paras. 39-40.

(viii) *Handling of comments*

Recommendations

- (a) In 1995, in order to improve the handling of comments on proposed technical regulations and procedures for assessment of conformity submitted under Articles 2.9.4, 2.10.3, 3.1 (in relation to 2.9.4 and 2.10.3), 5.6.4, 5.7.3 and 7.1 (in relation to 5.6.4 and 5.7.3) of the Agreement, the Committee agreed on the following procedures⁶⁷:
- (i) each Member should notify the WTO Secretariat of the authority or agency (e.g. its enquiry point) which it has designated to be in charge of handling of comments received; and
 - (ii) a Member receiving comments through the designated body should without further request:
 - acknowledge the receipt of such comments;
 - explain within a reasonable time to any Member from which it has received comments, how it will proceed in order to take these comments into account and, where appropriate, provide additional relevant information on the proposed technical regulations or procedures for assessment of conformity concerned; and
 - provide to any Member from which it has received comments, a copy of the corresponding technical regulations or procedures for assessment of conformity as adopted or information that no corresponding technical regulations or procedures for assessment of conformity will be adopted for the time being.
- (b) In 2003, the Committee agreed⁶⁸:
- (i) to invite Members to formulate their requests to enquiry points, on comment periods or on any other matter, in one of the three official languages of the WTO;
 - (ii) to encourage Members to voluntarily respond to comments in writing if so requested, and to share their responses with the TBT Committee. Members are also encouraged to draft their responses in one of the three official languages of the WTO;
 - (iii) to invite Members, on a voluntary basis, to disseminate their comments and responses by means of national websites and to draw the Committee's attention to these.
- (c) In 2006, with a view to facilitating the implementation of transparency procedures under the Agreement, the Committee agreed⁶⁹:
- (i) to encourage Members to provide sufficient time between the end of the comment period and the adoption of the notified technical regulations and

⁶⁷ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 10.

⁶⁸ G/TBT/13, 11 November 2003, para. 26.

⁶⁹ G/TBT/19, 14 November 2006, paras. 58 and 68(d)(i)-(iii).

conformity assessment procedures for the consideration of comments made and the preparation of subsequent responses;

- (ii) to encourage Members to exchange comments and to provide information on websites on which comments received from Members and replies thereto are posted, taking into account the fact that some bilateral communications between Members could be of a confidential nature; and
 - (iii) to request the Secretariat to prepare a list of these websites, based on the information provided by Members.
- (d) In 2009, the Committee agreed⁷⁰:
- (i) to stress the importance of an efficient and effective handling of comments on notified measures and, in this respect, to reiterate its previous recommendations on the handling of comments, including the recommendation to voluntarily respond to comments in writing, if so requested, and to share these replies with the TBT Committee and to encourage Members to draft their responses in one of the three official languages of the WTO;
 - (ii) to note the importance of domestic coordination to ensure that comments received are followed up and taken into account in finalizing the draft measure;
 - (iii) to recall its earlier recommendations about the sharing, on a voluntary basis, of comments on notified draft measures and replies thereto, including through the use of websites; and
 - (iv) to recommend that the Committee continues to discuss ways to improve the effective implementation of the provisions of the TBT Agreement on handling of comments, including assessing the feasibility of utilizing the TBT Information Management System (TBT IMS) as a platform where comments on notified measures, and replies thereto, could be posted on a voluntary basis.

(ix) *Timing of Entry into Force of Technical Regulations and Understanding of "Reasonable Interval" under Article 2.12*

8. In the 2001 Ministerial Decision on Implementation-related Issues and Concerns, Ministers stated that "Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase 'reasonable interval' shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued."⁷¹

⁷⁰ G/TBT/26, 12 November 2009, para. 42.

⁷¹ WT/MIN(01)/17, 20 November 2001, para. 5.2.

Decision

- (a) In 2002, the Committee took note of the above-mentioned Ministerial Decision regarding the implementation of Article 2.12 of the Agreement, and decided as follows⁷²:
- (i) Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

Recommendation

- (a) In 2006, with a view to facilitating the implementation of transparency procedures under the Agreement, the Committee agreed⁷³:
- (i) to encourage Members to provide an interval of more than six months, when possible, between the publication of technical regulations and their entry into force.

(x) *Follow-up*

Recommendations

- (a) In 2003, in order to facilitate the follow-up on Members' technical regulations and conformity assessment procedures brought to the attention of the Committee, the Committee agreed⁷⁴:
- (i) to have amendments to notifications carry the same document symbol as that of the original notification to allow them to be adequately traced;
- (ii) to encourage Members to share, on a voluntary basis, with the Committee any follow-up information on issues that have been previously brought to its attention.
- (b) In 2009, the Committee agreed⁷⁵:
- (i) to recall its earlier recommendation encouraging Members to notify the availability of the adopted final text as an addendum to the original notification and to provide information on where the final text can be obtained, including website address;
- (ii) to stress the importance of making such addenda when a proposed regulation is either adopted, published or enters into force and especially in cases where the relevant dates have not been provided in the original notification or have been changed; and

⁷² G/TBT/M/26, 6 May 2002, para. 15; WT/MIN(01)/17, 20 November 2001, para. 5.2.

⁷³ G/TBT/19, 14 November 2006, paras. 61-63 and 68(e)(i).

⁷⁴ G/TBT/13, 11 November 2003, para. 28.

⁷⁵ G/TBT/26, 12 November 2009, para. 43.

- (iii) to recommend that the Committee establish common procedures on how and under which format (addendum, corrigendum, revision) to notify modifications or any other information relevant to previously notified measures.

2. Standards

9. Article 4 of the Agreement establishes a "Code of Good Practice for the Preparation, Adoption and Application of Standards" (the "Code"). The text of the Code is contained in Annex 3 of the TBT Agreement. The Code provides that, *inter alia*, Members shall ensure that their central government standardizing bodies accept and comply with the Code, and to take such reasonable measures as may be available to them to ensure that local government and non-governmental standardizing bodies within their territories, as well as regional standardizing bodies of which they or one or more bodies within their territories are members, accept and comply with the Code. The Code is open for acceptance to any such bodies (Paragraph B). Standardizing bodies that have accepted or withdrawn from the Code shall notify this fact (Paragraph C), as well as the existence of a work programme (Paragraph J).

- (i) *Notification of the Acceptance of, or Withdrawal from, the Code of Good Practice (Paragraph C)*

Recommendations

- (a) In 1997, in order to improve the transparency, acceptance of, and compliance with the Code, the Committee agreed⁷⁶:
 - (i) to invite Members to share their experience with respect to the steps taken to fulfil their obligations under Article 4 and to exchange information on the reasons why certain standardizing bodies as identified in Article 4.1 have not yet accepted the Code;
 - (ii) that Members should take appropriate action to inform standardizing bodies of the provisions of the Code and the benefits they would gain from accepting it; and
 - (iii) that the Secretariat will draw up a list of standardizing bodies on the basis of information provided by Members for this purpose.
- (b) In 2006, with a view to facilitating the implementation of transparency procedures under the Agreement, and with regard to the acceptance of the Code of Good Practice by regional standardizing bodies, the Committee agreed⁷⁷:
 - (i) to encourage regional standardizing bodies to accept the Code of Good Practice and to notify their acceptance of the Code to the ISO/IEC Information Centre.

⁷⁶ G/TBT/5, 19 November 1997, sub-paras. 12(a), (b) and (d).

⁷⁷ G/TBT/19, 14 November 2006, paras. 66-67 and 68(g)(i). This recommendation is also reproduced in Section III.C on p. 15.

Documents

- (a) Notifications under the Code are circulated by the WTO Secretariat in the document series G/TBT/CS/N/[Number].⁷⁸
- (ii) *Notification of the Existence of a Work Programme (Paragraph J)*

Decision

- (a) In 1999, the Committee agreed⁷⁹:
 - (i) that the communication of the work programmes of standardizing bodies via the Internet would be another possibility to fulfil paragraph J obligations on transparency. Hard copies of such work programmes would, nevertheless, always be made available on request in accordance with paragraph P of the Code of Code of Good Practice.

Recommendations

- (a) In 1997, in order to improve the transparency, acceptance of, and compliance with the Code, the Committee agreed⁸⁰:
 - (i) to examine any problems faced by Members in the implementation of the provisions of the Code, for example, problems encountered in publishing work programs every six months as required under paragraph J, so that appropriate technical assistance can be provided, if necessary;
- (b) In 2006, with a view to facilitating the implementation of transparency procedures under the Agreement, the Committee agreed⁸¹:
 - (i) to invite the ISO/IEC Information Centre to provide information to the Committee on the status of notifications of the existence of a work programme made under Paragraph J when the WTO TBT Standards Code Directory is published, and
 - (ii) to encourage standardizing bodies that communicate their work programmes via the internet to specify the exact web pages where the information on work programmes is located under the item "Publication" of the notification form.

