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**Committee on Technical Barriers to Trade**

**NINTH TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE  
AGREEMENT ON TECHNICAL BARRIERS TO TRADE UNDER ARTICLE 15.4**

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**TABLE OF CONTENTS**

<b>INTRODUCTION .....</b>	<b>2</b>
<b>1 GOOD REGULATORY PRACTICE.....</b>	<b>2</b>
<b>2 REGULATORY COOPERATION BETWEEN MEMBERS .....</b>	<b>4</b>
<b>3 TECHNICAL REGULATIONS .....</b>	<b>7</b>
<b>4 CONFORMITY ASSESSMENT PROCEDURES.....</b>	<b>8</b>
<b>5 STANDARDS .....</b>	<b>15</b>
<b>6 TRANSPARENCY .....</b>	<b>18</b>
<b>7 TECHNICAL ASSISTANCE.....</b>	<b>28</b>
<b>8 COVID-19 .....</b>	<b>31</b>
<b>9 OPERATION OF THE COMMITTEE .....</b>	<b>33</b>
<b>ANNEX: SUBMISSIONS FROM MEMBERS BY TOPIC (NOV. 2018 – NOV. 2021) .....</b>	<b>36</b>

## INTRODUCTION

The Ninth Triennial Review is being carried out in 2021 in accordance with the mandate under Article 15.4 of the Agreement on Technical Barriers to Trade (TBT Agreement).<sup>1</sup> It was concluded on 12 November 2021.<sup>2</sup> The Committee's previous eight triennial reviews were completed in 1997, 2000, 2003, 2006, 2009, 2012, 2015 and 2018.<sup>3</sup> During the review period (November 2018 – November 2021), the Committee has undertaken work to follow up on specific decisions and recommendations agreed in previous reviews.<sup>4</sup>

Members recognize that the full implementation of the Committee's existing decisions and recommendations is a process that may span over several reviews. In this regard, Members reiterate the importance of following up on previously agreed decisions and recommendations as contained in [G/TBT/1/Rev.14](#).

### 1 GOOD REGULATORY PRACTICE

**Good Regulatory Practice (GRP)** can contribute to the improved and effective implementation of the substantive obligations under the TBT Agreement. Effective implementation through best practices is seen as an important means of avoiding unnecessary obstacles to trade. Institutionalizing the various mechanisms, processes and procedures of GRP through laws, regulations and guidance, as well as through the creation and designation of institutions within Member governments to oversee regulatory processes, is seen as a means of giving effect to GRP. Effective internal policy coordination, including among regulators, standardizing bodies and trade officials implementing the TBT Agreement, is stressed. Additionally, regulatory cooperation between Members is an effective means of disseminating GRP.

[G/TBT/1/Rev.14](#), p.6

#### 1.1 Exchange of experiences

1.1. During the review period, most of the Committee's exchange of experiences took place in the context of thematic sessions on Good Regulatory Practice (GRP), held on 5 March 2019<sup>5</sup> and 25 February 2020.<sup>6</sup>

1.2. Members discussed the topic of **domestic committees, and other administrative mechanisms, to facilitate internal coordination on TBT**. [Kenya](#) explained how the Kenyan TBT National Consultative Committee consults with a wide range of stakeholders on all matters related to the implementation of the TBT Agreement, including assisting in coordination among ministries, transparency and notifications, reviewing trade barriers, and preparing national positions for engagement in the work of the WTO TBT Committee. The agenda and timing of meetings are aligned with the WTO TBT Committee.<sup>7</sup> [Indonesia](#) described the workings of the National Committee on Internal Coordination on Technical Barriers to Trade, which brings together a broad range of stakeholders to make recommendations related to the implementation of the TBT Agreement and relevant TBT issues. It enables, *inter alia*, coordination, provides scientific data and regulatory

<sup>1</sup> Article 15.4 of the TBT Agreement states: "Not later than the end of the third year from the date of entry into force of the WTO Agreement and at the end of each three-year period thereafter, the Committee shall review the operation and implementation of this Agreement, including the provisions relating to transparency, with a view to recommending an adjustment of the rights and obligations of this Agreement where necessary to ensure mutual economic advantage and balance of rights and obligations, without prejudice to the provisions of Article 12. Having regard, *inter alia*, to the experience gained in the implementation of the Agreement, the Committee shall, where appropriate, submit proposals for amendments to the text of this Agreement to the Council for Trade in Goods".

<sup>2</sup> A list of submissions circulated in the TBT Committee relevant to the topics under review is contained in the Annex to this document (p. 26).

<sup>3</sup> Reports of these triennial reviews are contained in: [G/TBT/5](#); [G/TBT/9](#); [G/TBT/13](#); [G/TBT/19](#); [G/TBT/26](#); [G/TBT/32](#); [G/TBT/37](#); and [G/TBT/41](#).

<sup>4</sup> A compilation of the TBT Committee's Decisions and Recommendations adopted since January 1995 is contained in document [G/TBT/1/Rev.14](#). This document also contains the Committee's Rules of Procedure, including Guidelines for Observer Status for Governments and International Intergovernmental Organizations.

<sup>5</sup> [G/TBT/GEN/256](#).

<sup>6</sup> [G/TBT/GEN/287](#).

