

出國報告(出國類別：其他)

出席 WTO 技術性貿易障礙委員會 第 75 次例會

服務機關：經濟部標準檢驗局

姓名職稱：查秘書全淑、魏技士立宇

出國地區：瑞士日內瓦

出國期間：107 年 6 月 16 日至 23 日

報告日期：107 年 7 月 11 日

摘 要

世界貿易組織（WTO）技術性貿易障礙（TBT）委員會於本（107）年 6 月 19 至 21 日舉行非正式會議、周邊會議，以及第 75 次例行會議。本次會議我國共計提出 2 份文件，一份為 TBT 協定第 8 次三年總檢討提案（G/TBT/W/530），另一份為我國依據 TBT 協定第 15.2 條履行 TBT 協定相關措施聲明文件之修正（G/TBT/2/Add.69/Rev.1）。會議期間我國總計進行 6 次發言，與美國在會前（6 月 19 日）就我國三年總檢討提案進行雙邊會談，並與日本、泰國及馬來西亞於會議場邊就我國業者關切事項交換意見。

6 月 19 日召開非正式會議，討論各會員就 WTO/TBT 委員會第 8 次三年總檢討之提案。我國「風險評估」提案獲歐盟、紐西蘭、南非及瓜地馬拉支持，因無會員公開反對，應可納入秘書處彙整之三年總檢討報告草案。此外，對於加拿大提案討論「技術性法規引用標準之良好作業」，我國表示對於議題深感興趣並請加拿大進一步說明良好作業可能涵蓋之內容；對於日本提案「於 TBT 通知文件第 8 欄『相關文件』處加註法規相關文件的內容網址」，我國補充前次會議後續說明，明確表達支持。

6 月 20 至 21 日召開第 75 次正式會議，主要就特定貿易關切事項（STC）進行討論。本次會議中，會員共提出新增及既有計 59 項 STC 案，其中歐盟對我國行政院農業委員會「有機農業促進法」提出特定貿易關切，歐盟要求我國延長法規過渡期，以及確實執行我國現行提供歐盟之單邊承認，我方回應已將 1 年之法規過渡期延長至 2 年，並說明除單邊承認途徑外，歐盟仍可透過當地經我國認可之驗證機構銷售有機農產品至我國，至單邊承認一節，我方表示當雙方規定不一致時，仍應該尊重我方規定。另針對 IAF 及 ILAC 申請成為 TBT 委員會觀察員一案，我國發言支持。

在 TBT 委員會期間與其他會員展開雙邊會議係 WTO 會員表達關切及釐清疑問的常見作法，因雙邊會議可展現我方對議題的重視且不具公開性，並能達到雙向溝通的效果，本次會議前本局接獲業者要求協助處理雷射筆出口日本及磁磚產品出口泰國與馬來西亞所遭遇之技術性貿易障礙，爰利用出席會議機會向該等國家出席代表當面表達業者關切，是可多加利用的管道。

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附件：

1. JOB/TBT/247，TBT 委員會第 75 次會議議程
2. 我國風險評估提案（G/TBT/W/530）及發言資料
3. 我國對於加拿大（G/TBT/W/529）及日本（G/TBT/W/528）提案發言內容
4. 我國依據 TBT 協定第 15.2 條遞交之確保協定履行及行政所採取措施之聲明文件更新（G/TBT/2/Add.69/Rev.1）及發言內容
5. 我國回應歐盟對我「有機農業促進法」提出特定貿易關切之發言資料
6. 特定貿易關切分類彙總表
7. 秘書處製作第 8 次三年總檢討主席報告（JOB/TBT/240/Rev.4）
8. 美國要求 ISO 提出 ISO/IEC Guide 59 的修訂作業簡報
9. ISO 有關 ISO/IEC Guide 59 的修訂作業簡報
10. 我國支持 IAF 及 ILAC 成為 TBT 委員會觀察員發言稿

壹、 前言

世界貿易組織（WTO）技術性貿易障礙委員會（簡稱 TBT 委員會）於每年 3、6 及 11 月定期召開例行會議，本（107）年 6 月 19 至 21 日召開第 75 次例會（議程如附件 1），我國由本局第五組查秘書全淑及魏技士立宇出席。非正式會議由智利駐 WTO 代表團 Jose Manuel Campos Abad 主持，正式會議則由新任主席紐西蘭駐 WTO 代表團 Kate Swan 女士主持，相關會議如下：

- （一）107 年 6 月 19 日召開「TBT 委員會」非正式會議。
- （二）107 年 6 月 20 至 21 日召開「TBT 委員會」第 75 次正式會議。
- （三）107 年 6 月 19 日至 21 日中午分別舉辦「SPS/TBT 通知警示 e-Ping 系統資訊」、「發展現代化品質基礎架構體系之良好作業」、「應對緊張關係及避免爭端：TBT 委員會之特定貿易關切」周邊會議。

貳、 107 年 6 月 19 日 TBT 委員會非正式會議紀要

依據 TBT 協定第 15.2 條規定，TBT 委員會將於本年完成 TBT 協定第 8 次三年總檢討，會員的提案討論情形將由 WTO 秘書處製作報告，經 TBT 委員會會議通過後，作為未來 3 年的工作方針。這次總檢討共計有美國、南非、巴西、紐西蘭、歐盟、日本、加拿大、瑞士、澳洲、菲律賓、模里西斯、烏干達及我國共 13 會員提出 20 份討論文件。議題主題可大致分為透明化、委員會運作、符合性評鑑、標準及技術協助等議題。

我國於非正式會議中介紹我國風險評估提案（G/TBT/W/530，107 年 5 月 29 日由 WTO 發布），基於風險評估在標準、技術性法規及符合性評鑑程序均有應用，且協定第 2 條及第 5 條分別要求會員在制定技術性法規或符合性評鑑程序等措施時，須在顧及未達成合法目的或不符合規定可能產生的風險之前提下，不對貿易造成過度限制，因此建議舉辦 2 場主題性研討會，一場為風險評估之簡介，另一場則討論特定領域之風險評估，以增進會員對於風險評估的共同認知（我國發言內容如附件 3）。

我國提案獲歐盟、紐西蘭、南非及瓜地馬拉支持，因無會員公開反對，應可納入秘書處彙整之三年總檢討報告草案。美國出席代表貿易代表署官員 Jennifer Stradtman 於會前就我國風險評估提案與我方出席人員進行雙邊會談，美方表示對我國提案抱持高度興趣，惟因美國食品主管機關對於在 TBT 委員會討論風險議題持保留態度，擔心影響食品安全檢驗與動植物防疫檢疫措施（SPS）委員會的相關討論，因此美國無法公開表達支持意見。我方回應 TBT 委員會有關食品之討論僅限於標示規定，對 SPS 委員會的影響應有限，如美方對於食品標示的風險評估有疑慮，可思考將討論聚焦於電機、電子及化學產品等部門別產品，美國表示盼與我方緊密合作以研究本案可能之作法，後續如有進一步意見將透過電郵提供。另一方面，美國亦提到風險評估的討論過於技術性，擔心對於會員的參與造成負面影響，特別是去年 6 月會員參與風險評估主題性研討會的情形讓人擔心。我方說明風險評估是有效執行 TBT 協定條文的關鍵能力，如果會員認為 TBT 委員會不是最適當的討論場域，我方將考慮改於 APEC 或 OECD 等場域進行討論。

另我國針對加拿大提案討論「技術性法規引用標準之良好作業」，我國表示對於議題深感興趣並請加拿大進一步說明良好作業可能涵蓋之內容；對於日本提案「於 TBT 通知文件第 8 欄『相關文件』處加註法規相關文件的內容網址」，我國 WTO 代表團於前次會議表達初步支持，本次我國明確表達支持。（我國發言內容如附件 4）

整體而言，本次三年總檢討的提案仍以透明化議題獲得較多會員關注，其中一個原因是因為訴求比較明確，容易理解，另一個原因是議題較不具敏感性，且大多非強制性。目前透明化議題的提案重點主要為（1）使法規狀態資訊更明確（區分草案及已公告之最終版法規）、（2）使相關資訊的取得更為便利（於 TBT 通知文件中附上文件網頁連結、公布評論意見等）及（3）互相分享透明化之作業經驗（使用 e-Ping 及國內協調作法）。符合性評鑑議題則聚焦於如何選用適當之符合性評鑑程序與符合性評鑑結果的承認。相較之下，涉及委員會運作之提案則遭遇比較多反對意見，如南非建議在特定貿易關切無進展的情況下，限制

會員之發言次數以提高委員會會議效率，以及建議 WTO 秘書處提早特定貿易關切之收件截止日，並且提早公布會議議程以提供會員充分準備時間，會員擔心該等提案將使會員無法即時反映擬提出之新的關切，並且限縮會員權益。

另有許多建議舉辦主題性研討會之提案，盼能讓會員有機會深入交換意見，目前建議的主題包括國內 TBT 業務協調運作機制、良好法規作業、市場監督、法規引用標準之最佳作法、風險評估簡介、符合性評鑑結果相互承認案例、國家品質基礎架構發展、性別議題在發展標準與技術性法規之角色等。

參、 107 年 6 月 20 日至 21 日 TBT 委員會正式會議紀要

正式會議重要議程包含協定的執行與行政（內容可再細分為會員依據協定第 15.2 條提出之聲明通知、特定貿易關切、第 8 次三年總檢討）、技術合作活動及觀察員報告。以下分別說明討論情形：

一、 協定的執行與行政

（一）會員依據協定第 15.2 條提出之聲明通知：

TBT 協定第 15.2 條要求「每一會員應在世界貿易組織協定生效日後，立即將為確保本協定之實施及行政所既有或採取之措施通知委員會。該等措施爾後如有變更，亦同」。我國前於 91 年 7 月 11 日遞交該文件（G/TBT/2/Add.69），因部分內容已與我國現行機制不符，爰提出更新後之聲明，因遞交時間已接近正式會議日期，在 WTO 秘書處協助下及時於 20 日 TBT 委員會第 1 日正式會議發出（G/TBT/2/Add.69/Rev.1）。由於會員尚未及閱讀，因此於本議程下向會員介紹文件更新之內容。（發言內容如附件 5）

（二）依據 TBT 協定第 7 次三年總檢討報告，秘書處應將會員分享的查詢單位作業經驗彙總製作手冊，方便查詢單位內部訓練及能力建置。為此，秘書處於 2016 年間還發送問卷瞭解各會員查詢單位之運作情形，本次會議上秘書處已發放手冊初稿，請會員在 8 月 20 日前提出意見。

二、 本次計有 59 件特定貿易關切案（新關切 8 件，延續關切 51 件）。我國「有機農業促進法」自 2016 年 6 月起即遭遇歐盟關切，此次歐盟關切內容與前次會議相

同，主要仍持續表達（1）盼我方延長法規過渡期至 5 年，以提供足夠時間供歐盟與我完成洽簽雙邊有機同等性協議，（2）質疑我方如何在相關實施細節尚未制定之情況下執行法規，（3）希望我國確實執行現行之單邊承認，以及（4）盼我方對於有機產品的要求應與大多數國家一致。我方回應，已參考歐盟意見將法規過渡期自 1 年延長至 2 年，我方理解歐盟洽簽協議需要時間，但除了簽署雙邊有機同等性的途徑外，歐盟仍可透過當地經我國認可之驗證機構銷售有機農產品至我國，至於相關實施細節會在草案完成後通知 WTO 會員評論。另有關單邊承認之執行一節，我方表示當雙方規定有落差時，尊重接受方之規定係國際通行做法（發言內容如附件 6）。

本次會議討論的特定貿易關切幾乎有半數涉及食品飲料標示、醫療器材及藥品相關措施，網路安全相關規定則是近 2 年來新興的關切領域（特定貿易關切分類彙總表詳附件 7）。以下針對較多會員關注、與我產業相關或曾經關切之 3 項會員措施提供較為詳細的說明：（1）印度電子及資訊產品強制性登錄制度，（2）中國大陸進口食品隨附證書管理辦法，及（3）中國大陸網路安全法。

