Standards, Trade and the WTO TBT Agreement

African Day of Standardisation
21st ARSO General Assembly
12 August 2015, Addis Ababa

Devin McDaniels
Trade and Environment Division
devin.mcdaniels@wto.org

World Trade Organization
Organisation Mondiale du Commerce
Organización Mundial del Comercio
The WTO TBT Agreement

Voluntary Standards

Conformity Assessment Procedures

Mandatory Technical Regulations

- avoid unnecessary barriers to international trade
- non-discrimination
- use of relevant international standards
- safeguarding the right of Members to regulate for legitimate objectives (e.g. human health and safety, environmental protection, consumer protection, quality)
Members (standardizing bodies) **shall** use relevant international standards (or relevant parts of them) as a basis for technical regulations (Art. 2.4) and conformity assessment procedures (Art. 5.4) except when ineffective or inappropriate (e.g. due to fundamental climatic or geographical factors, or technological problems).

- TBT Agreement: using international standards
- regional standards (Annex 3)
- national standards (Annex 3)
Good standards-setting practice

• WTO guidance on how to set standards that are **trade facilitating** and relevant for use in government regulation:
  
  – Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3, TBT Agreement)
  
  – TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations (“Six Principles”)

*Better standards = less trade friction*
Code of Good Practice for Standards
(Annex 3 to TBT Agreement)

• Standards:
  – based on international standards
  – non-discriminatory and not create unnecessary obstacles to trade
  – product requirements based performance rather than design or descriptive characteristics

• Standards bodies:
  – play a part in setting international standards (national delegation principle)
  – regional standardizing bodies to avoid duplication of, or overlap with, the work of relevant international standardizing bodies
  – transparency in standard setting: work programme every 6 months; opportunity for comments on draft standards; take comments into account and explain deviations from international standards; provide copies; promptly publish adopted standards
“Six Principles”

- Transparency
- Openness
- Impartiality and consensus
- Relevance and effectiveness
- Coherence
- Development dimension
Current work of the TBT Committee

• Forum for multilateral regulatory cooperation (regulation and standards)
  – Specific trade concerns

• Seventh Triennial Review of the TBT Agreement:
  – Take Committee decisions and recommendations, and set the work-plan for 2016-2019
  – Scheduled to be adopted in November 2015

• Importance of national and regional coordination mechanisms for effective engagement in the work of the TBT Committee – an opportunity for ARSO?
Thank you, any questions?

devin.mcdaniels@wto.org
Establish the potential need for government intervention, and define problem

Publish a notice of regulatory activity

Confirm the need for intervention

Identify alternatives

Assess alternatives (e.g. RIA)

Notify regulations to WTO

Consultation

Provide opportunity for comments

Take comments into account

Publish final regulation and assessment (e.g. RIA)

Transition period prior to entry into force

Provide relevant guidance for compliance

Conduct regulatory monitoring and reviews

Good Regulatory Practice (TBT Committee voluntary guidelines)

Provide special and differential treatment and technical assistance

(as of October 2014)
Challenges facing developing countries are recognized in TBT Agreement

“Recognizing that developing countries may encounter special difficulties in the formulation and application of technical regulations and standards and procedures for assessment of conformity ... desiring to assist them in their endeavours in this regard” (Preamble)

“Members shall ... ensure that international standardizing bodies and international systems for conformity assessment are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Members, taking into account the special problems of developing country Members.

Members shall ... ensure that international standardizing bodies, upon request of developing country Members, examine the possibility of, and, if practicable, prepare international standards concerning products of special interest to developing country Members.” (Art. 12.5 and 12.6)