

## REPORT (2000) OF THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE

1. The Committee held its nineteenth, twentieth, twenty-first, twenty-second and twenty-third meetings on 25 February, 17-19 May, 21 July, 6 October and 10 November (G/TBT/M/18-22) respectively, and Mr. John Adank (New Zealand) was Chairman. At those meetings, the Committee heard statements on the implementation and administration of the Agreement. A number of Members informed the Committee of measures taken to ensure the implementation and administration of the Agreement. Several measures were brought to the attention of the Committee by Members who raised concerns about the potential adverse trade effects or inconsistency with the Agreement of those measures.
2. At its nineteenth meeting, the Committee carried out its Fifth Annual Review of the Implementation and Operation of the Agreement under Article 15.3 based on background documentation contained in G/TBT/8, and its Fifth Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 based on background documentation contained in WTO TBT Standards Code Directory (1999), G/TBT/CS/1/Add.4 and G/TBT/CS/2/Rev.6.
3. In order to promote information exchange and to facilitate discussion on technical assistance in the lead-up to the Second Triennial Review, a Workshop on Technical Assistance and Special and Differential Treatment in the Context of the Agreement was held on 19-20 July.
4. At its nineteenth, twentieth, twenty-first and twenty-second meetings, the Committee prepared for the Second Triennial Review of the Operation and Implementation of the Agreement under Article 15.4. The Triennial Review was concluded at its twenty-third meeting (see attached the report of the Review).
5. Representatives of the ACP, ALADI, EFTA, FAO, IEC, IMF, ISO, ITC, OECD, OIE, OIML, UNCTAD, UN/ECE, UNIDO, WHO, WHO/FAO Codex Alimentarius Commission and the World Bank attended meetings of the Committee in an observer capacity.

## **SECOND TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE**

### Report

#### **I. INTRODUCTION**

1. Article 15.4 of the Agreement on Technical Barriers to Trade provides that "Not later than the end of the third year from the date of entry into force of the WTO Agreement and at the end of each three-year period thereafter, the Committee shall review the operation and implementation of this Agreement, including the provisions relating to transparency, with a view to recommending an adjustment of the rights and obligations of the Agreement where necessary to ensure mutual economic advantage and balance of rights and obligations, without prejudice to the provisions of Article 12. Having regard, *inter alia*, to the experience gained in the implementation of the Agreement, the Committee shall, where appropriate, submit proposals for amendments to the text of this Agreement to the Council for Trade in Goods."

#### **A. THE RESULT AND FOLLOW-UP OF THE FIRST TRIENNIAL REVIEW**

2. The First Triennial Review of the Operation and Implementation of the Agreement on Technical Barriers to Trade (TBT) was concluded on 13 November 1997 (G/TBT/5). As a result, a work programme was established by the Committee on 27 March 1998 (G/TBT/M/11) to continue the work arising from the First Triennial Review. Consequently, submissions were made by Members during the period of 1998-2000 for the purpose of information exchange, to share national experiences regarding the implementation and operation of the Agreement, as well as to put forward proposals in a number of areas (G/TBT/W/60-61, 63-64, 70-71, 74 AND 74/ADD.1, 75 AND 75/REV.1, 79-85, 87 and 87/REV.1, 88, 93, 99, 110-111, 112/REV.1, 113, 118, 121, 121/CORR.1, 132-133, 136, 138-140, and 142-151 – listed in Annex 6). A stock-taking paper of the submissions is contained in documents G/TBT/SPEC/11 and Add.1-2. Discussions on these papers assisted in providing a basis for the preparation of the Second Triennial Review.

3. In order to follow-up on the work programme agreed at the First Triennial Review, the Committee organized the following activities: Workshop and Special Meeting on Procedures for Information Exchange on 14 September 1998; Information Session of Bodies Involved in the Preparation of International Standards on 19 November 1998; Symposium on Conformity Assessment Procedures on 8-9 June 1999; and Workshop on Technical Assistance and Differential Treatment in the context of the TBT Agreement on 19-20 July 2000. (A description of these meetings is contained in Annex 1). Consequently, a number of actions were taken, e.g. the Committee agreed on a number of decisions and recommendations concerning notifications and procedures for information exchange (G/TBT/1/Rev.6), including a decision regarding work programmes under paragraph J of the Code of Good Practice for the Preparation, Adoption and Application of Standards by Standardizing Bodies (Annex 3 of the Agreement); a survey on the electronic facilities available in Members' national enquiry points was conducted by the Secretariat (G/TBT/W/105 and Suppl.1-2); a synthesis paper compiling the information provided by a number of bodies involved in the preparation of international standards was prepared by the Secretariat (G/TBT/W/106).

4. In response to the decisions adopted at the First Triennial Review, the following papers have been prepared by the Secretariat: a list of relevant international guides and recommendations related to conformity assessment procedures (G/TBT/W/72 and Rev.1); a list of Members whose local government bodies, directly below the central government level, are authorized to adopt technical regulations or conformity assessment procedures (G/TBT/W/76 and Add.1); a list of standardizing bodies within the territories of Members (G/TBT/W/93); and a paper on technical barriers to the

market access of developing countries (G/TBT/W/103). In addition, the Secretariat has taken action to further the implementation of Article 10.6, which provides that "the Secretariat shall, when it receives notifications in accordance with the provisions of this Agreement, ... draw the attention of developing country Members to any notifications relating to products of particular interest to them" (G/TBT/W/124).

B. THE SECOND TRIENNIAL REVIEW

5. The Committee prepared and conducted its Second Triennial Review of the Implementation and Operation of the Agreement at its twelfth to twenty-third meetings held on 27 March, 1 July, 15 September and 20 November of 1998, 31 March, 11 June and 1 October of 1999, as well as 25 February, 17-19 May, 21 July, 6 October and 10 November of 2000 (G/TBT/M/11-22). The elements considered during the Review, and the decisions taken by the Committee are set out below.

**II. ELEMENTS CONSIDERED UNDER THE REVIEW**

A. IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

6. Article 15.2 of the Agreement provides that "Each Member shall, promptly after the date on which the Agreement enters into force for it, inform the Committee of measures in existence or taken to ensure the implementation and administration of the Agreement". These statements are seen as providing a useful picture on how different Members implement the Agreement. The Committee noted that the preparation and submission of these statements could also assist Members in meeting their obligations under the Agreement, by enabling them to take stock of their existing legislation and institutional structure for the implementation and administration of the Agreement.