（一）印度電子及資訊產品強制性登錄制度

1. 印度電子資訊科技部（Ministry of Electronics & Information Technology，縮寫為 MeitY）於 2012 年公布「電子及資訊科技產品強制登錄辦法」，陸續要求電子及資訊科技產品（包含筆記型電腦、印表機、掃描機、微波爐、液晶電視機、行動電話、行動電源、不斷電系統等，至 2017 年 11 月計有 44 項）須於印度標準局（Bureau of Indian Standards，縮寫為 BIS）註冊方能於印度市場銷售。完成註冊的流程主要包含產品須於經 BIS 認可且位於印度境內之實驗室測試、以工廠為單位向 BIS 提出註冊申請、BIS 審核通過給予註冊編號、產品上標示「自我宣告符合印度標準 xxxx，註冊號碼 xxxx」等階段。
2. 該措施於 2013 年開始受到會員的關切，主要關切國家包含日本、美國、歐盟、韓國、瑞士、加拿大等，經由該等會員之關切，印度政府就原規定做出下列調整：

- 提供常見問題解答及申請作業說明協助業者瞭解規定。
- 實施日期延後，提供額外過渡期。
- 用於研發、展覽等原型產品之進口取消免註冊之數量限制（原來規定僅有 5 件）。
- 對於體積小的產品提供標示的彈性規定。
- 成立 MeitY、商務部及海關之跨部會小組，使規定之執行能夠有一致性。
- 關鍵零組件的測試報告接受 IECEE CB 測試報告

3. 儘管有前述調整，但會員國持續關切下列事項：

- 產品測試僅能由 BIS 認可之印度境內實驗室進行，而該等實驗室能量不足，已嚴重影響註冊申請案之進度，爰會員強力要求印度政府認可國外實驗室以提供測試服務，特別是直接認可國際認證論壇（IAF）或國際實驗室認證聯盟（ILAC）相互承認協議簽署機構所認證之實驗室。
- 印度政府要求之測試標準與 IEC 標準相同，應擴大接受 IECEE CB 測試報告，避免重複測試。
- 註冊的效期僅有 2 年，與國際上作法不同，徒增業者負擔，建議延長至 3 年或 5 年。
- 測試報告效期僅有 90 日，與國際作法不同，應取消效期的規定或延長為 12 個月。
- 註冊的主體應為產品或品牌商，而非工廠，因同型式的產品可能在不同工廠製造。

4. 印度回應(1) BIS 登錄制度針對關鍵零組件已接受 IECEE CB 測試報告，而依據 IECEE 01 基本規則，IEC 符合性評鑑制度對於 CB 測試報告的接受仍須受會員國內法約束，而且在與 IEC 人員討論後，也確認印度的作法並未違反 IECEE 規則；(2) 印度已將會員提出的關切納入考量，包含可接受 ISO 16246 相關文件以線上傳遞，新型式的申請亦可透過線上提出；

(3)雖然 BIS 只接受其指定試驗室的測試報告，在與其他國家簽署 MRA 後，可透過 BIS 實驗室認證制度 (LRS) 接受國外實驗室 (惟依本局前洽印度之經驗，印度並無就電子及資通訊產品與其他國家簽署 MRA 之計畫)。

(二)中國大陸進口食品隨附證書管理辦法

1. 中國大陸於 106 年 6 月 19 日就其「進口食品隨附證書管理辦法 (徵求意見稿)」發出通知文件 (G/TBT/N/CHN/1209)，該辦法要求食品出口國／地區出具官方證明文件，確認文件所涉批次的食品係在出口國主管部門的監督下生產、加工、儲存、運輸及出口，並且是適合人類食用的。證書的內容須包括生產加工企業的資訊、產品資訊 (規格、包裝方式、數量、原產地等)、進出口商資訊、運輸工具、啟運地及目的地等。同時，各會員核發的證書格式應向中國大陸質量監督檢驗檢疫總局備案。由於收到四十餘會員的評論意見，中國大陸於 106 年 9 月 25 日提出追加通知 (G/TBT/N/CHN/1209/Add.1)，表示渠正研究各會員所提出之評論意見，並決定提供 2 年的過渡期，自 2017 年 10 月 1 日至 2019 年 9 月 30 日。
2. 儘管中國大陸決定延後實施該措施，會員仍舊自 2017 年 11 月份的 TBT 委員會會議開始向中國大陸提出特定貿易關切，主要關切內容如下：
 - 此措施將對食品出口國的主管機關造成大量負擔，且中國大陸海關將面對成千上萬的證書，恐拖累食品通關速度。
 - 呼籲中國大陸採行對貿易影響較小的措施，特別是應排除低風險的食品並應更明確界定受影響的食品範圍。
 - 無科學證據支持食品隨附證書能有效提升食品安全，要求中國大陸提出證據。
 - 措施不符合國際食品法典委員會 (CODEX) 相關規定。
 - 認為本措施亦應依據 WTO/SPS 協定發布通知文件。
 - 不同食品有不同的風險程度，不應將如此嚴苛的措施套用在低風險產品。

- 國民待遇問題，因中國大陸生產的食品並不需要符合相應的規定，有歧視外商之虞。

3. 中國大陸回應整個措施延後兩年實施即是為了將會員的關切意見納入考量，而要求提供隨附證明是為了確保進口食品的製造、加工、運送及保存都受到出口國的監管，並期望有效追蹤產品的來源，以保障消費者食的安全。目前中國大陸負責本項法規的質量監督檢驗檢疫總局在本年 3 月進行組改，相關業務併入海關總署，預計年底可以完成業務的銜接，屆時會有進一步的資訊。

(三)中國大陸網路安全法

1. 中國大陸的「網路安全法」一系列規範網路安全及資訊安全措施的基本法，迄今已有 2011 年 3 月的「商用密碼管理條例」及資訊安全多層保護體系（MLPS）、後續 2015 年 3 月的「銀行資訊設備安全規定」、同年 11 月「保險機構信息監管規定」及 2017 年 6 月「網絡產品及服務安全審查辦法」、「密碼法」修正、「車聯網網路安全防護指南」與「民航網路資訊安全管理規定」，遭遇歐盟、美國、日本、韓國、加拿大、澳洲等國關切。網路安全法於 2017 年 6 月 1 日實施，遭受會員關切的條文主要如下

- 第 23 條「網絡關鍵設備和網絡安全專用產品應當按照相關國家標準的強制性要求，由具備資格的機構安全認證合格或者安全檢測符合要求後，方可銷售或提供。國家網信部門會同國務院有關部門制定、公布網絡關鍵設備和網絡安全專用產品目錄，並推動安全認證和安全檢測結果互認，避免重複認證、檢測。」
- 第 35 條「關鍵信息基礎設施的運營者採購網絡產品和服務，可能影響國家安全的，應當通過國家網信部門會同國務院有關部門組織的國家安全審查。」
- 第 37 條「關鍵信息基礎設施的運營者在中華人民共和國境內運營中收集和產生的個人信息和重要數據應當在境內存儲，因業務需要，確需向境外提供的，應當按照國家網信部門會同國務院有關部門制定的辦

法進行安全評估；法律、行政法規另有規定的，依照其規定。」

2. 會員關切的重點集中在下列幾點：

- 對於「安全及可控制」一詞的定義不明確，導致業者只敢採購國內產品。
- 未明確定義「關鍵信息基礎設施」之範圍。
- 要求將用戶訊息及重要資料存放中國大陸境內，造成外商業者競爭力受影響，傳輸資料成本過高，且適用範圍擴大至所有營運者，而非僅限於關鍵信息基礎設施營運者。
- 中國大陸「全國信息安全標準化技術委員會（TC 260）」公告眾多個別產業標準草案，儘管這些標準是自願性，它們可能日後被網路安全相關法規引用而成為強制性（TC 260 在 2017 年 1 月公布的指導文件就提及強制性標準的必要），未來應提供 60-90 天的評論期。
- 要求第三者驗證網路關鍵設備及網路安全產品可能侵害智財權。

3. 中國大陸回應其網路安全政策是開放的，且無意限制外商的市場進入，有關部門刻正研擬網路安全法實施規定，整個過程都包含資訊交換、協商、說明、評論。針對會員關切「安全及可控制」一詞的定義，係指（1）使用者的資料是可控制的，產品或服務提供者不得違法蒐集使用者資料，（2）使用者可控制設備，服務提供者不得非法控制使用者設備，（3）確保使用者有選擇權，不得藉由使用者信賴獲取獨佔或非法利益，例如無正當理由取消安全技術支援或迫使使用者升級產品或服務。此外，中國大陸重視智財權的保護，不要求企業交出來源碼。

三、 TBT 協定第 8 次三年總檢討：秘書處依據 6 月 19 日非正式會議的討論情形製作主席報告（JOB/TBT/240/Rev.4，附件 8），主席請會員攜回檢視，並於 6 月 27 日前提供修改意見。秘書處將於 9 月 20 日將三年總檢討報告初稿傳送會員，10 月 22 日加開一場非正式會議討論。

四、 觀察員組織活動報告：本次會議有聯合國歐洲經濟委員會（UNECE）、經濟合作發展組織（OECD）、國際法定度量衡組織（OIML）、國際標準化組織（ISO）、

國際電工委員會（IEC）、加勒比海共同體標準及品質區域組織（CRO SQ）報告近期活動。此外，亦針對 IAF 及 ILAC 觀察員申請案邀請會員表示意見。重點摘要如下：

（一）ISO 簡報該組織與 IEC 共同修訂 ISO/IEC Guide 59「標準化良好作業」（Code of Good Practice for Standardization）之進度

美國於 TBT 委員會 3 月會議所提出此項要求（G/TBT/W/471，附件 9），理由是 ISO 及 IEC 目前正進行的 ISO/IEC Guide 59 的修訂作業涉及標準的良好作業規範，與 TBT 協定附件 3 內容極為相近，需要釐清該文件在履行 TBT 協定附件 3 的法律地位。由於協定附件 3 的履行及詮釋應交由 WTO 會員處理，又目前 ISO 及 IEC 對於 Guide 的修訂作業程序僅有少部分會員參與，該修訂工作顯有疑慮。

ISO 簡報（RD/TBT/245，詳附件 10）ISO/IEC Guide 59 係於 1994 年完成（在 TBT 協定簽署之前），由於年代久遠，且希望與 TBT 協定內容取得一致，經過檢討認為有必要予以更新。Guide（指導文件）在 ISO 標準體系中的性質主要在提供國家標準機構處理標準化原則特定工作的建議，Guide 59 的修訂工作係由 ISO 技術管理委員會（TMB）及 IEC 標準化管理委員會（SMB）組成聯合工作小組進行，包含 15 位專家，依據規劃時程，目前工作小組已就 Guide 59 的工作草案（Working Draft）達成共識，接下來經過 2 個月的投票，預計於 2018 年 8 月可就委員會草案（Committee Draft）達成共識，再經過 16 週的評論期，預計於 2019 年 2 月討論出國際指導文件草案，2019 年 4 月公布。

針對 ISO 的簡報，美國仍舊提出僅由 15 位專家負責 Guide 59 的修訂是否合適、Guide 59 修訂後的內容是否成為 TBT 協定附錄 3 的詮釋及其他標準化組織如發展類似的指導文件又可能造成何種影響等問題，南非亦有類似的疑問，希望 ISO 能夠將草案送 WTO 會員檢視，至於 Guide 59 文件相對於 TBT 協定附錄 3 的法律意義，基於該文件係 WTO 以外的機構所制定但內容又與

WTO 協定內容具有同質性，建議徵詢 WTO 法務部門意見。

(二) IAF 及 ILAC 觀察員申請案

歐盟提醒會員依據 TBT 委員會在 1995 年的決議（G/TBT/1/Rev.13，議事規則 11），觀察員必須是國際跨政府組織（international intergovernmental organization），而 IAF 及 ILAC 並非國際跨政府組織；肯亞、千里達、南非、烏干達、美國、巴西、中國大陸、紐西蘭、墨西哥、加拿大及我國皆支持 IAF 及 ILAC 成為觀察員（我國發言詳附件 10）。由於歐盟再次以同條文提醒會員，說明條文不允許非政府國際組織成為觀察員。南非要求 WTO 秘書處協助向 WTO 法務部門釐清條文，WTO 秘書處回應由於議事規則係由各委員會決議訂定，依據經驗，法務部門可能將決定權交回 TBT 委員會處理。主席徵詢會員意見，因無反對意見，會議決議先請秘書處洽 WTO 法務部門釐清條文。

