

**PHILIPPINES EXPERIENCE IN THE IMPLEMENTATION
OF THE TBT AGREEMENT**

Contribution from the Philippines

I. INTRODUCTION

On 1 January 1995, the Philippines ratified the Uruguay Round of Multilateral Trade Negotiation which included a revision of the Agreement on Technical Barriers to Trade as initiated by the leading signatories of GATT and the SPS (Sanitary and Phytosanitary Measures) Agreement. These showed the country's commitment to liberalization and facilitation of world trade for global prosperity.

II. OVERVIEW

1. The discharge of Philippine obligations to the TBT Agreement is the joint responsibility of the Bureau of Product Standards (BPS) and the Bureau of International Trade Relations (BITR) of the Department of Trade and Industry. The BPS, which is the National Standards Body in the country and member of the ISO Information Network (ISONET), is the WTO/TBT Enquiry Point. BITR is responsible for the formulation of the country's major foreign trade policies. Representing the Philippines in TBT meetings is the Office of the Philippine Trade Representative. On the other hand, the Policy Analysis Service of the Department of Agriculture is the focal Enquiry Point for the SPS Agreement.

III. INTERNATIONAL STANDARDS

2. In order to facilitate international trade, great emphasis has been laid on the use of international standards. Article 2.4 of the Agreement states that where technical regulations are required and international standards exist or their completion is imminent, Members shall use them as a basis for their technical regulations except when such international standards are ineffective or inappropriate.

3. The Philippine standardization policy states that wherever possible, international standards should be adopted or be the basis of Philippine National Standards. Through membership in the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), Food and Agriculture Organization/Codex Alimentarius Commission, and International Office of Epizootics, the Philippines has access to the works of these organizations. This makes it easy for our standards writing bodies to use their documents as references for writing Philippine standards. To date, 54 per cent of the Philippine National Standards are aligned with international standards.

4. Philippine National Standards when declared mandatory are applicable to both locally manufactured and imported products.

5. The Philippines is a participating member of 24 ISO Technical Committees. Our participation in these Committees however, is only through correspondence except in cases where funding is provided by foreign donors. We are aware that physical attendance or taking up of

chairmanship or secretariat is still the best way to influence the outcome of international standards development process, but the high costs of attendance to these activities prevent the Philippines from actively participating in the works of the committees.

6. Aside from the financial constraints, there is also a lack of expertise to enable the submission of sufficient technical inputs to documents put out for comments.

7. Many from Philippine industries still do not appreciate the value of the importance of participating in international standards development process. Thus, when draft documents are circulated for comments, less attention is given, which usually puts the Philippines at a disadvantage when the standard is finalized. Some provisions may not be adaptable to the country's circumstance, posing difficulty to industry in meeting the requirements of international standards. This coupled with trading partners in previous decades that used other standards dragged the alignment of some sectors with international standards.

IV. OPERATION OF THE ENQUIRY POINTS

8. As mentioned previously, the Philippines has established a WTO/TBT national enquiry point in accordance with Article 10 of the Agreement. The Bureau of Product Standards through its Information Services acts as the nodal organization for implementing and administering the Agreement on Technical Barriers to Trade with the Policy Analysis Service of the Department of Agriculture as the enquiry point for the Agreement on Sanitary and Phytosanitary Measures.

9. As Enquiry Points for TBT and SPS the Philippines experienced the following problems:

- (i) Lack of coordination between the TBT/SPS Enquiry Points and regulatory bodies emerge as main concern in the country. Bodies which are developing regulations and conformity assessment requirements sometimes fail to furnish WTO Enquiry Points with the relevant documents for notification. The main reason is the absence of a law on notification obligations aside from the TBT Agreement;
- (ii) Non-cooperation of some industry associations in disseminating to their members notified draft standards, proposed technical regulations or conformity assessment procedures. Due to this, comments and inputs from those affected by the notification can not be obtained on time. Industry associations maintain that this work is the responsibility of government and the enquiry point;
- (iii) Variation in the quality and content of the information submitted by WTO Members in their TBT/SPS notifications resulted to confusion and difficulty in understanding the notifications. Members should exercise utmost effort to improve transparency in standards and technical requirements. There is a need to clearly describe the contents of notified technical regulations and conformity assessment procedures;
- (iv) Texts of the proposed standards, technical regulations or conformity assessment requirements are in native language which have resulted in added work on translation of the text (Spanish speaking countries, Japan and Korea among others). Although notified in the English language, the issue arises when study and review of the text is undertaken. The additional costs involved in translation (if indeed available within the Member country) are sometimes beyond what the enquiry point can absorb. Further, due to the high technical nature of the notifications, translation is often difficult due to the absence of exact or equivalent English word for some technical terms;