7. The Committee recognized that whilst Members might face similar problems regarding the implementation and administration of the Agreement, their specific needs and appropriate solutions to address those needs were different. There was no one single model bureaucratic or administrative structure that all countries should follow. The Committee also noted that a significant underpinning of the Agreement is domestic and international cooperation and coordination of trade, regulatory, voluntary standards and conformity assessment policy and practice. It was important for Members to ensure cooperation and coordination at the domestic level, and *inter alia* for the achievement of increased awareness of the TBT requirements at the national level. The involvement of all interested parties, including the private sector, was also important to further the understanding of the benefits and importance of the Agreement and to support implementation by national authorities. A national policy concerning TBT matters could usefully be developed by the government, involving relevant government agencies, authorities, voluntary standards bodies and other interested parties.

8. At the conclusion of the Second Triennial Review (as indicated in Annex 2) 77 Members have submitted their statements under Article 15.2 (G/TBT/2 and Add.1-61). The Committee considered that the status of implementation needed to be improved. The Committee agreed that efforts should be made to understand the reasons for this situation and to seek practical solutions.

9. The Committee recalled that during the First Triennial Review, Members had been invited to exchange information on the arrangements they had in place to achieve an effective implementation and administration of the provisions of the Agreement. The Committee agreed that Members should be encouraged to continue sharing their experiences in this regard. In particular, the Committee urged those Members who had not done so to submit their statements in accordance with the relevant decisions taken by the Committee as provided for in document G/TBT/1/Rev.6.

10. The Committee took note of the discussions in the General Council on implementation concerns, particularly in regard to participation by developing country Members in international standardization activities, and the problems they faced in the area of international standards and

conformity assessment. The Committee recognized that the issue of implementation was linked to a number of elements of the Second Triennial Review, such as technical assistance, international standards and conformity assessment procedures as further elaborated below. It was noted that the issue of implementation was of an ongoing nature, and that the Committee stood ready to report to the General Council, if requested, as well as in its Annual Report.

#### B. NOTIFICATIONS AND PROCEDURES FOR INFORMATION EXCHANGE

11. The Committee reiterated the importance of the transparency provisions of the Agreement, in particular those related to notifications of draft technical regulations and conformity assessment procedures as well as to the establishment of enquiry points, as required under Articles 2.9.2, 2.10.1, 5.6.2, 5.7.1, 10.1 and 10.2 of the Agreement. The Committee also noted the low level of notifications of technical regulations and conformity assessment procedures of local governments at the level directly below that of the central government in Members as required under Articles 3.2 (in relation to Articles 2.9.2 and 2.10.1) and 7.2 (in relation to Articles 5.6.2 and 5.7.1). The Committee recognized that regulatory responsibility existed in a number of Members at the sub-national level. However, since the entry into force of the Agreement, only 7 such notifications had been made. The Committee recalled that at the First Triennial Review, Members had been invited to provide information to indicate if local government bodies in their jurisdiction, directly below the central government level, were authorized to adopt technical regulations or conformity assessment procedures. The Committee urged Members who had not responded to that request to do so. The Committee further noted that greater efforts were required by Members to explain the Agreement to their local government bodies and to remind Members of their obligations with respect to notifications.

12. The Committee reaffirmed Members' obligations to designate a single central government authority responsible for the implementation at the national level of the provisions concerning notification procedures as stated under Articles 10.10 and 10.11, and to ensure the publishing of adopted technical regulations in accordance with Article 2.11. The Committee noted that at the national level, notifications were often not made due to lack of awareness of the TBT obligations or the lack of priority given to implementing these provisions by relevant agencies. In some cases, it appeared that the agency responsible for submitting notifications was not made aware of draft regulations created by other national authorities. The need for coordination between relevant agencies was important. Inadequate coordination could also hinder the provision of comments on other Members' notifications within the comment periods, which in some cases were shorter than the period recommended by the Committee.

13. The Committee noted the increasing number of notifications made under Articles 2.9 and 5.6, as well as the increasing number of notifying Members. However, certain Members still faced problems relating to notifications, including the length of time allowed for comments, as well as the provision of comments on other Members' notifications. The Committee reiterated that it was important for Members to follow the relevant Committee recommendations and decisions in this regard. Members were encouraged to give sympathetic consideration to requests from other Members for an extension of comment period beyond 60 days, particularly in regard to notifications relating to products of interest to developing country Members. Wherever possible, Members were encouraged to provide information, including the text of draft regulations, through an internet web-site. With a view to ensuring the more efficient and effective functioning of the transparency provisions, the Committee adopted a number of decisions and recommendations, and agreed to the revised notification format as attached in Annex 3.

14. At the conclusion of the Second Triennial Review, 103 Members have submitted information concerning their national enquiry points (Annex 2). The Committee considered that this status of implementation was not satisfactory. The Committee reiterated the importance of enquiry points providing information in accordance with Article 10.1, including information on any proposed or adopted technical regulations.

15. The Committee noted that in some cases, the problems faced by Members with respect to the establishment and functioning of their national enquiry points and notification procedures were due to the lack of financial and human resources as well as access to modern telecommunication networks and equipment. There was a need for enquiry points to improve cooperation with regulatory authorities in order to respond to queries within an adequate period of time. Technical cooperation within regions aimed at sharing experience could also be helpful. Taking into account the result of the Survey on Members' national enquiry points related to their electronic facilities, the Committee agreed, as indicated in paragraph 4 of Annex 3 (see page 21), to examine the steps that would be needed to facilitate the electronic transmission of information among Members to complement the provision of documents in hard copy form.

16. The Committee recognized that the dissemination of information and knowledge was a key element of capacity building that could assist Members in fulfilling their obligations and benefitting from the Agreement, in particular in relation to its notification and information exchange provisions. In this respect, the Committee noted the important role that information technology could play to assist relevant bodies of Members, both at the national level as well as in the context of regional and international cooperation. This could also facilitate the participation in international standardization work by means of electronic transmission of documents, provision of written comments and electronic voting. The dissemination of information to industry concerning the use of international standards and standards-related requirements in the market-place could enhance the transfer of technology, market access possibilities and competitiveness. A number of developing country Members had expressed their need for assistance in the acquisition of information technology products and optimization of databases and networks.

