

## **Background Paper on the World Trade Organization – Technical Barriers to Trade**

### **WTO General Background Information**

The World Trade Organization (WTO) is an international organization responsible for global rules governing trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible. By lowering trade barriers, the WTO's system also breaks down other barriers between people and nations. The WTO has 150 members, accounting for over 97% of world trade, with 30 others currently negotiating membership. The WTO is member driven with decisions made by consensus of membership and ratified by members' parliaments. The work of the WTO is undertaken by representatives of the member governments, usually the trade ministers of the member economies.

The WTO's top level decision-making body is the Ministerial Conference which meets once every two years. The day-to-day work of the WTO falls primarily to the General Council, which conducts work on behalf of the Ministerial Conference and reports to the conference. The General Council delegates and approves technical work done by its subsidiary bodies: the Councils for Trade in Goods, Trade in Services (GATS) and Trade-Related Aspects of Intellectual Property Rights (TRIPS), which oversee the implementation of their respective WTO Agreements. The General Council also convenes as the Dispute Settlement Body and as the Trade Policy Review Body and oversees the Trade Negotiations Committee (TNC). The WTO's headquarters are in Geneva, Switzerland.

At the heart of the system – known as the multilateral trading system – are the WTO's agreements, negotiated and signed by a large majority of the world's trading nations, and ratified in their parliaments. These agreements are essentially legal contracts guaranteeing member countries important trade rights.

The WTO came into being in 1995 as a successor to the General Agreement on Tariffs and Trade (GATT) established after World War II. In 2001, the Doha Development Agenda (DDA), launched at the fourth WTO Ministerial Conference in Doha Qatar, placed the interests of developing countries at the center of negotiations and created the Trade Negotiations Committee (TNC) to supervise the overall conduct of present negotiations.

Over three quarters of WTO members are developing or least-developed countries. All WTO agreements contain special provisions for them, including longer time periods to implement agreements and commitments, measures to increase trading opportunities, and support to help them build the infrastructure to implement technical standards. The WTO provides technical assistance to developing countries through training courses, missions to individual countries, and through regional seminars.

### **WTO Agreement on Technical Barriers to Trade**

Technical regulations and standards vary from country to country. If regulations are set arbitrarily, they could be used as an excuse for protectionism. However, standards are also necessary for the protection of health, safety, environment, and national security. The

Agreement on Technical Barriers to Trade (TBT) tries to ensure that technical regulations, standards, testing and certification procedures do not create unnecessary obstacles to trade.

The TBT Agreement contains several annexes which attempt to clarify compliance with the agreement. Annex 1 contains terms and their definitions for the purpose of the agreement. Under this Annex, it becomes clear that the TBT Agreement distinguishes between the areas of standards, conformity assessment, and technical regulations (SCATR). Standards are defined as voluntary documents and technical regulations as mandatory documents. Annex 2 regards procedures that apply to technical expert groups established in accordance with the agreement.

Annex 3 of the TBT Agreement is the *Code of Good Practice for the Preparation, Adoption and Application of Standards* which is known as the WTO Code of Good Practice. In accepting the TBT Agreement, WTO Members agree to ensure that their central government standardizing bodies accept and comply with this Code of Good Practice and agree also to take reasonable measures to ensure that local government, non-governmental and regional standardizing bodies do the same. The Code is therefore open to acceptance by all such bodies. In addition, the TBT Agreement is reviewed annually and triennially and the reviews become important interpretations of the document.

The TBT Annex 4 sets out criteria defining the principles of an international standards developing organization. This Annex comes out of the Second Triennial Review (23 May 2002). This Annex specifies that the WTO-TBT criteria for an "international standards developing organization" are: Transparency, Openness, Impartiality, Effectiveness, Relevance, Consensus, Performance-based, Coherence, Due Process and Technical Assistance. International standards developing organizations from the United States include ASTM International, the American Society of Mechanical Engineers (ASME) and the Institute of Electrical and Electronics Engineers, among others.

The TBT Agreement recognizes the important contributions that international standards and conformity assessment systems can make to improving efficiency of production and facilitating international trade. Where international standards exist, the Code of Good practice says that standardizing bodies should use them, or the relevant parts of them, as a basis for standards they develop. However, the procedures used to decide whether a product conforms with relevant standards must be fair and equitable. The agreement also aims at the harmonization of standards on as wide a basis as possible, encouraging all standardizing bodies to play as full a part as resources allow in the preparation of international standards by the relevant international body, including the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

In the interest of transparency, the Code requires that standardizing bodies that have accepted its terms notify this fact to the ISO/IEC Information Centre located at the ISO Central Secretariat in Geneva, either directly or through the relevant national/international member of the International Organization for Standardization Information Network (ISONET). ISONET is an agreement between standardizing bodies to combine their efforts in order to make information on standards, technical regulations, and related matters readily available whenever it is required. The National Center for Standards and Certification Information (NCSCI), Office of Standards Service at the National Institute of Standards and Technology (NIST), is the National Member to ISONET for the United States. Standardizing bodies that have accepted the Code must also

publish their work programmes once every six months. In the United States, the American National Standards Institute (ANSI) is the signatory for all ANSI accredited standards development organizations (SDOs) and submits our work programme via the ANSI Standards Action which is published weekly to provide members and the public with timely, accurate information and enables effective participation in the standards development process – both in this country and internationally.

