

## Agreement on Technical Barriers to Trade

**Scope; Definitions:** Products, processes, production methods (not services)

*Technical regulation* – document that lays down product characteristics or processes, compliance with which is mandatory

*Standard* – document approved by a body for repeated use rules, characteristics or guidelines; compliance not mandatory

*Conformity assessment procedures* – any procedure used to determine that relevant requirements in technical regulations or standards are fulfilled

**Rules for Technical Regulations:** central government bodies (Art. 2); local government bodies and non-governmental bodies (Art. 3):

1. National treatment of products
2. TRs not prepared, adopted or applied to create unnecessary obstacles to trade – “TRs shall not be more trade-restrictive than necessary to fulfill a legitimate objective, taking into account of the risks non-fulfillment would create. Legitimate objectives are, *inter alia*: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment. In assessing risks, relevant elements of consideration are, *inter alia*: available scientific and technical information, related processing technology, or intended end-uses of products.”
3. TRs shall not be maintained if circumstances or objectives change, or can be addressed in a less trade-restrictive manner
4. Members shall use relevant international standards as a basis for their TRs unless the standards “would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued;
5. For a TR “which may have a significant effect on trade” = Member shall upon request explain its justification in terms of 2-4; when prepared in accordance with international standard – rebuttable presumption not to create an obstacle to trade
6. Members shall participate, as resources allow, in development of international standards for TRs for products for which they have or will adopt TRs
7. Members shall give positive consideration to accepting equivalent, though different, TRs adopted by other Members

8. Wherever appropriate, Members shall specify TRs based on product requirements in terms of performance rather than design or descriptive characteristics

9. If no relevant international standard, or proposed TR differs, Members shall publish notice of proposed TR, products covered, copies and deviations if possible on request, allow reasonable time for comments and discussions

10. Exception to 9 and 12 for urgent problems of safety, health, environmental protection or national security, with notices upon adoption

11. Promptly publish adopted TRs

12. Allow reasonable time between publication and entry into force of TRs

**Rules for Conformity with Technical Regulations and Standards:** central government bodies (Art. 5); local government bodies (Art. 7); non-governmental bodies (Art. 8); international and regional systems (Art. 9) – very similar to TR rules

National Treatment – CAPs prepared, adopted and applied equally, not as obstacle to trade; equally expeditious; procedure is published and timely; information requirements limited to what is necessary to assess conformity and fees; confidentiality of information is respected equally; fees are equitable; complaint procedure

Article 6 – recognition of equivalent CAPs of Members

Art. 9 – Members shall formulate and adopt international systems for CAPs where possible

**Standards:** Article 4 – standardizing bodies shall accept and comply with Code of Good Practice (Annex 3); Code applies whether or not SB adopts it

**Information and Assistance:**

Article 10 – enquiry point required to provide info on TR, S, and CAPs; notification requirements by central governments to the Secretariat and Committee on TBT

**Technical Assistance to Other Members** (Article 11) - Members required to provide assistance when possible on request, especially to development countries

**Special and Differential Treatment of Developing Country Members (Art. 12)**

“Members shall provide differential and more favourable treatment to developing country Members to this Agreement....”

Members shall take into account the special development, financial and trade needs of developing Members: in implementation of Agreement, preparation and application of TRs, S, and CAPs; in recognition indigenous technology and appropriateness of applying standards; in facilitating participation and representation in international bodies; in providing technical assistance.

Committee on TBT is enabled to grant specified, time-limited exceptions in whole or in part from obligations under this Agreement.

**Committee on Technical Barriers to Trade (Article 13)**

Composed of all Members; at least annual meeting; annual review of Agreement; tri-annual review and any proposals for adjustment

**Consultation and Dispute Settlement (Article 14)** – pursuant to GATT; panels may establish “technical expert group” pursuant to Annex 2