#### C. INTERNATIONAL STANDARDS, GUIDES AND RECOMMENDATIONS

17. The Committee noted that international standards, guides and recommendations were important elements of the Agreement and played a significant role in its implementation. Articles 2.4, 2.5, 5.4, and Paragraph F of Annex 3 of the Agreement placed an emphasis on the use of international standards, guides and recommendations as a basis for domestic standards, technical regulations and conformity assessment procedures, with the objective of reducing trade barriers. Articles 2.6, 5.5 and Paragraph G of Annex 3 emphasized the importance of Members' participation in international standardization activities, with a view to harmonizing technical regulations, conformity assessment procedures and standards on as wide a basis as possible.

18. At the First Triennial Review, the Committee had noted that difficulties might be encountered in relation to the use of certain international standards and that trade problems could arise. With a view to developing a better understanding of international standards within the Agreement, the Committee had agreed to, among other things, explore ways and means of improving the implementation of the provisions relating to enhancing Members' awareness of, and participation in, the work of international standardizing bodies; to invite Members to submit information on the difficulties and problems they encounter in relation to international standards; to increase Members' awareness of the activities of international standardizing bodies; and to consider the appropriate means for the Committee to express its views to these organizations regarding the preparation of international standards.

19. The Committee noted that a diversity of bodies were involved in the preparation of international standards (*i.e.* intergovernmental or non-governmental bodies; specialized in standards development or involved also in other related activities), and that different approaches and procedures were adopted by them in their standardization activities. However, the obligation under the Agreement for Members to use international standards was the same.

20. 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 (Annex 4). 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.

21. The Committee noted that even when the above-mentioned principles were observed by international standardizing bodies, inappropriate, ineffective or obsolete international standards might still exist. In this regard, the Committee recognized that Articles 2.4, 5.4 and paragraph F of Annex 3 provided Members with the flexibility to avoid having to use inappropriate or ineffective international standards as the basis for their technical regulations, standards and conformity assessment procedures. As indicated in the attached principles, the Committee noted the importance of international standardizing bodies putting in place procedures aimed at identifying and reviewing standards, guides and recommendations to ensure their continued fitness for use, while taking into consideration differences in technological development among Members.

22. The Committee agreed that regular information-exchange between the Committee and relevant bodies involved in the development of international standards was useful. The Committee agreed that its observers should be invited to provide regular updates on their activities at Committee meetings, and the Secretariat was requested to prepare a programme for such regular updates on an annual basis. In this context, the Committee would invite these bodies to inform it on the ways in which they were seeking to ensure effective participation of Members, and particularly of developing country Members in their activities.

23. The Committee also noted that situations could arise where no relevant international standards existed or their completion was not imminent. As an interim measure until suitable international standards were developed, the Committee noted that in some cases standardizing bodies or regulators in the territories of some Members had chosen to accept as equivalent standards originating from other Members, even though these standards differed from their own, on the basis that such standards fulfilled their objectives. The Committee considered that Members may find it useful to further explore equivalency of standards as an interim measure to facilitate trade in the absence of relevant international standards. Taking into account the obligation of Members under Article 2.6, the Committee emphasized that the possible use of this approach must not hinder the process of development of international standards, guides and recommendations.

24. The Committee noted that international standardization was an area where developing country participation was still limited and constrained. Some of the reasons identified for this situation were the lack of technical capacity, the location of secretariats and meetings, as well as other constraints in the areas of financial and human resources which impeded participation in meetings. This was recognized as an area for ongoing attention within international and regional bodies. The Committee

also noted that certain Members encountered problems relating to the translation of international standards into their national languages.

25. To assist in resolving the problem of participation, the Committee noted that it was important to prioritize the international standardization activities related to products or subject-matter of particular interest to developing countries. It was critical for developing country Members, as part of their national consultation, to assess products/sectors of priority interest to them for international standardization, so that resources could be appropriately targeted. It was suggested that international standardizing bodies should seek to secure greater developing country participation as chairpersons or secretariats in various technical committees, including, where appropriate, rotation of chairs and secretariats. Another solution was to facilitate effective participation by means of information technologies, such as using email and video conferencing as alternatives to traditional meetings. Such an approach could also provide solutions to the financial constraints faced by developing countries regarding their participation in international standardization. Increasing awareness and co-ordination at the national level among stakeholders with respect to the importance of international standards related to trade interests could help to strengthen the financial and human resources of national standardization bodies, thus enhancing their effectiveness in the international standardization process. Regional cooperation could also contribute to the efficient and effective use of resources and act as a useful way to influence the international standardization process.

#### D. CONFORMITY ASSESSMENT PROCEDURES

26. At the First Triennial Review, the Committee had noted the growing concerns with respect to the restrictive effect on trade of multiple testing and conformity assessment procedures, and had agreed to further its discussions on ISO/IEC Guides; to exchange information on Members' experience in the various types of conformity assessment procedures and their conditions of application; to review the role of regional and international systems for conformity assessment; as well as the provisions containing disciplines with respect to recognition of results of conformity assessment procedures, including mutual recognition agreements (MRAs) and possible difficulties associated with them. The Committee, while recognizing the need for effective conformity assessment procedures to establish confidence between different players in the market-place, reiterated that these procedures should not create unnecessary obstacles to trade.

27. The Committee noted the existence of different mechanisms to facilitate acceptance of results of conformity assessments, e.g. mutual recognition agreements for conformity assessment to specific regulations; in the voluntary sector, co-operative arrangements between domestic and foreign conformity assessment bodies; the use of accreditation to qualify conformity assessment bodies; government designation; unilateral recognition of results of foreign conformity assessment; and manufacturer's/supplier's declarations. An indicative list describing these different approaches to facilitate acceptance of results of conformity assessment is attached (Annex 5). This 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. 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.

28. The Committee agreed to invite Members, on a voluntary basis, to supply further information on the different mechanisms used in their jurisdiction for acceptance of results of conformity assessment. The Committee would further discuss the different approaches with a view to analysing them in the light of Articles 5 and 6. The Committee reiterated that, irrespective of the mechanisms of conformity assessment procedures chosen by central government bodies of Members, in accordance with Articles 5.1, 5.2, and 5.6-5.9, these procedures must be non-discriminatory, transparent and should avoid unnecessary obstacles to trade. The same rules applied relating to

conformity assessment procedures by local government bodies, non-governmental bodies and international and regional systems in accordance with Articles 7, 8 and 9. The Committee also noted that in some circumstances the adoption by exporting and importing countries of different mechanisms of conformity assessment for particular categories of products could give rise to difficulties. Members were encouraged to address such situations through cooperation aimed at identifying appropriate solutions.