<sup>7</sup> [G/TBT/GEN/256](#), paras. 1-3; and [RD/TBT/267](#).

impact assessment on draft regulations, and analyses potential technical barriers to trade faced by Indonesian industry.<sup>8</sup> Chile explained that the National Commission on Technical Barriers to Trade brings together representatives of the ministries and agencies that develop, adapt, and apply technical regulations and conformity assessment procedures for fulfilment of transparency obligations and identification of trade concerns.<sup>9</sup> Guatemala mentioned the public and private stakeholders participating in its National TBT Committee, which meets around the timeline of the WTO TBT Committee. Its committee defines a unified national position ahead of WTO TBT Committee meetings, discusses specific trade concern (STCs), and the business community shares its export interests, expansion plans, and perception of potential threats.<sup>10</sup>

1.3. The United States highlighted five internal coordination mechanisms it uses to implement the TBT Agreement. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA) coordinates a pre-publication comment period for US agencies on draft technical regulations and conformity assessment procedures. The National Institute of Standards and Technology (NIST), as the US notification authority, reviews the Federal Register daily to determine which US measures to notify to the WTO TBT Committee. The United States Department of Agriculture (USDA) coordinates US Government comments on WTO TBT Notifications related to agricultural products. The USTR coordinates the engagement of the US States in their regulatory activities with relevance for the WTO. The USTR also coordinates participation and positions to the three annual WTO TBT Committee meetings through the Trade Policy Staff Committee, Subcommittee on Technical Barriers to Trade.<sup>11</sup> New Zealand, as a small Member, does not have a formal coordination structure, such as a national TBT committee, and instead relies on the national TBT Enquiry Point to provide stakeholder outreach and manage the notification process and related enquiries. One of the biggest challenges is ensuring that regulators are aware of their notification obligations, and in this regard New Zealand developed a Regulator's User Guide which includes a flow chart to help regulators make this determination.<sup>12</sup> Similarly, the Dominican Republic notes that they, too, face similar challenges as those expressed by New Zealand. A platform to consolidate information about existing regulations and those in development could be useful.

1.4. China outlined how it applies good regulatory practices at the border, by unifying implementation of the TBT, SPS and the Trade Facilitation Agreements. Good regulatory practices are an important tool to avoid unnecessary trade barriers, and China will continue to improve its regulatory structure, but the pace of implementing good regulatory practices is different among Members and could adapt to local legislative traditions and the status of economic and social development.<sup>13</sup> Australia outlined the role of Australia's national quality infrastructure (NQI) in respect to Australia's TBT processes and implementation of the TBT Agreement. Australia does not have a formal national TBT committee. Rather, officials from the Department of Industry, Science, Energy and Resources (DISER) manage the government relationship with the NQI and facilitate an exchange of information between the NQI and a diverse range of Australian government agencies on developments within the NQI, mainly focused on trade-related issues. The NQI is an important resource to regulators when developing policy or conformity assessment procedures, and early engagement with NQI ensures effective regulatory processes.<sup>14</sup> The United States suggested to encourage Members to develop written procedures and maintain a process whereby all regulatory authorities take TBT obligations into account when developing technical regulations. This practice and commitment would be in line with continuing efforts by the TBT Committee to ensure that Members fully implement the TBT Agreement, to emphasize internal coordination as a core Good Regulatory Practice, and as an initiative to increase regulatory transparency and efficiency by WTO Members.<sup>15</sup>

1.5. Members discussed **encouraging regulatory compatibility and cooperation**, with a specific focus on two sectors: medical devices, and new vehicle technologies.<sup>16</sup>

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<sup>8</sup> [G/TBT/GEN/256](#), paras. 4-6; and [RD/TBT/257](#).

<sup>9</sup> [G/TBT/GEN/256](#), paras. 9-12; and [RD/TBT/261](#).

<sup>10</sup> [G/TBT/GEN/256](#), paras. 16-17; and [RD/TBT/269](#).

<sup>11</sup> [G/TBT/GEN/256](#), paras. 18-21; and [RD/TBT/270](#).

<sup>12</sup> [G/TBT/GEN/256](#), paras. 7-8; and [RD/TBT/258](#).

<sup>13</sup> [G/TBT/GEN/256](#), paras. 13-15; and [RD/TBT/268](#).

<sup>14</sup> [G/TBT/GEN/256](#), paras. 22-24; and [RD/TBT/271](#).

<sup>15</sup> [G/TBT/W/751/Rev.1](#).

<sup>16</sup> See: Sections 2.1.1 and 2.1.2.

### 1.1.1 Other information

1.6. Observers also provided relevant information. Updates were provided by [ARSO](#)<sup>17</sup>, [CROSO](#)<sup>18</sup>, [OECD](#)<sup>19</sup> and [UNECE](#).<sup>20</sup>

### 1.2 Recommendations

1.7. Building on this exchange as well as on previous decisions and recommendations of the Committee, and with a view to furthering its work in the area of GRP, the [Committee](#) agrees:

- a. to *discuss* Members' existing procedures and processes to ensure that regulatory authorities take TBT obligations into account when developing technical regulations and, on the basis of these discussions, *consider* the need for further work in the Committee on this topic; and,
- b. to *hold* an annual thematic session on Good Regulatory Practices as recommended in the 8<sup>th</sup> Triennial Review.<sup>21</sup>

## 2 REGULATORY COOPERATION BETWEEN MEMBERS

"The Committee notes that regulatory cooperation between Members is an effective means of disseminating GRP. It can also build confidence between trading partners through enhancing mutual understanding of regulatory systems, thereby supporting efforts that aim at removing unnecessary barriers to trade. A fundamental component to regulatory cooperation is the promotion of dialogue between Members, including at senior level. A wide variety of approaches can be employed by regulators to collaborate with each other – from information sharing to negotiating specific agreements."

