



WTO Agreement on Technical Barriers to Trade (TBT)

An Overview

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Outline



- TBT/Standards in Canadian Government – Who Does What
- WTO TBT Agreement – Key Provisions
- Specific Trade Concerns
- TBT Commitments in FTAs



TBT/Standards in Canadian Government: Who Does What



- Global Affairs Canada
 - Technical Barriers and Regulations Division
 - Canada's TBT/SPS Enquiry Point
- Treasury Board Secretariat
- Standards Council of Canada
- Regulatory agencies/department
 - Health Canada
 - Innovation, Science and Economic Development
 - Canadian Food Inspection Agency
 - Etc.

WTO TBT Agreement – Key Provisions



- Entered into force on January 1, 1995.
- Specialized and legally binding agreement containing layered substantive and procedural obligations.
- Disciplines apply to the preparation, adoption and application of technical regulations, standards and conformity assessment procedures.
- Seeks to strike a balance between the right of Members to take measures in pursuit of legitimate objectives while not creating unnecessary obstacles (barriers) to trade.

WTO TBT Agreement – Key Provisions (cont'd)



- Non-discrimination – Article 2.1
 - Cannot favour domestic products over foreign products (National Treatment)
 - Cannot favour one country's products over another country's products (Most-Favored Nation Treatment)
 - Applies to technical regulations, standards, and conformity assessment procedures
- No Unnecessary Obstacles to Trade – Article 2.2
 - Technical regulations must be no more trade restrictive than necessary to achieve a legitimate objective
 - Examples of legitimate objectives: human health or safety; animal/plant life or health; the environment
 - Similar provisions for standards and conformity assessment

WTO TBT Agreement – Key Provisions (cont'd)



- Use of international standards – Articles 2.4, 2.5 & 2.6
 - Requires use of international standards s except when they would be an ineffective or inappropriate means for the fulfilment of a legitimate objective
- Entities other than central government bodies – Article 3
 - Covers local government bodies, local government bodies on the level directly below that of the central government, and non-governmental bodies
 - For Canada: regular monitoring of provincial and territorial measures for notification

WTO TBT Agreement – Key Provisions (cont'd)



- Transparency – Articles 2.9, 2.10 and 2.12 + 5.6 – 5.9

Notification

- Early, appropriate stage when amendments possible
- Accept comments from other Members (should have at least 60 days)

Publication of final measure

- Should allow for “reasonable interval” before entry into force
- Understood as at least 6 months before implementation in normal circumstances

All Members must operate an **Enquiry Point**

- Answer reasonable enquiries from Members and interested parties
- Provide relevant documents regarding proposed or adopted measures

Specific Trade Concerns (STCs)



- **TBT Committee** meets three times per year to discuss “matters relating to the operation of this Agreement or the furtherance of its objectives”
 - Members can raise “Specific Trade Concerns” with measures proposed or adopted by other Members
- STCs raised to seek information on scope and implementation of regulations
- Raising STCs is one of the main tools that Members have for seeking information or solutions to TBT faced by Canadian exporters

Specific Trade Concerns (STCs)



ANNEX

New Specific Trade Concerns

	Specific Trade Concern	Notification symbol	Brief description of measure	Proposed/Final Measure	Member(s) raising
1	Israel - Bill on the Restriction on Advertising and Marketing of Tobacco Products (Amendment No.7, 5778-2018)			Proposed	Dominican Republic <i>Members expressing support for this measure: Canada</i>
2	Trinidad and Tobago - Regulation related to the prohibition, of commercialization and importation of plastic products of polystyrene		Announcement of the Minister of Planning and Development of Trinidad and Tobago, Mrs. Camille Robinson-Regis, on 27 July 2018	Proposed	Dominican Republic
3	European Union - Draft Commission Regulation laying down eco-design requirements for electronic displays pursuant to Directive 2009/125/EC of the European Parliament and of the Council, amending Commission Regulation (EC) No 1275/2008 and repealing Commission Regulation (EC) 642/2009 (and its accompanying annexes)"	G/TBT/N/EU/609		Proposed	China US Japan
4	China - Cosmetics Supervision and Administration Regulation (Draft)	G/TBT/N/CHN/1310		Proposed	Japan Korea US EU
5	Republic of Korea - Warning statement and graphic health warnings on alcoholic beverages			Proposed	United States



STCs – Canada's Approach



- Review STCs raised in previous meeting and in bilateral meeting
- Consultations with Canadian missions abroad
 - On existing and potentially new STCs
- Outreach to provinces/territories and private sector stakeholders
 - Reminds them of opportunity afforded by TBT Committee to raise an STC
- Outreach to like-minded partners
- Finalization of STC list and transmission to WTO

TBT Commitments in FTAs



- Canada's recent FTAs incorporate key WTO TBT Agreement commitments and go even further (referred to as *WTO-plus*) in the following areas:
 - Use of international standards, guides and recommendations
 - Technical regulations
 - Conformity assessment
 - Transparency
- Almost all of Canada's FTAs have more specific commitments on transparency and a Committee to discuss issues bilaterally outside of WTO context

TBT Commitments in FTAs (cont'd)



- Other highlights include:
 - Canada-EU CETA – Protocol on Mutual Recognition of the Results of Conformity Assessment; Regulatory Cooperation Chapter
 - CPTPP and CUSMA – Good Regulatory Practices (CUSMA) and Regulatory Coherence (CPTPP) Chapters; Sectoral Annexes (e.g. alcoholic beverages, chemicals, medical devices, cosmetics)
- Towards a Canada-ASEAN FTA?
 - Exploratory discussions continuing this week in Lao PDR



THANK YOU

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