(三) 其餘觀察員申請案留待 11 月會議再討論。

五、 周邊會議：

會議期間的三天中午分別有三場活動，第一場由 WTO 秘書處報告 e-Ping 系統的更新，並邀請澳洲及烏干達分享經驗，該 2 國是使用 e-Ping 系統最頻繁的會員；第二場由聯合國工業發展組織（UNIDO）與瑞士經濟事務部（SECO）共同舉辦，邀請 ILAC、ISO、SECO、加勒比海標準品質區域組織（CROSQ）、西非經濟共同體（ECOWAS）及 WTO 秘書處代表擔任與談人，討論發展融入全球貿易體系所必須的現代品質基礎架構；第三場由 WTO 客座學者報告特定貿易關切如何解決貿易緊張及避免訴諸爭端機制。這三場活動主要的對象是協助開發中國家進一步瞭解 e-Ping 系統的功能、國家品質基礎建設的重要元素以及特定貿易關切的作用。

六、 向相關會員反映我國業者關切意見

(一) 雷射筆輸日遭遇規定不明確之障礙：基於業者反映雷射筆輸銷日本所遭遇符

合性評鑑程序問題，藉由出席會議之機會當面向日方再次說明我業者遭遇之困難，並感謝日方於會前提供之資料(包含主管機關經濟產業省聯絡窗口)，我方將與業者詳細討論後再與日方聯絡窗口接洽，以利協助業者解決問題。

(二)磁磚輸銷泰國及馬來西亞遭遇符合性評鑑申請作業冗長、費用過高及更新證書過於頻繁等問題：我方已於會前將關切事項及相關說明傳送該 2 國 WTO 代表團，因未獲回應，爰於會議場邊洽該 2 國出席代表說明。泰國代表團出席人員先行提供 TISI 發證之作業時限資訊（從申請到發證約需 15 日），並承諾於會後電郵我方相關說明；馬來西亞代表團出席人員則對我方關切無任何印象，現場收下我方書面文件後表示會後將回應我方。

七、 下次會議時間：第 76 次 TBT 委員會例會暫訂本年 11 月 14 至 15 日舉行，11 月 13 日將舉辦非正式會議。

肆、 檢討與建議

- (一) TBT委員會本年度最重要的工作即是完成TBT協定第8次三年總檢討報告，我國提案於會上並未有會員表達反對意見，因此可望納入WTO秘書處將於9月22日前完成之三年總檢討報告初稿，主席將於10月22日及11月13日分別召開非正式會議繼續討論報告內容，以期於11月14-15日舉行之TBT委員會正式會議採納報告，因此仍需持續關注會員對於我國提案之意見，並適時提出說明，確保我國提案納入總檢討報告。
- (二) 考量我國業者習慣於被動接受規定，不易蒐集業者意見以提出我方之貿易關切，爰未來可嘗試就TBT委員會上遭多個會員關切，與我國產業相關（如資通訊產品），且關切內容可能亦對我產業造成影響（如不接受境外測試報告、產品登錄程序繁雜耗時、法規資訊不明確讓業者無所適從等）之會員措施，適度表達關切，以期降低我國業者可能遭遇之貿易障礙。
- (三) 在TBT委員會期間與其他會員展開雙邊會議係WTO會員表達關切及釐清疑問的常見作法，因雙邊會議既可展現我方對議題的重視且不具公開性，並可達到雙向溝通的效果，爰未來如業者有遭遇技術性貿易障礙情形，可多透過雙邊會議表達業者訴求。

- (四) **ISO/IEC Guide 59**之修訂工作，引起美國及南非質疑該文件試圖詮釋**TBT**協定附錄3「擬訂、採行及適用標準之良好作業典範」之條文，由於我國並非**ISO**會員無法參與相關標準制定活動表達意見，建議可考慮附議南非意見，要求**ISO**將草案內容送**WTO**會員瞭解其可能之影響，並接受**WTO**會員提出之意見。



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JOB/TBT/247

11 June 2018

(18-3629)

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Committee on Technical Barriers to Trade

20-21 JUNE 2018 TBT COMMITTEE MEETING

ANNOTATED DRAFT AGENDA¹

The Committee on Technical Barriers to Trade (hereafter "the Committee") will hold its next regular meeting on 20-21 June, starting at 10:00. The regular meeting will be preceded by an informal meeting dedicated to the Eighth Triennial Review on 19 June, starting at 10:00. The Chairman's report on the informal meetings held on the triennial review is contained in document [JOB/TBT/240/Rev.3](#). Relevant documents for the meeting are available at "Documents for meetings" on the WTO website. The minutes of the last meeting of the Committee are contained in [G/TBT/M/74](#).

The following side events will take place on the margins of the TBT Committee:

- SPS/TBT notification alert system [ePing](#) Information Session, 19 June, 14.00-15.00, Room S2; Organized by the WTO Secretariat.
- Good Governance in Developing Modern Quality Infrastructure Systems, 20 June, 13.15-14.45, Room S2; Organized by UNIDO, in cooperation with the Swiss State Secretariat for Economic Affairs (SECO).
- Addressing Tensions and Avoiding Disputes: Specific Trade Concerns in the TBT Committee, presentation by WTO Visiting Academic, Dr. Kateryna Holzer, 21 June, 14.00-15.00, Room S2; Organized by the WTO Secretariat.

The following are the proposed items for the TBT Committee agenda:

ADOPTION OF THE AGENDA

The agenda is contained in WTO/AIR/TBT/11 issued on 22 May 2018. Delegations are invited to indicate any items they may wish to raise under "Other Business" (Item 6).

ELECTION OF THE CHAIRPERSON

The Committee will be invited to elect the Chairperson of the Committee for 2018.

IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

(A) Statements from Members under Article 15.2

- The latest list of statements submitted under Article 15.2 of the TBT Agreement is annexed to the Annual Review of the Implementation and Operation of the TBT Agreement contained in document [G/TBT/40](#). Since the last meeting, Afghanistan submitted their statement contained in document [G/TBT/2/126](#). In total, since 1995, 142 Members have submitted at least one Statement on Implementation under Article 15.2. Information about Members enquiry points is available on the [TBT Information Management System](#) (TBT IMS).

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

(B) Specific Trade Concerns

- **New and Previously raised concerns (Listed in Annex)**

The Annex to this document contains a list of specific trade concerns which Members have communicated their intention to raise at the current meeting.

- **Reported Resolutions**

Members are invited to update the Committee on any resolutions of specific trade concerns raised at previous meetings.

(C) Exchange of Experiences

- **Eighth Triennial Review**

The Chairperson will provide an update on the informal meeting on the Eighth Triennial Review, held on 19 June.

(D) Other Matters

Delegations wishing to raise any other matter relevant to the implementation and administration of the Agreement are invited to do so under this sub-item.

TECHNICAL COOPERATION ACTIVITIES

Under this agenda item, Members are invited to provide any general information on their technical assistance activities. The WTO Secretariat will give an update on the TBT/SPS Notification Alert System - [ePing](#).

UPDATING BY OBSERVERS

Under this agenda item, Observers are invited to update the Committee on relevant work, including on technical cooperation. ISO will provide a brief presentation on the revision of ISO/IEC Guide 59 -Code of good practice for standardization.

A list of organizations whose requests for observer status are pending is contained in [G/TBT/GEN/2/Rev.14](#), circulated on 19 February 2018. A room document containing the requests is contained in [RD/TBT/1/Rev.6](#), circulated on 3 November 2017.

OTHER BUSINESS

Any issues raised by Members under Item 1 will be addressed here.

DATE OF NEXT MEETING

The next regular meeting of the Committee is scheduled for 14-15 November 2018. It will be preceded by an informal meeting on 13 November.



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G/TBT/W/530

29 May 2018

(18-3081)

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Committee on Technical Barriers to Trade

Original: English

PROPOSAL ON A HOLISTIC APPROACH TO RISK ASSESSMENT

EIGHTH TRIENNIAL REVIEW

Submission from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu

The following submission, dated 28 May 2018, is being circulated at the request of the delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

On the occasion of the Eighth Triennial Review under Article 15.4 of the Agreement on Technical Barriers to Trade, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu would like to propose that a holistic approach be taken to discuss risk assessment.

1 BACKGROUND

1.1. Article 2.2 of the TBT Agreement requires Members to ensure that technical regulations are not more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. The last sentence of Article 2.2 specifies that risk assessment should consider, inter alia, the availability of scientific and technical information, related processing technology or intended end-uses of products. Further, Article 5.1.2 of the TBT Agreement also stipulates that conformity assessment procedures shall not be stricter or be applied more strictly than is necessary to give the importing Member adequate confidence that products conform to the applicable technical regulations or standards, taking account of the risks non-conformity would create. Risk assessment plays an important role in determining an appropriate and necessary level of requirements in technical regulations that adequately address legitimate policy concerns while not creating unnecessary restrictions on trade. It is also a critical factor in the design and implementation of sound and effective conformity assessment procedures that are consistent with the TBT Agreement.

1.2. Standards, being one of the categories of measures covered by the TBT Agreement, are considered of equal importance as technical regulations. The importance of standards was emphasized at the thematic session held on 14 June 2016, where Members shared their experiences on the methods of referencing standards in regulations. Just as noted in the moderator's report (G/TBT/GEN/199), standards can be developed to support regulation and policy; standards need to evolve to remain relevant for regulators; and standards that attain a balance between addressing objectives, such as health and environment, and facilitating trade can serve as tools for the improvement of laws and regulations. Though risk assessment is not explicitly mentioned in standards-related provisions of the TBT Agreement, its use is envisaged in order to fulfill the obligation stated in Paragraph E of Annex 3 to the TBT Agreement that standards are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade.

2 PREVIOUS WORK ON THE CONTRIBUTION OF RISK ASSESSMENT

2.1. In the last Triennial Review of the TBT Agreement in 2015 (G/TBT/37), Members shared their experiences in risk assessment under the theme of approaches to conformity assessment. Experiences were also shared by Members for the role of risk assessment as part of the effort on observing the Six Principles of the Code of Good Practices. Further, one Member proposed (G/TBT/W/418) that as risk assessment forms an important part of the operation of the Regulatory Impact Assessment (RIA), experiences-sharing on how regulators undertake risk assessment should be considered. Based on similar consideration, we also proposed to hold a thematic workshop on risk assessment (JOB/TBT/211), which was subsequently held in June 2017. The moderator's report (G/TBT/GEN/226) summarized quite well that risk assessment was a multi-faceted topic, with relevance to different aspects of the work of the TBT Committee.

3 STANDARDS AND RISK ASSESSMENT

3.1. Previous discussions at the Committee mainly focused on the use of risk assessment in support of choosing appropriate level of regulatory requirements and conformity assessment procedures. As it is a common practice for Members to reference and integrate standards as part of both technical regulations and conformity assessment procedures, risk assessment in standard-setting process bears similar weighting insofar as the improvement of the quality and appropriateness of technical regulations and conformity assessment procedures are concerned. It is especially relevant if the standardizing body and regulator is integrated and/or coordinated by the same authority; the best practices in ensuring consistency in risk assessment are equally worth noting.

3.2. A relevant question concerns with the incorporation of international standards in national standards or technical regulations. Both Article 2.4 and Paragraph F of Annex 3 of the TBT Agreement clearly state that where relevant international standards exist or their completion is imminent, they, or the relevant part of them, shall be used as a basis for technical regulations and standards, except when such international standards or relevant parts would be ineffective or inappropriate, for instance, because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems. The role risk assessment plays in facilitating Members to decide and demonstrate whether relevant international standards are effective or appropriate is a key policy issue as well.

4 A HOLISTIC DISCUSSION ON RISK ASSESSMENT

4.1. Having noted the relevance of risk assessment to all three categories of measures, we are of the view that discussions at the Committee can be devoted in a structured manner so that a common understanding can be gradually built up among Members on what risk assessment is (e.g. risks associated with different products, risk assessment vs risk management), how it is performed (e.g. methods for assessing risks), when and where it is undertaken (e.g. necessity for conducting risk assessments for standards, technical regulations and conformity assessment procedures respectively). We believe that Members will benefit from experiences shared by others to apply risk assessment more effectively and build the required capacity to implement the TBT Agreement. Hopefully, trade concerns in relation to risks will also be addressed efficiently as a result of such common understanding.

5 PROPOSAL

5.1. Risk assessment is a cross-cutting issue under the TBT Agreement. In addition to its application to the choice of appropriate conformity assessment procedures, the operation of border inspection and market surveillance, as identified by the European Union, it also takes a critical role in making decisions on the need for technical regulations and in setting standards that are to be referenced in regulations. In the context of the Eighth Triennial Review and to keep the momentum of discussions on risk assessment, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu proposes that efforts be devoted to present a general framework of risk assessment prior to moving into specific areas to facilitate Members' general understanding of the issue. Therefore, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu proposes that thematic sessions be held to invite experience sharing by Members on the following possible topics.