⁷⁸ Pursuant to the Ministerial Decision taken in Marrakesh on 15 April 1994 on "Proposed Understanding on WTO-ISO Standards Information System", a "Memorandum of Understanding (MoU) on WTO Standards Information Service Operated by ISO" was reached between the Secretary-General of the ISO Central Secretariat and the Director-General of the WTO. This MoU established a WTO-ISO Information System regarding standardizing bodies under Paragraphs C and J of the Code of Good Practice. Pursuant to Paragraph 2 of the MoU and in order to ensure a uniform and efficient operation of the procedures for notifications, the ISO and the WTO Secretariats developed notification formats and related guidelines, which were to be used by standardizing bodies accepting the Code of Good Practice (contained in G/TBT/W/4).

⁷⁹ G/TBT/M/15, 3 May 1999, paras. 67 and 69.

⁸⁰ G/TBT/5, 19 November 1997, para. 12(c).

⁸¹ G/TBT/19, 14 November 2006, paras. 64-65 and 68(f)(i)-(ii).

(iii) *Publishing of a Notice (Paragraph L)*

Recommendations

- (a) In 1997, in order to improve the transparency, acceptance of, and compliance with the Code, the Committee agreed⁸²:
 - (i) without prejudice to the views of Members concerning the coverage and application of the Agreement, the obligation to publish notices of draft standards containing voluntary labelling requirements under paragraph L of the Code is not dependent upon the kind of information provided on the label.
- (b) In 2003, with regard to the electronic transmission of information on proposed standards, technical regulations and conformity assessment procedures, the Committee took note of Paragraph L of the Code of Good Practice which states that: "No later than at the start of the comment period, the standardizing body shall publish a notice announcing the period for commenting in the publication referred to in paragraph J," and agreed⁸³:
 - (i) that the electronic publication of notices announcing the periods for comments can constitute another possibility for the fulfilment of this transparency obligation.

3. Notification under Article 10.7 of the TBT Agreement

10. The TBT Agreement contains an obligation to notify agreements between Members on issues related to technical regulations, standards or conformity assessment procedures which may have a significant effect on trade (Article 10.7).

Decision

- (a) In 1996, the Committee agreed to adopt the format for notifications under Article 10.7 of the Agreement contained in Annex D (on page 53 of this document).⁸⁴

Documents

- (a) Notifications under Article 10.7 are circulated under document symbol G/TBT/10.7/N/[Number].

D. DISSEMINATION OF INFORMATION

1. Publication

11. Members are required to publish a notice of a proposed technical regulation or conformity assessment procedure if it may have a significant effect on trade of other Members, and whenever a relevant international standard (or, in the case of a conformity assessment procedure, a relevant guide or recommendation issued by an international standardizing body) does not exist or the proposed measure is not in accordance with the technical content of relevant international standards (or, in the case of a conformity assessment procedure, relevant guides or recommendations issued by international standardizing bodies) (Articles 2.9.1 and 5.6.1).

⁸² G/TBT/5, 19 November 1997, para. 12(e).

⁸³ G/TBT/13, 11 November 2003, para. 27.

⁸⁴ G/TBT/M/5, 19 September 1996, para. 15; G/TBT/W/25, 3 May 1996.

Recommendation

- (a) In 2006 and 2009, with regard to the publication of a notice of proposed technical regulations and conformity assessment procedures (pursuant to Articles 2.9.1 and 5.6.1), the Committee agreed⁸⁵:
- (i) to examine ways in which the publications for such notices – and their content – are made available, so as to enable all interested parties to become acquainted with them.

Documents

- (a) Information on official publications related to technical regulations, standards and conformity assessment in the form of a list, including website references, is contained in the document G/TBT/GEN/39/-series.

2. Texts of Notified Technical Regulations and Conformity Assessment Procedures

12. Articles 2.9.3 and 5.6.3 of the TBT Agreement state that Members shall, upon request, provide to other Members particulars or copies of the proposed technical regulation or conformity assessment procedures, and wherever possible identify the parts which in substance deviate from relevant international standards, or relevant guides or recommendations issued by international standardizing bodies.

Decision

- (a) In 2007, with the purpose of facilitating access to notified draft texts, the Committee decided⁸⁶:
- (i) to establish a facility whereby Members may, on a voluntary basis, provide the WTO Secretariat with an electronic version of the notified draft text (attachment) together with the notification format. (Texts will be stored on a WTO server and accessed through a hyperlink in the notification format.)

Recommendations

- (a) In 2006, with a view to facilitating the implementation of transparency procedures under the Agreement, and with regard to texts of notified technical regulations and conformity assessment procedures, the Committee agreed⁸⁷:
- (i) to encourage Members to provide:
- more detailed information on proposed technical regulations and conformity assessment procedures in Section 6 "Description of content" of the notification form; and
 - the website address where Members can download the full text of the notified measure in Section 11 "Text available from" of the notification form or any other means to quickly and easily access the text.

⁸⁵ G/TBT/19, 14 November 2006, paras. 51 and 68(a)(i); G/TBT/26, 12 November 2009, para. 46.

⁸⁶ G/TBT/M/43, 21 January 2008, para. 129. Guidelines for the use of this facility are contained in document G/TBT/GEN/65, 14 December 2007.

⁸⁷ G/TBT/19, 14 November 2006, sub-paras. 68(c)(i)-(iii).

- (ii) to explore ways to attach to the notification form a copy of the text of the notified measure; and
 - (iii) to encourage Members to notify the availability of the adopted final text as an addendum to the original notification and to provide information on where the final text can be obtained, including website address.
- (b) In 2009, with a view to improving access to texts of notified measures, the Committee agreed⁸⁸:
- (i) to reiterate its earlier recommendation to indicate a website address in Box 11 "Text available from" of the notification format; and
 - (ii) to encourage Members to use the facility provided by the WTO Secretariat and to send electronic versions of notified texts together with the notification format to be hyperlinked in the notification itself.

3. Provision of Translations

13. Article 10.5 of the TBT Agreement states that developed country Members shall, if requested by other Members, provide in English, French or Spanish, translations of the documents covered by a specific notification, or in case of voluminous documents, of summaries of such documents.

Decisions

- (a) In 1995, in order to avoid difficulties that can arise from the fact that the documentation relevant to technical regulations, standards and procedures for assessment of conformity is not available in one of the WTO working languages and that a body other than the enquiry point may be responsible for such documentation, the Committee agreed⁸⁹:
- (i) when a translation of a relevant document exists or is planned, this fact shall be indicated on the WTO TBT notification form next to the title of the document. If only a translated summary exists, the fact that such a summary is available shall be similarly indicated;
 - (ii) upon receipt of a request for documents, any translated summaries that exist in the language of the requester or, as the case may be, in a WTO working language, shall be automatically sent with the original of the documents requested; and
 - (iii) Members shall indicate under point 11 of the WTO TBT notification form the exact address, e-mail address, telephone and fax numbers of the body responsible for supplying the relevant documents if that body is not the enquiry point.

⁸⁸ G/TBT/26, 12 November 2009, para. 49.

⁸⁹ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, pp. 8-9.

- (b) In 2007, with a view to enhancing the sharing of translation of documents referred to in notifications and facilitating information-sharing by Members on the availability of unofficial translations on the Internet, the Committee agreed⁹⁰:
- (i) to set up a mechanism whereby Members are invited, on a voluntary basis, to provide information about the availability of unofficial translations of notified measures;
 - (ii) that this will be done through the circulation by the Secretariat of a supplement to the original notification submitted by a Member; and
 - (iii) that such information should be provided to the Central Registry for Notifications (crn@wto.org) in the format contained in Annex E (in this document on page 54).

Recommendations

- (a) In 1995, in order to avoid difficulties that can arise from the fact that the documentation relevant to technical regulations, standards and procedures for assessment of conformity is not available in one of the WTO working languages and that a body other than the enquiry point may be responsible for such documentation, the Committee agreed⁹¹:
- (i) when a Member seeks a copy of a document relating to a notification which does not exist in that Member's WTO working language, it will be advised, on request, by the notifying Member of other Members that have requested, as of that date, a copy of the document. The Member seeking a copy of a document relating to a notification may then contact such other Members in order to determine whether the latter are prepared to share, on mutually agreed terms, any translation that they have or will be making into relevant WTO working language(s).
- (b) In 2003, in the context of the handling of comments, the Committee agreed⁹²:
- (i) to encourage Members under Article 10.5, to provide translations of the documents covered by specific notifications, in any WTO official language of their choosing without being requested to do so.
- (c) In 2006, with a view to facilitating the implementation of transparency procedures under the Agreement, and with regard to texts of notified technical regulations and conformity assessment procedures, the Committee agreed⁹³:
- (i) to explore ways to enhance the sharing of translation of documents referred to in notifications, such as posting on Members' websites or developing a format to inform other Members of the existence of translations of notified measures.

⁹⁰ G/TBT/M/43, 21 January 2008, para. 131. Guidelines for the use of the facility are contained in document G/TBT/GEN/66, 14 December 2007.

⁹¹ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, pp. 7-8.

⁹² G/TBT/13, 11 November 2003, para. 26 (fifth tiret).

⁹³ G/TBT/19, 14 November 2006, sub-para. 68(c)(iv).

