Workshop on Establishing and Operating an Effective National TBT Committee

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Program

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- Workshop objectives
- TBT Agreement: Obligations of WTO Members
- Benefits of having an effective National TBT Committee

- National TBT Committee
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  - Objectives
  - Functions
  - Membership
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  - Terms of Reference
  - Legal framework
  - Funding
  - Sustainability, Transparency, Outreach

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Participant Introductions

- Name
- Organization
- Interest in the WTO TBT Agreement

Workshop Objectives

- Understand the obligations of WTO Members under the TBT Agreement
- Recognize the benefits of having an effective National TBT Committee
- Develop the Terms of Reference and discuss related elements for a National TBT Committee in Ghana
TBT Agreement: Obligations of WTO Members

WTO TBT Agreement

- World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT Agreement)

- TBT-related work in the WTO takes place in the Committee on Technical Barriers to Trade (TBT Committee)
  - open to all members of the WTO
WTO TBT Committee

- TBT Committee work focuses on 2 main areas:
  - Review of specific measures
    - WTO members/observers use the TBT Committee to discuss specific trade concerns (STCs) such as laws, regulations, or procedures that affect their trade, usually in response to notifications
  - Strengthening implementation of the TBT Agreement
    - Members exchange experiences on the implementation of the Agreement with a view to making implementation more effective and efficient
    - Discussions concern generic, cross-cutting themes such as transparency, standards, conformity assessment, and good regulatory practice

WTO TBT Committee

- 2017 meetings
  - 26 January - Informal meetings
  - 28 March - Informal meetings
  - 29-30 March - TBT Committee meeting
  - 13 June - Informal meetings
  - 14-15 June - TBT Committee meeting
  - 7 November - Informal meetings
  - 8-9 November - TBT Committee meeting
WTO TBT Committee

- Decisions and Recommendations Adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995
  - G/TBT/1/Rev.12, 21 January 2015
  - TBT Committee reviews the operation and implementation of the TBT Agreement on an annual and triennial basis
    - 21st Annual Review is most recent
      - G/TBT/38, 17 February 2016
    - Seventh Triennial Review was completed in November 2015
      - G/TBT/37, 3 December 2015

WTO TBT IMS

http://tbtims.wto.org
WTO Members have the right to issue technical regulations with acceptable rationale

**TBT Article 2.2**
“technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective”

- protection of national security
- prevention of deceptive practices
- protection of human health or safety
- protection of animal or plant life or health
- protection of the environment

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**What is a Notification?**

“a **transparency obligation** requiring member governments to report trade measures to the relevant WTO body if the measures might have an effect on other members”

- WTO Glossary
What is a Notification?

- 1 to 2 page summary
- provides WTO members with an opportunity to review and comment
  - sample TBT notification

Requirements for Notification Authority

TBT Article 10.10

“Members shall designate a single central government authority that is responsible for the implementation on the national level of the provisions concerning notification procedures under this Agreement except those included in Annex 3.”
Requirements for an Enquiry Point

TBT Article 10.1

“Each Member shall ensure that an enquiry point exists which is able to answer all reasonable enquiries from other Members and interested parties in other Members . . .”

Enquiry Point

- The obligation for each WTO Member to have an Enquiry Point allows Members to easily obtain information about product requirements without having to identify and directly contact the agency responsible in another country
- Enquiry Point is responsible for obtaining the answers from the relevant national bodies and replying to the WTO Member making the enquiry
How to meet the transparency requirements of the TBT Agreement?

- **Publish notices** of proposed technical regulations at an early stage
- Establish a **Notification Authority**
- **Notify** other WTO Members of new or revised technical regulations
- **Provide copies** of the proposed regulations
- **Allow for comments** from other WTO Members and take them into account when finalizing proposed regulations

Benefits of Having an Effective National TBT Committee
Stakeholder Communications

Good communication between industry, the TBT Enquiry Point, Notification Authority, and government ministries in Ghana that are responsible for technical regulations, standards, and conformity assessment activities is essential for the successful implementation of the TBT Agreement in Ghana.