5.2. An introductory session

1. Overview of risk assessment: categorisation of risks and methods of assessing risks.
2. The framework and operation models of TBT-related risk assessment regime, resources required and challenges.

5.3. A session on the use of risk assessment in specific areas, for instance:

1. The choice and design of conformity assessment.
 2. The role and practice of risk assessment in standards development (including international standards, regional standards or national standards) and technical regulations, in particular where standards are referenced in regulations.
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Statement on TPKM triennial review proposal

Thank you, Chair.

Our proposal is circulated in the document G/TBT/W/530 and we would like to propose that the Committee take an approach to exploring the issue of risk assessment in a more comprehensive way due to its multi-faceted nature. I shall not repeat what is included in the document but rather share the thinking process that prompted us to put forward the proposal.

Risk assessment plays an important role to achieve the goal pursued by the TBT Agreement that measures taken by Members shall not create unnecessary obstacles to international trade. In our observation, Members tend to place emphases in their specific trade concerns on the request for “risk-based” approach. In other words, risk assessment is expected to be a common language for Members to understand other Member’s logic in the balance between fulfillment of legitimate objectives and not creating unnecessary trade barriers. While risk assessment is frequently emphasized, it is still uncertain that Members have a common understanding about it. Please allow me to share some questions that, in our view, would be of great value for discussion in the TBT Committee so as to speak the language well.

1. The term “risk” stated in Article 2.2 refers to risks of non-fulfilment of legitimate objectives, and in Article 5.1.2 refers to non-conformity with technical regulations or standards. What are the differences in assessing risks under those two Articles?
2. “Risk” is not stated in any provisions related to standards. However, standards are required to be prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade, as stated in Paragraph E of Annex 3. Can we assume that risks are also assessed in the standards development process?
3. While referencing standards in technical regulations is a common practice and in most cases they address the same objective for the same product, what could be its implication for the way risk assessment is carried out at the stage of preparing technical regulations, as the factors to be considered may be very similar?
4. As standards and technical regulations are required to adopt international standards in order to be presumed not to create unnecessary obstacles to international trade, what kind of risk assessment is undertaken in the process of developing international standards that gives confidence to regulators or standardizing bodies that the pursued objectives are fulfilled, for example, to prevent the hazards posed by certain chemicals in a toy?
5. Another question arises when the standardizing body and regulator is integrated and/or coordinated by the same authority, which is quite common in developing country Members, what is the best practice in ensuring consistency in risk assessment?

There may be easy answers to these questions or the questions may need to be rephrased for ease of discussion. It is our hope that a common understanding of risk assessment can be developed from the discussions at the Committee. Members can benefit from experience shared by others to apply risk assessment more effectively and build the required capacity to implement the TBT Agreement. To achieve this, we propose that thematic sessions be held to explore the issue further by first having an overview of risk assessment, followed by the application of risk assessment in specific areas, including standards, technical regulations and conformity assessment procedures.

Statement on proposal for eighth triennial review submitted by Canada

Chinese Taipei would like to thank Canada for its proposal on incorporating standards by reference in technical regulation, as stated in G/TBT/W/529. We are interested in this proposal as the same issue is also mentioned in our proposal although from a different perspective.

Referencing standards in technical regulations are a common practice by our regulators in drafting regulations. The way or format standards are referenced in regulations is indeed important, such as the date, title, number of the standard, and regulators usually have their own way of making the references. We would like to seek further information from Canada about the coverage of guidelines to be developed. Do they also deal with the direct reference or indirect reference discussed at the thematic session two years ago? Would they also involve how decisions are made in terms of the appropriateness of a standard to be referenced? An elaboration on the guidelines developed by Standard Council of Canada (SCC) may be helpful.

Statement on proposal for eighth triennial review submitted by Japan

Chinese Taipei supports Japan's proposal on the effective use of the notification format, as per G/TBT/W/528. We are of the view that by including the website address of relevant documents, stakeholders could save the time and efforts for searching from the internet for the content that would help them better understand the notified measure.

Statement on TPKM's submission on Article 15.2

Thank you, Chair.

We submitted our statement under Article 15.2 and was told by the Secretariat that it will be circulated during the morning. So I will just take this opportunity to give a brief introduction of our statement.

It has been 16 years since our first submission of the statement under Article 15.2 and we are pleased to inform the Committee of the current arrangements that are now in place to implement the Agreement. We would like to highlight two areas that are of critical importance to us along the development processes. The first one is transparency.

In recognition of the need for enhancing public participation in formulating government policies to ensure good management practices, an on-line public consultation forum was put into operation in 2015. Citizens are invited to put forward propositions on public matters and the responsible regulatory authority shall respond and explain how the proposals have been taken into account. Beginning this year, this forum is also used to solicit comments on draft laws, acts or legal orders, in addition to their publication in the Government Gazette. The benefits are that both comments and responses would be made known to the public. In our statement, we include three website links that can be used to access the texts of technical regulations and conformity assessment procedures in their draft form and adopted form.

The other area we would like to highlight is the development of our NQI, national quality infrastructure, that supports the implementation of TBT Agreement. A well-developed NQI gives regulators the confidence in designing regulations that can both achieve the legitimate objectives and address their implications to trade. It requires a balanced development in standardization, metrology and accreditation. We have made substantive progress to align our NQI with international practices, to advance our capacities in a wide range of areas and to enhance its effectiveness. In our statement, we described the status of our accreditation system in the international context. Domestically, the accreditation services are relied upon by stakeholders, such as the industry, consumers and regulators, to meet their respective needs. The successful experience has been shared with other Members via bilateral technical cooperation arrangements.

We followed the decisions and recommendations stated in G/TBT/1/Rev.13 to prepare our statements. We hope that it helps Members understand our system and invite Members to read our statement. If further information is needed, we would be happy to provide more explanation.

Response to STC raised by EU on Organic Agriculture Promotion Act

Thank you, Chair. As it is never late to express congratulations and thankfulness, we would like to congratulate you for your new position and express our support in the coming year. We also would like to extend our appreciation and sincere regards to the former chair, Jose, for his excellent leadership.

We appreciate the continued concern by the EU on our Organic Agriculture Promotion Act, previously notified under the title “Organic Agriculture Act.”

First we would like to update the current status of the Organic Agriculture Promotion Act. It was promulgated on 30 May 2018 and will enter into force one year later, which would be on 30 May 2019. Measures to implement the Act will be proposed soon, by bridging current practices and those stipulated in the Act. The ones relevant to certification and management of organic agricultural products and processed products will be notified for commenting when the drafts are available.

The Act marks an important milestone in our agriculture development history. Since the draft was notified to the WTO in October 2015, we have received an extensive amount of comments from domestic and foreign stakeholders and engaged in hundreds of discussions to better address the identified needs. The Act in its adopted text provides a comprehensive system, which not only drives our efforts towards the goal of friendly, eco-balanced and sustainable agriculture, but also enhances the competitiveness of our organic agricultural products. However, this Act also yields the needs for renegotiation of equivalence agreements that were concluded previously. We have done our best to take the EU’s request for extending the transitional period by allowing additional one year for the renegotiation process.

Regarding the EU’s concern about the requirements applicable to organic products, Chinese Taipei would like to clarify that, as far as we know, in the absence of international standards, Members usually retain their respective requirements to accommodate the different organic environment they want to preserve and such requirements are also respected in equivalence arrangements. We are of the view that equivalence is a continued process of harmonization and welcome the opportunity for further exploring this issue with the EU bilaterally.

We understand the time required for the EU to ratify new equivalence agreement, and would like to remind again the alternative specified in Article 17 of the Act, which invites certification bodies in the EU Member States to be accredited so as to certify their products for exporting to

our market. We will be happy to provide more information to facilitate their applications.

Thank you.

2018 年 6 月 TBT 委員會會議特定貿易關切彙總表

新的特定貿易關切案件

編號	遭關切會員	產品/措施	通知文件編號/措施簡介	關切會員及意見
1	巴西	飲料、酒類及葡萄衍生食品	G/TBT/N/BRA/719	歐盟質疑巴西要求此類產品其名稱及成分應如何標示的新規定將阻礙國際貿易，要求巴西遵守國際葡萄、葡萄酒組織(OIV)制定的國際標準。
2	印度	通信設備測試與驗證的措施	G/TBT/N/IND/66	美國質疑印度大範圍地要求通信設備須經印度國內符合性評鑑機構測試將造成重複測試，要求印度改採供應商符合性聲明程序或者接受國際相互承認機制下的測試結果。
3	美國	安檢設備驗證		中國大陸質疑美國交通安全局（TSA）就安檢設備新的驗證規定未能提供中國大陸申請業者完整資訊以提出矯正措施，美國回應該措施涉及政府採購，非屬 TBT 協定管轄。
4	美國	壓縮機節能標準	G/TBT/N/USA/1132 G/TBT/N/USA/1132/Add.2	中國大陸質疑該標準未採國際標準，特別是空氣壓縮機的分類。
5	印尼	酒精性飲料之安全及品質標準	G/TBT/N/IDN/110	墨西哥質疑該標準對於廣告產生限制，以及要求酒精飲料中的甲醛限值比龍舌蘭還要低，請印尼澄清是否該限值亦同時適用龍舌蘭酒。
6	哥倫比亞	碳鋅電池及鹼性電	G/TBT/N/COL/228	該規定要求附有碳鋅

編號	遭關切會員	產品/措施	通知文件編號/措施簡介	關切會員及意見
		池規定		電池或鹼性電池的產品進口時應將電池拆開，墨西哥認為此規定對於玩具的貿易造成負面影響，另外設置生產線產生高成本。
7	厄瓜多	表面張力物質	G/TBT/N/ECU/117/Rev.1	墨西哥質疑該規定僅認可一種測試方法用於證明表面張力物質符合生物衰減及磷酸鹽的要求，不符合國際標準，另外厄瓜多只接受其境內認證驗證機構的結果。
臨時提出	印尼	餅乾進口國家標準及驗證規定	G/TBT/N/IDN/105 G/TBT/N/IDN/105/Add.1	瑞士認為該措施將迫使瑞士產品退出印尼市場，印尼表示該措施已延後實施。

延續性特定貿易關切案件

編號	遭關切會員及產品	產品/措施	通知文件編號/措施簡介	關切會員
食品／化粧品／醫療器材				
9	中國大陸	化粧品	G/TBT/N/CHN/821	日本、歐盟
12	俄羅斯	酒精飲料	G/TBT/RUS/2	烏克蘭、歐盟
19	泰國	酒精飲料標示	G/TBT/N/THA/437	美國 歐盟
20	中國大陸	醫療器材	G/TBT/N/CHN/1022 G/TBT/N/CHN/1023 G/TBT/N/CHN/1024 G/TBT/N/CHN/1025 G/TBT/N/CHN/1026 G/TBT/N/CHN/1029	韓國 歐盟
21	海灣國家	能量飲料	G/TBT/N/SAU/669 G/TBT/N/ARE/262 G/TBT/N/QAT/389 G/TBT/N/SAU/910 G/TBT/N/SAU/912	歐盟
23	中國大陸	化粧品標示	G/TBT/N/CHN/1064	日本、歐盟

編號	遭關切會員及產品	產品/措施	通知文件編號/措施簡介	關切會員
24	中國大陸	藥品及醫療器材登錄費		韓國
27	印度	酒精飲料標準	G/TBT/N/IND/51	歐盟
28	印尼	清真產品		美國、歐盟
29	中國大陸	嬰兒及成長奶粉配方登錄		歐盟
32	肯亞、烏干達、坦尚尼亞、盧安達、蒲隆地	酒精飲料標準	G/TBT/N/KEN/472 G/TBT/N/KEN/473 G/TBT/N/KEN/474 G/TBT/N/KEN/475 G/TBT/N/KEN/476 G/TBT/N/KEN/477 G/TBT/N/KEN/479 G/TBT/N/KEN/482 G/TBT/N/KEN/483 G/TBT/N/UGA/434 G/TBT/N/KEN/435 G/TBT/N/KEN/436 G/TBT/N/KEN/437 G/TBT/N/KEN/438 G/TBT/N/KEN/439 G/TBT/N/KEN/440 G/TBT/N/KEN/441	歐盟 美國
33	歐盟	農產品及食品品質制度	G/TBT/N/EU/139 G/TBT/N/EU/139/Add.1	美國、烏拉圭
34	我國	有機農產品	G/TBT/N/TPKM/225 G/TBT/N/TPKM/225/Add.1-2	歐盟
36	愛爾蘭	公共衛生（酒精）法案	G/TBT/N/IRL/2	墨西哥、美國、阿根廷
38	俄羅斯	醫療器材	G/TBT/N/RUS/51 G/TBT/N/RUS/52 G/TBT/N/RUS/53 G/TBT/N/RUS/55	歐盟、烏克蘭
39	俄羅斯、哈薩克、吉爾吉斯	藥品製造商符合良好製造作業	G/TBT/N/RUS/54 G/TBT/N/RUS/58 G/TBT/N/RUS/63	歐盟
41	歐盟	有機製造及標示（巴拉圭冬青）		巴西
48	中國大陸	進口食品附隨證明	G/TBT/N/CHN/1209	美國、歐盟、韓國
53	歐盟	產品「不含棕櫚油」之標示		哥倫比亞、印尼