- (d) In 2009, the Committee noted that, in the absence of a translation, Section 6 of the notification format "Description of the content", as well as prompt replies to specific questions on the content, are important sources of information for understanding the proposed measure and the main basis for comments from interested parties. In light of the above, the TBT Committee agreed⁹⁴:
- (i) to reaffirm its recommendation that Members share, on a voluntary basis, unofficial translations of documents referred to in notifications, for example by posting them on Members' websites or by providing these unofficial translations to the WTO Secretariat for further dissemination through the agreed mechanism; and
 - (ii) to encourage Members, in cases when a notified document is not in one of the WTO official languages, to provide a comprehensive description of the measure in Section 6 "Description of the content" of the notification format.

E. ENQUIRY POINTS

1. Establishment of Enquiry Points

14. Under the TBT Agreement, two provisions mandate Members to create enquiry points. Article 10.1 concerns enquiries regarding, *inter alia*, technical regulations, conformity assessment procedures and standards issued by central or local government bodies, non-governmental bodies which have the legal power to enforce a technical regulation, or regional standardization bodies of which such bodies are members or participants. Article 10.3 relates, *inter alia*, to enquiries on standards and conformity assessment procedures issued by non-governmental bodies and regional bodies of which they are members or participants.

Recommendations

- (a) In 1999, the Committee agreed that e-mail addresses of enquiry points should be provided, where available, in order to be included in document G/TBT/ENQ/-series.⁹⁵
- (b) In 2009, in order to improve implementation of provisions related to the work of Enquiry Points, the Committee agreed⁹⁶:
 - (i) to stress the importance of operational capacity of Enquiry Points, especially with respect to the provision of answers to enquiries and the promotion of a dialogue; and
 - (ii) to recommend that developing country Members identify challenges which they face with respect to the establishment and operations of their enquiry points and indicate the nature of the technical assistance needed to overcome these difficulties.

Documents

- (a) A list of national enquiry points is contained in the document G/TBT/ENQ/ - series.

⁹⁴ G/TBT/26, 12 November 2009, para. 52.

⁹⁵ G/TBT/M/15, 3 May 1999, paras. 41 and 45 and Annex 1.

⁹⁶ G/TBT/26, 12 November 2009, para. 54.

2. Functioning of Enquiry Points

(i) *Handling and Processing of Requests*

Recommendations

- (a) In 1995, with the purpose of improving the handling of requests from other Members received under Article 10.1 and 10.3, the Committee agreed⁹⁷:
 - (i) an enquiry point should, without further request, acknowledge the receipt of the enquiry.
- (b) In 1995, with respect to problems of supplying and obtaining requested documentation on notified technical regulations and procedures for assessment of conformity, the Committee agreed⁹⁸:
 - (i) requests for documentation should contain all the elements permitting the identification of the documents and in particular, the WTO TBT notification number symbol to which the requests refer. The same information should appear on the documents supplied in response to such requests;
 - (ii) any request for documentation should be processed if possible within five working days. If a delay in supplying the documentation requested is foreseen, this should be acknowledged to the requester, along with an estimate of when the documents can be provided;
 - (iii) E-mail requests for documentation should include name, organization, address, telephone and fax numbers, and e-mail address in the request; and
 - (iv) electronic delivery of documentation is encouraged and requests should indicate whether an electronic version or hard copy is desired.

(ii) *Enquiries which the Enquiry Points should be prepared to Answer*

Recommendation

- (a) In 1995, with a view to encouraging a uniform application of Articles 10.1 and 10.3 of the Agreement, the Committee agreed⁹⁹:
 - (i) an enquiry should be considered "reasonable" when it is limited to a specific product, or group of products, but not when it goes beyond that and refers to an entire business branch or field of regulations, or procedures for assessment of conformity;
 - (ii) when an enquiry refers to a composite product, it is desirable that the parts or components, for which information is sought, are defined to the extent possible. When a request is made concerning the use of a product it is desirable that the use is related to a specific field; and

⁹⁷ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 13.

⁹⁸ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 8; G/TBT/M/15, 3 May 1999, para. 45 and Annex 1.

⁹⁹ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 14.

- (iii) the Enquiry Point(s) of a Member should be prepared to answer enquiries regarding the membership and participation of that Member, or of relevant bodies within its territory, in international and regional standardizing bodies and conformity assessment systems as well as in bilateral arrangements, with respect to a specific product or group of products. They should likewise be prepared to provide reasonable information on the provisions of such systems and arrangement.

3. Booklets on Enquiry Points

Recommendation

- (a) In 1995, in order to improve publicity concerning the role of enquiry points in answering queries from Members as provided in Articles 10.1 and 10.3 of the Agreement, the Committee agreed¹⁰⁰:
 - (i) the issuing of brochures on enquiry points would be of value; and
 - (ii) all booklets issued by Members should contain the elements and, as far as possible, follow the layout set out in Annex F (on page 55 of this document).

F. SPECIAL MEETINGS ON PROCEDURES FOR INFORMATION EXCHANGE

Decision

- (a) In 1995, in order to give Members the opportunity to discuss the activities and problems relating to information exchange and to review periodically how well notification procedures work, the Committee agreed that¹⁰¹:
 - (i) Regular meetings of persons responsible for information exchange, including persons responsible for enquiry points and notifications, will be held on a biennial basis. Representatives of interested observers will be invited to participate in such meetings. The meetings will deal only with technical issues, leaving any policy matters for consideration by the Committee itself.

Events

- (a) A Special Joint Meeting on Procedures for Information Exchange of the Committees on Technical Barriers to Trade and Sanitary and Phytosanitary Measures was held on 6-7 November 1995.¹⁰²
- (b) A Workshop and the Second Special Meeting on Procedures for Information Exchange was held on 14 September 1998.¹⁰³
- (c) The Third Special Meeting on Procedures for Information Exchange was held on 28 June 2001.¹⁰⁴

¹⁰⁰ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, pp. 12-13.

¹⁰¹ G/TBT/M/2, 4 October 1995, para. 5; G/TBT/W/2/Rev.1, 21 June 1995, p. 12; G/TBT/9, 13 November 2000, para. 13 and Annex 3.

¹⁰² The Chairman's Report is contained in document G/TBT/W/16, dated 22 November 1995.

¹⁰³ G/TBT/9, 13 November 2000, Annex 1.

¹⁰⁴ The Chairman's Report is contained in Annex 1 of G/TBT/M/24, dated 14 August 2001.

- (d) The Fourth Special Meeting on Procedures for Information Exchanges was held on 2-3 November 2004.¹⁰⁵
- (e) The Fifth Special Meeting on Procedures for Information Exchange was held on 7-8 November 2007.¹⁰⁶
- (f) The Sixth Special Meeting on Procedures for Information Exchange was held on 22 June 2010.¹⁰⁷

V. TECHNICAL ASSISTANCE

15. Provisions on technical assistance are contained in Article 11 of the TBT Agreement. Technical assistance has been considered an area of priority work for the Committee since its establishment; it figures on the agenda of the Committee on a permanent basis. Members have regularly, on a voluntary basis, exchanged experiences and information on technical assistance in order to enhance the implementation of Article 11 of the TBT Agreement.

A. GENERAL

Decisions

- (a) In 1995, in considering the ways in which the provisions of Article 11 could be given operational significance, the Committee agreed¹⁰⁸:
 - (i) technical assistance would remain as an item of the agenda of the Committee on a permanent basis and would be included on the agenda of a regular meeting of the Committee when so requested by a Member in accordance with the agreed procedures.
- (b) In 2005, with a view to increasing transparency in the identification and prioritization of technical assistance needs, the Committee agreed¹⁰⁹:
 - (i) to adopt, for use on a trial basis for two years, a Format for the Voluntary Notification of Specific Technical Assistance Needs and Responses.¹¹⁰

Recommendations

- (a) In 2000, in considering technical assistance, the Committee agreed to develop a demand driven technical cooperation programme related to the Agreement, taking into account existing and proposed technical assistance activities, as well as seeking ways to achieve more effective cooperation and coordination among donors to better

¹⁰⁵ A Summary Report of the meeting is contained in Annex 2 of G/TBT/M/34, dated 5 January 2005.

¹⁰⁶ A Summary Report as well as the Chairman's Report is contained in Annex 1 and 2, respectively, of G/TBT/M/43, dated 21 January 2008.

¹⁰⁷ A Summary Report as well as the Chairman's Report is contained in Annex 1 and 2, respectively, of G/TBT/M/51, dated 1 October 2010.

¹⁰⁸ G/TBT/W/14, 29 September 1995, p. 3; G/TBT/M/3, 5 January 1996, paras. 14-15.

¹⁰⁹ G/TBT/16, 8 November 2005; G/TBT/M/37, 22 December 2005, para. 82; G/TBT/19, 14 November 2006, para. 71.

¹¹⁰ The Format is contained in Annex G (on page 55 of this document).

target the needs identified by developing country Members. The Committee agreed that the programme would need to evolve on the basis of the following elements¹¹¹:

- (i) design of a survey with the assistance of relevant international, regional and bilateral organisations to assist developing countries in needs identification;
- (ii) identification and prioritization by developing and least developed country Members of their specific needs in the TBT field;
- (iii) consideration of existing technical assistance activities by multilateral, regional and bilateral organizations with a view to the effective and efficient development of technical assistance programmes;
- (iv) enhancement of co-operation between donors; and
- (v) reassessment of needs in light of agreed priorities, identification of technical assistance partners and financial considerations.