In addition, manufacturers and exporters need to know what the latest standards are in their prospective markets. To help ensure that this information is made available conveniently, all WTO member governments are required to establish national enquiry points and to keep each other informed through the WTO. The TBT Committee is the major clearing house for members to share information and the major forum to discuss concerns about the regulations and their implementation.

### **WTO Committee on Sanitary and Phytosanitary (WTO/SPS)**

The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) sets out the basic rules for food safety and animal and plant health standards. The Agreement is aimed at minimizing the negative effects of unjustified health barriers on international trade. The Agreement requires member countries – with a view of achieving the widest possible harmonization of food safety, animal and plant health measures – to establish those measures on the basis of international standards, guidelines and recommendations. However, these regulations and standards must be based on science.

In addition, the WTO's SPS Agreement names the three organizations (the "Three Sisters") for primary collaboration concerning the standards for food, animal and plant safety and health. The joint Food and Agriculture Organization of the United Nations/ World Health Organization (FAO/WHO) Codex Alimentarius (CODEX) is named the relevant standards-setting organization for food safety. The World Organization for Animal Health (OIE) is named the relevant organization for animal health. The International Plant Protection Convention (IPPC) is named the relevant organization for plant health standards. Standards produced by the "three sisters" have become explicitly integrated in the WTO's SPS Agreement.

### **WTO and the United States**

The U.S. representative to the World Trade Organization (WTO) is the Office of the United States Trade Representative. The U.S. Department of Commerce (DOC) and the U.S. Department of Agriculture support USTR in this role, functioning as the U.S. Enquiry point to the different WTO Agreements.

### **Technical Barriers to Trade (TBT)**

The National Center for Standards and Certification Information (NCSCI), Office of Standards Service at the National Institute of Standards and Technology (NIST), serves as the U.S. enquiry point under the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT). NIST is a non-regulatory federal agency within the U.S. Department of Commerce (DOC). One of the major provisions of the TBT Agreement is notification of proposed technical regulations which significantly affect trade. Each WTO member is required to report to the WTO

Secretariat in Geneva, proposed central government regulations and provide a 60 day comment period to allow other WTO members to review and comment on the proposal.

NCSCI receives copies of the one page proposals, in English, which include the country notifying, product covered, a brief description of the regulation and final date for comments. NCSCI distributes these proposals to U.S. industry, federal agencies and interested persons. Updates may be obtained on Technical Regulation changes (TBT notifications) by registering for the "Notify U.S." email service at <http://www.nist.gov/notifyus/>.

### Sanitary and Phytosanitary (SPS)

The United States Department of Agriculture (USDA) Foreign Agricultural Service (FAS) is the U.S. enquiry point for World Trade Organization (WTO) Sanitary and Phytosanitary (SPS) issues and technical barriers to trade. As the U.S. enquiry point, the agency serves as the official conduit for notifications and comments about these measures. In addition, FAS coordinates and directs the USDA's responsibilities in international trade negotiations, working closely with the U.S. Trade Representative's office. Trade policy experts at FAS help identify and work to reduce foreign trade barriers and other practices that hinder U.S. agricultural exports. Trade information sent to Washington, DC, by FAS personnel overseas is used to develop and hone strategies to increase market access, monitor trade agreements, and improve programs and policies to make U.S. farm products more competitive.

<b>Annex A: Links related to WTO-TBT and SPS</b>
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1. World Trade Organization (WTO)
  - a. [WTO Website](#)
  - b. [WTO Agreement](#)
  - c. [Doha Development Agenda](#)
  - d. [WTO Members](#)
  - e. [WTO National Enquiry Points](#)
    - i. [Notify U.S.](#)
2. Technical Barriers to Trade Agreement (TBT)
  - a. [TBT Website](#)
  - b. [List of Standardization Bodies having accepted the WTO – TBT Code of Good Practice \(as of 31 August 2007\)](#)
  - c. [WTO – TBT Standards Code Directory \(as of 31 August 2007\)](#)
3. There are six primary documents that the WTO – TBT committee references regarding standards. The first five are:
  - a. [The TBT Agreement](#)
    - i. Annex 1 defines terms such as “technical regulations”, “standards”, “conformity assessment”
    - ii. [Annex 3 is the “Code of Good Practice”](#)
  - b. First Triennial Review (19 November 1997)
  - c. Third Triennial Review (11 November 2003)
  - d. Fourth Triennial Review (14 November 2006)

