





ACP-EU TBT Programme

Strengthening the Quality Infratructure Institutions of Ethiopia

Addis Ababa, Ethiopia 15th November, 2016



Operation of the WTO-TBT Enquiry Point

Acknowledgement: This presentation includes some content taken from the WTO's online public domain training modules, for which the presenter(s) wish to express their thanks.





Some principles from the TBT Agreement

- Transparency
- Openness
- Impartiality
- Consensus
- Effectiveness and Relevance
- Coherence
- Awareness of the Development Dimension (special relaxations for developing countries)



Members' rights under WTO

- WTO Members' technical regulations which are prepared, adopted or applied for one of the legitimate objectives stated in the TBT Agreement and which are in accordance with relevant international standards are automatically presumed not to be creating an unnecessary obstacle to trade (Article 2.5 of the TBT Agreement).
- WTO Members and standardizing bodies MAY adopt technical regulations and standards which are NOT based on relevant international standards, when these are seen as ineffective or inappropriate to fulfil a legitimate objective.
- WTO Members have the same right regarding conformity assessment procedures, if the relevant international guides or recommendations are considered inappropriate.

Members' obligations under WTO include:

- When a WTO Member/standardizing body decides to create a new TBT measure - or revise one which is already in place - it should start its task by verifying if a relevant international standard exists for the product and/or measure in question.
- If it exists, the WTO Member/standardizing body SHALL use the relevant international standard as a basis for its measure, UNLESS the international standard is ineffective and/or inappropriate to fulfil a WTO Member's legitimate interest.



The principle of equivalence

- When a WTO Member accepts a technical regulation from another WTO Member as "equivalent", even if it differs from its own, this is allowable, provided that
- it adequately fulfils the objective of its own regulation.
- WTO does NOT require measures to be identical.



Transparency requirements in the TBT Agreement

Members shall:

- Submit a statement on implementation and administration of the TBT Agreement;
- Notify draft and adopted technical regulations and conformity assessment procedures WHEN they may have significant effects on international trade AND are NOT in accordance with international standards;
- Publish all technical regulations, conformity assessment procedures and agreements; and
- Establish an Enquiry Point responsible for dealing with queries from other WTO Members about TBT-related issues.



NSBs have to:

- Notify to the ISO/IEC Information Centre of their acceptance or withdrawal from the Code of Good Practice and the existence of a work programme.
- Publish their work programme at least once every six months.
- They shall also publish their standards.



The national statement on implementation and acceptance of the WTO TBT Agreement

Article 15.2 of the TBT Agreement reads:

"Each WTO Member shall, promptly after the date on which the WTO Agreement enters into force for it, inform the Committee of measures in existence or taken to ensure the implementation and administration of this Agreement. Any changes of such measures thereafter shall also be notified to the Committee."



WTO Members also have to include the following detailed information:

- The names of the publications used to announce that work is proceeding on draft technical regulations or standards and conformity assessment (CA) procedures and those used for the publication of their texts;
- the expected length of time allowed for presentation of comments in writing on technical regulations, standards or CA procedures;
- the Enquiry Point's name and address and indication of whether it is fully operational; and
- measures and arrangements to ensure that national and subnational authorities preparing new technical regulations or CA procedures, or substantial amendments to existing ones, provide early information on their proposals.



General notification obligations of WTO members

- Notify draft technical regulations and conformity assessment procedures, and those already adopted for urgent reasons;
- notify bilateral or multilateral agreements entered into on issues and measures within the scope of the TBT Agreement;
- Standardizing Bodies are obliged to notify the adherence to, or withdrawal from, the Code of Good Practice, and the existence of a work programme.



Where does the Enquiry Point fit in?