The Committee also agreed that the progress made in implementing the programme should be assessed by the Committee in the context of the Third Triennial Review and the Committee should also reflect its work on the programme in its Annual Report to the General Council.¹¹²

- (b) In 2003, in light of the work programme¹¹³ on TBT-related technical assistance and in order to assist Members in implementing and operationalizing Article 11, the Committee agreed as follows¹¹⁴:

- (i) noting the importance of transparency in the provision of technical assistance and the need for coordination at the national, regional and international levels. Recognizing that improvements are needed to facilitate the meeting of demand and supply of technical assistance, and with a view to building on the information received, the Committee agrees:
 - to consider the creation of an information coordination mechanism including through the possible development of voluntary notification procedures for donors, and recipient Members to communicate information on current and future activities. To this end, and considering proposals made by Members, the Chair is requested to hold consultations with interested Members to:
 1. examine what extent an Internet facility could serve this purpose;
 2. examine what an appropriate management approach might be; and
 3. report to the Committee by mid-2004;
 - that the survey questionnaire could be a dynamic tool to maintain information on developing country Members' needs and encourages Members, on a voluntary basis, to update responses to the survey questionnaire; and

¹¹¹ G/TBT/9, 13 November 2000, paras. 45 and 46.

¹¹² G/TBT/9, 13 November 2000, para. 46.

¹¹³ With respect to the "work programme", it is noted that in 2001, Ministers confirmed the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the Triennial Review work in this area, and mandated this work to continue (WT/MIN(01)/17, 20 November 2001, para. 5.1).

¹¹⁴ G/TBT/13, 11 November 2003, paras. 54-56.

- to invite Members to communicate to the Committee pertinent information regarding technical assistance activities of relevant regional and international bodies.
- (ii) with regard to technical assistance provided by the Secretariat, the Committee agreed:
 - to explore how the results of the Committee's discussions (e.g., on needs identified, lessons learned, gaps in technical assistance activities) could be reflected in the WTO's Technical Assistance and Training Plan; and
 - to request the Secretariat, as part of the Committee's standing agenda item on technical assistance, to regularly deliver information on its recently concluded programmes and future plans on TBT-related technical assistance, and reflect this in the Committee's annual reviews. This should include information on modality, content, participation and any feedback from recipient Members.
- (iii) with regard to the appropriate role of the Committee in relation to technical assistance, the Committee:
 - agreed on the need for Members and the Secretariat to raise the profile of TBT issues at the international and national levels;
 - reaffirmed the need for its future work to contribute to enhanced cooperation and coordination between those involved in technical assistance;
 - reaffirmed the need to continue facilitating the exchange of national experiences;
 - should provide a forum for feedback and assessment of the outcomes and effectiveness of technical assistance; and
 - considered, based on Members' experience of technical assistance received and provided, developing further elements of good practice in technical assistance in the TBT field.
- (c) In 2006, with a view to facilitating the implementation of the TBT Agreement's provisions on technical assistance, the Committee agreed¹¹⁵:
 - (i) to encourage Members to make use of the Format for the Voluntary Notification of Specific Technical Assistance Needs and Responses contained in G/TBT/16 (contained in Annex G on page 57 of this document);
 - (ii) to review, in 2007, the use of the Format for the Voluntary Notification of Specific Technical Assistance Needs and Responses, including the possible further development of the demand-driven technical cooperation mechanism.

¹¹⁵ G/TBT/19, 14 November 2006, sub-paras. 78(a)-(b).

- (d) In 2009, the Committee agreed¹¹⁶:
- (i) to encourage Members to make use of the Format for the Voluntary Notification of Specific Technical Assistance Needs and Responses as a complement to other bilateral and/or regional means of requesting technical assistance.

Documents

- (a) Notifications of Specific Technical Assistance Needs and Responses are contained in the following document series: G/TBT/TA-[number]/[Member].

B. INFORMATION EXCHANGE

Decision

- (a) In 1995, in considering the ways in which the provisions of Article 11 could be given operational significance, the Committee agreed to exchange information on technical assistance as follows¹¹⁷:
- (i) specific needs for technical assistance, as well as information that may be provided by potential donor Members on their technical assistance programmes, may be communicated to Members through the Secretariat. Members will take into account the provisions of Article 11.8 of the TBT Agreement when considering requests for technical assistance from the least-developed country Members. In agreement with requesting Members or potential donor Members, as the case may be, the information concerning specific needs and technical assistance programmes would be circulated by the Secretariat to all Members on an informal basis. Whilst information would be multilateralized in this manner, technical assistance would continue to be provided on a bilateral basis. The Secretariat would reflect the information circulated under this procedure in the documentation prepared for annual reviews of the implementation and operation of the Agreement if the Members concerned so agree.

Recommendations

- (a) In 1997, in order to enhance the implementation of Article 11, the Committee agreed¹¹⁸:
- (i) to invite Members, on a voluntary basis, to exchange information regarding the implementation of Article 11, including to communicate to the Committee annually any information concerning their national and regional technical assistance programmes; and
- (ii) to invite Members that require technical assistance to inform the Committee of any difficulties they encounter in the implementation and operation of the Agreement, and the kind of technical assistance they may need. Other Members are invited to contribute to the technical assistance process by sharing their experience in the implementation and operation of the Agreement.

¹¹⁶ G/TBT/26, 12 November 2009, para. 63.

¹¹⁷ G/TBT/W/14, 29 September 1995, p. 3; G/TBT/M/3, 5 January 1996, paras. 14-15.

¹¹⁸ G/TBT/5, 19 November 1997, para. 31.

- (a) In 2000, the Committee invited Members on a voluntary basis to further communicate information on technical assistance programmes they proposed, provided or received.¹¹⁹
- (b) In 2006, with a view to facilitating the implementation of the TBT Agreement's provisions on technical assistance, the Committee agreed:
 - (i) to exchange experiences in respect of the delivery and receipt of technical assistance with a view to identifying good practices in this regard¹²⁰, and
 - (ii) to invite observer international standardizing bodies and other international standardizing bodies to provide information on steps taken to ensure effective participation of developing country Members in their work.¹²¹
- (c) In 2009, building on the previous recommendation that Members exchange experiences in respect of the delivery and receipt of technical assistance with a view to identifying good practices in this regard, the Committee agreed¹²²:
 - (i) to encourage Members and relevant bodies involved in the provision of technical assistance to exchange information to identify such practices.
- (d) In 2009, consistent with the Committee's agreement on a demand-driven approach to technical assistance, the Committee encouraged Members to review their capacity building needs and priorities in the following areas in particular¹²³:
 - (i) Good Regulatory Practice: The Committee considers that experience gained in the area of good regulatory practice for the effective implementation of the TBT Agreement should be shared. Technical assistance in the area of Good Regulatory Practice should be considered an integral element of capacity building activities to strengthen implementation of the TBT Agreement and draw on the expertise of both Members and other relevant organizations;
 - (ii) Conformity assessment: Members are encouraged to participate in technical cooperation activities in the area of conformity assessment consistent with sector-specific national priorities. Capacity building activities – at the national or regional level as appropriate – aimed at improving technical infrastructure (e.g. metrology, testing, certification, and accreditation) as well as capacity to enforce (including with respect to market surveillance and product liability) should be consistent with national priorities and take into account the existing level of technical infrastructure development;
 - (iii) Standards development: Members should undertake efforts to build understanding of the strategic importance of standardization activities through increased outreach in sectors of priority interest. It may be beneficial to explore incentives to increase support and promotion of such activities, particularly in developing country Members; and

¹¹⁹ G/TBT/9, 13 November 2000, para. 45.

¹²⁰ G/TBT/19, 14 November 2006, para. 78(c).

¹²¹ G/TBT/19, 14 November 2006, para. 77.

¹²² G/TBT/26, 12 November 2009, para. 57.

¹²³ G/TBT/26, 12 November 2009, para. 59.

- (iv) Transparency: Members stress the importance of reinforcing the operation of enquiry points.

Events

- (a) On 19-20 July 2000, the Committee held a Workshop on Technical Assistance and Differential Treatment in the context of the TBT Agreement.¹²⁴
- (b) On 18 March 2003, with the objectives of further developing the technical cooperation programme and providing an opportunity for further information exchange on technical assistance, on both the demand and supply sides, a special workshop on TBT-related technical assistance was held.¹²⁵

VI. SPECIAL AND DIFFERENTIAL TREATMENT

16. Article 12 of the TBT Agreement addresses Special and Differential Treatment of Developing Country Members. Members have, on various occasions, exchanged information and views on the operation and implementation of this Article, including in the context of other items on the TBT Committee's agenda.