編號	遭關切會員及產品	產品/措施	通知文件編號/措施簡介	關切會員
55	泰國	飲料進口新驗證要求		美國、澳洲、歐盟
56	以色列	藥事法規修正（化粧品 5778-2018）	G/TBT/N/ISR/709/Add.2	歐盟
57	義大利	乾義大利麵使用穀物原料原產地標示規定		加拿大
58	越南	酒精飲料		墨西哥
網路安全				
22	歐盟	資訊科技安全評估驗證		中國大陸
40	中國大陸	網路安全法		美國、日本、歐盟、韓國
42	中國大陸	網路產品及服務之網路安全檢查實施措施		日本、美國、歐盟、韓國
43	中國大陸	加密法修正草案		歐盟、日本、韓國、美國
50	越南	網路安全措施		日本、美國
化學物質／化學產品				
13	韓國	化學材料之登記	G/TBT/N/KOR/305 G/TBT/N/KOR/305/Add.1 G/TBT/N/KOR/478 G/TBT/N/KOR/547 G/TBT/N/KOR/592 G/TBT/N/KOR/700	美國
17	歐盟	環境荷爾蒙化學合成物分類	G/TBT/N/EU/383 G/TBT/N/EU/384 G/TBT/N/EU/166	阿根廷、加拿大、美國
44	歐盟	啞氧聚酯活性物質停止更新許可		巴西
45	歐盟	二氧化鈦		美國
消費產品／電機電子產品／其他				
8	印度	汽車充氣輪胎	G/TBT/N/IND/20 G/TBT/N/IND/40	歐盟
10	印度	通訊設備		歐盟、美國
11	中國大陸	資訊安全產品	G/TBT/N/CHN/1172	歐盟、美國
14	印尼	玩具安全	G/TBT/N/IND/64 G/TBT/N/IND/64/Add.1 G/TBT/N/IND/64/Add.2	歐盟
15	歐盟	部分酒類產品的原產地、地理標示等	G/TBT/N/EEC/264 G/TBT/N/EEC/264/Add.1	美國、阿根廷

編號	遭關切會員及產品	產品/措施	通知文件編號/措施簡介	關切會員
16	印度	電子及資訊產品	G/TBT/N/IND/44 G/TBT/N/IND/44/Add.1-5 G/TBT/N/IND/47 G/TBT/N/IND/47/Add.1-3	歐盟、美國、韓國
18	俄羅斯	兒童及青少年產品	G/TBT/N/RUS/29	歐盟
25	中國大陸	商用煤炭品質管理暫行措施		澳洲
26	印度	不鏽鋼產品品質管制	G/TBT/N/IND/50	歐盟
30	俄羅斯	水泥驗證	G/TBT/N/RUS/48 G/TBT/N/RUS/49	歐盟、烏克蘭、墨西哥
31	埃及	製造商登錄系統	G/TBT/N/EGY/114 G/TBT/N/EGY/115	歐盟
35	中國大陸	傢俱之揮發性有機化合物限制	G/TBT/N/CHN/1094 G/TBT/N/CHN/1095 G/TBT/N/CHN/1096	歐盟
37	哈薩克、俄羅斯	玩具安全	G/TBT/N/KAZ/7 G/TBT/N/RUS/73	歐盟、烏克蘭
46	中國大陸	禁止進口固體廢棄物目錄	G/TBT/N/CHN/1211 G/TBT/N/CHN/1224 G/TBT/N/CHN/1225 G/TBT/N/CHN/1226 G/TBT/N/CHN/1227 G/TBT/N/CHN/1228 G/TBT/N/CHN/1229 G/TBT/N/CHN/1230 G/TBT/N/CHN/1231 G/TBT/N/CHN/1232 G/TBT/N/CHN/1233 G/TBT/N/CHN/1234	紐西蘭、美國、加拿大、澳洲
47	印度	玩具進口法規修正	通知編號 26/2015-2020	歐盟、美國、中國大陸
49	越南	汽車製造、組裝進口及保固維修服務條件法規	G/TBT/N/VNM/116 116/2017/ND-CP 法令	泰國、日本、歐盟、美國
51	歐盟	菸草產品追溯制度之建立及運作	G/TBT/N/EU/505 G/TBT/N/EU/507	古巴
52	歐盟	再生能源指令 2009/28/EC 修正		馬來西亞、印尼、哥倫比亞
54	中國大陸	進口廢棄物做為原料之環境保護管制標準		澳洲、歐盟



WORLD TRADE
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JOB/TBT/240/Rev.4

3 July 2018

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Committee on Technical Barriers to Trade

INFORMAL MEETINGS ON THE EIGHTH TRIENNIAL REVIEW

EIGHTH TRIENNIAL REVIEW

Chairperson's Report²

Revision

This Report is provided on my own responsibility as Chairperson of the WTO TBT Committee. It captures the main points discerned from informal discussions and is intended to facilitate Members' future deliberations on the Eighth Triennial Review. It has been updated to reflect the latest discussions held on 19 June 2018.³

1 TRANSPARENCY

1.1 United States on Enquiry Point contact details (G/TBT/W/451)

1.1. The United States introduced its proposal to improve the accuracy and availability of Enquiry Point contact information. A number of issues were raised in the discussion, including:

- a. Brazil, China, the European Union, Kenya, Singapore, South Africa, Chinese Taipei and Trinidad and Tobago expressed support for the proposal and highlighted the important role of Enquiry Points for the work of the TBT Committee and the implementation of the TBT Agreement.
- b. Canada, El Salvador, Guatemala, Japan, The Russian Federation and Switzerland also supported the proposal.
- c. Chinese Taipei suggested that the Secretariat be involved in the validation exercise.
- d. The United States suggested that a Member-driven validation process had a number of practical advantages, including that the Secretariat would have difficulty following up with Members whose e-mail addresses were not functioning, and that its proposal in any case envisioned an oversight role for the Secretariat.
- e. Kenya and Trinidad and Tobago suggested a two-fold process, starting with a self-validation by Members, and the Secretariat following up.

² Ms Kate Swan (New Zealand).

³ Previous informal meetings have been held on 2 October 2017 (JOB/TBT/237), 7 November 2017 (JOB/TBT/240), 23 February 2018 (JOB/TBT/240/Rev.1), 20 March 2018 (JOB/TBT/240/Rev.2), and 16 May 2018 (JOB/TBT/240/Rev.3).

1.2 South Africa on the 9th Special Meeting (G/TBT/W/452, Section 3)

1.2. South Africa proposed that the Ninth Special Meeting on Procedures for Information Exchange include a discussion on Enquiry Points' use of ePing, and linkages to domestic "early warning systems". A number of issues were raised in the discussion, including:

- a. Australia, Kenya, New Zealand, Chinese Taipei, Uganda and the United States expressed support for this proposal.
- b. Australia and New Zealand suggested that the meeting could also cover additional features of ePing that could help facilitate the work of Enquiry Points.
- c. The United States was interested in better understanding the private sector's use of ePing.
- d. Indonesia stressed the importance of ePing being user-friendly.

1.3 Brazil on notification procedures under the TBT Committee (TBT and SPS) (G/TBT/W/460/Rev.1)

1.3. Brazil suggested that, for the purpose of enhancing predictability and transparency in situations where a Member considers it is difficult to establish or foresee whether a draft technical regulation may fall under the TBT and/or the SPS Agreement, Members should be encouraged to notify the measure simultaneously in both Committees. Brazil also suggested that, taking into account the challenges arising from defining whether a measure falls within the scope of one or both Agreements, this cross-cutting issue be further addressed through thematic sessions and workshops, with a view to developing practical guidelines for notifications. A number of issues were raised in the discussion, including:

- a. El Salvador and South Africa expressed support for the idea of looking into guidelines.
- b. Canada; European Union; Hong Kong, China; Japan; Kenya; South Africa; and Uganda supported Brazil's proposal in paragraph 3.1, that whenever a measure may fall under the TBT and the SPS Agreements, Members should notify that measure to both Committees.
- c. Hong Kong, China and Japan were interested to learn more about the proposed joint session and what it may comprise, and whether Members would have an opportunity to share experiences and information.
- d. The European Union, Kenya and Mexico expressed doubt about the value of a joint session of the TBT and SPS Committees.
- e. The European Union and Japan expressed doubt about the value of joint guidance. The EU and Japan said that whether a measure falls under SPS or TBT is a case-by-case decision, based on the guidance and recommendations of each of the Committees.
- f. South Africa suggested a joint *workshop* or *information session* on TBT and SPS notifications, instead of a joint session of the Committees.
- g. Brazil noted practical challenges with organizing a joint session, and took note of the idea of a workshop or similar event on this topic.
- h. The United States did not support recommendations to notify both Committees, and stressed that a case-by-case approach should be followed. The US was hesitant about a joint session of the SPS and TBT Committee, but saw merit in South Africa's suggestion of an information session.
- i. India requested more clarity and examples from Brazil as to the purpose and utility of the proposal. India noted that the SPS and TBT Agreements already laid down notification requirements, and if a measure meets relevant criteria under both Agreements, it should be notified under both. It was unclear whether Brazil sought to change the existing criteria for notification. India supported South Africa's suggestion of an informal session.
- j. Kenya and Mexico expressed support for the revised proposal.
- k. Japan expressed support for sharing of experiences.

- l. Trinidad and Tobago expressed general support for the revised proposal, including for a joint workshop or information session on TBT and SPS notifications, but did not support notifying all measures systematically to both the SPS and TBT Committees as this may be overly burdensome for some governments.

1.4 Brazil on online tools (G/TBT/W/461/Rev.1, Section 3.1)

1.4. Brazil proposed to add four columns to the TBT STCs search tool in the TBT Information Management System (TBT-IMS) regarding the status of STCs raised in the Committee.

- a. Kenya and the Philippines expressed support for this proposal.
- b. The Philippines suggested the inclusion of additional information on the status of resolutions.
- c. Mexico, supported by the United States, expressed doubts about who would determine the status of an STC, and said the Committee would need to have further discussions in this respect before adding additional columns.

1.5 New Zealand on domestic coordination of information relevant to notifications (G/TBT/W/463)

1.5. New Zealand introduced its proposal on Enquiry Points and good practices for domestic coordination and engagement with regulators. A number of issues were raised in the discussion, including:

- a. Australia, Canada, China, the European Union, Singapore, South Africa, Chinese Taipei and the United States supported the proposal, and noted the importance of internal coordination with regulators for enhancing implementation of the transparency provisions of the TBT Agreement.
- b. Brazil and Uganda said they were still studying the proposal, but expressed general support.
- c. Kenya expressed support, as long as any good practices for domestic coordination and engagement with regulators remained voluntary.

1.6 United States on improving information in notifications (G/TBT/W/464)

1.6. The United States introduced its proposal on improving information in notifications, focusing on enhancing the use of HS/ICS product codes, entry into force and notification of final measures, and efforts to identify international standards and deviations. A number of issues were raised in the discussion, including:

- a. Australia, Canada, Kenya, New Zealand, South Africa, Chinese Taipei and Uganda supported the proposal.
- b. South Africa and Uganda noted that officials submitting notifications often lack expertise on how to use HS codes. Uganda suggested that where there are no precise HS and ICS Product Codes, Members should continue with the current practice of providing product names that are covered by draft TBT measures.
- c. Australia noted, in response to Uganda's comment, that it was helpful to consider adding keywords in notifications that could be picked up by ePing filters.
- d. China said that while it welcomed the proposal, and efforts to improve information on products covered and international standards, capacity constraints facing developing and least-developed Members needed to be taken into account, including through special and differential treatment.
- e. Canada and the United States highlighted the value of following the Committee's recommendation on the Coherent use of notification formats.⁴
- f. The European Union said it was still studying the proposal, but welcomed the aspect of the proposal on notification of final measures. The EU agreed with the importance of improving information in notifications, and in this respect, providing complete information in items 6 and 7 of the notification template was particularly important.
- g. Australia suggested the possibility of developing a new notification format for final adopted measures, which would distinguish these notifications from addenda submitted for other reasons.