- It might have to make the notifications up to WTO (but this is not always the case);
- It receives or downloads notifications made by other WTO member countries;
- It manages a list of stakeholders in its home country, that have expressed interest in receiving certain notifications (e.g. by choosing the items of ICS codes they are interested in);
- It passes on to these stakeholders any notifications received that fall in their area of interest, receives comments from them and uploads them to WTO.
- It answers enquiries from home country stakeholders about regulations, import requirements etc., in other countries
- It provides copies of proposed Technical Regulations and standards to respondents in other countries on request
- It answers their queries about these proposed measures

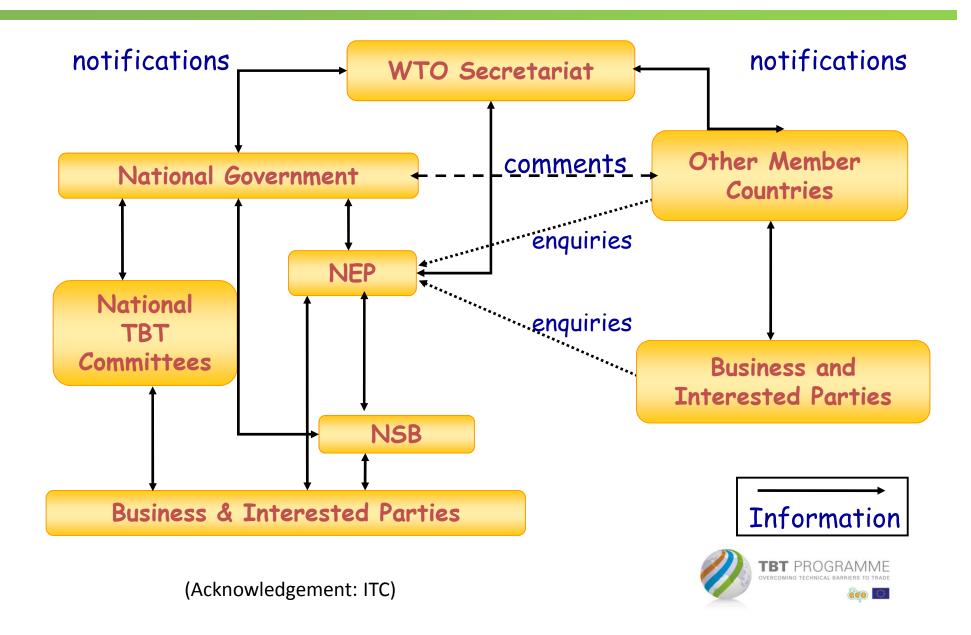


Who should be the Notification Authority?

- Pursuant to Articles 10.10 and 10.11 of the TBT Agreement, WTO Members shall designate a single CENTRAL GOVERNMENT authority responsible for the implementation at national level of provisions concerning notification procedures, except those included in Annex 3.
- Often, this authority resides with the Ministry of Trade.
- The notification authority MUST be part of the central government, so this function cannot be carried out at the sub-national level (by a state, provincial or regional agency).



How does the information flow?



Specific notification requirements – the "no surprise" approach

Any WTO Member proposing to introduce or modify a new technical regulation or conformity assessment procedure is required to:

- submit a notification through the WTO Secretariat;
- allow reasonable time for other WTO Members to make comments in writing;
- discuss these comments upon request;
- take the comments and the results of the discussions into account;
- explain to the submitting WTO Member how it plans to take the comments into account;
- where appropriate, provide additional relevant information on the proposed technical regulation or conformity assessment procedure;
- provide the submitting WTO Member a copy of the text of the corresponding technical regulation or conformity assessment procedure as adopted, or if it is not adopted, information that no corresponding measure will be put into force for the time being.



What must be notified?

The TBT Agreement requires WTO Members to notify other WTO Members, through the WTO Secretariat, of proposed new technical regulations and conformity assessment procedures or modifications to existing ones, when the following two circumstances BOTH apply:

- a relevant international standard EITHER does not exist
 OR
 - the technical content of a proposed measure is not in accordance with the technical content of the international standard; AND
- 2. the proposed measure may have a SIGNIFICANT EFFECT on the trade of other WTO Members.