A. GENERAL

Recommendations

- (a) In 1997, with a view to operationalize and implement the provisions of Article 12, the Committee agreed to the following¹²⁶:
- (i) the Committee will consider including the following matters in its future programme of work, which could be taken up during the next three years and reviewed during the Second Triennial Review of the Agreement:
 - the use of measures to engender capacity building in developing country Members, including the consideration of measures relevant to transfer of technology to these countries, for the purpose of preparation and adoption of technical regulations, standards or conformity assessment procedures, taking into account their special development, financial and trade needs;
 - the preparation of a study by the Secretariat to establish the state of knowledge concerning the technical barriers to the market access of developing country suppliers, especially small and medium sized enterprises (SMEs), as a result of standards, technical regulations and conformity assessment procedures;
 - inviting representatives of relevant international standardizing bodies and international systems for conformity assessment procedures to make written and oral presentations to the Committee with a view to assessing whether and how account is taken of the special problems of developing countries in such bodies and systems. The Secretariat will circulate a compendium of the written contributions by the relevant organisations; and
 - the encouragement of the organization of international meetings relevant to the provisions of the Agreement in the territories of developing country

¹²⁴ G/TBT/9, 13 November 2000, Annex 1.

¹²⁵ A Summary Report by the Chairperson is contained in Annex A of G/TBT/M/29, 19 May 2003.

¹²⁶ G/TBT/5, 19 November 1997, para. 33.

Members to give greater representative participation by such Members to the deliberations and recommendations of such international meetings, and the electronic dissemination of information.

B. INFORMATION EXCHANGE

Recommendations

- (a) In 1997, with a view to operationalize and implement the provisions of Article 12, the Committee agreed¹²⁷:
 - (i) to invite Members, on a voluntary basis, to exchange information on the implementation of Article 12, including information related to Articles 12.2, 12.3, 12.5, 12.6, 12.7 and 12.9; and
 - (ii) to invite Members, on a voluntary basis, to exchange information on any specific problems they face in relation to the operation of Article 12.
- (b) In 2006, in order to have a more focused exchange of information, the Committee agreed¹²⁸:
 - (i) to encourage Members to inform the Committee of special and differential treatment provided to developing country Members, including information on how they have taken into account special and differential treatment provisions in the preparation of technical regulations and conformity assessment procedures; and
 - (ii) to encourage developing country Members to undertake their own assessments of the utility and benefits of such special and differential treatment.

Event

- (a) On 19-20 July 2000, the Committee held a Workshop on Technical Assistance and Differential Treatment in the context of the TBT Agreement.¹²⁹

VII. OPERATION OF THE COMMITTEE

A. GENERAL

1. Consideration of Specific Trade Concerns

17. Pursuant to Article 13 of the TBT Agreement, the TBT Committee was established with the purpose of: "affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives, and shall carry out such responsibilities as assigned to it under this Agreement or by the Members". Since its first meeting, Members have used the TBT Committee as a forum to discuss issues related to specific measures (technical regulations, standards or conformity assessment procedures) maintained by other Members. These are referred to as "specific trade concerns" (STCs) and relate normally to proposed draft measures notified to the TBT Committee or to the implementation of existing measures.

¹²⁷ G/TBT/5, 19 November 1997, para. 33.

¹²⁸ G/TBT/19, 14 November 2006, para. 82.

Decision

- (a) In 2009, noting the accelerated growth in the number of specific trade concerns raised at Committee meetings, as well as in the number of WTO Members raising concerns or substantively supporting those of other Members, the Committee emphasized the importance of making the discussion more efficient in order to secure a more prompt response to concerns raised. In order to streamline the consideration of STCs, the TBT Committee agreed to apply the following procedures, to the extent practicable¹³⁰:
- (i) Members wishing to propose the inclusion of a specific trade concern in the annotated draft agenda should directly inform both the Secretariat and the Member(s) involved of their intention to do so no less than fourteen calendar days prior to the convening of the TBT Committee meeting;
 - (ii) the annotated draft agenda issued by the Secretariat in advance of each Committee meeting will include all specific trade concerns communicated by Members to the Secretariat; it will indicate which concerns are being raised for the first time and which have been previously raised. It should be circulated as early as possible but no less than ten calendar days before the meeting;
 - (iii) requests to include specific trade concerns on the agenda should be accompanied by a reference to the symbol of the notification. In cases where the measure has not been notified, the request should provide a brief description of the measure, including relevant references; and
 - (iv) there may be instances where a Member wishes to bring a concern to the Committee's attention after the deadline has passed. In this case, additional specific trade concerns can still be included in the agenda of the TBT Committee meeting under "Specific Trade Concerns", provided that Members wishing to raise the relevant concerns have previously informed the Member(s) involved of their intention to do so. However such concerns will only be addressed after all specific trade concerns contained in the annotated draft agenda have been discussed.

Documents

- (a) In 2009, the Committee encouraged the Secretariat to continue to compile information about the status of specific trade concerns and to make this available to Members regularly with a view to providing a useful database for Members to track concerns of importance to them.¹³¹ The G/TBT/GEN/74/-series of documents contain an overview of specific trade concerns raised in the TBT Committee. It provides statistical information on the concerns raised since the first meeting of the TBT Committee in 1995 and lists the specific trade concerns sorted by date, frequency and the number of Members that have expressed concern.

¹²⁹ G/TBT/9, 13 November 2000, Annex 1.

¹³⁰ G/TBT/26, 12 November 2009, paras. 67-68.

¹³¹ G/TBT/26, 12 November 2009, para. 69.

ANNEXES TO PART 1

A. INDICATIVE LIST OF APPROACHES TO FACILITATE ACCEPTANCE OF THE RESULTS OF CONFORMITY ASSESSMENT

1. **Mutual Recognition Agreements (MRAs) For Conformity Assessment to Specific Regulations**

1. Governments may enter into agreements which will result in the acceptance of the results of conformity assessment originating in the territory of either party.

2. **Co-Operative (Voluntary) Arrangements Between Domestic And Foreign Conformity Assessment Bodies**

2. This includes arrangements among accreditation bodies as well as arrangements between individual laboratories, between certification bodies, and between inspection bodies. Such arrangements have been common for many years and have been developed for the commercial advantage of the participants. Some of these agreements have been recognized by governments from time to time as the basis for acceptance of test results and certification activities in the mandatory sector.

3. **The Use Of Accreditation To Qualify Conformity Assessment Bodies**

3. Accreditation bodies have been working towards harmonization of international practices for accreditation of conformity assessment bodies. This has resulted in the development of global networks to facilitate recognition and acceptance of results of conformity assessment. These networks take the form of multilateral recognition agreements or arrangements (MLAs) whereby each participant undertakes to recognize the accreditation granted or certificates issued by any other party to the agreement or arrangement as being equivalent to that granted by itself and to promote that equivalence throughout its territory of operation. There are international standards and guides for such arrangements.

4. **Government Designation**

4. Governments may designate specific conformity assessment bodies, including bodies located outside their territories, to undertake conformity assessment.

5. **Unilateral Recognition Of Results Of Foreign Conformity Assessment**

5. A government may unilaterally recognize the results of foreign conformity assessment procedures. In this it may be guided by Article 6.1 of the TBT Agreement. The conformity assessment body may be accredited abroad under recognized regional or international accreditation systems. In the absence of accreditation, the conformity assessment body may prove its competence by other means. On the basis of equivalent competence of the conformity assessment body, foreign test reports and certificates are recognized unilaterally.

6. **Manufacturer's / Supplier's Declarations (SDoC)**

6. Manufacturer's/supplier's declaration of conformity is a procedure by which a supplier (as defined in ISO/IEC Guide 22:1996, a supplier is the party that supplies the product, process or service and may be a manufacturer, distributor, importer, assembler, service organization, etc.) provides written assurance of conformity to the specified requirements. The declaration identifies the party responsible for making the declaration of conformity and for the conformity of the

product/process/service itself. Under this approach, the manufacturer/supplier, rather than the regulatory authority, takes on the responsibility for ensuring that products entering a market comply with the mandatory technical regulations. Assessment may be undertaken either by the suppliers own internal test facility or by an independent test facility.

7. This system is often predicated on:
 - (a) adequate market surveillance;
 - (b) substantial penalties for false or misleading declarations;
 - (c) an appropriate regulatory environment; and
 - (d) an appropriate product liability regime.

B. DECISION OF THE COMMITTEE ON PRINCIPLES FOR THE DEVELOPMENT OF INTERNATIONAL STANDARDS, GUIDES AND RECOMMENDATIONS WITH RELATION TO ARTICLES 2, 5 AND ANNEX 3 OF THE AGREEMENT

Decision¹

1. The following principles and procedures should be observed, when international standards, guides and recommendations (as mentioned under Articles 2, 5 and Annex 3 of the TBT Agreement for the preparation of mandatory technical regulations, conformity assessment procedures and voluntary standards) are elaborated, to ensure transparency, openness, impartiality and consensus, effectiveness and relevance, coherence, and to address the concerns of developing countries.

2. The same principles should also be observed when technical work or a part of the international standard development is delegated under agreements or contracts by international standardizing bodies to other relevant organizations, including regional bodies.

1. Transparency

3. All essential information regarding current work programmes, as well as on proposals for standards, guides and recommendations under consideration and on the final results should be made easily accessible to at least all interested parties in the territories of at least all WTO Members. Procedures should be established so that adequate time and opportunities are provided for written comments. The information on these procedures should be effectively disseminated.