[G/TBT/1/Rev.14](#), p.10

### 2.1 Exchange of experiences

2.1. During the review period, most of the Committee's exchange of experiences took place in the context of a thematic session on Good Regulatory Practice (GRP), held on 25 February 2020.<sup>22</sup> This thematic session, on encouraging regulatory compatibility and cooperation focused on two sectors: medical devices, and new vehicle technologies.

#### 2.1.1 Medical devices

2.2. Members discussed **encouraging regulatory compatibility and cooperation** in the medical devices sector. The [United States](#) outlined the contribution of the International Medical Device Regulators Forum (IMDRF) and the Medical Device Single Audit Program (MDSAP) to regulatory convergence, while addressing common public health regulatory challenges and supporting innovation. The MDSAP minimizes the regulatory burden on industry, promotes more efficient and effective use of regulator resources, enhances global alignment of regulatory approaches and technical requirements, and ensures consistency, predictability and transparency for manufacturers.<sup>23</sup> [Canada](#) stated that regulatory cooperation in the medical devices sector takes place in the context of fast-paced technological development, very rapid regulatory reviews for market approval, and a wide diversity and complexity of technologies which pose challenges for regulators. Like other regulators, Canada was increasing its alignment with IMDRF guidance (e.g. IMDRF Adverse Event Terminology, IMDRF Common Table of Contents for Medical Device

<sup>17</sup> African Organization for Standardisation [G/TBT/GEN/289](#).

<sup>18</sup> CARICOM Regional Organization for Standards and Quality [RD/TBT/331](#).

<sup>19</sup> Organisation for Economic Co-operation and Development [G/TBT/GEN/313](#).

<sup>20</sup> United Nations Economic Commission for Europe [G/TBT/GEN/259](#); [G/TBT/GEN/267](#); [G/TBT/GEN/281](#); and [G/TBT/GEN/290](#).

<sup>21</sup> [G/TBT/41](#), para. 1.7.a.i.

<sup>22</sup> [G/TBT/GEN/287](#).

<sup>23</sup> [G/TBT/GEN/287](#), para. 1.1.; and

[https://www.wto.org/english/tratop\\_e/tbt\\_e/thematic\\_sessions\\_e/p1a\\_usa\\_torres\\_grp\\_25022\\_020\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/p1a_usa_torres_grp_25022_020_e.pdf).

Regulatory Submissions), which facilitates regulator-to-regulator discussion. The MDSAP took several years to develop and was built from an initial pilot between the US FDA and Health Canada, which proved that a single audit could work and satisfy requirements of both countries.<sup>24</sup> The European Union outlined the three main stages of medical device regulation: the pre-market stage; the on-market stage (labelling); and the post market phase (ensuring the continued safety and effectiveness of device). The work of IMDRF – which is informal, non-binding, flexible, quick, and involves the establishment of best practices – plays an important role in convergence, and several new EU regulations are based on IMDRF principles.<sup>25</sup> The United States provided additional details on the MDSAP, and the role of recognized Auditing Organizations (AOs) to conduct a single audit of a medical device manufacturer that will satisfy the relevant requirements of the five participating regulatory authorities.<sup>26,27</sup>

2.3. The United States introduced the Inter-American Coalition for Regulatory Convergence, which brings together public and private stakeholders with the aim of promoting regulatory cooperation and convergence across the Western Hemisphere to achieve internationally aligned medical technology regulations, standards and conformity assessment requirements.<sup>28</sup> Some of the key challenges facing the medical devices sector, and that cause impact to international trade in many cases, include the enormous diversity of products and their related standards and regulations, the multiple sites involved in the manufacturing of a single medical device and the need for multilingual/multi-country labels, the complex and lengthy registration processes which vary between countries, the improper regulation of medical devices as medicines, and the lack of TBT implementation within the regulatory processes of many medical device regulatory authorities.<sup>29</sup> Japan noted that regulatory authorities worldwide have developed different regulations, including different definitions, categorizations, quality, non-clinical and clinical requirements, and this could result in overlap and deviation. Regulatory authorities around the world need to promote harmonization and reliance on common international standards, and WHO work on the regulatory system strengthening for medical products was mentioned in this regard. Japan highlighted the benefits of MDSAP from the view of both importing and exporting manufacturers.<sup>30</sup> The Dominican Republic expressed interest in these cooperation arrangements in light of the regulatory challenges facing the sector.

### 2.1.2 New vehicle technologies

2.4. Members discussed **encouraging regulatory compatibility and cooperation** in new vehicle technologies. The European Union described how the guidance of the UNECE World Forum for the harmonization of vehicle regulations (UNECE WP.29) is incorporated in EU legislation. Automated and connected vehicles are not yet fully regulated globally, and several issues would need to be considered in emerging regulations, including how to assess new technologies such as automation, software updates, cybersecurity, event data recorders (accidents), awareness of "vulnerable road users' proximity", and measuring emissions.<sup>31</sup> Japan outlined its government strategy to increase automated driving towards 2025 in order to, *inter alia*, reduce accidents, encourage innovation and enable societal goals (free movement of elderly). To realize these goals, Japan is developing national laws compatible with automated driving, including an amendment to the Road Vehicle Law (passed

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<sup>24</sup> [G/TBT/GEN/287](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1b_canada_shadeed_grp_25022020_e.pdf), para. 1.2.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/thematic\\_sessions\\_e/presentations\\_e/p1b\\_canada\\_shadeed\\_grp\\_25022020\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1b_canada_shadeed_grp_25022020_e.pdf).

<sup>25</sup> [G/TBT/GEN/287](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1d_eu_hansson_grp_25022020_e.pdf), para. 1.4.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/thematic\\_sessions\\_e/presentations\\_e/p1d\\_eu\\_hansson\\_grp\\_25022020\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1d_eu_hansson_grp_25022020_e.pdf).