A relevant International
Standard does not exist, or
the measure is not in
accordance with the standard

IF: AND THEN:

The measure SHALL be notified

The measure may have a SIGNIFICANT effect on the trade of other WTO members

SUMMARY

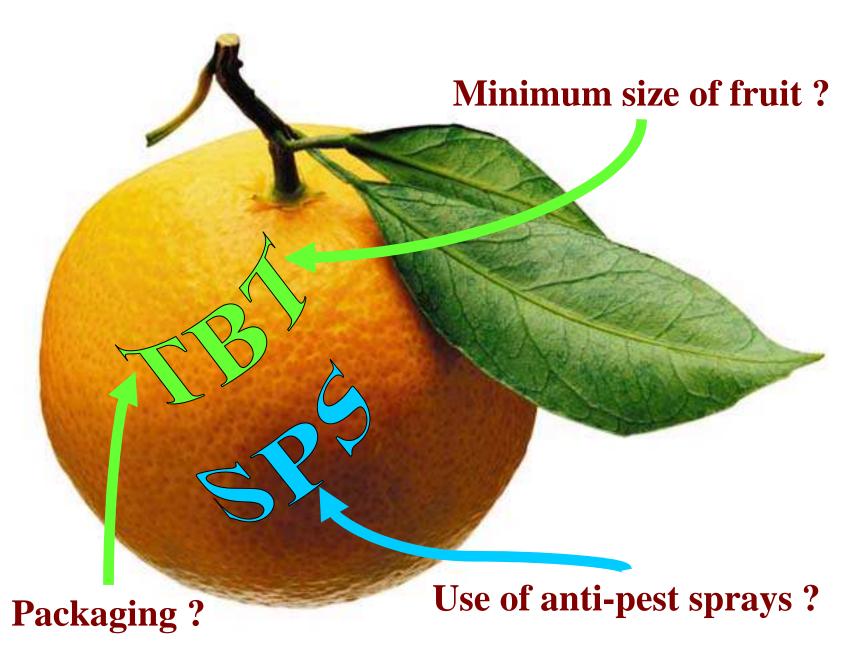
Complex notifications

Note

 When a technical regulation contains both SPS and TBT elements, it should be notified under both the SPS and the TBT Agreements, following the procedures contained in the respective Agreements, preferably with an indication of which parts of the regulation fall under the SPS Agreement (e.g., a food safety measure) and which parts fall under the TBT Agreement (e.g., quality or compositional requirements).



TBT or SPS?



The notification decision: An example

Assume that Ethiopia drafts a TR for the safety of lighters, that reads: "Non-adjustable fluid lighters shall not be capable of producing a flame height greater than **100mm** when tested", among other things.



Ethiopia gets its lighters from China and South Africa, both of which produce to the ISO standard, which states: "Non-adjustable fluid lighters shall not be capable of producing a flame height greater than **120mm** when tested in accordance with 5.2".

In other words, Ethiopia wants to introduce a more stringent requirement than in the ISO standard. Both China and South Africa are very likely to feel that their trade might be affected.

Ethiopia, once a member of WTO, therefore MUST notify this draft TR to WTO, and at least discuss any comments received. If the extra safety requirement is needed, then maybe the real problem is that the ISO standard needs to be revised?



When must we notify?

Ideally, a two-stage process:

- 1. WTO Members shall publish a notice at an early stage so as to enable other interested WTO Members to become acquainted with the proposal to introduce a particular technical regulation or conformity assessment procedure.
- Once a draft measure exists, WTO Members should make a notification to other WTO Members, through the WTO Secretariat.
 - **Note 1:** Ideally at least 60 days should be allowed for comments
 - **Note 2:** For urgently applied measures, notification should be as soon as possible after the start date.