4. In providing the essential information, the transparency procedures should, at a minimum, include:

- (a) the publication of a notice at an early appropriate stage, in such a manner as to enable interested parties to become acquainted with it, that the international standardizing body proposes to develop a particular standard;
- (b) the notification or other communication through established mechanisms to members of the international standardizing body, providing a brief description of the scope of the draft standard, including its objective and rationale. Such communications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;
- (c) upon request, the prompt provision to members of the international standardizing body of the text of the draft standard;
- (d) the provision of an adequate period of time for interested parties in the territory of at least all members of the international standardizing body to make comments in writing and take these written comments into account in the further consideration of the standard;
- (e) the prompt publication of a standard upon adoption; and
- (f) to publish periodically a work programme containing information on the standards currently being prepared and adopted.

¹ G/TBT/9, 13 November 2000, para. 20 and Annex 4.

5. It is recognized that the publication and communication of notices, notifications, draft standards, comments, adopted standards or work programmes electronically, via the Internet, where feasible, can provide a useful means of ensuring the timely provision of information. At the same time, it is also recognized that the requisite technical means may not be available in some cases, particularly with regard to developing countries. Accordingly, it is important that procedures are in place to enable hard copies of such documents to be made available upon request.

2. Openness

6. Membership of an international standardizing body should be open on a non-discriminatory basis to relevant bodies of at least all WTO Members. This would include openness without discrimination with respect to the participation at the policy development level and at every stage of standards development, such as the:

- (a) proposal and acceptance of new work items;
- (b) technical discussion on proposals;
- (c) submission of comments on drafts in order that they can be taken into account;
- (d) reviewing existing standards;
- (e) voting and adoption of standards; and
- (f) dissemination of the adopted standards.

7. Any interested member of the international standardizing body, including especially developing country Members, with an interest in a specific standardization activity should be provided with meaningful opportunities to participate at all stages of standard development. It is noted that with respect to standardizing bodies within the territory of a WTO Member that have accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards by Standardizing Bodies (Annex 3 of the TBT Agreement) participation in a particular international standardization activity takes place, wherever possible, through one delegation representing all standardizing bodies in the territory that have adopted, or expected to adopt, standards for the subject-matter to which the international standardization activity relates. This is illustrative of the importance of participation in the international standardizing process accommodating all relevant interests.

3. Impartiality and Consensus

8. All relevant bodies of WTO Members should be provided with meaningful opportunities to contribute to the elaboration of an international standard so that the standard development process will not give privilege to, or favour the interests of, a particular supplier/s, country/ies or region/s. Consensus procedures should be established that seek to take into account the views of all parties concerned and to reconcile any conflicting arguments.

9. Impartiality should be accorded throughout all the standards development process with respect to, among other things:

- (a) access to participation in work;
- (b) submission of comments on drafts;
- (c) consideration of views expressed and comments made;

- (d) decision-making through consensus;
- (e) obtaining of information and documents;
- (f) dissemination of the international standard;
- (g) fees charged for documents;
- (h) right to transpose the international standard into a regional or national standard; and
- (i) revision of the international standard.

4. Effectiveness and Relevance

10. In order to serve the interests of the WTO membership in facilitating international trade and preventing unnecessary trade barriers, international standards need to be relevant and to effectively respond to regulatory and market needs, as well as scientific and technological developments in various countries. They should not distort the global market, have adverse effects on fair competition, or stifle innovation and technological development. In addition, they should not give preference to the characteristics or requirements of specific countries or regions when different needs or interests exist in other countries or regions. Whenever possible, international standards should be performance based rather than based on design or descriptive characteristics.

11. Accordingly, it is important that international standardizing bodies:

- (a) take account of relevant regulatory or market needs, as feasible and appropriate, as well as scientific and technological developments in the elaboration of standards;
- (b) put in place procedures aimed at identifying and reviewing standards that have become obsolete, inappropriate or ineffective for various reasons; and
- (c) put in place procedures aimed at improving communication with the World Trade Organization.

5. Coherence

12. In order to avoid the development of conflicting international standards, it is important that international standardizing bodies avoid duplication of, or overlap with, the work of other international standardizing bodies. In this respect, cooperation and coordination with other relevant international bodies is essential.

6. Development Dimension

13. Constraints on developing countries, in particular, to effectively participate in standards development, should be taken into consideration in the standards development process. Tangible ways of facilitating developing countries' participation in international standards development should be sought. The impartiality and openness of any international standardization process requires that developing countries are not excluded de facto from the process. With respect to improving participation by developing countries, it may be appropriate to use technical assistance, in line with Article 11 of the TBT Agreement. Provisions for capacity building and technical assistance within international standardizing bodies are important in this context.

C. FORMAT AND GUIDELINES FOR NOTIFICATION PROCEDURES FOR DRAFT TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES

Item	Description
1. Member to Agreement notifying	Government, including the competent authorities of the European Communities, which has acceded to the Agreement and which is making the notification; if applicable, name of local government involved (Articles 3.2 and 7.2).
2. Agency responsible	Body elaborating a proposal for or promulgating a technical regulation or procedures for assessment of conformity. The authority or agency designated to handle comments regarding the specific notification shall be indicated if different from above.
3. Notified under ²	<p>Relevant provision of the Agreement:</p> <p>Article 2.9.2: proposed technical regulation by central government body;</p> <p>Article 2.10.1: technical regulation adopted for urgent problems by central government body;</p> <p>Article 3.2: proposed technical regulation or technical regulation adopted for urgent problems by local government (on the level directly below that of the central government);</p> <p>Article 5.6.2: proposed procedures for assessment of conformity by central government body;</p> <p>Article 5.7.1: conformity assessment procedure adopted for urgent problems by central government body;</p> <p>Article 7.2: proposed procedure for assessment of conformity or conformity assessment procedure adopted for urgent problems by local government (on the level directly below that of the central government);</p>

² Notifiers are requested to check the relevant box or indicate relevant information under "other".

Item	Description
	<p>Other Articles under which notification can arise in cases of urgency set out in those Articles are:</p> <p>Article 8.1: adopted procedures for assessment of conformity by non-governmental body,</p> <p>Article 9.2: adopted procedures for assessment of conformity by international or regional organization.</p>
4. Products covered	<p>HS or CCCN (chapter or heading and number) where applicable. National tariff heading if different from HS or CCCN. ICS numbers may be provided in addition, where applicable. A clear description is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.</p>
5. Title and number of pages	<p>Title of the proposed or adopted technical regulation or procedure for the assessment of conformity that is notified. Number of pages in the notified document. The language(s) in which notified documents are available. If a translation of the document is planned, this should be indicated. If a translated summary is available, this too should be indicated.</p>
6. Description of content	<p>An abstract of the proposed or adopted technical regulation or procedures for assessment of conformity clearly indicating its content. A clear comprehensible description stating the main features of the proposed or adopted technical regulation or procedures for assessment of conformity is important for an understanding of the notification by delegations and translators. Abbreviations should be avoided.</p>
7. Objective and rationale, including the nature of urgent problems where applicable	<p>For instance: health, safety, national security, ... etc.</p>

Item	Description
8. Relevant documents	(1) Publication where notice appears, including date and reference number; (2) Proposal and basic document (with specific reference number or other identification) to which proposal refers; (3) Publication in which proposal will appear when adopted; (4) Whenever practicable, give reference to relevant international standard. If it is necessary to charge for documents supplied, this fact should be indicated.
9. Proposed dates of adoption and entry into force	The date when the technical regulation or procedures for assessment of conformity is expected to be adopted, and the date from which the requirements in the technical regulation or procedures for assessment of conformity are proposed or decided to enter into force, taking into consideration the provisions of Article 2.12.
10. Final date for comments	The date by which Members may submit comments in accordance with Articles 2.9.4, 2.10.3, 3.1 (in relation to 2.9.4 and 2.10.3), 5.6.4, 5.7.3 and 7.1 (in relation to 5.6.4 and 5.7.3) of the Agreement. A specific date should be indicated. The Committee has recommended a normal time limit for comments on notifications of 60 days. Any Member which is able to provide a time limit beyond 60 days is encouraged to do so. Members are encouraged to advise of any extension to the final date for comments.
11. Texts available from ³	If available from national enquiry point, put a cross in the box provided. If available from another body, give its address, e-mail, telex and telefax number. If available in a web-site, provide the web-site address. Such indications should not in any way discharge the relevant enquiry point of its responsibilities under the provisions of Article 10 of the Agreement.

³ Notifiers are requested to check the relevant box or indicate relevant information under "other".

WORLD TRADE ORGANIZATION

G/TBT/N/

(00-0000)

Committee on Technical Barriers to Trade

NOTIFICATION⁴

The following notification is being circulated in accordance with Article 10.6.

1.	Member to Agreement notifying: If applicable, name of local government involved (Articles 3.2 and 7.2):
2.	Agency responsible: Name and address (including telephone and fax numbers, e-mail and web-site addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:
3.	Notified under Article 2.9.2 [], 2.10.1 [], 5.6.2 [], 5.7.1 [], other:
4.	Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):
5.	Title, number of pages and language(s) of the notified document:
6.	Description of content:
7.	Objective and rationale, including the nature of urgent problems where applicable:
8.	Relevant documents:
9.	Proposed date of adoption: Proposed date of entry into force:
10.	Final date for comments:
11.	Texts available from: National enquiry point [] or address, telephone and fax numbers, e-mail and web-site addresses, if available of the other body:

⁴ Where boxes appear under Items 3 and 11 of the format, notifiers are requested to check the relevant box or indicate relevant information under "other".