⁴ G/TBT/35.

- h. The United States noted that its proposal suggested an initial discussion on the challenges faced with respect to providing product codes and how Members might overcome these difficulties.
- i. Japan commented in respect of paragraph 3.3 of the proposal that greater availability of information on relevant international standards would be beneficial. However, if Members agree to submit information on deviations as a result of discussion, Japan said the Committee should be mindful that it may be difficult for some Members to do so in one of the WTO official languages.
- j. The European Union and Trinidad and Tobago expressed support for the US proposal concerning entry into force and notification of final measures (paragraph 3.2). The EU and Trinidad and Tobago also supported the US proposal to separate the STC item on the Committee meeting agenda into proposed and final measures, to help stakeholders better follow the work of the Committee and the nature of the measure under discussion.
- k. With respect to product codes, Kenya stressed the importance of developing and LDC Members receiving technical assistance and special and differential treatment on this matter.
- l. Uganda, supported by New Zealand, highlighted the importance of Members continuing to provide product names in cases where there are no precise HS or ICS codes that apply.
- m. Indonesia suggested that Members use both HS and ICS codes in notifications, as far as practicable.

1.7 Japan on effective use of the notification format (G/TBT/W/528)

1.7. Japan introduced its proposal on effective use of the notification format, focusing on providing a website address where Members can find the text of the "relevant documents" in Box 8 of the notification format and discussing the necessity to update the scope of Box 8. A number of issues were raised in the discussion, including:

- a. The European Union, Hong Kong, China, Kenya, Switzerland, Chinese Taipei, and Uganda supported the proposal.
- b. Mexico said the proposal was still under consultation in their capitals, but expressed preliminary support.
- c. Guatemala said the proposal was still under consultation in capital, but noted that thematic sessions to further discuss this issue would be useful.
- d. South Africa agreed that information on relevant documents was important for interested parties, and noted the existing guidelines of the Committee on information to be provided in Box 8. South Africa was not opposed to the inclusion of website addresses, but said this information should be provided on a voluntary basis when Members are in position to do so, and should not become mandatory. South Africa suggested that Members share ideas on the types of documents that could be provided in addition to the four types of documents already listed in the existing Committee guidelines. Once these ideas were gathered, the Committee could consider holding a workshop or thematic session on the necessity to update the scope of Box 8.
- e. Hong Kong, China noted that Members regularly provide links in Box 11 of the notification format.
- f. Uganda noted that copyright protected documents are sometimes referenced by Members in Box 8, and that inclusion of website addresses should therefore only apply in cases where there are no copyright restrictions. Uganda also supported discussions of the necessity to update the scope of Box 8 of the notification format and the types of documents Members are encouraged to provide that box, either through thematic sessions or at Special Meetings on Procedures for Information Exchange.
- g. Egypt supported discussing the scope of Box 8 but cautioned with respect to possible additional burden on developing Members.

1.8 United States on list of Member websites on adopted technical regulations (G/TBT/W/535)

1.8. The United States proposed that Members be encouraged to provide up-to-date website information on the location of adopted final texts of technical regulations, as well as applicable conformity assessment procedures, and that the Secretariat maintain this information as a publicly-available list. A number of issues were raised in the discussion, including:

- a. Australia, Canada, European Union, Japan, Mexico, Singapore and Switzerland expressed support for the proposal.

- b. Uganda noted that mandatory standards are among the categories of TBT measures that Uganda notifies to the TBT Committee and are subject to copyright restrictions and are not available free of charge. Uganda proposed that for this category of TBT measures, catalogues of the adopted mandatory standards be uploaded on national standards bodies' websites and a web address through which Members can purchase copies of the adopted mandatory standards be provided.
- c. South Africa, supported by Venezuela, noted that regulators did not always have the capacity to publish the final texts of regulations on websites, and underlined that this proposal should remain voluntary.

1.9 Switzerland on handling of comments: publication of comments on notified measures and replies thereto (G/TBT/W/536)

1.9. Switzerland introduced its proposal to improve the transparency of the handling of comments on notified draft measures, recommending the publishing of comments and replies thereto, on a voluntary basis, possibly via existing online tools. A number of issues were raised in the discussion, including:

- a. Australia, the European Union, Guatemala, Mexico, Uganda, and the United States expressed support for the proposal.
- b. Uganda noted that stakeholders in most developing and LDC Members rarely respond with comments on notified draft TBT measures. One possible reason for lack of feedback on draft TBT measures could relate to the capacity of stakeholders to review, interpret and establish how the draft measures could affect them. Uganda therefore supported voluntary sharing of comments and replies thereto because this will benefit stakeholders who may not have capacity to analyse and establish how a notified draft TBT measure may affect their products.
- c. Guatemala stressed that language barriers could present a challenge for developing Members, and that translations are therefore important.
- d. The European Union drew Members' attention to its website where all exchanges with other Members on TBT notifications are publicly available.⁵

1.10 Australia on transparency and notification (G/TBT/W/537)

1.10. Australia introduced its proposal on improving the notification process, suggesting the use of keywords in notifications, new fields in the addendum template to indicate final measures and final date of entry-into-force, and enhanced use of ePing. A number of issues were raised in the discussion, including:

- a. Canada, Guatemala, Japan, Kenya, Mexico, New Zealand, the Philippines, Singapore, Uganda and the United States and expressed support for the proposal.

2 OPERATION OF THE COMMITTEE

2.1 South Africa on STCs (G/TBT/W/452, Section 1.1)

2.1. South Africa introduced its proposal regarding procedures to improve the efficiency of the discussion on Specific Trade Concerns (STCs). A number of issues were raised in the discussion, including:

- a. Argentina, the European Union, Switzerland and the United States supported efforts to make the discussion of STCs more efficient.
- b. Argentina, China, the European Union, Switzerland, Chinese Taipei and the United States expressed some concerns about any recommendation (even if phrased in best endeavour terms) that would impose limits on the rights of Members to raise an STC in the Committee.
- c. Canada, Switzerland and Uganda expressed concern about any rules or conditions that would limit the number of times that Members could raise the same STC.
- d. Argentina and the United States stressed the importance of the STC discussion, particularly in terms of raising awareness about measures at the multilateral level.

⁵ <http://ec.europa.eu/growth/tools-databases/tbt/en/search/> and G/TBT/W/309.

- e. China and the European Union said that Members may wish to raise an STC several times due to the importance of trade affected, and because concerns had not yet been adequately answered.
- f. The Russian Federation said that, on the one hand the discussion of the same STC multiple times means that the level of efficiency might not be sufficient, but, on the other, Russia doubted that it would be useful to limit the ability of Members to raise concerns in the Committee.
- g. El Salvador supported the need to find ways of avoiding repetition while preserving Members' rights to express views on STCs.
- h. Japan generally supported efforts to make STC discussions more efficient but also underlined the importance of these discussions. Members might choose to raise an STC several times when concerns had not been adequately addressed. Further discussion was needed to achieve the best balance between efficiency and the right of Members to address concerns.
- i. Argentina, the European Union, Guatemala, Mexico and the United States expressed continued concerns about this proposal, and said they could not support recommendations to limit the number of times Members can raise an STC.
- j. South Africa stressed that the objective of the proposal was to increase efficiency in the discussion of STCs – for instance by avoiding repetition – and not in any way to limit Members' rights to raise STCs.
- k. Kenya appreciated South Africa's interest in avoiding repetition, and encouraged further discussion on this matter.
- l. New Zealand appreciated South Africa's clarification that there was no intention to limit Members rights in raising STCs.

2.2 South Africa on time to prepare for meetings (G/TBT/W/452, Section 1.2)

2.2. In introducing the proposal, South Africa mentioned the need for a longer timeframe to prepare in advance of Committee meetings. A number of issues were raised in the discussion, including:

- a. Brazil and Canada expressed general support for the proposal.
- b. Kenya supported the proposal, and stressed the need for sufficient time to prepare ahead of meetings.
- c. China suggested that it might also be useful to consider timeframes associated with requests for bilateral consultations in the margins of TBT Committee meetings.
- d. The United States noted that while the goal of having more time to prepare for meetings and STC discussion in particular was a good one, notifications sometimes tended to accumulate just before Committee meetings. Thus, putting the deadline for submission of STCs too far ahead might restrict the ability to address new notifications.
- e. Singapore noted the need to further reflect on this proposal.
- f. The Russian Federation supported South Africa's proposal. For Russia, one additional week to prepare positions would be useful because time was needed for coordination within the Eurasian Economic Union. It was suggested that if a new STC was raised by a Member, the initiating Member could introduce not only the notification in question but also provide to the Secretariat and the Member concerned a brief description of the concerns to be raised. This could help better prepare for the Committee when a concern was being raised for the first time.
- g. Japan noted with interest South Africa's proposal on the desirability of sufficient time to prepare in advance of the meeting. He noted that the SPS Committee had set the deadline for the submission of STCs one week earlier than usual. However, setting the deadline too far in advance of the meeting could restrict Members' ability to address new notifications. Therefore, Japan suggested that the Committee introduce a longer timeframe on a trial basis before deciding, if Members so wished.
- h. Mexico expressed support for the idea of a trial period as proposed by Japan but noted that leaving too much time between the Committee meeting and the deadline for submitting STCs might encroach on the ability of Members to discuss notifications submitted immediately before the Committee.
- i. The European Union was open to a longer time-frame, and supported Japan's suggestion of a trial basis.

- j. Canada said Members should in any case make sure to alert the other Member involved, in advance, when they are raising an STC.
- k. Brazil said the proposal should not prejudice the possibility to raise an STC after the deadline.
- l. The United States recalled some concerns. While supporting the idea of communicating STCs bilaterally, 20 calendar days ahead of a meeting, this should only be guidance and not mandatory. The US did not want to limit the possibility to raise STCs in respect of notifications circulated immediately before meetings.
- m. Kenya highlighted the importance of the Chair providing advance notice of the annual schedule for TBT meetings, for the purposes of planning, clearance processes and visa processes.
- n. Kenya suggested that the annotated draft agenda be circulated 30 calendar days prior to the meeting.

2.3 South Africa on thematic sessions (G/TBT/W/452, Section 1.3)

2.3. In introducing the proposal, South Africa proposed to continue thematic sessions on experience sharing with a more balanced representation among the speakers. A number of issues were raised in the discussion, including:

- a. The European Union, Singapore and the United States emphasized the importance of a geographical balance among the speakers in the thematic sessions. All Members were free to propose speakers to the thematic sessions; this was on a voluntary basis.
- b. Canada supported the proposal, and highlighted the need for Members to volunteer their experts to speak at thematic sessions.
- c. Singapore and the United States acknowledged the fact that bringing in expert speakers to Geneva for brief interventions at thematic sessions was challenging, both from a resource perspective and in terms of finding the right expertise.
- d. The United States noted that, to some extent, efforts had been made to ensure a better balance through the choice of moderators for the thematic sessions.
- e. Singapore also stressed the importance of the Secretariat approaching international organizations as potential speakers in thematic sessions.
- f. Guatemala and Trinidad and Tobago supported the South African proposal.
- g. Trinidad and Tobago highlighted the benefits of developing Members' perspectives in thematic sessions.

2.4 South Africa on observer status (G/TBT/W/452, Section 1.4)

2.4. South Africa introduced its proposal on procedures regarding decisions of the Committee on observer status requests. A number of issues were raised in the discussion, including:

- a. The United States noted that it might be worth reaching out to those organizations whose requests for observer status in the Committee had been pending for a long time to see if they remained interested.
- b. The Russian Federation agreed with the position of the United States.
- c. Turkey agreed with South Africa that a clearer process was needed, and said that South Africa's proposed approach could be helpful.
- d. Kenya encouraged the WTO Secretariat to reach out to those organizations whose requests for observer status are pending to see if they are still interested.

