

Session 9 – WTO Technical Barrier to Trade Agreement



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Key principles of WTO

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Key principles

- Non discrimination against foreign goods in national regulations.
- Facilitates access to markets and includes features specific for the preparation and application of regulations.
- Encourages use of International standards.
- Helps distinguish between legitimate and protectionist motivations for Technical Barriers to Trade (TBT) measures.
- Helps avoid unnecessary Technical Barriers to international trade.
- Allows protection of legitimate interests.



Key principles

- TBT distinguishes between 3 different categories of measures:
 - Technical regulations
 - Standards
 - Conformity assessment procedures (used to see if goods fulfil requirements established by regulations)

Note: conformity assessment procedures are addressed directly in the TBT agreement.



No less favourable treatment

- TBT measures do not discriminate against foreign products in favour of domestic products or favour one country over another.
- “No less favourable treatment” principle → Non discrimination means that products shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country.



WTO and conformity assessment



Covers conformity assessment

- Conformity with technical regulations and standards.
- Determination of conformity of local government bodies and non-government bodies with technical regulations and standards.
- Certification systems operated by central government.
- Certification systems operated by local government and non-governmental bodies.
- International and regional certification systems.
- information about technical regulations, standards and certification systems.



Technical regulation and WTO



Technical regulations and WTO

- Technical regulations set out requirements with which compliance is mandatory. Types and product coverage may vary widely.
- Market access is contingent on fulfilling the requirements set out in the technical regulation.
- Standards are often used as the basis for both technical regulations and conformity assessment procedures and, in such cases, the requirements set out in the standard become mandatory by virtue of government intervention.



Technical regulations and WTO

- Standards are addressed by the TBT Agreement in a separate "Code of Good Practice for the Preparation, Adoption and Application of Standards".
- What is important from the trade perspective is to avoid having regulations set arbitrarily and to ensure that they are not used to protect domestic producers from foreign competition.



Technical regulations and WTO

- Under the TBT Agreement, governments must ensure that TBT measures do not discriminate against foreign products (in favour of domestic producers), or between foreign producers (for example, by favouring one country over another)
- Members shall ensure that in respect of technical regulations, products imported from the territory of any Member shall be accorded treatment no less favorable than that accorded to like products of national origin and to like products originating in any other country.



Technical regulations and WTO

- Under the TBT Agreement, WTO members must pursue a legitimate objective when preparing, adopting or applying a TBT measure that restricts trade.
- Moreover, the Agreement gives members the sole prerogative to determine the level of protection they deem appropriate for their citizens under a legitimate objective.



Technical regulations and WTO

- TBT measures are not prepared, adopted or applied so as to create unnecessary obstacles to international trade.
- Technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, and that account must be taken of "the risk of non-fulfilment".
- Agreement is not about removing all barriers to trade, only those that unnecessarily restrict trade.



Technical regulations and WTO

- TBT agreement states that if a technical regulation is in accordance with a relevant international standard, it is presumed (although this presumption can be challenged) not to create an unnecessary obstacle to international trade.
- The Agreement also recognizes that developing country members should not be expected to use international standards that are not appropriate to their development, financial and trade needs



Technical regulations and WTO

- To give priority to the needs of Least Developed Countries (LDC).
- Where technical regulations are required and relevant international standards exist or their completion is imminent, members shall use them, or the relevant parts of them, as a basis for their technical regulations.
- The TBT Agreement also contains a more general obligation on developed countries to assist the less developed.



How do standards get into technical regulation?

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How do standards get incorporated in regulations?

- Direct reference to specific standards (dated or undated)
- Indirect reference to ISO standards
- Some regulators reproduce the text of standards directly in a regulation



Thank you

