

Avoiding unnecessary trade barriers and facilitating trade through Good Regulatory Practice

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Topics

- Technical Barriers to Trade
- Establishment of Technical Regulations
- Technical Regulations and Standards
- Good Regulatory Practice



Technical Barriers to International Trade

Country A

Technical Regulations
Sanitary Measures
Phytosanitary Measures
Standards
Testing, Calibration
Inspection
Certification
Packaging
Labelling
Other requirements

C U S T O M S

Country B

Technical Regulations
Sanitary Measures
Phytosanitary Measures
Standards
Testing, Calibration
Inspection
Certification
Packaging
Labelling
Other requirements

Problem & Solution

The problem

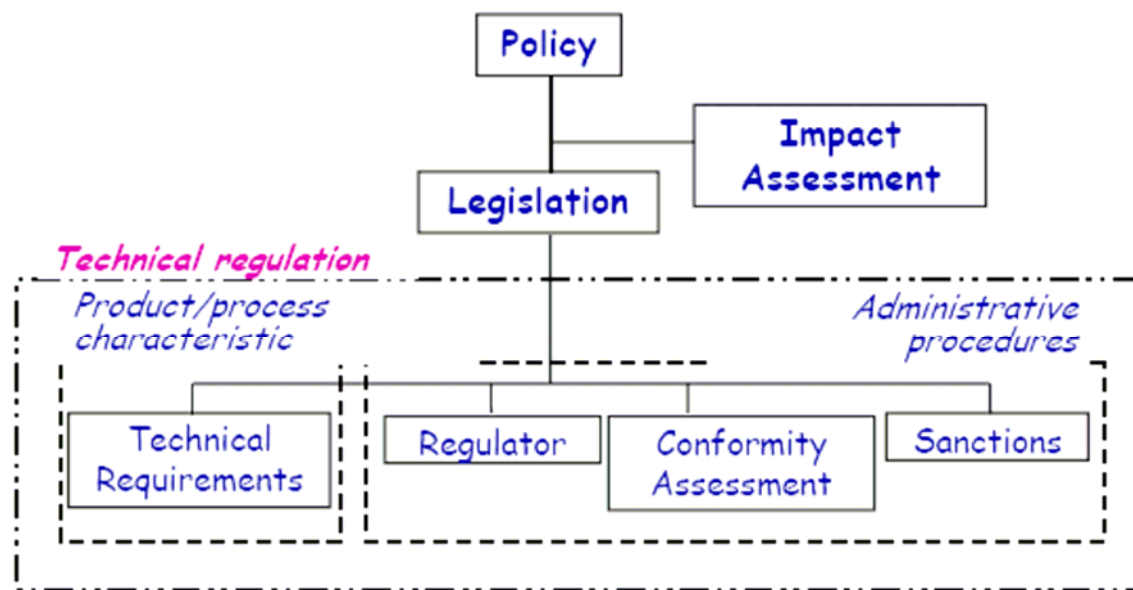
Technical Barriers
to Trade:
Standards,
Technical Regulations,
SPS measures,
Conformity Assessment
procedures

The solution

Minimizing
unnecessary
obstacles to trade
by using the **WTO**
Agreements on
TBT and SPS



Building blocks of a technical regulation framework





Who prepares Technical Regulations?

Government authorities at **Central** or **local** level

Ministry of
Industry

Ministry of
Agriculture

Ministry
of Trade

Consumer
protection auth.

Examples

Ministry
of Health

Environmental
protection auth.