<sup>26</sup> Australia, Brazil, Canada, Japan, and the United States.

<sup>27</sup> [G/TBT/GEN/288](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1d_eu_hansson_grp_25022020_e.pdf), para. 1.7.

<sup>28</sup> The United States notes that the training materials developed by the Inter-American Coalition are available at <https://www.interamericancoalition-medtech.org/regulatory-convergence/training-and-capacity-building-resources/>.

<sup>29</sup> [G/TBT/GEN/287](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1c_usa_amaral_grp_25022020_e.pdf), para. 1.3.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/thematic\\_sessions\\_e/presentations\\_e/p1c\\_usa\\_amaral\\_grp\\_25022020\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1c_usa_amaral_grp_25022020_e.pdf).

<sup>30</sup> [G/TBT/GEN/287](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1e_japan_regulatory_cooperation_on_medical_devices_japan.pdf), para. 1.5.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/thematic\\_sessions\\_e/presentations\\_e/p1e\\_japan\\_regulatory\\_cooperation\\_on\\_medical\\_devices\\_japan.pdf](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p1e_japan_regulatory_cooperation_on_medical_devices_japan.pdf).

<sup>31</sup> [G/TBT/GEN/287](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p2a_eu_grp_25022020_e.pdf), para. 1.6.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/thematic\\_sessions\\_e/presentations\\_e/p2a\\_eu\\_grp\\_25022020\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p2a_eu_grp_25022020_e.pdf).

and enacted in May 2019), and the domestic adoption and implementation of specific technical requirements set out in UNECE WP.29.<sup>32</sup>

### 2.1.3 Environment and climate change

2.5. Canada suggested the Committee hold a thematic session to share information, best practices and innovative ideas related to technical regulations, standards and conformity assessment procedures that support the attainment of environmental goals and contribute to addressing climate change, thereby contributing to achieving the goals of the Paris Agreement, while being the least trade restrictive possible.<sup>33</sup>

### 2.1.4 Plastic packaging pollution

2.6. The United States suggested the Committee hold a thematic session that would explore the current landscape of Member and stakeholder views and actions with regard to plastic packaging with a view to: understanding domestic authorities efforts to regulate plastic as a consumer use product or as non-hazardous plastic waste and scrap; and promoting the application of regulatory approaches in accordance with core TBT principles and good regulatory practice to minimize waste leakage and pollution, while encouraging trade and innovation.<sup>34</sup>

### 2.1.5 Digital products

2.7. Canada suggested the Committee hold a thematic session which could focus on the impacts that technical barriers to trade can have on the trade in intangible digital products and how they can be minimized.<sup>35</sup>

### 2.1.6 Cybersecurity of software-enabled and/or network connected goods

2.8. The United States suggested the Committee hold a thematic discussion that would explore the current landscape of Member and stakeholder views on cybersecurity regulation with a view to: identifying relevant nexuses for the TBT Committee; and promoting the application of regulatory approaches in accordance with core TBT principles to maximize security, trade, and innovation outcomes.<sup>36</sup>

### 2.1.7 Micro, Small and Medium-Sized Enterprises (MSMEs)

2.9. Canada suggested the Committee hold a thematic session exchanging national experiences and perspectives on working with MSMEs to ensure that they are aware and have access to the relevant technical information necessary to export their goods to foreign markets.<sup>37</sup> The Dominican Republic notes that it is especially important for producers in developing Members to be aware and have easy access to the full technical information needed to enhance participation in international trade.

### 2.1.8 Other information

2.10. Observers also provided relevant information. Updates were provided by ARSO<sup>38</sup>, CROSO<sup>39</sup>, OECD<sup>40</sup>, and UNECE.<sup>41</sup>

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<sup>32</sup> [G/TBT/GEN/287](#), para. 1.7.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/thematic\\_sessions\\_e/presentations\\_e/p2b\\_japanese\\_policy\\_and\\_contribution\\_to\\_the\\_international\\_activities\\_on\\_automated\\_driving\\_japan.pdf](https://www.wto.org/english/tratop_e/tbt_e/thematic_sessions_e/presentations_e/p2b_japanese_policy_and_contribution_to_the_international_activities_on_automated_driving_japan.pdf).

<sup>33</sup> [G/TBT/W/745](#), para. 2.3.

<sup>34</sup> [G/TBT/W/756](#).

<sup>35</sup> [G/TBT/W/745](#), para. 4.5.

<sup>36</sup> [G/TBT/W/747](#).

<sup>37</sup> [G/TBT/W/745](#), para. 5.4.

<sup>38</sup> [G/TBT/GEN/289](#).

<sup>39</sup> [RD/TBT/331](#).

<sup>40</sup> [G/TBT/GEN/313](#).

<sup>41</sup> [G/TBT/GEN/259](#); [G/TBT/GEN/267](#); [G/TBT/GEN/281](#); and [G/TBT/GEN/290](#).