29. The Committee also noted the usefulness of working towards the harmonization of practices and criteria on as wide a basis as possible through Members playing a full part, within the limits of their resources, in the preparation of international standards, guides and recommendations for conformity assessment procedures (according to Article 5.4), as well as conformity assessment bodies participating, wherever practicable, in confidence building and proficiency testing programmes of international systems in order to build confidence within all regimes.

30. In accordance with Articles 5.4, 6.1, 7, 8 and 9, the Committee reiterated the importance of using the relevant guides, standards and recommendations issued by international standardizing bodies on conformity assessment procedures. Meeting the requirements of the relevant international guides, standards and recommendations, where appropriate, was recognized as a useful way to benchmark the technical competence and performance of conformity assessment bodies, so that credibility and confidence in their assessment results could be obtained. Thus, the use of these guides, standards and recommendations could serve as a basis for the recognition of the competence of conformity assessment bodies, facilitate the acceptance of results of conformity assessments and help ensure a harmonized approach to conformity assessment procedures.

31. The Committee noted that in addition to relevant guides, standards and recommendations issued by international standardizing bodies, there were also reference documents developed by international or regional conformity assessment systems that could have effects on the results of conformity assessment. The Committee stressed the importance of ensuring that such reference documents were developed through a transparent, open and impartial process.

32. The Committee noted that a supplier's declaration of conformity, when used in appropriate circumstances and for certain sectors, was considered by some Members to be a less-onerous approach for the assurance of conformity. From a manufacturer's perspective, supplier's declaration allowed flexibility and non-discriminatory treatment in the choice of location for testing or other conformity assessment procedures, reduced the uncertainty associated with mandatory testing by designated laboratories based in foreign countries as well as associated costs. Reliance on a supplier's declaration of conformity could also be a cost-saving and efficient tool for regulators to ensure that regulatory requirements and legitimate policy objectives were met. The Committee noted that this could be enhanced by introducing deterrents to suppliers for not meeting conformity assessment requirements, such as penalties being imposed for non-compliance, and affording opportunities for market participants to inform regulatory authorities of perceived non-conformance.

33. The Committee, however, acknowledged that supplier's declarations might not always be appropriate. Consideration needed to be given to the particular characteristics of the sector, the relevant product risks, as well as health, consumer safety and environment issues. An appropriate legislative framework, including safeguards against non-compliance of dangerous products, such as market surveillance and product liability laws were relevant considerations in this regard. The Committee noted the absence of appropriate infrastructure in some Members, in particular developing country Members. The Committee invited Members, on a voluntary basis, to further exchange information on their experience in the use of supplier's declaration. Such experience could include the following: an indication of the sectors/product categories where supplier's declaration of conformity is used in relation to technical regulations and standards; a further definition of the conditions supporting effective use of such an approach and the costs of these conditions;



considerations that may deem such an approach inappropriate from a regulatory perspective; and an identification of technical infrastructure to support reliance on this approach.

34. Concerning MRAs, as referred to in Article 6, the Committee noted the importance of technical competence, openness and linking them to regulatory and market-needs to serve the objective of facilitating market access and that they should be targeted to selected areas of trade interest. The use of relevant international conformity assessment standards, guides and recommendations, as well as harmonized conformity assessment procedures could facilitate the conclusion of MRAs at different levels. The Committee reiterated the importance of Members notifying mutual recognition agreements in accordance with Article 10.7. In this connection, it was noted that only 29 notifications had been made since the entry into force of the Agreement. The Committee also noted the role that regional and international systems for conformity assessment (as referred to in Article 9) could contribute to solving the problems of multiple testing and certification/registration for traders and industries.

35. In the area of conformity assessment, the Committee noted a number of problems expressed by developing country Members. Developing country exporters, in particular SMEs, in some cases found themselves faced with conformity assessment requirements in export markets that were difficult to meet. This could be due to the limited physical and technical resources for national conformity assessment; insufficient number of accredited laboratories at the national or regional level, high costs as well as legal difficulties in obtaining foreign accreditation, difficulties in establishing internationally recognized accreditation bodies, difficulties in participating in international conformity assessment systems, as well as difficulties related to the implementation of ISO/IEC guides on conformity assessment procedures. The Committee noted the technical and financial assistance already being provided by a number of national and international bodies to developing countries, such as the training of conformity assessment practitioners; training packages focussed on establishment of accreditation and certification bodies; the design of quality strategies targeting policy-makers, conformity assessment practitioners and industry; as well as the funding of developing country participation in regional and international meetings of conformity assessment systems. The Committee also noted the work that was being conducted at the regional level to address the various common concerns relating to conformity assessment, such as the pooling of resources to facilitate accreditation at the regional level, and eventually at the international level.

36. The Committee noted that it took a long period of time for a country to develop a national conformity assessment system. Different infrastructure might be needed at different stages of development and for different sectoral needs. Priorities needed to be identified by developing countries concerning certain basic elements of a domestic conformity assessment infrastructure. Technical assistance in this area was an evolving process, given the need to nurture skills and institutional development over a long time-frame. In order to build a structure for domestic conformity assessment which could ultimately facilitate the recognition of conformity assessment results, it was important to raise awareness and develop a national strategy for quality management. Assistance to implement the relevant international guides and standards could be useful to obtain the confidence of the competence of conformity assessment bodies by import markets, to facilitate entering into negotiations of MRAs and participating in international systems. Technical assistance of this kind could be enhanced through regional and international cooperation.

#### E. TECHNICAL REGULATIONS

37. At the First Triennial Review, the Committee had reiterated that good regulatory practice for the preparation, adoption and application of technical regulations was a priority for Members to facilitate trade. Members had been invited to submit descriptions of their approach to technical regulations. A number of Members had advanced submissions to present their regulatory practices. The Committee agreed to continue the information exchange in this regard.

38. The Committee noted that minimizing the use of mandatory technical regulations and utilising voluntary international standards, where appropriate, rather than preparing separate domestic standards, could reduce the regulatory burden and open-up market access opportunities. In cases where technical regulations were required, the Committee reiterated that in accordance with Article 2.4, Members were obliged to use relevant international standards or relevant parts of them as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued. The Committee also reiterated the importance of giving positive consideration to accepting as equivalent technical regulations of other Members as provided for under Article 2.7.