- (v) Transparency: It is the responsibility of enquiry points to provide information and make these available and accessible due to the importance and effect of said information to trade and commerce. Some enquiry points have set-up and maintained computerized database on all TBT/SPS notifications, provided hotlines dedicated to WTO inquiries and set-up other sophisticated information technology (IT) equipment. While this is true, majority of enquiry points have limited resources to invest in the setting-up. Ideally, Member enquiry points should have access to computers, publication software, internet access, an established web-site and the capacity to transmit notifications and text electronically;
- (vi) Response period from other Enquiry Points: Inquiries or requests for texts from counterpart enquiry points should be acted immediately. Should it take longer to respond, a notice should be given to the other party explaining such delay. It is however, unfortunate to note that the response time takes approximately a month or two based on our experience.

V. CONFORMITY ASSESSMENT PROCEDURES

10. The globalization of industries has resulted in tremendous increase in the trade of goods and services across national borders. One problem still faced by international traders has been the lack of acceptance by authorities in importing countries of test and other conformity assessment results. The level of technical requirements and specifications associated with various goods and services are causing major test jams for domestic regulatory agencies.

11. To ease the problems of long queues in testing laboratories, some have devised arrangements such as interim recognition of test results from country of origin. Such is the case for Indonesian cement exported to the Philippines. If the test is conducted by a laboratory which is accredited by an APLAC member, body the results are recognized by the Bureau of Product Standards, and the cement shipment can be sold in Philippine market while samples are undergoing the 28-day test in Philippine laboratories.

12. The BPS has other arrangements, whereby audits by our counterparts done in relation to the PS Quality or Safety Mark issued to companies abroad are recognized by BPS. These companies need not have to be audited by Philippine auditors, but will be regarded as having undergone the required audit by the BPS.

13. Philippine exporters on the other hand have experienced some TBT problems. Examples of these are:

- (i) Abaca exporters need to go through additional certification for the non-spraying of abaca crops with pesticides when crops are standing. Reasons for the required certification are not cited;
- (ii) Requirements of a very high molasses content for sugar which is above regular world standards;
- (iii) Requirements for sugar imports in jute bags only at a certain weight which nobody has done for a generation;
- (iv) Requirements of countries to label genetically modified food products.

14. There are other problems though with regard to conformity assessment. These are:

- (i) At present there is no compilation of the conformity assessment systems in operation in the Philippines. It is quite difficult to know what the conformity assessment requirements are for certain products or services and who is the implementing agency;
- (ii) There are an insufficient number of accredited laboratories that can conduct the required tests for certain products. Laboratories that conduct tests just cannot respond promptly, sometimes due to the big volume of samples handled. This then increases the cost of doing business, as test results take long to get released;
- (iii) There is difficulty in concluding MRAs with those from developed countries due to the lack of infrastructure to provide the necessary confidence in our conformity assessment schemes.

15. In order to harmonize Philippine conformity assessment procedures with those of other countries, it has adopted various international guides such as ISO/IEC Guides 61, 62, 65, 58 and 25 (17025). These guides are used by BPS in its accreditation schemes for conformity assessment bodies.

16. The Philippines is a member of ILAC, IAF, APLAC and PAC. Membership in these organizations is important if one is to harmonize its conformity assessment practices, as these regional/international organizations provide interpretation of the provisions in the relevant conformity assessment documents. Many developing countries find it difficult to sustain membership in these organizations. Aside from membership fees which have to be paid annually, there are meetings that are held in various parts of the world. These meetings are important as it is in these fora where interpretation of the provisions of the document are discussed and elaborated.

17. ISO/IEC Guides are highly technical documents, and unless people are involved in its development or discussion in interpretative guidance, it will be difficult to apply the provisions in actual operation.