## 2.2 Recommendations

2.11. Building on these exchanges as well as on previous decisions and recommendations of the Committee, and with a view to furthering its work and raising awareness of the importance of regulatory cooperation between Members, the Committee agrees to *hold* thematic sessions, with the purposes of sharing information<sup>42</sup> on:

- a. best practices related to technical regulations and standards, based on available scientific and technical information, and conformity assessment procedures that support the attainment of environmental goals and contribute to addressing **climate change**, thereby contributing to achieving the goals and principles of the United Nations Framework Convention on Climate Change (UNFCCC) and its Paris Agreement, while adhering to the disciplines of the TBT Agreement;
- b. Member and stakeholder views on **plastic regulation** and policy with a view to promoting the application of regulatory approaches in accordance with core TBT principles and good regulatory practice to minimize waste leakage and pollution caused by plastic waste, while encouraging trade and innovation;
- c. the impacts that technical barriers to trade may have on trade in intangible **digital products** (e.g. Artificial Intelligence (AI), enterprise applications, cybersecurity, financial technology, health IT, telecommunications, digital media software, and software as medical devices), and how to minimize those impacts;
- d. Member and stakeholder views on **cybersecurity** regulation with a view to promoting the application of regulatory approaches in accordance with core TBT principles to maximize security, trade, and innovation outcomes while minimizing unnecessary barriers to trade in goods; and,
- e. Member experiences and perspectives on working with **MSMEs** – especially in developing Members - to ensure that they are aware and have access to the relevant technical information necessary to enhance their participation in international trade and overcome obstacles posed by conformity assessment procedures.

## 3 TECHNICAL REGULATIONS

### 3.1 Exchange of Experiences

#### 3.1.1 Mandatory marking and labelling

3.1. During the review period, most of the Committee's exchange of experiences on technical regulations took place in the context of a thematic session on mandatory marking and labelling held on 27 October 2020.<sup>43</sup>

3.2. Members discussed the topic of how to facilitate compliance with mandatory marking and labelling requirements on products. The European Union provided information on the important role of the CE Marking as a way of providing information to national authorities on the compliance of a product with the relevant requirements and of guaranteeing its free movement within the European Union and the European Economic Area.<sup>44</sup> The European Union also addressed the practical compliance issues related to mandatory marking and labelling requirements on imported products and suggested that the Committee develop recommendations or other guidance documents to support Members in the area of marking and labelling.<sup>45</sup> The United States provided some

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<sup>42</sup> In the context of these thematic sessions, the Secretariat will ensure coordination with other relevant bodies of the WTO.

<sup>43</sup> [G/TBT/GEN/307](https://www.wto.org/english/press/p/20201027_tbt_session.htm).

<sup>44</sup> [G/TBT/GEN/307](https://www.wto.org/english/press/p/20201027_tbt_session.htm), paras. 1.1-1.2; and [https://www.wto.org/english/press/p/20201027\\_tbt\\_session.pdf](https://www.wto.org/english/press/p/20201027_tbt_session.htm).

<sup>45</sup> [G/TBT/GEN/307](https://www.wto.org/english/press/p/20201027_tbt_session.htm), paras. 1.3-1.6; and [https://www.wto.org/english/press/p/20201027\\_tbt\\_session.pdf](https://www.wto.org/english/press/p/20201027_tbt_session.htm).

considerations about labelling and the important role it plays in a variety of areas, such as consumers, marketing, and public health.<sup>46</sup>

### 3.1.2 Other information

3.3. Mexico and the United States drew the Committee's attention to the work conducted by the Codex Alimentarius Commission on certain labelling requirements to applicable formula food.<sup>47</sup>

3.4. Observers also provided relevant information. Updates were provided by ARSO<sup>48</sup>, CODEX<sup>49</sup>, IEC<sup>50</sup>, OECD<sup>51</sup>, OIML<sup>52</sup>, UNECE<sup>53</sup> and UNIDO.<sup>54</sup>

## 4 CONFORMITY ASSESSMENT PROCEDURES

"Five articles of the TBT Agreement address conformity assessment procedures, and establish obligations of a substantive and procedural nature. Articles 5 and 6 contain disciplines applying to central government bodies. Articles 7, 8 and 9 relate to conformity assessment procedures of local government bodies, non-governmental bodies and international and regional systems. The definition of a conformity assessment procedure is contained in Annex 1, Paragraph 3 of the Agreement."

[G/TBT/1/Rev.14](#), p.11

### 4.1 Exchange of experiences

4.1. During the review period, most of the Committee's exchange of experiences took place in the context of thematic sessions and an informal meeting held on the topics of conformity assessment procedures and quality infrastructure. Thematic sessions were held on 5 March 2019<sup>55</sup>, 12-13 November 2019<sup>56</sup> and 25 February 2020<sup>57</sup>, and an informal meeting was held on 8 December 2020.<sup>58</sup>

#### 4.1.1 Approaches to conformity assessment

4.2. Members discussed **post-market controls (e.g. market surveillance) and other pre-market controls**. The United States mentioned the various enforcement activities undertaken by the Consumer Product Safety Commission (CPSC), including: surveillance in retail stores to ensure that banned or recalled products are not on shelves; inspection of companies as part of regulatory enforcement programs; inspection as a follow up to a complaint or surveillance; inspection of companies destroying recalled products; and investigations based on consumer complaints involving products. CPSC also conducts market surveillance in respect of voluntary standards.<sup>59</sup> The European Union explained that Regulation EC No 765/2008 provides a common framework and set of obligations to ensure effective market surveillance across the EU<sup>60</sup>, and stipulated that EU member States are responsible for enforcement of EU product legislation, through member State Market Surveillance Authorities (MSAs), of which there are more than 500. There are

<sup>46</sup> [G/TBT/GEN/307](#), paras. 1.7-1.8; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/3\\_-\\_us\\_pm\\_sessio.pdf](https://www.wto.org/english/tratop_e/tbt_e/3_-_us_pm_sessio.pdf).

<sup>47</sup> [G/TBT/M/78](#), paras. 5.1-5.3.

<sup>48</sup> [G/TBT/GEN/289](#).