#### F. TECHNICAL ASSISTANCE AND SPECIAL AND DIFFERENTIAL TREATMENT

39. At the First Triennial Review, the Committee had held discussions on technical assistance and special and differential treatment and noted that certain Members, in particular developing country Members, encountered difficulties in the implementation and operation of the Agreement. Members had been invited to exchange information concerning their national and regional technical assistance programmes. Members that require technical assistance had been invited 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. Accordingly, a Workshop on Technical Assistance and Special and Differential Treatment was held in July 2000. The Committee considered the results of the Workshop useful, and took note of the needs and problems identified, the possible solutions suggested, as well as the information concerning technical assistance activities provided and planned by donor countries and organizations.

40. The Committee recognized the importance of ensuring that solutions were targeted at the specific priorities and needs identified by individual or groups of developing country Members that would allow them to effectively implement as well as benefit from the Agreement. This called for an assessment at the national level taking into account the specific situation of each Member. Effective coordination at the national level between authorities, agencies and other interested parties was considered essential to identify relevant infrastructure requirements and needs and to establish priorities.

41. The Committee noted that in accordance with the mandate provided by the General Council, the Director-General had been requested through his good offices to contact relevant international standardizing bodies and intergovernmental organizations to explore financial and technical mechanisms to assist the participation of developing countries in international standard-setting activities and to identify TBT-related technical assistance needs and how best to address these. In pursuing its further work, the Committee emphasized the importance of ensuring that its efforts complemented, and did not duplicate, the work by the Director-General and other WTO bodies in this field.

42. The Committee noted the importance of the coordination and cooperation of donor countries and organizations. The Committee took note of a number of capacity building programmes involving joint efforts to combine the expertise and experience of different organizations.

43. Recognizing the Integrated Framework for Least Developed Countries, and the ongoing work in other fora of the WTO, including the General Council and the Committee on Trade and Development, the Committee agreed that coordination and cooperation between the Committee and other relevant WTO bodies should be strengthened in order to effectively and efficiently address the issue of trade-related technical assistance in the context of the TBT Agreement.

44. The Committee noted that provision of technical assistance, including technical assistance under Article 11, could be directed at both the national and regional level. In this context, the Committee recognized the importance of technical cooperation and capacity-building, pursued

through a range of cooperative activities, as an appropriate means of enhancing technical confidence. The Committee noted that technical assistance and cooperation could be delivered in different forms, including through internships, technical missions and consultancies, training of in-house experts, and "twinning arrangements" between institutions. Workshops and seminars were acknowledged as of ongoing importance to raise awareness of the benefits and obligations of the Agreement and to assist coordination among relevant agencies at the national level for the implementation of the Agreement. The Committee also noted the value of direct dialogue and contact between developing countries on national solutions to certain implementation problems, and that regional and international organizations could play a role in this regard.

45. In this context, the Committee recognized the importance of enhancing the effectiveness of technical assistance and cooperation and agreed to build on the results of the Workshop held in July 2000 with a view to identifying realistic and practical options for progress. The objective would be 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 target the needs identified by developing country Members. The Committee invited Members on a voluntary basis to further communicate information on technical assistance programmes they proposed, provided or received.

46. The Committee agreed that the programme would need to evolve on the basis of the following elements: design of a survey with the assistance of relevant international, regional and bilateral organisations to assist developing countries in needs identification; identification and prioritization by developing and least developed country Members of their specific needs in the TBT field; 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; enhancement of co-operation between donors; reassessment of needs in light of agreed priorities, identification of technical assistance partners and financial considerations. The Committee 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.

47. The Committee also recalled its decision (G/TBT/1/Rev 6, page 22) in relation to technical assistance that "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."

#### G. OTHER ELEMENTS

48. The Committee noted that concerns regarding labelling were raised frequently in the Committee meetings during discussions on the implementation and operation of the Agreement. In this regard, the Committee reiterated the importance of any such requirements being consistent with the disciplines of the Agreement, and in particular stressed that they should not become disguised restrictions on trade.

## **ANNEX 1**

### **ACTIVITIES ORGANIZED BY THE COMMITTEE DURING THE PERIOD OF 1998-2000**

#### **A. WORKSHOP AND SPECIAL MEETING ON PROCEDURES FOR INFORMATION EXCHANGE HELD ON 14 SEPTEMBER 1998**

1. The event was attended by representatives from capitals, including those from developing and least developed countries, responsible for information exchange. At the Workshop, the transparency provisions of the Agreement were outlined, and several national and regional experiences concerning enquiry points and notification procedures presented. The importance of disseminating standard information to industry was highlighted. A number of difficulties and problems faced by national enquiry points and with respect to notification procedures were addressed and proposals were made to improve the situation, including by ways of enhancing electronic information exchange and technical assistance. A number of representatives from developing country Members indicated the problems they experienced with respect to raising national awareness among government agencies and industries of the importance, benefits and the obligations under the Agreement, and requested technical assistance in the form of workshops and seminars. Some enquiry points faced difficulties in handling the large volumes of information, as well as coordinating their work with relevant regulatory authorities and disseminating information to stakeholders. To overcome these problems, it was suggested that comprehensive efforts, including the involvement and coordination of regulatory authorities, relevant government and local governmental agencies, enquiry points and private sector would be essential. Suggestions were made also to enhance the efforts of cooperation in the regional context.

#### **B. INFORMATION SESSION OF BODIES INVOLVED IN THE PREPARATION OF INTERNATIONAL STANDARDS HELD ON 19 NOVEMBER 1998**

2. The objectives of the Session were to increase the awareness of Members of the activities of bodies involved in the preparation of international standards, to have these bodies take into account of the ongoing discussions on international standards in the Committee, as well as to develop an improved understanding of the role of international standards within the Agreement. Ten organizations were invited (FAO, FAO/WHO Codex, IEC, ISO, OIE, OIML, ITU, OECD, UN/ECE, and WHO). The Committee was informed of the different approaches and procedures adopted by these various bodies in their standardization activities (*i.e.* their membership and meetings, openness in drawing up programmes, transparency procedures, procedures for comments and decision-making, application of adopted standards, as well as coordination and cooperation with other bodies at the international level).