In May 2002, all of the decisions relevant to international standards issued by the TBT up to that date were bundled up into a helpful document (the sixth primary document) titled:

  - e. [“The Decisions and Recommendations adopted by the \(TBT\) Committee since 1 January 1995 \(G/TBT/1/Rev.8, 23 May 2002 Section IX\)”](#). This document includes:
    - i. Notification Procedures for Draft Technical Regulations and Conformity Assessment Procedures
    - ii. Notification Procedures Under the Code of Good Practice for the Preparation, Adoption and Application of Standards
    - iii. Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with Relation to Article 2, 5, and Annex 3 of the Agreement
4. United States
  - a. Enquiry Points
    - i. TBT – [The National Center for Standards and Certification Information \(NCSCI\)](#)
    - ii. SPS - [The United States Department of Agriculture \(USDA\) Foreign Agricultural Service \(FAS\)](#)
  - b. ANSI and the Code of Good Practice
    - i. [ANSI Accredited Standards Development Organizations](#)
    - ii. [ANSI Standards Action](#)

<b>Annex B: Acronym Guide</b>
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<a href="#"><u>ANSI</u></a>	<a href="#"><u>American National Standards Institute</u></a>
<a href="#"><u>ASME</u></a>	<a href="#"><u>American Society of Mechanical Engineers</u></a>
<a href="#"><u>CODEX</u></a>	<a href="#"><u>Codex Alimentarius Commission</u></a>
<a href="#"><u>DDA</u></a>	<a href="#"><u>Doha Development Agenda</u></a>
<a href="#"><u>FAO</u></a>	<a href="#"><u>Food and Agriculture Organization of the United Nations</u></a>
<a href="#"><u>FAS</u></a>	<a href="#"><u>Foreign Agricultural Service</u></a>
<a href="#"><u>GATS</u></a>	<a href="#"><u>General Agreement on Trade in Services</u></a>
<a href="#"><u>GATT</u></a>	<a href="#"><u>General Agreement on Tariffs and Trade</u></a>
<a href="#"><u>IEC</u></a>	<a href="#"><u>International Electrotechnical Commission</u></a>
<a href="#"><u>IEEE</u></a>	<a href="#"><u>Institute of Electrical and Electronics Engineers</u></a>
<a href="#"><u>IPPC</u></a>	<a href="#"><u>International Plant Protection Convention</u></a>
<a href="#"><u>ISO</u></a>	<a href="#"><u>International Standards Organization</u></a>
<a href="#"><u>ISONET</u></a>	<a href="#"><u>International Organization for Standardization Information Network</u></a>
<a href="#"><u>NCSCI</u></a>	<a href="#"><u>National Center for Standards and Certification Information</u></a>
<a href="#"><u>NIST</u></a>	<a href="#"><u>National Institute of Standards and Technology – U.S. Department of Commerce</u></a>
<a href="#"><u>NSBs</u></a>	<a href="#"><u>National Standards Bodies (National members to ISO)</u></a>
<a href="#"><u>OIE</u></a>	<a href="#"><u>World Organization for Animal Health</u></a>
<a href="#"><u>SCATR</u></a>	<a href="#"><u>Standards, Conformity Assessment and Technical Regulations</u></a>
<a href="#"><u>TBT</u></a>	<a href="#"><u>Technical Barriers to Trade</u></a>
<a href="#"><u>TNC</u></a>	<a href="#"><u>Trade Negotiations Committee</u></a>
<a href="#"><u>TRIPS</u></a>	<a href="#"><u>Agreement on Trade-Related Aspects of Intellectual Property Rights</u></a>
<a href="#"><u>USDA</u></a>	<a href="#"><u>U.S. Department of Agriculture</u></a>
<a href="#"><u>USTR</u></a>	<a href="#"><u>U.S. Trade Representative</u></a>
<a href="#"><u>WHO</u></a>	<a href="#"><u>World Health Organization</u></a>
<a href="#"><u>WTO</u></a>	<a href="#"><u>World Trade Organization</u></a>

## Annex C: About ANSI

Throughout its history, the American National Standards Institute (ANSI) has maintained as its primary goal the enhancement of global competitiveness of U.S. business and the American quality of life by facilitating voluntary consensus standards and conformity assessment systems and promoting their integrity. ANSI is the official U.S. representative to the International Organization for Standardization (ISO), the International Accreditation Forum (IAF), and via the U.S. National Committee, to the International Electrotechnical Commission (IEC).

The Institute provides a forum for hundreds of ANSI-accredited standards developers that work cooperatively to develop American National Standards (ANS). Comprised of businesses, professional societies and trade associations, standards developers, government agencies, and consumer and labor organizations, the ANSI Federation represents the diverse interests of more than 125,000 companies and 3.5 million professionals worldwide.

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