<sup>49</sup> Codex Alimentarius Commission [G/TBT/GEN/258](#); [G/TBT/GEN/282](#); [G/TBT/GEN/291](#); and [RD/TBT/328](#).

<sup>50</sup> International Electrotechnical Commission [RD/TBT/280](#).

<sup>51</sup> [RD/TBT/340](#).

<sup>52</sup> International Organization of Legal Metrology [G/TBT/GEN/283](#).

<sup>53</sup> [G/TBT/GEN/259](#); [G/TBT/GEN/267](#); [G/TBT/GEN/281](#); and [G/TBT/GEN/290](#).

<sup>54</sup> United Nations Industrial Development Organization [RD/TBT/311](#); and [RD/TBT/332](#).

<sup>55</sup> [G/TBT/GEN/257](#).

<sup>56</sup> [G/TBT/GEN/278](#). A revised Secretariat note on the TBT Committee's work on conformity assessment procedures was circulated on 16 July 2020 ([JOB/TBT/224/Rev.1](#)).

<sup>57</sup> [G/TBT/GEN/288](#).

<sup>58</sup> [JOB/TBT/395](#).

<sup>59</sup> [G/TBT/GEN/257](#), para. 1.

<sup>60</sup> Chapter III of Regulation EC No 765/2008 on market surveillance was replaced by Regulation 2019/1020 as of 16 July 2021.



several tools at the EU level to exchange information and promote cooperation between MSAs, such as RAPEX (Rapid Alert System for Products Presenting a Serious Risk) or ICSMS (Technical Database for Exchange of Information on Controls, Tests and Results).<sup>61</sup> The European Union provided an example of how market surveillance is undertaken in France through cooperation between 20 French MSAs (including Customs). Responsibility for market surveillance is shared between economic operators, importers and distributors, and MSAs.<sup>62</sup>

4.3. Japan outlined the post-market measures applying to consumer products that are likely to endanger life or health (including electrical appliances and materials, town gas equipment, liquefied petroleum gas equipment, and general consumer products): a sampling test; on-site inspection; the Serious Product Accident Reporting and Disclosure Scheme; and, if necessary, orders for product recalls and withdrawals from the market. The number of serious product accidents declined from around 1,400 in 2008, to 900 in 2017. Products purchased through online markets, however, pose new policy challenges.<sup>63</sup> The United States said the private sector can and should be an important partner in aspects of market surveillance, and the choice of conformity assessment procedure has implications for how the burden of market surveillance will fall on different stakeholders (e.g. supplier's declaration of conformity places burden on government, third party on the certification body). Underwriters Laboratories (UL) partners with the US Government on conformity assessment schemes and marks, including market surveillance, under the Environmental Protection Agency (EPA) Energy Star program, and the Occupational Safety and Health Administration (OSHA) Nationally Recognized Testing Laboratory (NRTL) program.<sup>64</sup> Australia explained how modern supply chains, which are transnational, dynamic and complex, require changes in conformity assessment infrastructure. It may be difficult to trace the source of fault behind non-conforming goods, and there also may be a corresponding lack of accountability, citing the example of non-conforming construction materials in Australia which raised concerns about fraudulent test reports and certifications.<sup>65</sup>

4.4. On **risk assessment**, China described 2017 reforms of the China Compulsory Certification (CCC) system. A reduction of the product scope was undertaken based on risk assessment, which cut 31 low-risk products from the catalogue. Other reforms included implementation of science-based classification, simplification of processes and procedures, and promotion of fair competition.<sup>66</sup> The United States presented a real-time risk analytic tool used by US Food and Drug Administration (FDA) to assess imports entering the US. This tool, called PREDICT, electronically screens and assigns scores to consignments of regulated products bound for the US; consignments with low scores automatically enter the US, while those with higher scores are subject to further examination and testing by border inspectors. This allows FDA to focus its limited resources on higher-risk consignments and facilitates trade for low-risk consignments.<sup>67</sup> Chinese Taipei explained how risk assessment was conducted throughout the lifecycle of medicinal products. Based on guidance of the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH), there are several steps in the regulatory management process, including pre-market approvals, from discovery to marketing. In this context, application of the Pharmaceutical Inspection Co-operation Scheme (PIC/S) on good manufacturing practices (GMP) helps to reduce trade barriers.<sup>68</sup>

4.5. On **accreditation**, Indonesia stressed that accreditation under the framework of IAF ILAC MRA/MLA plays an important role in trade facilitation, and it is important that WTO Members consider the use of this MRA/MLA for the acceptance of product conformity. In this respect, there are a number of challenges, including the lack of acceptance of some conformity assessment results under the IAF ILAC framework, and the fact that some private standards do not recognize accreditation thereunder.<sup>69</sup> The European Union said the European Accreditation (EA) System, based on Regulation (EC) No 765/2008 on Accreditation, is premised – among other things – on the principle of one national accreditation body per member state and non-competition between national accreditation bodies. In the case of the EU, regulators accept conformity assessment results from

<sup>61</sup> [G/TBT/GEN/257](#), para. 3.

<sup>62</sup> [G/TBT/GEN/257](#), para. 5.

<sup>63</sup> [G/TBT/GEN/257](#), para. 8.

<sup>64</sup> [G/TBT/GEN/257](#), para. 10.

<sup>65</sup> [G/TBT/GEN/257](#), para. 9.

<sup>66</sup> [G/TBT/GEN/257](#), para. 2.

<sup>67</sup> [G/TBT/GEN/257](#), para. 7.

<sup>68</sup> [G/TBT/GEN/257](#), para. 6.