#### **C. SYMPOSIUM ON CONFORMITY ASSESSMENT PROCEDURES HELD ON 8-9 JUNE 1999**

3. The purpose of the Symposium was to improve understanding on the subject-matter of conformity assessment in the Committee. One of the goals was to explore how the Agreement could further minimize trade barriers as a result of multiple testing and certification requirements. Experts from business, testing laboratory, inspection, certification, accreditation, metrology and standardizing bodies, as well as regional and international systems were invited as speakers and panelists. (They included representatives from the following organizations: ISO, IEC, OIML, ILAC, IAF, OECD, BIPM, APLAC, EA, IAAC, PAC, SADCA and FSC). Information was provided regarding the different types of conformity assessment procedures in the market place, mutual recognition agreements, relevant international guides/standards, regional/international systems and possible technical assistance to developing countries in this area.

D. WORKSHOP ON TECHNICAL ASSISTANCE AND DIFFERENTIAL TREATMENT IN THE CONTEXT OF THE TBT AGREEMENT HELD ON 19-20 JULY 2000

4. The objective of the Workshop was to provide the opportunity for Members that require technical assistance to inform other Members and relevant organizations of the difficulties they encounter in the implementation and operation of the Agreement, and the kind of technical assistance required. At the same time, Members and international organizations providing technical assistance in the TBT area could communicate with the Committee information concerning their technical assistance programmes. The aim was to help better target technical assistance, avoid duplication and promote further cooperation and coordination among donor Members and organizations, aiming at developing efficient and effective technical assistance programmes in the various areas related to the Agreement. Speakers and participants invited included representatives from national and regional bodies, as well as the following organizations: ISO, IEC, FAO/CODEX, PASC, ILAC, IAF, UNIDO, OIML, Inter-American Development Bank, World Bank, ITC and OAS. The discussion which focused on the following four areas was practical and solution-oriented: implementation and administration of the Agreement; international standards; conformity assessment procedures; and capacity building. It highlighted the real world challenges that developing countries faced in regard to pursuing both their rights and meeting their obligations under the Agreement. Difficulties and needs of developing country Members were identified, possible solutions were suggested, and information concerning the existing technical assistance programmes by donor countries and organizations was provided.

**ANNEX 2**

**IMPLEMENTATION OF ARTICLES 15.2 AND 10.1  
OF THE AGREEMENT**

**(as of 10 November 2000)**

<b>Member</b>	<b>Enquiry Point (Notified)</b>	<b>Notification under Article 15.2</b>
Angola		
Antigua and Barbuda		
Argentina	X	G/TBT/2/Add.21 and Suppl.2
Australia	X	G/TBT/2/Add.8
Austria	X	G/TBT/2/Add.12/Rev.1
Bahrain	X	G/TBT/2/Add.19
Bangladesh		
Barbados	X	G/TBT/2/Add.48
Belgium	X	G/TBT/2/Add.12/Rev.1
Belize	X	
Benin	X	
Bolivia	X	G/TBT/2/Add.43 and Suppl.1
Botswana	X	
Brazil	X	G/TBT/2/Add.26
Brunei Darussalam		
Bulgaria	X	G/TBT/2/Add.32
Burkina Faso		
Burundi	X	
Cameroon	X	
Canada	X	G/TBT/2/Add.6
Central African (Rep.)		
Chad		
Chile	X	G/TBT/2/Add.16 and Suppl.1
Colombia	X	G/TBT/2/Add.18
Congo		

<b>Member</b>	<b>Enquiry Point (Notified)</b>	<b>Notification under Article 15.2</b>
Congo, Democratic Rep. of		
Costa Rica	X	G/TBT/2/Add.51
Côte d'Ivoire	X	
Cuba	X	G/TBT/2/Add.13
Cyprus	X	G/TBT/2/Add.46
Czech Republic	X	G/TBT/2
Denmark	X	G/TBT/2/Add.12/Rev.1
Djibouti	X	
Dominica		
Dominican Republic	X	
Ecuador	X	
Egypt	X	G/TBT/2/Add.34
Estonia	X	G/TBT/2/Add.58
El Salvador	X	
European Communities	X	G/TBT/2/Add.12/Rev.1
Fiji	X	
Finland	X	G/TBT/2/Add.12/Rev.1
France	X	G/TBT/2/Add.12/Rev.1
Gabon		
Gambia		
Georgia	X	
Germany	X	G/TBT/2/Add.12/Rev.1
Ghana	X	
Greece	X	G/TBT/2/Add.12/Rev.1
Grenada		
Guatemala		
Guinea, Rep. of		
Guinea Bissau		
Guyana		

<b>Member</b>	<b>Enquiry Point (Notified)</b>	<b>Notification under Article 15.2</b>
Haiti		
Honduras	X	G/TBT/2/Add.50
Hong Kong, China	X	G/TBT/2/Add.1
Hungary	X	G/TBT/2/Add.41
Iceland	X	G/TBT/2/Add.55
India	X	G/TBT/2/Add.56
Indonesia	X	G/TBT/2/Add.3
Ireland	X	G/TBT/2/Add.12/Rev.1
Israel	X	
Italy	X	G/TBT/2/Add.12/Rev.1
Jamaica	X	G/TBT/2/Add.57
Japan	X	G/TBT/2/Add.10
Jordan	X	G/TBT/2/Add.61
Kenya	X	
Korea	X	G/TBT/2/Add.28
Kuwait		
Kyrgyz Republic	X	G/TBT/2/Add.59
Latvia	X	G/TBT/2/Add.52
Lesotho		
Liechtenstein	X	G/TBT/2/Add.36
Luxembourg	X	G/TBT/2/Add.12/Rev.1
Macau	X	G/TBT/2/Add.30
Madagascar		
Malawi	X	
Malaysia	X	G/TBT/2/Add.9
Maldives		
Mali	X	
Malta	X	
Mauritania		



<b>Member</b>	<b>Enquiry Point (Notified)</b>	<b>Notification under Article 15.2</b>
Mauritius	X	G/TBT/2/Add.40
Mexico	X	G/TBT/2/Add.14
Mongolia	X	G/TBT/2/Add.44
Morocco	X	G/TBT/2/Add.39
Mozambique	X	
Myanmar	X	
Namibia	X	G/TBT/2/Add.42
Netherlands	X	G/TBT/2/Add.12/Rev.1
New Zealand	X	G/TBT/2/Add.24
Nicaragua	X	
Niger	X	
Nigeria	X	G/TBT/2/Add.20
Norway	X	G/TBT/2/Add.15/Rev.1
Oman		
Pakistan	X	G/TBT/2/Add.45
Panama	X	G/TBT/2/Add.53 + Corr.1
Papua New Guinea	X	
Paraguay		
Peru	X	G/TBT/2/Add.29
Philippines	X	G/TBT/2/Add.11
Poland	X	G/TBT/2/Add.31/Rev.1
Portugal	X	G/TBT/2/Add.12/Rev.1
Qatar		
Romania	X	G/TBT/2/Add.17 and Corr.1
Rwanda		
Saint Kitts and Nevis		
Saint Lucia	X	G/TBT/2/Add.37
Saint Vincent & Gren.		
Senegal		