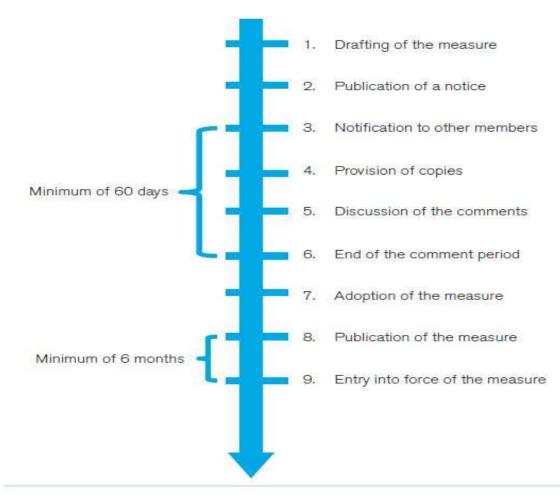


What is an "Urgent" case?

- WTO Members may notify a draft technical regulation or conformity assessment procedure upon adoption in the case of "urgent problems of safety, health, environmental protection or national security that have arisen or threaten to arise".
- "[The Member, upon adoption ... shall] notify immediately other Members through the Secretariat of the particular technical regulation/procedure and the products covered, with a brief indication of the objective and the rationale of the technical regulation/procedure, including the nature of the urgent problems."
- Notification requirements for urgent measures differ from the regular procedure in two important ways:
 - 1. the notification is made upon adoption of the measure;
 - 2. the notification form shall mention the nature of the urgent problem.



The stages and time frames for TRs and related conformity assessment procedures





How do we notify?

- Notifications must contain information on the products covered, together with a brief indication of the objective and rationale of the proposed technical regulation or conformity assessment procedure.
- If urgent also mention the nature of the urgent problem
- General requirement: "[Members shall] notify other Members through the Secretariat of the products to be covered by the proposed technical regulation/conformity assessment procedure, together with a brief indication of its objective and rationale."

Notification format

wo	RLD TRADE ORGANIZATION	G/TBT/N/-	
* · ·	The Thirt of Contract of Contr	(00-0000)	
Comi	mittee on Technical Barriers to Trade	Original: English	
	NOTIFICATION		
	The following notification is being circulated in accordance wi	ith 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, i		
	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, telepho	one and fax numbers,	
	e-mail and web-site addresses, if available of the other body:		

The document G/TBT/1/Rev.8 (Decisions and Recommendations adopted by the Committee, in force since 1 January 1995) contains the notification formats that shall be used by WTO Members while submitting notifications to the WTO Secretariat



Notification format

wo	ORLD TRADE ORGANIZATION	G/TBT/N/-	
•••	THE THE SHOULD THE	(00-0000)	
Com	mittee on Technical Barriers to Trade	Original: English	
	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		
2.	Agency responsible:	3. What are t	
	Name and address (including telephone and fax numbers)	options?	
	available) of agency or authority designated to handle comments		
	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 tar	iff 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	e and fax numbers,	
	e-mail and web-site addresses, if available of the other body:		



Article 2.9.2: Proposed technical regulation by a central government body;

Article 2.10.1: Technical regulation adopted for urgent problems by a central government body;

Article 5.6.2: Proposed conformity assessment procedure by a central government body;

Article 5.7.1: Conformity assessment procedure adopted for urgent problems by a central government body;

Other: In the TBT Agreement, there are four other provisions under which measures can be notified and which concern measures adopted by bodies other than the central government:

Article 3.2: Proposed technical regulation or adopted for urgent problems by a local government;

Article 7.2: Proposed conformity assessment procedure or adopted for urgent problems by a local government;

Article 8.1: Adopted conformity assessment procedure by a non-governmental body;

Article 9.2: Adopted conformity assessment procedure by an international or regional organization.

Notification format

wo	RLD TRADE ORGANIZATION	G/TBT/N/-	
•••	NED TRADE ORGANIZATION	(00-0000)	
Comr	nittee on Technical Barriers to Trade	Original: English	
	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	7.2):	
2.	Agency responsible:		
	Name and address (including telephone and fax numbers, e-	1 \A/b at an	
	available) of agency or authority designated to handle comm	4. What are	
	indicated if different from above:	HS, CCCN	
3.	Notified under Article 2.9.2 [], 2.10.1 [], 5.6.2 [], 5.7.1		
4.	Products covered (HS or CCCN where applicable, otherwise national	and ICS ?	
	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, telep	hone and fax numbers,	
	e-mail and web-site addresses, if available of the other body:		

Section 4 contains a clear description of the products covered by the measure (including tariff headings). **HS** or **CCCN** where applicable, as contained in national schedules deposited with the WTO. **ICS** numbers may be provided in addition, where applicable.