Import/export
authorities



TRs: What are the obligations of regulatory bodies? (1)

- Use **international standards** as a basis for technical regulations and international guides or recommendations for conformity assessment procedures
- **Same treatment** to domestic and imported products



TRs: What are the obligations of regulatory bodies? (2)

➤ No retesting/recertification if:

- technical regulation in overseas country is equivalent
- conformity assessment procedure is acceptable through mutual recognition



TRs: What are the obligations of regulatory bodies? (3)

- If international standards, guides or recommendations are **not available**
- AND**
- technical regulations/conformity assessment procedures **affect international trade**



inform WTO and consider comments from other countries



Technical Regulations

- Are **mandatory** and form part of legislation
- Are responsibility of the **government**
- Encompass:
 - **Product characteristics**
 - **Administrative procedures**

vs. Standards

- Are **voluntary** in nature
- Can be developed by a **variety of bodies** in public or private sector
- Contain **only product characteristics**, or technical requirements
- Are developed in a stakeholder-inclusive, **consensus process**



Development of international standards, guides and recommendations

Transparency

Openness

Impartiality
and consensus

Principles

Development
dimension

Coherence

Effectiveness
and relevance

Annex 4 Second Triennial Review of the TBT Agreement

Good Regulatory Practice (1)

- A basic process backed by some form of legal instrument can strengthen efforts to integrate GRP into national regulatory structures
- Use of relevant International Standards when drafting new regulations
- Transparency, openness and accountability through consultative processes enhance predictability and clarity providing certainty for traders and legitimacy to regulatory decision making

Good Regulatory Practice (2)

- Regulation is a legitimate part of government activity and a major and increasingly important policy tool
- Emphasis has shifted somewhat from deregulation to “smart” or “better” regulation
- Usefulness of establishing administrative mechanisms for coordinating between competent authorities

Good Regulatory Practice (3)

- Regulatory Impact Assessments (RIAs) facilitate the identification of the need for regulation and boost accountability as they are public
- Regulatory cooperation between regulators from different countries can help achieve a better understanding of different regulatory systems and approaches to addressing identified needs

National /International Standards as a basis for TRs-1

Technical Regulations

- Three methods
 - Reference to standards
 - “Deemed to satisfy” rule
 - Incorporation of requirements in the legislative text

National /International Standards as a basis for TRs-2

- Example of “deemed to satisfy” rule
 - EU Directive on Toy safety
 - Based on CEN Standard
 - Based on foreign standard
 - Not based on any published standard

Example of National Quality System – Costa Rica (1)

- Law on National Quality System (LSNC) improves the country's legal framework and institutional structure for implementation of WTO TBT Agreement
- Establishment of a National Quality Commission (CONAC) comprising ministers from various cabinets and representatives from the private sector

Example of National Quality System – Costa Rica (2)

- Structure of National Quality System
 - Costa Rican Metrology Laboratory (LACOMET)
 - Costa Rican Accreditation Authority (ECA)
 - Technical Regulation Body (ORT)
 - National Standardization Authority (ENN)

Technical Regulation Body (ORT) - 1

- Inter-ministerial Commission comprising representative of various ministries
(Economy, Industry and Trade; Agriculture and Livestock; Health; Public Works and Transport; environment and Energy; Science and Technology; Foreign Trade)

Technical Regulation Body (ORT) - 2

- Technical Secretariat attached to the Ministry of the Economy, Industry and Trade; also responsible for TBT Enquiry Point

Technical Regulation Body (ORT) - 3

- Key Functions

- Assist in the preparation of regulators by providing technical advice during the issuing process to ensure that they meet international obligations, particularly those of the WTO TBT Agreement
- Recommend the adoption, updating or repeal of government technical regulations and giving technical opinions on draft technical regulations that the Central Government wishes to implement

International Model “L” - 1

- International Model for Technical Harmonization based on Good Regulatory Practice for the Preparation, Adoption and Application of TRs via the use of International Standards
- Recommendation adopted by UNECE Working Party on Technical Harmonization and Standardization Policies in 2001

International Model “L” - 2

- “International Model” provides practical steps aimed at facilitating and accepting the harmonization of technical regulations by agreeing on Common Regulatory Objectives (CROs) for applicable products or product areas (sectors)

International Model “L” - 3

- Principal elements in a CRO
 - Scope statement
 - Product requirements
 - Reference to standards clause
 - Compliance clause
 - Market surveillance and Protection clause