The WTO TBT Committee “notes the usefulness of a Member establishing administrative mechanisms for coordination between competent authorities. It notes that a number of Members have set up TBT coordinating committees to facilitate communication and cooperation between relevant government authorities. The Committee also emphasizes the importance of including local governments as well as non-governmental parties in the domestic consultation activities.”

- G/TBT/19, 14 November 2006, Fourth Triennial Review of the Operation and Implementation of the Agreement on Technical Barriers to Trade Under Article 15.4
Role of the Private Sector in Enquiry Point and Notification Authority Operations

- Trade associations, Chambers of Commerce, consumer groups, NGOs, etc.
  - promote the services of the Enquiry Point to their members
  - review notifications from WTO members
  - provide comments on notifications relevant to their members
- Individuals
  - review and comment on notifications

Discussion

What are the benefits of an effective National TBT Committee in Ghana?

- For the government?
- For businesses?
- For other stakeholders?
Benefits of a National TBT Committee

A National TBT Committee can play an integral role in helping the government of Ghana meet its obligations under the WTO TBT Agreement.

- Provide a mechanism for ongoing input to the implementation of the TBT Agreement
- Provide a formal link to the business sector to facilitate consultation with the government on TBT issues
- Facilitate distribution and discussion of TBT notifications that may have an effect on exports from Ghana
- Coordinate the development of Ghana’s position on trade issues for discussion by the WTO TBT Committee
- Provide a point-of-contact at each regulatory authority
  - useful contacts for the Notification Authority and Enquiry Point

Ghana National TBT Committee
Scope

- Identifies
  - the broad range of activities of the committee
  - types of organizations to be included in the membership of the committee

**EXAMPLE:**

The Ghana TBT Committee is established to deal with all trade issues related to technical regulations, standards, and conformity assessment procedures aimed at eliminating or reducing trade barriers. Membership is comprised of regulators, standards bodies, conformity assessment bodies, industry, and consumers.
Objectives

EXAMPLE:
The objective of the Ghana TBT National Committee is to provide a national level consultation between all stakeholders on matters arising from the obligations and rights of the TBT Agreement. This is accomplished by:

- Providing a national forum for dialogue and coherence on TBT matters
- Providing a forum for resolving TBT issues affecting regional and/or international trade
- Coordinating implementation of the WTO TBT Agreement in Ghana
- Enhancing participation by Ghana in the WTO TBT Committee
Primary Function

EXAMPLE:
The primary function of the Ghana National TBT Committee is the sharing and exchange of TBT-related information among a wide range of public and private sector stakeholders.

Specific Functions

EXAMPLE:

- Advise the government of Ghana on issues related to technical barriers to trade
- Provide information to the Notification Authority to enable them to submit notifications of proposed technical regulations and conformity assessment procedures to the WTO
- Review the operation and administration of the TBT Agreement with regard to Enquiry Point and Notification Authority obligations
Specific Functions

EXAMPLE (cont’d):

- Review notifications of regulatory measures from other WTO members that may have an impact on Ghana exporters
  - coordinate strategies for responding to those measures
- Exchange information and assist in the coordination among ministries and agencies on responses from other WTO members to TBT notifications from Ghana

Specific Functions

EXAMPLE (cont’d):

- Review developments in the WTO TBT Committee
- Provide input for the triennial reviews of the WTO TBT Committee
- Consider trade issues that cannot be settled through bilateral discussions and provide advice to the Government of Ghana regarding formal consultation in the WTO TBT Committee (dispute settlement)
**Membership**

*EXAMPLE:*  
Representatives of all relevant government ministries and departments, as well as other stakeholders (such as the private sector, academia, consumers associations, etc.) that have a particular involvement or interest in TBT issues

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**Membership - Discussion**

- Which ministries in Ghana develop technical regulations and related legal instruments that are subject to the notification requirements of the TBT Agreement?  
- Which private sector organizations in Ghana have an interest in TBT issues?  
- Which ministries and private sector organizations should be members of the Ghana National TBT Committee?
**Membership**

- Who should be the:
  - Chair?
  - Secretariat?
- Should there be a Vice-Chair?

