



ENHANCEMENT OF THE BUSINESS ENVIRONMENT IN THE SOUTHERN MEDITERRANEAN

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Technical barriers to trade (TBTs)





Introduction



A standard or technical specification, or a procedure to assess conformity with standards or technical regulations, becomes a technical barrier to trade if used in a way to impede international trade rather than for the purposes of achieving a legitimate objective.



Introduction



What meaning for “legitimate objective”?



Introduction



Technical barriers to trade are defined in the WTO TBT Agreement as “measures that lay down product characteristics or their related processes and production methods, with which compliance is mandatory”.

Technical specifications \neq Technical barriers to trade



Introduction



The WTO TBT Agreement – an element of success for the Uruguay Round of Negotiations.

TBTs vary from country to country and in time.



Introduction



Principles that apply to the WTO TBT Agreement:

- Non-discrimination;
- Avoidance of unnecessary obstacles to international trade;
- Harmonisation and equivalence;
- Transparency; and
- Special and differential treatment for LDCs.



The TBT Agreement



The WTO TBT Agreement pursues the objective to ensure that technical regulations do not create unnecessary obstacles to international trade. However, no country is prevented from taking measures necessary to ensure

- (1) the quality of the products sold in his national market,
- (2) the protection of human, animal or plant life or health,
- (3) the protection of the environment,
- (4) the prevention of deceptive practices, at levels it considers appropriate and
- (5) the protection of its essential security interest.



The TBT Agreement



Regulatory measures undertaken with the purpose to protect a country's legitimate objectives neither hinder necessarily the rights of other WTO members, not what has been achieved through market access liberalization (i.e. lower import duties and taxes).

REMEMBER: TBTs may create obstacles to international trade only in order to pursue legitimate policy objectives (two-step test).



The TBT Agreement



The TBT Agreement designed a system around Enquiry Points that:

- Provides information about market access issues in WTO Member Countries and
- Allows unnecessary technical obstacles to international trade to be detected and removed at source.

LIST: http://www.wto.org/english/tratop_e/tbt_e/tbt_enquiry_points_e.htm



The TBT Agreement



Notification procedure (under the TBT Agreement): To ensure any potential trade barriers are avoided, legislation which could potentially contain technical barriers to trade (and conformity assessment procedures) is submitted *at draft* stage to the other WTO Members. They can then assess the impact of the measure on their exports and spot any provisions breaching the TBT Agreement.



The TBT Agreement



The notification procedure allows (1) other WTO Members and (2) economic operators:

- to become acquainted with new product requirements through the TBT database, and
- to comment on them in case they are not in compliance with the TBT Agreement.



The TBT Agreement



WTO Members discuss the comments received on a notification, and take these written comments as well as the results of these discussions into account. The notifying WTO Member may decide, following the receipt of comments on the announced text, to change its content, postpone its entry into force or even withdraw the measure.

Once the notified measures are adopted, WTO Members shall ensure that they are published promptly or otherwise make them available.



The TBT Agreement



Notifications are available at:

<http://tbtdims.wto.org/default.aspx>

Enquiry points in WTO Members: must be able to answer all reasonable enquiries from other Members and interested parties in other Members as well as to provide the relevant documents regarding any technical regulations adopted or proposed within its territory (and others).



TBTs from the EU perspective



The EU Commission offers EU interest groups the opportunity to be heard by publishing draft measures notified to the WTO through;

EC TBT Enquiry Point

Commission européenne

Direction générale des entreprises et de l'industrie

Rue de la Loi 200

1049 Brussels — Belgium

Tel: (+32 2) 295 18 60

Fax: (+32 2) 299 80 43

E-mail: eu-tbt@ec.europa.eu

Website: <http://ec.europa.eu/comm/enterprise/tbt/>



An intra-EU view of TBTs



One of the pillars of EU integration is the principle of free movement of goods.

Art. 34 TFEU relates to intra-EU imports and prohibits quantitative restrictions and all measures having an equivalent effect between Member States.

Art. 35 TFEU relates to intra-EU exports from one Member State to another and prohibits quantitative restrictions and all measures having an equivalent effect.



An intra-EU view of TBTs



“Measures having an equivalent effect” can correspond to TBTs in the *acquis communautaire*.



The EU-Lebanon Association Agreement



Are there any TBTs in EU law with a protectionist outlook for Lebanese exports?

No;

AND, in addition

Approximation-of-legislation clause concerns also rules applicable to hypothetical TBTs.

However, there are numerous standards in the EU.



Thank you for your attention