18. The BPS Accreditation Scheme for Quality Management System has been evaluated by our peers in the Pacific Accreditation Cooperation (PAC), and are positive in signing the MLA during the coming PAC Plenary Meeting in September. Once we are in the PAC MLA, we should be able to sign the IAF MLA, as PAC is a recognized regional MLA member of the IAF.

19. The BPS has also applied for membership in the APLAC MRA and will be peer evaluated once the audit team has been composed and schedule agreed upon. APLAC MRA membership will enhance trade facilitation as there is a big possibility that test results will be mutually accepted by MRA members.

VI. TECHNICAL ASSISTANCE

A. TBT RELATED TECHNICAL ASSISTANCE RECEIVED

20. A number of government and private sector industry representatives have participated in seminars and workshops sponsored by the WTO and APEC namely:
- (i) ISO/WTO/TISI Seminar on Conformity Assessment and its Role in International Trade (WTO-Thailand);
 - (ii) WTO Agreement on TBT and the Role of Standards in Trade Promotion (WTO-Japan);

- (iii) Workshop on Institutionalizing a Harmonized Sanitary and Phytosanitary Programme (Philippines);
- (iv) Uruguay Rounds on Agreement on Technical Barriers to Trade (APEC-Philippines);
- (v) Seminar on GATT Agreement on Technical Barriers to Trade (WTO-Thailand);
- (vi) Seminar on Food Mutual Recognition Arrangements (MRA) (APEC-Philippines);

21. These seminars were useful in raising awareness or better understanding of the requirements of the TBT/SPS Agreements.

B. TECHNICAL ASSISTANCE REQUIREMENTS

- (i) Training and seminars on areas of quality and environmental management systems, testing, product certification and accreditation, including development of mutual recognition agreements and equivalence agreements;
- (ii) Access to experts on the development and harmonization of standards;
- (iii) Technical assistance in the setting-up of efficient information exchange mechanisms between and among countries to provide updated information on standards and conformance including activities of the WTO regarding TBT concerns;
- (iv) Provide capacity building measures to the BPS, Department of Agriculture and regulatory agencies to improve the performance of the TBT and SPS Enquiry Points and counterpart enquiry points in other agencies;
- (v) Exposure for staff of the Bureau of Product Standards, Department of Agriculture and regulatory agencies to familiarize themselves on systems and procedures adopted by other countries;
- (vi) Assistance for the improvement of technical infrastructure of government regulatory bodies to upgrade testing/calibration laboratories for a reliable certification system that will build the confidence of our trading partners;
- (vii) Preparation of training/promotional kits and manuals on TBT/SPS Agreements;
- (viii) Assistance on the use of information technology, e-mail and other more efficient communication methods.

VII. RECOMMENDED INTERNAL MEASURES

22. The Philippines, however, has to adopt internal measures that will complement technical assistance:

- (i) Encourage participation and vigilance from the private sector and industry associations in the fora discussing TBT measures. While it was noted that the private sector only sit as observers in meetings of the WTO, the private sector's vigilance on TBT issues will work for their interests. Resources from each industry should also be pooled for the purpose of sending delegations to these meetings;

- (ii) Enhance technical expertise of regulatory bodies and private sector. Adopt a programme where government can provide assistance to private sector groups in the setting-up of standards and calibration and testing laboratories;
 - (iii) Institutionalize arrangements between government and private efforts to address TBT issues. Identify sectors which can afford to address the issues themselves and those who are unable, and develop a scheme by which the more affluent sectors can adapt the industries which have less resources and provide them technical assistance on TBT. Some industry sectors have the resources to conduct their scientific evaluation needed and hire consultants/experts;
 - (iv) Make use of private sector conformity assessment with government surveillance in the preparation of technical regulations;
 - (v) Establish information networks. Apart from the WTO enquiry point, it would be better if each sector (agriculture-livestock, plant, fisheries) could directly establish networks with their counterparts among WTO Member-countries so as to facilitate dissemination of any new technical regulations;
 - (vi) Development of a National Notification System;
 - (vii) Promulgation of a national policy/legislation;
 - (viii) Conduct of a continuing education and information campaign on the TBT and SPS Agreements. The programme aims to raise awareness of obligation of regulatory bodies relative to the implementation of the TBT and SPS Agreements.
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