<b>Member</b>	<b>Enquiry Point (Notified)</b>	<b>Notification under Article 15.2</b>
Sierra Leone		
Singapore	X	G/TBT/2/Add.25
Slovak Republic	X	G/TBT/2/Add.4
Slovenia	X	G/TBT/2/Add.5 and Suppl.1
Solomon Islands		
South Africa	X	G/TBT/2/Add.60
Spain	X	G/TBT/2/Add.12/Rev.1
Sri Lanka	X	G/TBT/2/Add.27
Suriname		
Swaziland	X	G/TBT/2/Add.35
Sweden	X	G/TBT/2/Add.12/Rev.1
Switzerland	X	G/TBT/2/Add.7
Tanzania	X	
Thailand	X	G/TBT/2/Add.38
Togo		
Trinidad and Tobago	X	G/TBT/2/Add.47
Tunisia	X	G/TBT/2/Add.22
Turkey	X	G/TBT/2/Add.33
Uganda	X	G/TBT/2/Add.23
United Arab Emirates	X	
United Kingdom	X	G/TBT/2/Add.12/Rev.1
United States	X	G/TBT/2/Add.2
Uruguay	X	G/TBT/2/Add.54
Venezuela		
Zambia	X	
Zimbabwe	X	G/TBT/2/Add.49
<b>TOTAL MEMBERS = 139</b>	<b>103</b>	<b>77</b>

### ANNEX 3

## **DECISIONS AND RECOMMENDATIONS ON PROCEDURES FOR NOTIFICATION AND INFORMATION EXCHANGE\***

### **I. NOTIFICATION PROCEDURES**

#### **1. Format and Guidelines**

##### Background and purpose

The procedures for notification under the Agreement have been kept under constant review by the Committee. In order to ensure a uniform and efficient operation of these procedures the Committee agreed on the following format and guidelines.

##### Recommendation

- (a) 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.
- (b) Notifications may be transmitted by electronic mail to the WTO Central Registry of Notifications (CRN): [crn@wto.org](mailto:crn@wto.org)

##### Decisions Relating to the Information to be Provided in the Notifications Format

Note: The numbers below correspond to the relevant boxes of the notification form (G/TBT/Notif.)

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.

\* Changes to Decisions and Recommendations contained in G/TBT/1/Rev.6 are highlighted.

Item	Description
3. Notified under	<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> <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 <b>comprehensible</b> description <b>stating the main features of the proposed or adopted technical regulation or procedures for assessment of conformity</b> 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. <b>Members are encouraged to advise of any extension to the final date for comments.</b>
11. Texts available from	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. <b>If available in a web-site, provide the web-site address.</b> Such indications should not in any way discharge the relevant enquiry point of its responsibilities under the provisions of Article 10 of the Agreement.

# ORGANIZATION

**G/TBT/Notif.**

(00-0000)

## Committee on Technical Barriers to Trade

## NOTIFICATION

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: <b>Name and address (including telephone and fax numbers, e-mail and web-site addresses, if available) of</b> 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, <b>telephone</b> and fax numbers, e-mail <b>and web-site addresses, if available</b> of the other body:                    :

## **2. Length of time allowed for comments**

### **Background**

The Committee set the following time limits for presentation of comments on notified technical regulations and procedures for assessment of conformity.

### **Recommendation**

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.**

## **3. Monthly Listing of Notifications Issued**

### **Background and purpose**

With a view to provide a brief indication of the notifications issued, the Committee agreed on the following procedure.

### **Decision**

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.

## **4. Enhancement of Electronic Transmission of Information**

### **Background and purpose**

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 facilitate the 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 agreed on the following action.

### **Decision**

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.

## II. PROCEDURES FOR INFORMATION EXCHANGE

### 1. Regular Meetings

#### Background and purpose

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 took the following action.

#### Decision

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.



#### **ANNEX 4**

### **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**

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.

#### **B. 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:

- 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;
- 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;
- upon request, the prompt provision to members of the international standardizing body of the text of the draft standard;
- 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;
- the prompt publication of a standard upon adoption; and
- to publish periodically a work programme containing information on the standards currently being prepared and adopted.

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.

C. 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:

- proposal and acceptance of new work items;
- technical discussion on proposals;
- submission of comments on drafts in order that they can be taken into account;
- reviewing existing standards;
- voting and adoption of standards; and
- 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

D. 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:

- access to participation in work;
- submission of comments on drafts;
- consideration of views expressed and comments made;
- decision-making through consensus;

- obtaining of information and documents;
- dissemination of the international standard;
- fees charged for documents;
- right to transpose the international standard into a regional or national standard; and
- revision of the international standard.

#### D. 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:

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

#### E. 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.

#### E. 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.

## **ANNEX 5**

### **INDICATIVE LIST OF APPROACHES TO FACILITATE ACCEPTANCE OF THE RESULTS OF CONFORMITY ASSESSMENT**

#### **A. 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.

#### **B. 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.

#### **C. 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.

#### **D. GOVERNMENT DESIGNATION**

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

#### **E. 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.

#### **F. MANUFACTURER'S / SUPPLIER'S DECLARATIONS**

6. A 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:

- adequate market surveillance;
- substantial penalties for false or misleading declarations;
- an appropriate regulatory environment; and
- an appropriate product liability regime.