<sup>69</sup> [G/TBT/GEN/278](#), para. 1.1.

bodies accredited by an ILAC or IAF MRA/MLA signatory if there is a government-to-government MRA or trade agreement in place which would take recourse to the ILAC and IAF agreements and provide for enhanced cooperation between the accreditors of the parties.<sup>70</sup> Egypt explained that the Egyptian Accreditation Council (EGAC) is the sole accreditation body of Egypt and that international recognition by ILAC and IAF had been achieved, *inter alia*, for testing and calibration as well as medical laboratories, inspection bodies, certification bodies for management systems, product and personnel besides proficiency testing providers.<sup>71</sup> The United States suggested that, as part of the Ninth Triennial Review the TBT Committee consider how accreditation and related policies can be advanced to further reduce barriers to trade in goods. In particular, the United States suggested an examination of Member accreditation policies, including regional and international systems for conformity assessment. Further, as part of the TBT Committee's ongoing Eighth Triennial Review effort to develop guidelines for conformity assessment, the United States suggested the Committee initiate work to develop guidance for Members with respect to accreditation policies as they relate to Mutual Recognition Agreements (MRAs), the recognition of accreditation results in the territories of other Members, and the national treatment of accreditation bodies.<sup>72</sup> The United Kingdom stressed the important role that IAF and ILAC guidance plays in encouraging cooperation between accreditation bodies. This cooperation is critical to ensuring consistency and harmonization of accreditation, which in turn facilitates mutual recognition. The United Kingdom underscored that an examination of accreditation and related policies should reflect the valuable role guidance plays, and reflect that there are multiple approaches to support a trusted accreditation regime. South Africa supported the UK view that IAF and ILAC play a crucial role in encouraging cooperation between accreditation systems. The examination of WTO Members' accreditation policies has the potential of undermining the sovereignty of National Accreditation Bodies including the associated legislative framework, and examination should rather seek an understanding of the accreditation system MRAs in the spirit of Article 9 of the TBT Agreement. South Africa suggested that the proposal be undertaken by the ILAC/IAF platform as they deal with cross-frontier accreditation cooperation in a transparent and inclusive manner.

4.6. On **National Quality Infrastructure (NQI) systems**, Trinidad and Tobago outlined the work underway to strengthen its NQI. A National Quality Policy (NQP) was being implemented through various initiatives to develop governance bodies, review legislation and define roles, strengthen institutions, and build a quality-conscious society. These efforts benefit from the work of the CARICOM Regional Organization for Standards and Quality (CROSQ) which coordinates regional approaches to QI development.<sup>73</sup> China presented the recent reforms of its QI and regulatory frameworks, which streamline and simplify procedures, improve operational efficiency, reduce enterprise burdens, improve the business environment, support trade development, promote industrial upgrading, and protect the public interest. China suggested that the WTO work on: (i) adopting relevant guidelines to clarify the concepts, components, basic principles, policy framework, status and role of QI; (ii) more active participation in international exchanges and cooperation in the field of QI; and (iii) conducting in-depth discussions on various TBT-related law enforcement measures to promote information exchanges and cooperation in the field of market surveillance.<sup>74</sup> Turkey outlined the many changes and improvements between Turkey's 1995 NQI framework and the current one (2019), in terms of how they regulate accreditation, standardization, CAPs and metrology, in line with WTO Agreements and the Customs Union (CU) between the EU and Turkey. A functional quality infrastructure at the international level is crucial for the elimination of technical barriers to trade.<sup>75</sup> Argentina provided an overview of its new National Quality System, which also created the Technical Regulators Commission (CRT) as an inter-ministerial body for cooperation between the various domestic regulators.<sup>76</sup>

4.7. The United States explained that its NQI follows a market-based approach, and in that respect, the private sector plays a key role in standardization, conformity assessment and accreditation. One key challenge is communication and awareness on QI throughout government, and engagement with the actual regulatory decision makers. A second challenge is ensuring that appropriate competence on QI is available and engaged by regulators in the development of technical

<sup>70</sup> [G/TBT/GEN/278](#), para. 1.2.

<sup>71</sup> [G/TBT/GEN/278](#), para. 1.3.

<sup>72</sup> [G/TBT/W/748](#).

<sup>73</sup> [G/TBT/GEN/278](#), para. 1.11.

<sup>74</sup> [G/TBT/GEN/278](#), para. 1.12.

<sup>75</sup> [G/TBT/GEN/278](#), para. 1.13.

<sup>76</sup> [G/TBT/GEN/278](#), para. 1.14; [G/TBT/GEN/270](#).

regulations.<sup>77</sup> Mozambique outlined technical assistance needs around quality infrastructure, to effectively implement the National Quality System Act (2018) and meet market demands for QI services delivered by the *Instituto Nacional de Normalização e Qualidade* (INNOQ). Specific training, equipment and standards development needs were identified in the areas of certification, testing and inspection, and accreditation.<sup>78</sup> Brazil outlined the organization of its NQI. Brazil's current product safety regulatory system is quite heavy and prescriptive, hindering innovation and competitiveness, and is not entirely aligned with international best practices, leading to low performance. A new regulatory model, currently under discussion, for products under the scope of INMETRO, aims at increasing product safety performance, with reduced bureaucracy, greater resource efficiency, simplification and flexibility.<sup>79</sup> South Africa presented the organization of its NQI, and outlined the respective mandates of the four main public entities: South African Bureau of Standards (SABS), the National Regulator for Compulsory Specifications (NRCS), the South African National Accreditation System (SANAS), and the National Metrology Institute of South Africa (NMISA).<sup>80</sup>

