

TECHNICAL NOTE ON THE ACCESSION PROCESS

Note by the Secretariat

*Checklist of Illustrative SPS and TBT Issues
for Consideration in Accessions*

This document has been prepared in consultation with WTO members and reflects the development of "standard form" questionnaires in recent accession working parties. It should assist acceding governments in the provision of information which will facilitate discussion in their working party on accession, focussing on SPS and TBT issues.

Checklist of Illustrative SPS Issues for Consideration in Accessions

Commitments (by the time of accession)	WTO Reference
1. Standstill: the introduction of new standards, animal health regulations and food safety regulations shall conform to SPS Agreement principles.	1. Generally agreed principle in WTO accession negotiations.
2. Establishment and operation of a single Contact Point for Information ("enquiry point").	2. Article 7 and Annex B.3.
3. Transparency: notification and access to documentation:	3. Articles 7 and Annex B, Also G/SPS/7.
(a) identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis;	(a) Annex B.5.(b) and Annex B.10.
(b) establish guidance or law requiring publication of proposed measures at an early stage for comment;	(b) Annex B.5(a).
(c) provision in law or administrative procedure to provide copies of proposed measures to WTO Members; and	(c) Annex B.5.(c).
(d) require in law or administrative procedure, a reasonable period of time for comment from Members and the public, and establishment of a process to take comments into account without discrimination.	(d) Annex B.5(d).
4. Necessity: measures are applied only to the extent necessary to protect human, animal or plant health.	4. Article 2.2.
5. Regulations Based on Science: regulations governing animal and plant health and food safety shall be based on scientific evidence.	5. Articles 2.2, 3.3 and 5.2.
6. Harmonization: to the extent possible, members shall follow international standards, guidelines, and recommendations in establishing SPS measures.	6. Articles 3.1, 3.3 and 3.4.

Commitments (by the time of accession)	WTO Reference
7. Equivalence: members shall recognize different measures that achieve the same level of protection.	7. Article 4.
8. Risk Assessment: developing scientific evidence and conducting risk assessments to ensure that measures are based on science and applied only to the extent necessary to protect health.	8. Article 5.1, 5.2 and 5.3.
9. Regional conditions: measures take into account the regional characteristics both of the areas from which products originate and the areas for which they are destined.	9. Article 6 and Annexes A.6 and A.7.
10. Non-discrimination: measures do not arbitrarily or unjustifiably discriminate between different members or between domestic and foreign suppliers.	10. Article 2.3, and Annex C.1(a) and (d).
11. Control, inspection and approval procedures: ensure that procedures, including systems for approval of the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs comply with the Agreement.	11. Article 8 and Annex C.

Checklist of Illustrative TBT Issues for Consideration in Accessions

Commitments (by the time of accession)	WTO Reference
1. Standstill: the introduction of new standards, technical regulations and conformity assessment procedures should be fully compatible with the TBT Agreement	1. Generally agreed principle in WTO accession negotiations
2. Submission of Statement on Implementation	2. Article 15.2 and TBT Committee Decision (G/TBT/1)
3. Establishment and operation of a single Contact Point for Information ("inquiry point")	3. Article 10
4. Identification of authority responsible for notifications, publications and other internal procedures to ensure transparency obligations are met on an ongoing basis:	4. Articles 2, 3, 5, 7, 10, 15.2, Annex 3 and G/TBT/1
(a) identification of publication where notices of proposed technical regulations and conformity assessment procedures will appear;	(a) Articles 2.9.1, 3.1, 5.6.1, 7.1, 10.1.5
(b) identification of authority responsible for making notifications to the WTO;	(b) Article 2.9.2, 2.10.1, 3.2, 3.3, 5.6.2, 5.7.1, 7.2, 7.3, 10.7, 10.10
(c) guidance/law to ensure regulatory authorities afford non-discriminatory consideration of comments in the preparation of a final regulation;	(c) Articles 2.9.4, 2.10.3, 3.15 3.3, 5.6.4, 5.7.3, 7.1, 7.3
(d) guidance/law to ensure regulatory authorities allow a reasonable period of time between the final publication of a technical regulation and conformity assessment procedure and its entry into force so that suppliers can adapt;	(d) Articles 2.11, 2.12, 3.1, 5.8, 5.9, 7.1
(e) publication and notification of work programme for standards and non-governmental conformity assessment procedures, including publication of notices of draft standards and an opportunity for public comment.	(e) Article 4, Annex 3 (J, K, L, N, O); Article 8.1

Commitments (by the time of accession)	WTO Reference
5. Development and Application of Technical Regulations and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	5. Articles 2, 3, 5, 6, 7
(a) non-discrimination with respect to the treatment of products;	(a) Articles 2.1, 3.1, 5.1, 5.2, 7.1
(b) the prohibition of unnecessary obstacles to international trade and the consideration of less trade-restrictive alternatives to fulfilling legitimate objectives;	(b) Articles 2.2, 3.1, 5.1, 5.2, 7.1
(c) the ongoing review of technical regulations to ensure they are appropriate to achieve the desired legitimate objective;	(c) Article 2.3, 3.1, 7.1
(d) the consideration of appropriate international standards, guides and recommendations as a basis for technical regulations and conformity assessment procedures;	(d) Article 2.4, 3.1, 5.4, 7.1
(e) the consideration of equivalent technical regulations of other Members;	(e) Article 2.7, 3.1, 7.1
(f) the acceptance of the results of conformity assessment procedures conducted by bodies in an exporting Member country;	(f) Article 6, 7.1
(g) non-discriminatory and cost-based fee structure.	(g) Article 5.2, 7.1, 10.4
6. Development and Application of Standards and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or " reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	6. Article 4 and Annex 3, Article 8
(a) non-discrimination with respect to the treatment of products;	(a) Annex 3 (D), Article 8.1

Commitments (by the time of accession)	WTO Reference
(b) the prohibition of unnecessary obstacles to international trade;	(b) Annex 3 (E), Article 8.1
(c) the consideration of appropriate international standards, guides and recommendations as a basis for standards;	(c) Annex 3 (F), Article 8.1
(d) non-discriminatory and cost-based fee structure.	(d) Annex 3 (M), Annex 3 (P), Articles 8.1, 10.4