2.5 Brazil on thematic sessions (G/TBT/W/461/Rev.1, Section 1.1)

2.5. Brazil proposed that no later than the last annual meeting, usually in November, the TBT Committee should decide which issues would be discussed at the thematic sessions that would take place during the *following* year. A number of issues were raised in the discussion, including:

- a. Switzerland supported the idea of giving Members more time to prepare for thematic sessions, but proposed not to limit the possibility of including topics for discussion that come up later. Switzerland suggested that the Committee could decide on major themes to be covered, but not in an exhaustive manner.
- b. The United States supported Brazil's proposal for better planning of thematic sessions.
- c. South Africa encouraged the Committee to continue with the scheduling of thematic sessions not only on GRP, but also on the topics of conformity assessment procedures, regulatory co-operation, standards, transparency, special and differential treatment, and technical assistance.
- d. Kenya and Trinidad and Tobago expressed support for the proposal.

2.6 United States on best practices for Observers (G/TBT/W/539)

2.6. The United States proposed that the Committee discuss appropriate participation of and best practices for Observers. A number of issues were raised in the discussion, including:

- a. Trinidad and Tobago expressed support for the proposal, but noted that some observers are regional organizations.

2.7 Brazil on the operation of the Committee (G/TBT/W/533, Section 2)

2.7. Brazil introduced its proposal to encourage Members to consider the creation of a detailed voluntary procedure for ad hoc consultation, along the lines of the procedure adopted by the SPS Committee⁶. A number of issues were raised in the discussion, including:

- a. The European Union and Japan asked about the value added of the proposal in the TBT context, given that the SPS ad hoc procedure has not yet been used.
- b. Brazil noted that even though it had not yet been used, the existence of the SPS ad hoc procedure, and the fact that Members had referred to it in SPS Committee discussions, could have encouraged the resolution of trade concerns.

3 GOOD REGULATORY PRACTICE (GRP)

3.1 South Africa on internal coordination (G/TBT/W/452, Section 2)

3.1. South Africa proposed that the Committee hold a thematic session on the role and functions of domestic TBT committees in facilitating internal coordination. A number of issues were raised in the discussion, including:

- a. Canada, Kenya, New Zealand, Chinese Taipei, Trinidad and Tobago and the United States expressed support for this proposal.
- b. Guatemala considered that this issue was worth looking into further.
- c. Colombia expressed preliminary support for the proposal.
- d. New Zealand said that the discussion should recognize the spectrum of options available to Members to support internal coordination.
- e. The United States noted that it operated a range of coordinating committees domestically.

3.2 Brazil on a thematic session on GRP (G/TBT/W/461/Rev.1, Section 2.1)

3.2. Brazil proposed that, every year, the first thematic session of the TBT Committee be devoted to GRP. A number of issues were raised in the discussion, including:

- a. Canada, Egypt, Kenya, South Africa and the United States supported the proposal.
- b. Kenya and South Africa said that there should still be the possibility of discussing other topics.

⁶ G/SPS/61

- c. Switzerland supported the idea of addressing GRP in the first part of the year, but sought to ensure the possibility of discussing other topics in addition to GRP.

3.3 Brazil on Regulatory Impact Assessment (G/TBT/W/461/Rev.1, Section 2.2)

3.3. Brazil proposed that Members who have already adopted regulatory impact assessment (RIA) initiatives as part of their regulatory process be encouraged to provide a link to the full study (i.e. ex ante full RIA) in the pertinent notification to the TBT Committee, as well as to notify the subsequent related assessments (i.e. ex post) analysis when available. A number of issues were raised in the discussion, including:

- a. Canada, Mexico, and South Africa expressed support for the proposal.
- b. The European Union supported the first aspect of the proposal, with respect to including the link to the full impact assessment study (ex ante RIA) in the pertinent notification to the TBT Committee.
- c. The United States was continuing to study the proposal with its regulators.
- d. Canada and Mexico noted that they publish RIAs that they conduct.
- e. Egypt said that conducting RIAs presented a challenge for developing Members.
- f. Ecuador supported initiatives to share experiences on RIAs.

3.4 European Union on mandatory marking and labelling requirements on imported products: practical compliance issues (G/TBT/W/534)

3.4. The European Union proposed that the Committee discuss how to facilitate compliance with mandatory marking and labelling requirements on imported products and to develop recommendations or guidance to support Members in this respect. A number of issues were raised in the discussion, including:

- a. Kenya, Mexico, the Philippines and Singapore expressed support for the proposal.
- b. Guatemala expressed interest in the proposal.
- c. Trinidad and Tobago supported, in principle, the proposal, but also noted that in some Members the application of supplementary labelling takes place under the supervision of regulatory authorities, and not customs. Moreover, non-permanent or detachable labels could not support the underlying policy objective if the labels are removed, and the type of label to be affixed to the product depends on the risk.
- d. Uganda made a number of specific points, including that an additional rationale for labelling could include "enabling traceability for purposes of recall of non-conforming products". Also, in respect of *where* labelling takes place, it was suggested that this could also take place under supervision of customs or other regulatory agencies or competent authorities in customs warehouses or other designated areas in the territory of the importing party. Uganda was in favour of clearly legible, indelible labels and labels that remain firmly attached to the product and or primary containment/container/package, and that non-permanent or detachable labels were not appropriate in light of the conditions under which products are presented to consumers in developing Members.

4 CONFORMITY ASSESSMENT

4.1 South Africa on certificates of free sale (G/TBT/W/453)

4.1. South Africa proposed that the Committee consider the topic of "Certificates of Free Sale".⁷ A number of issues were raised in the discussion, including:

- a. Canada and the European Union expressed interest in the proposal.
- b. Canada said the proposal drew attention to resource constraints that prevent Members from putting technical regulations and conformity assessment procedures (CAP) in place domestically. Canada expressed an interest to

⁷ For an explanation of this term, see document G/TBT/W/453.

discuss with Members facing such constraints, to learn about possible resource needs. Certificates of free sale were also creating challenges for Canadian exporters.

- c. The European Union raised a number of questions related to: how certificates of free sale fit within the TBT Agreement; how these measures are applied in conjunction with other technical regulations, or CAP; the challenges in connection with complex value chains and the competent authority that issues such certificates; and, the possibility of issuing a certificate of free sale as an exporter's declaration of conformity.
- d. The Russian Federation reiterated the questions posed by the European Union.
- e. Turkey supported the proposal. Certificates of Free Sale create significant challenges for Turkish exporters. Certain products were manufactured only for export, and according to the requirements of the importing Member, but not domestic requirements. These products could face a de facto ban as a result of a Certificate of Free Sale requirement, even if they were produced in line with international standards. Certificates of Free Sale also created legal and administrative issues for implementation. In some cases, Certificates of Free Sale were requested from a "recognized country". This could limit market access for products which might otherwise be safe, and a "recognized country" might not choose to issue such certificates for reasons of competitiveness. Turkey agreed with South Africa that Members should replace Certificate of Free Sale requirements with appropriate technical regulations and conformity assessment procedures.
- f. India, New Zealand and the United States supported the proposal.
- g. New Zealand noted challenges with Certificates of Free Sale in particular in respect of products that are regulated in the market of origin, or not regulated in the same way.
- h. Egypt said that Certificates of Free Sale are a tool that developing and LDC Members could rely upon to ensure the safety of consumer, and therefore could not support the proposal.

4.2 European Union on approaches to conformity assessment (G/TBT/W/462)

4.2. The European Union introduced its proposal on initiating work to develop recommendations or practical guidelines to support regulators in the choice and design of appropriate and proportionate conformity assessment procedures, and, continue and intensify, in particular through thematic sessions, the exchanges of information and experiences on market surveillance (post-market controls). A number of issues were raised in the discussion, including:

- a. Canada, China, South Africa, Chinese Taipei, Trinidad and Tobago, Uganda and the United States expressed general support for the proposal.
- b. The United States noted that the proposal built on the work agreed in the Fifth Triennial Review.⁸
- c. South Africa and Uganda raised doubts about the appropriateness of supplier's declaration of conformity (SDoC) for developing and least-developed Members. They said that SDoC was not a low-cost alternative for developing and least-developed Members. Moreover these Members would have difficulty effectively implementing SDoC because the required market surveillance and legislative frameworks might not be in place. South Africa, however, agreed that the Committee should start work on the development of recommendations or practical guidelines to support regulators in the choice and design of appropriate and proportionate conformity assessment procedures, but that it should include information on the required legislative system to enable regulators to confidently rely on a particular conformity assessment regime (for example, SDoC should be backed by appropriate product recall, liability and consumer protection legislation).
- d. Indonesia and Uganda stressed the importance of a common understanding of what constitutes "low" and "high-risk" products.
- e. Uganda said that any work on developing recommendations or practical guidelines must address: harmonization or mutual recognition to avoid multiple conformity assessments on the same product; risk-based approach; and, responsible exporting. Uganda further stated that it was essential that the conformity assessment of goods first be done in the countries of origin to verify conformity of products to technical regulations and standards so that only goods that meet the minimum requirements are exported. In other words, it was important that governments and regulators in the countries of origin be involved in quality and safety assurance of goods – this was particularly important because developing and LDCs sometimes had inadequate and underdeveloped conformity assessment

⁸ G/TBT/26, para. 19(c).

infrastructure (QI). In this regard, Uganda, supported by Trinidad and Tobago, proposed that the TBT Committee consider putting in place a mechanism for developed countries to provide support and build capacity of developing countries in the area of conformity assessment.

- f. Chinese Taipei highlighted the importance of regulators understanding the differences between the various types of conformity assessment procedures at their disposal, and their effectiveness in addressing risks.
- g. Chinese Taipei noted that risk assessment was a cross-cutting issue under the TBT Agreement, relevant to technical regulations, conformity assessment procedures, and standards. Discussion of risk assessment should not be limited to conformity assessment procedures.
- h. Canada and Kenya said it was important to ensure that any guidelines remained neutral to the various approaches to conformity assessment that exist.
- i. The United States said that the work on developing guidelines should not be prescriptive. While the usefulness of SDoC was acknowledged, there were many approaches to CAP that needed to be discussed, including third party certification and accreditation.
- j. The European Union clarified that its proposal aimed to support regulators in choosing and designing appropriate and proportionate conformity assessment procedures. The EU agreed that the work on guidelines should recognize the range of approaches to conformity assessment that exist, and should not be prescriptive.
- k. Japan saw benefit in developing guidelines or recommendations to improve conformity assessment procedures. However, Japan stressed the need to bear in mind the reality that different Members have different regulatory frameworks. Any recommendations or guidelines cannot be excessively based on the regulatory framework of any specific Member.
- l. The United States, while supportive, expressed some reservations about developing an indicative list of criteria related to risk assessment.
- m. South Africa reiterated its agreement that the Committee start work on recommendations or practical guidelines on the development of recommendations or practical guidelines to support regulators in the choice and design of appropriate and proportionate conformity assessment procedures, but that it should include information on the required legislative system to enable regulators to confidently rely on a particular conformity assessment regime (for example, SDoC should be backed by appropriate product recall, liability and consumer protection legislation).
- n. Trinidad and Tobago noted that supplier's declaration of conformity (SDoC) was not appropriate for some Members due to the fact that required market surveillance was not in place, and also noted that the regional legislation in CARICOM did not support SDoC at this time.
- o. Kenya said that special and differential treatment and technical assistance should be considered for developing and LDC Members.

4.3 Chinese Taipei on a holistic approach to risk assessment (G/TBT/W/530)

4.3. Chinese Taipei introduced its proposal on a holistic approach to risk assessment, including the use of risk assessment in respect of conformity assessment procedures, standards, and technical regulations, and proposed holding experience-sharing thematic sessions. A number of issues were raised in the discussion, including:

- a. Guatemala, New Zealand and South Africa expressed support for the proposal.
- b. The European Union supported an introductory thematic session on risk assessment, while avoiding an overly general and theoretical discussion.
- c. Chinese Taipei emphasized the benefits of further discussion on risk assessment for regulators.

4.4 United States on approaches to conformity assessment (G/TBT/W/531)

4.4. The United States recommended various elements for thematic discussion with a view to developing practical guidelines to support regulators' use of trade facilitative conformity assessment procedures, including: national quality infrastructure (NQI); use of regional and international systems; and, advisory to regulators. A number of issues were raised in the discussion, including:

- a. Canada, the European Union, Japan, Mexico and Trinidad and Tobago expressed support for the proposal.
- b. The European Union said that approaches to conformity assessment should not be seen in isolation, and that while starting work on guidelines, holding thematic sessions on interrelated issues such as NQI and regional arrangements is important.
- c. Canada said it was important to ensure that any guidelines remained neutral to the various approaches to conformity assessment that exist.
- d. South Africa said that accreditation and metrology are critical components of conformity assessment, and that any thematic session should cover these topics.