D. NOTIFICATION FORMAT UNDER ARTICLE 10.7

**AGREEMENT REACHED BY A MEMBER WITH ANOTHER COUNTRY OR COUNTRIES
ON ISSUES RELATED TO TECHNICAL REGULATIONS, STANDARDS
OR CONFORMITY ASSESSMENT PROCEDURES**

Notification

Under Article 10.7 of the Agreement "Whenever a Member has reached an agreement with any other country or countries on issues related to technical regulations, standards or conformity assessment procedures which may have a significant effect on trade, at least one Member party to the agreement shall notify other Members through the Secretariat of the products to be covered by the agreement and include a brief description of the agreement." The following notification under Article 10.7 has been received.

1. Member notifying:
2. Title of the bilateral or plurilateral Agreement:
3. Parties to the Agreement:
4. Date of entry into force of the Agreement:
5. Products covered (HS or CCCN where applicable, otherwise national tariff heading):
6. Subject matter covered by the Agreement (technical regulations, standards or conformity assessment procedures):
7. Brief description of the Agreement:
8. Further information available from:

E. UNOFFICIAL TRANSLATIONS (NOTIFICATION FORMAT)

WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO

G/TBT/N/MEMBER/##Suppl.#
xxx December 2007
(07-0000)

Committee on Technical Barriers to Trade
Comité des obstacles techniques au commerce
Comité de Obstáculos Técnicos al Comercio

AVAILABILITY OF TRANSLATIONS

Note by the Secretariat

Supplement

The Secretariat has been informed that an unofficial translation into [language] of the document referenced in this notification is available for consultation at:

http://www.
or can be requested from:

TRADUCTIONS DISPONIBLES

Note du Secrétariat

Supplément

Le Secrétariat a été informé qu'une traduction non officielle en [langue] du document auquel renvoie la présente notification pouvait être consultée à l'adresse suivante:

http://www.
ou peut être obtenue à l'adresse suivante:

ACCESO A TRADUCCIONES

Nota de la Secretaría

Suplemento

Se ha comunicado a la Secretaría que en la dirección:

http://www.
se puede consultar una traducción no oficial al [idioma] del documento a que se hace referencia en la presente notificación.
o puede solicitarse a:

F. BOOKLETS ON ENQUIRY POINTS

All booklets issued by Members should contain the elements and, as far as possible, follow the layout set out below:

1. Objective, name, address, telephone number, fax number, and e-mail and Internet addresses, if available, of WTO TBT enquiry point(s)

- (a) Refer to the provisions of Articles 10.1, 10.2 and 10.3 of the Agreement on Technical Barriers to Trade.
- (b) Date established, and name of responsible officer.

2. Who can use the enquiry point(s)

- (a) Refer to the provisions of Articles 2.9.3 and 2.10.2; 3.1 (in relation to 2.9.3 and 2.10.2); 5.6.3 and 5.7.2; 7.1, 8.1 and 9.2 (in relation to 5.6.3 and 5.7.2); 10.1 and 10.3; paragraphs M and P of Annex 3 of the Agreement.

3. Information available from enquiry point(s)

- (a) Documentation
 - (i) Refer to the provisions of Articles 2.9.3 and 2.10.2; 3.1 (in relation to 2.9.3 and 2.10.2); 5.6.3 and 5.7.2; 7.1, 8.1 and 9.2 (in relation to 5.6.3 and 5.7.2); 10.4, 10.8.1 and 10.8.2; paragraphs M and P of Annex 3 of the Agreement. Documentation that can be obtained from the enquiry point(s): Procedures for handling documentation on proposed or adopted domestic regulations and standards and procedures for assessment of conformity
- (b) Notifications: content, format, comment period
 - (i) Refer to the provisions of Articles 2.9.2, 2.10.1, 3.2, 5.6.2, 5.7.1, 7.2, 8.1, 9.2 and paragraphs C and J of Annex 3 of the Agreement, and to the decisions of the Committee on Technical Barriers to Trade regarding format and comment period).
 - (ii) Procedures for handling notifications issued by other Members of the Agreement, for issuing notifications from domestic sources, and for handling comments on notifications received or issued.
- (c) Publication:
 - (i) Refer to the provisions of Articles 2.9.1 and 2.11; 3.1(in relation to 2.9.1 and 2.11); 5.6.1 and 5.8; 7.1, 8.1 and 9.2 (in relation to 5.6.1 and 5.8); 10.1.5; and paragraphs J, L and O of Annex 3 of the Agreement.
 - (ii) Procedures for ensuring compliance with these provisions of the Agreement, including any publications by the enquiry point(s).

4. Facilities offered (including charges, if any).

- (a) Data bank (content and form of documents, e.g. paper, microfilm, computer, etc.).
- (b) Access to data (retrieval system: manual, tape, on-line; software used).
- (c) Languages used.
- (d) Translation, if any.
- (e) Brief description of the Agreement: objectives, date of entry into force, date joined, status in domestic law.
- (f) List of Members of the Agreement.
- (g) List of enquiry points of other Members.

G. FORMAT FOR THE VOLUNTARY NOTIFICATION OF SPECIFIC TECHNICAL ASSISTANCE NEEDS AND RESPONSES

**WORLD TRADE
ORGANIZATION**

[G/TBT/TA#[/R/]MEM]
[Date of distribution]

(xx-xxxx)

Committee on Technical Barriers to Trade

Original

**VOLUNTARY NOTIFICATION
OF SPECIFIC TECHNICAL ASSISTANCE
NEEDS OR RESPONSES**

1. Member notifying (including, if applicable, an indication of relevant bodies)
2. The technical assistance activity needed or provided may be relevant to the following Article(s) of the TBT Agreement⁵: [...] Articles 2 and 3 on technical regulations [...] Article 4 and Annex 3 on standards and the Code of Good Practice [...] Articles 5, 7 and 8 on development of conformity assessment procedures [...] Article 6 on recognition of conformity assessment [...] Article 9 on international and regional systems for conformity assessment [...] Articles 2, 5 and 10 on information exchange (e.g. notifications, enquiry point) [...] Article 11 on technical assistance to other Members [...] Article 12 on special and differential treatment of developing country Members [...] Article 13 on the TBT Committee (participation in work of TBT Committee) [...] Other:
3. Brief description of objective and rationale of the technical assistance activity, including, if possible, an estimation of the resources needed or on offer (e.g., financial or man-hours)⁶:

⁵ For needs: if there is difficulty in establishing which Articles of the TBT Agreement are relevant, it is recommended that the "Needs assessment" and/or "Awareness raising" box be crossed under Point 4. Under Point 2 it may then be sufficient to cross the "Other" box and indicate "General".

4. Nature and timing of technical assistance activity needed or on offer (key words):

Type of assistance

- Awareness raising
- Needs assessment
- Skills training
- Infrastructure development
- Other:

Policy area covered

- Technical regulations
- Conformity assessment procedures
- Standardization
- Information exchange
- Other:

Mode of delivery

- Workshop, seminar or other event
- Project-based activity
- Other:

Dates

- Envisaged start date for activity:
- Estimated duration:

5. Further information available from:

- National enquiry point.
- Other contact point⁷:.....
- Other reference⁸:.....

⁶ This description should explain how this activity is intended to enhance implementation of specific provision(s) of the TBT Agreement listed in Point 2.

⁷ Name of a contact person with telephone and e-mail address.

⁸ For example an Internet address, or the address of a body other than that of the Enquiry Point. For response notifications, this space could be used to make reference to previous relevant submissions or statements made in the TBT Committee (or other body).

PART 2:
**RULES OF PROCEDURE FOR THE MEETINGS OF THE WTO COMMITTEE ON
TECHNICAL BARRIERS TO TRADE AND GUIDELINES FOR OBSERVER STATUS FOR
GOVERNMENTS AND INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS**

Decision

- (a) In 1995, the Committee adopted the following Rules of Procedure, including Guidelines for Observer Status for Governments (Annex 1, below) and International Intergovernmental Organizations in the WTO (Annex 2, below)¹:

CHAPTER I - Meetings

Rule 1

The Committee on Technical Barriers to Trade (hereinafter the Committee) shall meet as necessary, but not less than once a year.

Rule 2

Meetings of the Committee shall be convened by the Director-General by a notice issued, preferably three weeks, and in any event not less than ten calendar days, prior to the date set for the meeting. In the event that the tenth day falls on a weekend or a holiday, the notice shall be issued no later than the preceding WTO working day. Meetings may be convened with shorter notice for matters of significant importance or urgency at the request of a Member concurred in by the majority of the Members.

CHAPTER II - Agenda

Rule 3

A list of the items proposed for the agenda of the meeting shall be communicated to Members together with the convening notice for the meeting. It shall be open to any Member to suggest items for inclusion in the proposed agenda up to, and not including, the day on which the notice of the meeting is to be issued.

Rule 4

Requests for items to be placed on the agenda of a forthcoming meeting shall be communicated to the Secretariat in writing, together with the accompanying documentation to be issued in connection with that item. Documentation for consideration at a meeting shall be circulated not later than the day on which the notice of the meeting is to be issued.