Note:

HS stands for Harmonized Commodity Description and Coding System of tariff nomenclature, which is an internationally standardized system of names and numbers for classifying traded products developed and maintained by the World Customs Organization (WCO, formerly named Customs Cooperation Council).

CCCN stands for Customs Cooperation Council Nomenclature, a customs tariff nomenclature formerly used by many countries, including most European nations. **It has been superseded** by the Harmonized System Nomenclature to which most trading nations adhere.

ICS stands for International Classification for Standards. The ICS was developed and is maintained by ISO as an international classification system for technical standards. It is designed to cover every economic sector where technical standards may be used.

Notification format

wo	ORLD TRADE ORGANIZATION	G/TBT/N/-	
•••	THE THE SHOWING	(00-0000)	
Comi	mittee on Technical Barriers to Trade	Original: English	
	NOTIFICATION		
	The following notification is being circulated in ac	cordance with Article 10.6.	
1.	Member to Agreement notifying:		
	If applicable, name of local government involved (Article	s 3.2 and 7.2):	
2.	Agency responsible:		
	Name and address (including telephone and fax nur available) of agency or authority designated to handle of indicated if different from a		
3.	Notified under Arti 6. For exampl	e, the	
4.	Products covered "Scope"	g.	
5,	Title, number of pages and langua	current:	
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 add	ress, telephone and fax numbers,	
	e-mail and web-site addresses, if available of the other b	ody:	

Notification format

wo	RID TRADE OR	SANIZATION	G/TBT/N/-	
•••	KED HOLDE OK	JAN 12/11/ON	(00-0000)	
Comr	nittee on Technical Barr	riers to Trade	Original: English	
		NOTIFICATION		
	The following r	notification is being circulated in acco	rdance with Article 10.6.	
1.	Member to Agreement	notifying:		
	If applicable, name of l	local government involved (Articles 3	1.2 and 7.2):	
2.	Agency responsible:			
	Name and address (including telephone and fax numbers, e-mail and web-site addresses, i			
	available) of agency or authority designated to handle comments regarding the notification shall be			
	indicated if different fro	om above:		
3.	Notified under Article 2.9.2 [], 2.10.1 [], 5.6.2 [], 5.7.1 [],other:			
4.	Products covered (HS		tariff heading.	
	ICS numbers m	8. e.g. Where car	n it	
5,	Title, number be found (Gov't			
6.	Description of co. Gazette No., etc)			
7.	Objective and rationals	s, inclu	nems where applicable:	
8.	Relevant documents:			
9.	Proposed date of adopt	tion:	_	
	Proposed date of entry into force:			
10.	Final date for comment	rs:		
11.	Texts available from: National Enquiry Point [, or address, telephone and fax numbers,			
	e-mail and web-site ad	dresses, if available of the other bod	y:	

Fixing it when your notification is wrong!

- WTO Members, in addition to their original notifications, should also provide supplementary information, where necessary, in one of three different formats:
- An addendum is used to provide additional information or changes to an original notification. A WTO Member may for example wish to indicate on the addendum if the regulation has been substantially modified from the notified proposal.
- A corrigendum is used to correct an error in an original notification such as an incorrect address detail.
- A revision is used to replace an existing notification.
- Note: Any addendum or corrigendum should be read in conjunction with the original notification.



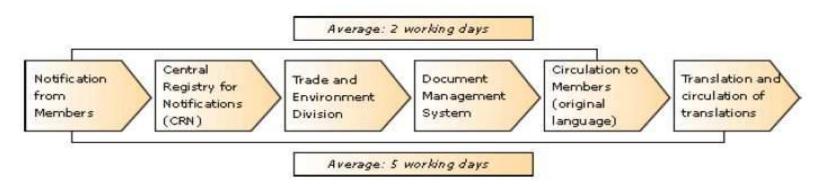
Back to the cigarette lighters – how would we draft the notification?