4.5 Brazil on conformity assessment procedures (G/TBT/W/533, Section 1)

4.5. In its proposal, Brazil encouraged Members to resume debate on the Indicative List of Approaches and suggested that thematic sessions be held to discuss practical examples of acceptance of conformity assessment results. A number of issues were raised in the discussion, including:

- a. Japan, Mexico, New Zealand, South Africa and Uganda expressed support for the proposal.
- b. The European Union agreed that an exchange of up-to-date experiences, for instance through a thematic session, on how to facilitate acceptance of conformity assessment results may be useful.
- c. The European Union and the United States were not in favour of reopening the Indicative List. The United States suggested the Committee build upon the Indicative List and use it as a tool to advance new work.
- d. South Africa said that accreditation and metrology are critical components of conformity assessment, and that any thematic session should cover these topics.

5 STANDARDS

5.1 Canada on incorporation of standards by reference (G/TBT/W/529)

5.1. Canada proposed holding a workshop on the issue of incorporating standards by reference in regulation, to discuss best practices and potential ideas for international guidelines on policy considerations when referencing standards. A number of issues were raised in the discussion, including:

- a. Indonesia, Japan, Kenya, Mexico, the Philippines, Trinidad and Tobago and the United States expressed support for the proposal.
- b. Chinese Taipei expressed interest, and sought some clarification on the scope of the guidelines to be developed (e.g. would they include direct and indirect reference, or decisions on the appropriateness of the standard as a reference).
- c. The European Union supported holding a thematic session as a first step, but said it might be too early to consider guidelines given that there had not been extensive discussion in the Committee on this topic. A document from ISO and IEC was mentioned.⁹

5.2 Canada on a gender-based discussion in standards and technical regulations (G/TBT/W/532)

5.2. Canada proposed a workshop or thematic session on the role of gender in the development of standards and technical regulations, to encourage an exchange of experiences by governments and standards development organizations and to discuss ongoing work in this area. A number of issues were raised in the discussion, including:

- a. Chile, the European Union, Indonesia, Mexico, New Zealand, Norway and Trinidad and Tobago expressed support for the proposal.
- b. Egypt raised doubts about whether proposal falls within the scope of the Committee.

⁹ <https://www.iso.org/files/live/sites/isoorg/files/archive/pdf/en/pub100358.pdf>

6 TECHNICAL ASSISTANCE

6.1 Philippines, Mauritius and Uganda on technical assistance (G/TBT/W/538/Rev.1)

6.1. The Philippines, Mauritius and Uganda introduced their proposal on technical assistance and proposed that the Secretariat provide a presentation on the feasibility of expanding the present STDF to encompass the TBT Agreement, or setting up a dedicated TBT development facility. A number of issues were raised in the discussion, including:

- a. Egypt, Guatemala, Haiti, Kenya, South Africa and Trinidad and Tobago expressed support for the proposal.



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Committee on Technical Barriers to Trade

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**US STATEMENT ON ISO/IEC GUIDE 59: CODE OF GOOD PRACTICE
FOR STANDARDIZATION**

STATEMENT BY THE UNITED STATES

This document contains information provided by the United States at the TBT Committee meeting of 21-22 March 2018 under Agenda Item 5 (Observers).

The United States understands that ISO and IEC have undertaken an effort to revise the 1994 Guide 59 on the Code of Good Practice for Standardization. We have some concerns about the revision of this Guide.

First, we are concerned that since the development of the original guide in 1994, the WTO Agreement on Technical Barriers to Trade came into force and in Annex 3 we have established a Code of Good Practice. Our view is that implementation or interpretation of the WTO Code of Good Practice should be taken on by WTO Members and the signatories of the Code. Those signatories and users of the Code may be organizations outside of the ISO/IEC Membership. We have some doubts that ISO/IEC is the correct forum to develop guidance on implementation the Code contained in a WTO Agreement. Such a guidance on the Code maybe more suitably developed as a part of the 8th Triennial Review.

Second, we are uncertain of what legal standing an ISO/IEC guidance would have in terms of implementing the Code of Good Practice in the WTO.

Third, the manner in which the Guide is being developed lacks transparency. When I have asked other delegates of this Committee whether or not they were aware this Code was being revised, most had no information on the activity.

Therefore, the United States proposes ISO and IEC provide a presentation to the Committee on the Guidance revision during the June TBT committee meeting.

The timing would allow us to also allow WTO Members to consider whether ISO and IEC are the appropriate forum for this work.

REVISION OF ISO/IEC GUIDE OF GOOD PRACTICE FOR STANDARDIZATION
PRESENTATION BY ISO AT THE 20-21 JUNE 2018 TBT COMMITTEE MEETING

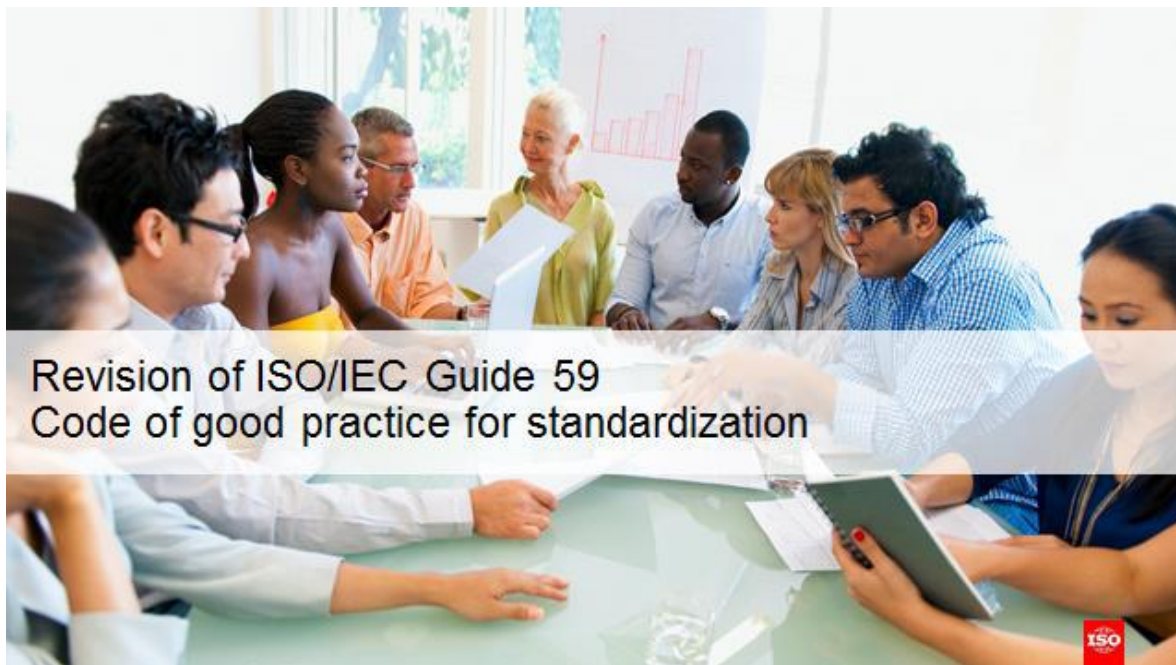


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Overview of Guide 59:1994

Guide 59: 1994 “Code of good practice for standardization

“Scope” can be considered as the following:

“.....procedures for the development of standards, advancement of international trade, participation in the standards development process, coordination and information”.

The code is voluntary and intended to ensure openness and transparency, coherence and effectiveness in worldwide standardization processes”.

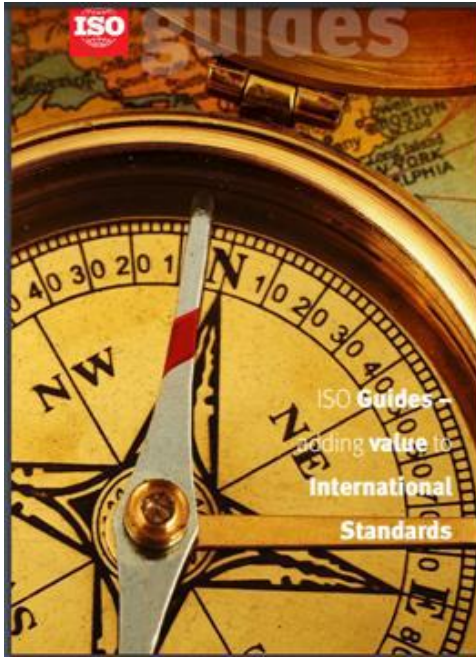


Reason for the revision



1. It was developed prior to the issuance of the Technical Barriers to Trade (TBT) Agreement of the World Trade Organization (WTO) 1995
2. To align with:
 - Annex 3 of the TBT Agreement, and
 - Annex 4 to the 2nd Triannual Review of the operation and implementation of TBT Agreement
3. The Systematic Review results indicated the need to update and clarify the structure, content and language used to allow easier application





What is an ISO Guide?

Guides are documents that provide advice to:

- national standards bodies on how to deal with issues specific to standardization principles.
- standards writers on drafting standards.



Who develops Guides?

Guides shall not be prepared by technical committees.

They may be prepared by:

- an ISO group reporting to the ISO technical management board (TMB), or
- an ISO/IEC Joint Coordination Group.

A number of Guides are jointly developed between ISO and IEC and then published as ISO/IEC Guides.



Timeline of revision



11



Development process for Guide 59



- The ISO TMB and IEC SMB created a **Joint Working Group** composed of representatives nominated by the ISO/TMB and IEC/SMB to undertake the revision
- Working group is composed of 15 experts
- The experts act in a **personal capacity** as experts



Summary – Development stages

5 stages	Action	Balloting time	Development path
1	SR TMB Proposal to revise Guide 59	• 5 months ballot (2015)	NP
2	Preparatory WD Expert consensus within working group	• March 2017 to April 2018	WD
3	Committee CD Consensus building within TMB/SMB members	• 2-month ballot by default • Can be skipped • CD 4 May 2018	CD
4	Enquiry DIS National consensus ISO and IEC members	• 16 weeks	24 months to reach DIS
5	Publication ISO/IEC Guide		Up to 26 months Guide



Major changes to the revision (1)

A scope has been added:

This guide provides recommendations for implementing good standardization practices that are consistent with the:

- *WTO TBT Committee decision on principles for the development of international standards, guides and recommendations, and*
- *code of good practice for the preparation, adoption and application of standards (Annex 3 of the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT))*

*This guide is addressed to the **national members of IEC and ISO**, hereafter referred to as national bodies.*



Major changes to the revision (2)

The Guide has 2 distinct sections:

- **Section 4 “Principles of Standards Development”**
 - Contains recommendations for national bodies to observe for development of standards
- **Section 5 “Guidance to the implementation of Code of good practice for the preparation, adoption and application of standards”**
 - This section does not provide any official interpretation of Annex 3 of the TBT agreement



Major changes to the revision (3)

The general format and structure has been aligned with current rules for drafting of ISO/IEC deliverables.



Statement on Observer Status Requests from IAF and ILAC

Chinese Taipei supports the application of IAF and ILAC to be the observers of the TBT Committee. Our reasons are as follows:

1. Accreditation is mentioned in Article 6.1.1 of the TBT Agreement to be a way of verifying the competence of conformity assessment bodies to build confidence in the continued reliability of conformity assessment results produced by such bodies.
2. The use of accreditation to qualify conformity assessment bodies is one of the approaches to facilitate the acceptance of conformity assessment results in the past discussions since 2000. It is acknowledged that global networks currently developed in the form of multilateral recognition agreements or arrangements (MLAs) facilitate recognition and acceptance of conformity assessment results. The MLAs developed by IAF and ILAC are good examples and already widely used by Members. The role taken by IAF and ILAC to eliminate technical barriers to trade by reducing costs is also of importance to achieve the goal of the TBT Agreement.
3. Participation of IAF and ILAC in the discussions of TBT Committee produces two-way benefits. On the one hand, Members will be able to follow closely the progress of MLAs' development, while on the other hand, the concerns expressed by Members regarding acceptance of conformity assessment results would be better communicated to IAF and ILAC, and the concerns could be taken into account in the activities of the two organizations.
4. We noticed the question about whether only international intergovernmental organizations could be granted observer status of the TBT Committee. The Rules stated in page 75 of G/TBT/1/Rev.13 are targeted to governments and international intergovernmental organizations. So in our view, it remains unclear whether international non-governmental organizations are not allowed to become observers.

Based on the previous reasons, Chinese Taipei supports granting observer status to IAF and ILAC.