Rule 5

(Will not apply)

¹ G/TBT/M/1, 28 June 1995, para. 13.

Rule 6

The first item of business at each meeting shall be the consideration and approval of the agenda. Representatives may suggest amendments to the proposed agenda, or additions to the agenda under "Other Business". Representatives shall provide the Chairperson or the Secretariat, and the other Members directly concerned, whenever possible, advance notice of items intended to be raised under "Other Business".

Rule 7

The Committee may amend the agenda or give priority to certain items at any time in the course of the meeting.

CHAPTER III - Representation

Rule 8

Each Member shall be represented by an accredited representative.

Rule 9

Each representative may be accompanied by such alternates and advisers as the representative may require.

CHAPTER IV - Observers

Rule 10

Representatives of States or separate customs territories may attend the meetings as observers on the invitation of the Committee in accordance with the guidelines in Annex 1 to these Rules.

Rule 11

Representatives of international intergovernmental organizations may attend the meetings as observers on the invitation of the Committee in accordance with the guidelines in Annex 2 to these Rules.

CHAPTER V - Officers

Rule 12

The Committee shall elect a Chairperson² and may elect a Vice-Chairperson from among the representatives of Members. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting. The Chairperson and Vice-Chairperson shall hold office until the end of the first meeting of the following year.

² The Committee shall apply the relevant guidelines contained in the "Guidelines for Appointment of Officers to WTO Bodies" (WT/L/31 dated 7 February 1995).

Rule 13

If the Chairperson is absent from any meeting or part thereof, the Vice-Chairperson shall perform the functions of the Chairperson. If no Vice-Chairperson was elected or if the Vice-Chairperson is not present, the Committee shall elect an interim Chairperson for that meeting or that part of the meeting.

Rule 14

If the Chairperson can no longer perform the functions of the office, the Committee shall designate the Vice-Chairperson referred to in Rule 12 or, if no Vice-Chairperson was elected it shall elect an interim Chairperson to perform those functions pending the election of a new Chairperson.

Rule 15

The Chairperson shall normally participate in the proceedings as such and not as the representative of a Member. The Chairperson may, however, at any time request permission to act in either capacity.

CHAPTER VI - Conduct of Business

Rule 16

The Chairperson may consider postponing a meeting in the event that he or she feels that doing so may result in a more representative level of participation by WTO Members.

Rule 17

In addition to exercising the powers conferred elsewhere by these rules, the Chairperson shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, submit questions for decision, announce decisions, rule on points of order and, subject to these rules, have complete control of the proceedings. The Chairperson may also call a speaker to order if the remarks of the speaker are not relevant.

Rule 18

During the discussion of any matter, a representative may raise a point of order. In this case the Chairperson shall immediately state the ruling. If the ruling is challenged, the Chairperson shall immediately submit it for decision and it shall stand unless overruled.

Rule 19

During the discussion of any matter, a representative may move the adjournment of the debate. Any such motion shall have priority. In addition to the proponent of the motion, one representative may be allowed to speak in favour of, and two representatives against, the motion, after which the motion shall be submitted for decision immediately.

Rule 20

A representative may at any time move the closure of the debate. In addition to the proponent of the motion, not more than one representative may be granted permission to speak in favour of the

motion and not more than two representatives may be granted permission to speak against the motion, after which the motion shall be submitted for decision immediately.

Rule 21

During the course of the debate, the Chairperson may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Chairperson may, however, accord the right of reply to any representative if a speech delivered after the list has been declared closed makes this desirable.

Rule 22

The Chairperson, with the consent of the meeting, may limit the time allowed to each speaker.

Rule 23

Representatives shall endeavour, to the extent that a situation permits, to keep their oral statements brief. Representatives wishing to develop their position on a particular matter in fuller detail may circulate a written statement for distribution to Members, the summary of which, at the representative's request, may be reflected in the records of the Committee.

Rule 24

In order to expedite the conduct of business, the Chairperson may invite representatives that wish to express their support for a given proposal to show their hands, in order to be duly recorded in the records of the Committee as supporting statements; thus, only representatives with dissenting views or wishing to make explicit points or proposals would actually be invited to make a statement. This procedure shall only be applied in order to avoid undue repetition of points already made, and will not preclude any representative who so wishes from taking the floor.

Rule 25

Representatives should avoid unduly long debates under "Other Business". Discussions on substantive issues under "Other Business" shall be avoided, and the Committee shall limit itself to taking note of the announcement by the sponsoring delegation, as well as any reactions to such an announcement by other delegations directly concerned.

Rule 26

While the Committee is not expected to take action in respect of an item introduced as "Other Business", nothing shall prevent the Committee, if it so decides, to take action in respect of any such item at a particular meeting, or in respect of any item for which documentation was not circulated at least ten calendar days in advance.

Rule 27

Representatives should make every effort to avoid the repetition of a full debate at each meeting on any issue that has already been fully debated in the past and on which there appears to have been no change in Members' positions already on record.

Rule 28

Proposals and amendments to proposals shall normally be introduced in writing and circulated to all representatives not later than twelve hours before the commencement of the meeting at which they are to be discussed.

Rule 29

If two or more proposals are moved relating to the same question, the meeting shall first decide on the most far-reaching proposal and then on the next most far-reaching proposal and so on.

Rule 30

When an amendment is moved to a proposal, the amendment shall be submitted for decision first and, if it is adopted, the amended proposal shall then be submitted for decision.

Rule 31

When two or more amendments are moved to a proposal, the meeting shall decide first on the amendment farthest removed in substance from the original proposal, then, if necessary, on the amendment next farthest removed, and so on until all the amendments have been submitted for decision.

Rule 32

Parts of a proposal may be decided on separately if a representative requests that the proposal be divided.

CHAPTER VII - Decision-Making

Rule 33

Where a decision cannot be arrived at by consensus, the matter at issue shall be referred to the Council for Trade in Goods.

Rule 34

(Will not apply)

CHAPTER VIII - Languages

Rule 35

English, French and Spanish shall be the working languages.

CHAPTER IX - Records

Rule 36

Records of the discussions of the Committee shall be in the form of minutes.³

CHAPTER X - Publicity of Meetings

Rule 37

The meetings of the Committee shall ordinarily be held in private. It may be decided that a particular meeting or meetings should be held in public.

Rule 38

After a private meeting has been held, the Chairperson may issue a communiqué to the Press.

CHAPTER XI - Revision

Rule 39

The Committee may decide at any time to revise these rules or any part of them.

Annex 1

Guidelines for Observer Status for Governments in the WTO

The purpose of observer status in the General Council and its subsidiary bodies is to allow a government to better acquaint itself with the WTO and its activities, and to prepare and initiate negotiations for accession to the WTO Agreement.

Observer governments shall have access to the main WTO document series. They may also request technical assistance from the Secretariat in relation to the operation of the WTO system in general, as well as to negotiations on accession to the WTO Agreement.

Representatives of governments accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to make proposals, unless a government is specifically invited to do so, nor to participate in decision-making.

³ The customary practice under the GATT 1947, whereby representatives may, upon their request, verify those portions of the draft records containing their statements, prior to the issuance of such records, shall be continued.

Annex 2

Guidelines for Observer Status for International Intergovernmental Organizations in the WTO⁴

1. The purpose of observer status for international intergovernmental organizations (hereinafter referred to as "organizations") in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them.
2. Requests for observer status shall accordingly be considered from organizations which have competence and a direct interest in trade policy matters, or which, pursuant to paragraph V:1 of the WTO Agreement, have responsibilities related to those of the WTO.
3. Requests for observer status shall be made in writing to the WTO body in which such status is sought, and shall indicate the nature of the work of the organization and the reasons for its interest in being accorded such status.
4. Requests for observer status shall be considered on a case-by-case basis by each WTO body to which such a request is addressed, taking into account such factors as the nature of work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization has been associated in the past with the work of the CONTRACTING PARTIES to GATT 1947.
5. In addition to organizations that request, and are granted, observer status, other organizations may attend meetings of the Ministerial Conference, the General Council or subsidiary bodies on the specific invitation of the Ministerial Conference, the General Council or the subsidiary body concerned, as the case may be. Invitations may also be extended, as appropriate and on a case-by-case basis, to specific organizations to follow particular issues within a body in an observer capacity.
6. Organizations with which the WTO has entered into a formal arrangement for cooperation and consultation shall be accorded observer status in such bodies as may be determined by that arrangement.
7. Organizations accorded observer status in a particular WTO body shall not automatically be accorded such status in other WTO bodies.
8. Representatives of organizations accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to circulate papers or to make proposals, unless an organization is specifically invited to do so, nor to participate in decision-making.
9. Observer organizations shall receive copies of the main WTO documents series and of other documents series relating to the work of the subsidiary bodies which they attend as observers. They may receive such additional documents as may be specified by the terms of any formal arrangements for cooperation between them and the WTO.
10. If for any one-year period after the date of the grant of observer status, there has been no attendance by the observer organization, such status shall cease.

⁴ These guidelines shall apply also to other organizations referred to by name in the WTO Agreement.