G/TBT/N/VAN/1 WORLD TRADE ORGANIZATION 1st of February 2007 (00-0000) Committee on Technical Barriers to Trade Original: English NOTIFICATION The following notification is being circulated in accordance with Article 10.6. Member to Agreement notifying: VANIN If applicable, name of local government involved (Articles 3.2 and 7.2): Agency responsible: MINISTRY OF INDUSTRY, SAFETY BUREAU 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 [X], 2.10.1 [III], 5.6.2 [III], 5.7.1 [III], other: Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): MULTIPURPOSE LIGHTERS Title, number of pages and language(s) of the notified document: LIGHTERS SAFETY REGULATION, 5 pages, VANINIAN (ENGLISH TRANSLATION available) Description of content: This technical regulation establishes requirements for lighters to ensure a reasonable degree of safety for normal use or reasonably foreseeable misuse of such lighters by users. The safety specification applies to all flame-producing products commonly known as lighters, as to functional requirements (e.g. flame height, resistance to spitting, flame extinction), structural integrity requirements (compatibility with and resistance to fuels, resistance to pressure and temperature), test methods, instructions and warnings. 7. Objective and rationale, including the nature of urgent problems where applicable: Protection of Human Health and Safety Relevant documents: Official Gazette 1st February 2007 Proposed date of adoption: 15th April 2007 9. Proposed date of entry into force: 1st August 2007 10. Final date for comments: 1st April 2007 Texts available from: National Enquiry Point [X], or address, telephone and fax numbers, e-mail and web-site addresses, if available of the other body: www.technicalregulations.van



What happens to the notification at the WTO?

- It is put on a registry file, given a record number and forwarded to the Trade and Environment Division of the WTO Secretariat, where it is formatted and checked for completeness and accuracy.
- The notification is then transferred to the Document Management System (DMS) for circulation to WTO Members.
- It is then also posted on the WTO website and translated into the other working languages of the WTO.



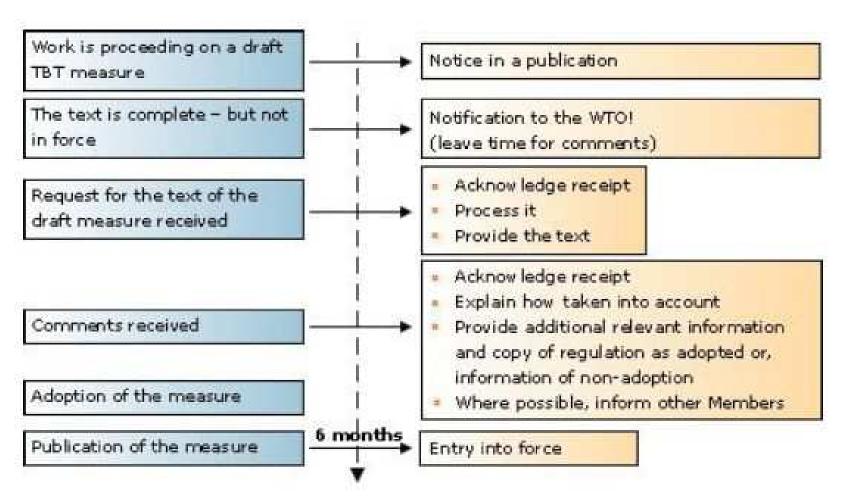


Dealing with requests from other WTO members

- Requests for copies of proposed TRs must be dealt with in 5 working days.
- No discrimination between national and foreign requests in charging for these
- Comments on draft TRs or draft standards; comments received must be acknowledged, discussed and answered ...
- ... and preferably copied by a further notification to WTO!
- The process can be simplified by the use of the NEP's website for this
- Developing countries are not expected to organise translations