**Membership**

- Other issues to consider regarding membership:
  - Term limits?
  - Alternates?
  - Grounds for removal?
Operation

EXAMPLE:

- Meetings are convened by the Secretariat with the consent of the Chair
- Decisions of the Committee are arrived at by consensus
  - Definition of consensus?
  - Quorum?
- Secretariat prepares for meetings in advance by drafting and circulating an agenda, as well as any other documents to be discussed
- Secretariat prepares and distributes draft minutes, which should include reports submitted to the committee, and decisions

Sample agenda for meetings of the committee:

- Review of report of Enquiry Point and Notification Authority operations (enquiries received, notifications made)
- Review of notifications made by other WTO members and comments submitted
- Developments in the WTO TBT Committee, including triennial reviews
- Developments related to technical regulations, standards, and conformity assessment in Ghana
- Developments in trade and regulatory policy in Ghana
Operation

- How often should the National TBT Committee meet?

Terms of Reference

- Draft Terms of Reference for the Ghana National TBT Committee
Legal Framework

- Should the Ghana National TBT Committee be established by a . . .
  - Ministerial decision or decree (Statutory Instrument)?
  - Memorandum of Agreement?
  - Something else?
- Reporting to ________?
  - Accountability

Funding

- Government budget vs. external funds
  - Budget need not be large
  - Include provision for all necessary expenses (e.g. meetings, travel of committee members, communications, etc.)
  - While funding may be provided by donors (e.g. to help establish the committee), in the long-term funding to cover operational expenses on an ongoing basis should be included in government budgets
Sustainability

- Standards and Trade Development Facility (STDF)
  - www.standardsfacility.org
- Global program in capacity building and technical cooperation, established by
  - Food and Agriculture Organization of the United Nations (FAO)
  - World Organisation for Animal Health (OIE)
  - World Bank
  - World Health Organization (WHO)
  - World Trade Organization (WTO)

EXAMPLE – STDF Survey

- 2011 survey of 23 countries in Africa
- 17 had some type of SPS coordination committee
- Identified problem areas:
  - unclear organizational mandates
  - out-dated legislation
  - limited SPS awareness at all levels
  - inadequate resources
  - lack of trust, transparency
  - difficulties in involving private sector (and academia, consumer organizations, etc.)
Sustainability

- Challenge: Ensuring sustainability of the committee over the medium to long-term
- How to overcome this challenge?

Ownership and commitment
- Experience shows that committees are most effective when they include a critical number of members who are committed to actively share information and engage in dialogue
- Members should see their participation as an integral part of their regular work, rather than as an additional or voluntary task
- Identify a “champion” to lead the establishment of the committee
Sustainability

- Formalize the committee
  - Formal institutional arrangements for the committee will enhance its long-term success and sustainability
  - Terms of Reference
  - Accountability

- Practical and workable design and structure
  - Design and structure of the committee does not need to be complex
  - Periodic reviews are recommended to assess how the committee is functioning, and to adapt its structure and operations as needed
**Sustainability**

- Capacity building for members of the Committee
  - Gain an understanding of Ghana’s obligations as a WTO Member regarding transparency under the TBT Agreement
  - Recognize the benefits of the Enquiry Points and Notification Authority for stakeholders in Ghana
  - Learn about the objectives and functions of the committee
  - How to maximize participation in the committee
- Other . . .

**Transparency**

- The activities of the Ghana National TBT Committee should be open and transparent
  - Publish on website of the Secretariat
    - Terms of Reference
    - list of members
    - how to contact the committee
Outreach

• Develop a communication strategy to create awareness about the committee and the WTO TBT Agreement to all stakeholders in Ghana
  • traditional media
  • social media
• Consider creation of web-based information network/portal to connect stakeholders

Next Steps?

• What needs to be done now to establish the Ghana National TBT Committee?
• Who will be the “champion” to take the lead?