## ANNEX 6

### WORKING DOCUMENTS SUBMITTED BY MEMBERS AND PREPARED BY THE SECRETARIAT IN RELATION TO THE SECOND TRIENNIAL REVIEW

Symbol	Date Issued	Title of Document
G/TBT/W/60	9 March 1998	Environmental Labels and Market Access: Case Study on the Colombian Flower-Growing Industry – Contribution from Colombia
G/TBT/W/61	11 March 1998	Forests: A National Experience – Contribution from Canada
G/TBT/W/63	7 April 1998	Conformity Assessment Procedures: Supplier's Declaration of Conformity – Contribution from the United States
G/TBT/W/64	2 April 1998	Transparency in International Standards Development – Contribution from the United States
G/TBT/W/70	23 June 1998	ISO/IEC Guides on Conformity Assessment - Note from the European Communities
G/TBT/W/71	24 June 1998	National Experiences with Technical Regulations – Contribution from Canada
G/TBT/W/72 and Rev.1	24 June 1998 29 September 1999	A List of Relevant International Guides and Recommendations Related to Conformity Assessment Procedures - Note by the Secretariat
G/TBT/W/74, and Add.1	30 June 1998 10 August 1998	TBT Agreement Code of Good Practice, Paragraph J: Publication of the Work Programmes of Standardizing Bodies - Note from the European Communities
G/TBT/W/75 and Rev.1	30 June 1998 17 June 2000	Transparency in International Standards - Draft U.S. Proposal for a Decision – Contribution from the U.S.
G/TBT/W/76 and Add.1	13 July 1998 1 October 1998	A List of Members whose Local Government Bodies, directly below the Central Government Level, are Authorized to Adopt Technical Regulations or Conformity Assessment Procedures - Note by the Secretariat
G/TBT/W/79	3 September 1998	Autonomous Recognition of the Results of Foreign Conformity Assessments – Communication from Switzerland
G/TBT/W/80	9 September 1998	Information Exchange in Relation to the Preparation, Adoption and Application of Technical Regulations – Contribution from Thailand
G/TBT/W/81	9 September 1998	Information Exchange in Relation to the use of International Standards, Guides and Recommendations – Contribution from Thailand
G/TBT/W/82	14 September 1998	Information Exchange in Relation to the Acceptance, Implementation and Operation of the Code of Good Practice for the Preparation, Adoption and Application of Standards by Standardizing Bodies – Contribution from Thailand
G/TBT/W/83	14 September 1998	Information Exchange on the Implementation of Article 2.7 relating to Equivalency of Technical Regulation – Contribution from Thailand
G/TBT/W/84	9 September 1998	Information Exchange in Relation to the Operation and Implementation of Notification Procedures under Articles 2, 3, 5 and 7 – Contribution from Thailand

Symbol	Date Issued	Title of Document
G/TBT/W/85	9 September 1998	Information Exchange in Relation to Members' Experience in the Various Types of Conformity Assessment Procedures – Contribution from Thailand
G/TBT/W/87 and Rev.1	14 September 1998 30 September 1999	The Conditions for Acceptance and Use of International Standards in the Context of the TBT Agreement – Note from the European Community
G/TBT/W/88	15 September 1998	Equivalency of Standards: An Interim Measure to Facilitate Trade in the Absence of Relevant International Standards – Note from New Zealand
G/TBT/W/93	24 September 1998	India's Experience on TBT Notification System and Procedures for Information Exchange – Contribution from India
G/TBT/W/99	17 November 1998	National Experiences with Standards and Technical Regulations – Contribution by Australia
G/TBT/W/103	25 January 1999	Technical Barriers to the Market Access of Developing Countries Background - Note by the Secretariat
G/TBT/W/110	8 June 1999	Code of Good Practice for the Preparation, Adoption and Application of Standards by Standardizing Bodies – Note from Thailand
G/TBT/W/111	8 June 1999	Conformity Assessment Procedures - Note from Thailand
G/TBT/W/112/Rev.1	11 June 1999	Equivalency of Technical Regulations and Standards – Note from Thailand
G/TBT/W/113	15 June 1999	Issues concerning International Standards and International Standardization bodies - Submission from Japan
G/TBT/W/118	14 September 1999	Code of Good Practice for the Accreditation of conformity assessment bodies – Contribution from Australia
G/TBT/W/121 and Corr.1	7 October 1999 9 December 1999	Amendment of the TBT Agreement - Proposal by Japan
G/TBT/W/124	22 December 1999	Implementation of Article 10.6 of the Agreement on Technical Barriers to Trade – Note by the Secretariat
G/TBT/W/132	29 March 2000	Factual Comparison between the Annex 3 of the WTO/TBT Agreement - Code of Good Practice for the Preparation, Adoption and Application of Standards and the ISO/IEC Guide 59 – Code of Good Practice for Standardization – Note by the Secretariat
G/TBT/W/133	11 April 2000	Second Triennial Review of the Operation and Implementation of the Agreement on Technical Barriers to Trade - Note from the European Community
G/TBT/W/136	19 June 2000	Implementation of the Transparency Obligations of the Agreement on Technical Barriers to Trade (as of 15 June 2000) - Note by the Secretariat
G/TBT/W/138	28 July 2000	Good Practice for the Acceptance of Results of Conformity Assessment - Second Triennial Review of the Agreement – Contribution from Australia
G/TBT/W/139	28 July 2000	Second Triennial Review of the Agreement International Standards – Contribution by Australia

Symbol	Date Issued	Title of Document
G/TBT/W/140	28 July 2000	Brazilian Proposals to the Second Triennial Review of the Agreement on Technical Barriers to Trade – Contribution from Brazil
G/TBT/W/142	4 August 2000	Results of the Workshop on Trade Facilitation, Regulations and Standards: the Development Challenge in Central America - Communication from Panama
G/TBT/W/143	22 September 2000	Second Triennial Review of the Operation and Implementation of the Agreement on Technical Barriers to Trade - Note from Canada
G/TBT/W/144	2 October 2000	Issues concerning International Standards - Submission by Japan
G/TBT/W/145	3 October 2000	Equivalency of Standards: a Clarification of New Zealand's Proposal for Recognition of Equivalency as an Interim Measure in the Absence of Relevant International Standards – Communication from New Zealand
G/TBT/W/146	3 October 2000	Technical Assistance – Communication from Cameroon
G/TBT/W/147	3 October 2000	Issues concerning Conformity Assessment – Communication from Japan
G/TBT/W/148	1 November 2000	Equivalency - Experience Paper – Toys and Children's Products Safety Ordinance – Communication from Hong Kong, China
G/TBT/W/149	1 November 2000	Principles of coherence and singularity to be observed by international standardizing bodies - Contribution from the European Communities
G/TBT/W/150	2 November 2000	Labelling - Submission from the European Communities
G/TBT/W/151	7 November 2000	Brazilian Proposal on Technical Cooperation for the Second Triennial Review of the WTO Agreement on Technical Barriers to Trade – Submission from Brazil