Summary of the process





Example: A country changing its requirements after receiving comments through the WTO

- Notification no: G/TBT/N/BRA/339
- Notification by Brazil concerning conformity assessment procedures for toys
- Imported toys would be tested according to 2 sets of tests, while domestic toys would only be tested once
- Concerns were raised by China, EU, Thailand, and USA
- Brazil investigated and then amended the requirements to include only 1 test for imported toys



Other notifications that might need to be made

- Trade agreements reached with other countries (bilateral, multilateral, e.g. SADC)
- Needs for technical assistance from WTO
- Acceptance (or withdrawal from) the Code of Good Practice (annex 3 to WTO TBT)

Note: Acceptance only has to be done once

 Existence of standards work programme at least once every six months

Note: To ISO/IEC Information Centre, not to WTO



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Typical letter notifying work programme to ISO/IEC

		ISO/IEC Information Centre
		International Organization for Standardization
		Case postale 56
		CH - 1211 GENEVA 20
		Switzerland
	NOTIF	FICATION
UND	ER PARAGRAPH C OF THE V	WTO TBT CODE OF GOOD PRACTICE
	(Notification of existe	ence of work programme)
Country (or regiona	l arrangement):	
Name of standardiz	ing body:	
		Timmerine and the state of the
Address of standard	lizing body:	
***************************************	***************************************	***************************************
Telephone:	Telefax:	Telex:
E-mail:	***************************************	
f Name and Inches	of the publication in which the	work is published
1. Name and issue t	ii tile publication ili wilitii tile	work is published.
The period to wh	ich the work programme applie	es:

3. The price of the v	work programme (if any):	
4. How and where t	the work programme can be ob	stained:

	(Signature)	(Date)
(Name)		
(Name)	SCHEDONIAL Waliotalian in historia	



Publishing details of standards and TRs

- For sending copies email or direct download from website
- For creating awareness of TRs, Conformity
 Assessment procedures and the existence of
 the standards work programme these can
 ideally be published on the NSB's website.
- This includes preliminary notices of draft TR's
- It is not necessary or desirable to publish full international standards on the website – reference to them is sufficient



Publishing standards work programmes

- The outdated way is to publish a paper hard copy every six months and circulate copies to interested parties
- The modern way is to publish the work programme on the standards body's website and permit free downloads
- The best solution is to have the work programme as a living document that is always up to date, thereby doing away with the six monthly requirement
- This requires a real time system of standards progress by stage code to be in operation



So, what does the Enquiry Point need?

- A clear mandate from Government as to exactly what its responsibilities are
- Its details must be notified (once) to WTO
- Trained staff, equipment for up/ downloading, printing etc.
- Properly documented operating procedures
- Access to necessary reference documents
- Contacts and proper engagement with Ministries, other regulators and stakeholders
- Good record-keeping and a regularly updated website
- The discipline to keep all parties informed when relevant a communications plan is a good way to achieve this
- A promotional budget and appropriate tools



The Enquiry Point:

Must **acknowledge** and respond to all **reasonable** enquiries from other WTO members **and** provide relevant documents regarding:

- Technical regulations, standards and conformity assessment procedures;
- membership and participation in international and regional standardizing bodies, conformity assessment systems, and bilateral or multilateral arrangements;
- the location of all notices that are published; and
- the location of other Enquiry Points (e.g. the SPS and TF Enquiry Points and other TBT Enquiry Points (if any)

Note: It is best practice to only have ONE designated TBT Enquiry Point per country



WTO-TBT Useful web addresses

Resource	URL (copy into browser)
Search page:	http://tbtims.wto.org/web/pages/search/notification/BasicSearch.aspx
Monthly report of WTO TBT notifications:	http://tbtims.wto.org/web/pages/report/report13/Report13.aspx
WTO Distance learning:	https://www.wto.org/english/res e/d learn e/d learn e.htm
SABS search page (all notifications are downloaded):	https://www.sabs.co.za/wto tbt/notifications.asp









END

www.acp-eu.tbt.org