4.8. On **regional approaches to NQI**, South Africa described the SADC Technical Regulations Liaison Committee (SADCTRLC) approach to approximation of technical regulations to determine equivalence and hence acceptance of each other's conformity assessment results. This involves technical comparison of SADC members' national legislation in a specific sector to determine convergences and divergences. Aspects for comparison during approximation include features of the legislation (name, type, enforcer, and responsible institutions), administrative provisions, legal or provisional requirements, conformity assessments procedures, and technical requirements.<sup>81</sup> Vanuatu, on behalf of the Pacific Islands Forum, highlighted the low to non-existent level of QI development among Pacific Island Countries (PICs) (notably only Fiji and Papua New Guinea have QI institutions and systems in place). In order to improve this situation and enhance international competitiveness, the promotion of a culture of quality through QI systems was deemed a priority, based on the nature of trade of each PIC, and via the incremental establishment of pathways for those lacking physical infrastructure. A Pacific Regional QI Workshop was held in September 2019 to advance these efforts.<sup>82</sup> Australia noted that the Pacific Quality Infrastructure (PQI) Project to increase the capacity of Pacific region standards and conformance infrastructure is underway, with Standards Australia and the National Measurement Institute of Australia supporting needs assessment and capacity building. The United States highlighted the role of the Quality Infrastructure Council of the Americas (QICA) in strengthening the NQI of each Member in the Americas, promotion of the importance of QI services, collaboration and information sharing among peers at the national level, organization of regional and national activities, and cross-functional training.<sup>83</sup>

4.9. On **approaches to conformity assessment procedures** in general, New Zealand summarized the use of the "regulatory stewardship approach" for managing and developing its National Quality Infrastructure (NQI) and its regulatory systems. This approach emphasizes good regulatory practices (GRP) like internal coordination, regulatory impact assessment (RIA), and public consultation. It was used to develop New Zealand's "Conformance System Strategy"<sup>84</sup> and has contributed to reducing unnecessary barriers to trade.<sup>85</sup> Australia gave an example of how its NQI had to develop new measurement capabilities to meet energy efficiency policy objectives set by the Australian government. Early and ongoing policy coordination with NQI bodies can avoid a mismatch between the regulatory objective and conformity assessment capabilities. The NQI is an invaluable resource: consult early, consult often, and consult collaboratively.<sup>86</sup> Brazil explained the 2019 transition of its conformity assessment (CA) framework for telecommunications products away from type approval/certification (with priority for accredited third-party laboratories), towards a more flexible system allowing the technical area to define which CA model was appropriate for each product type, a decision also based on a risk analysis. Furthermore, fees were reduced, and a new model of market surveillance was implemented. This change responds to important developments

<sup>77</sup> [G/TBT/GEN/278](#), para. 1.15.

<sup>78</sup> [G/TBT/GEN/278](#), para. 1.21.

<sup>79</sup> [G/TBT/GEN/278](#), para. 1.22.

<sup>80</sup> [G/TBT/W/757](#).

<sup>81</sup> [G/TBT/GEN/278](#), para. 1.23.

<sup>82</sup> [G/TBT/GEN/278](#), para. 1.24.

<sup>83</sup> [G/TBT/GEN/278](#), para. 1.25.

<sup>84</sup> The New Zealand "Conformance System Strategy" and more information are available at:

[www.mbie.govt.nz/conformance](http://www.mbie.govt.nz/conformance).

<sup>85</sup> [G/TBT/GEN/278](#), para. 1.8.

<sup>86</sup> [G/TBT/GEN/278](#), para. 1.9.

in the ICT environment, such as high demand for connected devices, fast growth in equipment approvals and new connectivity methods such as 5G and IoT.<sup>87</sup> Australia described some evolving influences on conformity assessment, and the shift from on-site to remote office assessment and review of certification documents, brought on in part by the COVID-19 pandemic.<sup>88</sup> The European Union provided an overview of its approach to conformity assessment procedures, which follows a risk-based approach for the choice of CAP. Thus, the selected procedure must be proportionate to the level of risk involved in relation to the intended use of the product and the level of safety required.<sup>89</sup>

#### 4.1.1.1 Guidelines on conformity assessment procedures

4.10. Pursuant to the Eighth Triennial Review mandate for the Committee "to *initiate work* on developing non-prescriptive practical guidelines to support regulators in the choice and design of appropriate and proportionate conformity assessment procedures"<sup>90</sup>, submissions were received from Australia<sup>91</sup>, Canada<sup>92</sup>, China<sup>93</sup>, Colombia<sup>94</sup>, the European Union<sup>95</sup>, Japan<sup>96</sup>, South Africa<sup>97</sup>, and the United States<sup>98</sup>. Members discussed submissions at various meetings during the Review period.<sup>99</sup>

#### 4.1.2 Use of relevant international standards, guides or recommendations

4.11. Members and Observers discussed the **use of relevant international standards, guides and recommendations**. The United States presented the work of the ISO Committee on Conformity Assessment (CASCO) to develop jointly with International Electrotechnical Commission (IEC) the ISO/IEC 17000 series of standards (also referred to as the CASCO Toolbox). ISO/IEC Guide 60 Conformity assessment — Code of good practice was under revision and would become ISO/IEC 17060 Conformity assessment — Code of good practice.<sup>100</sup>

#### 4.1.3 Facilitating the recognition of conformity assessment results

4.12. Members discussed how to **facilitate the recognition of conformity assessment results**. The United States described how the Consumer Product Safety Commission (CPSC) utilizes a combination of approaches contained in the TBT Committee's "Indicative List" to facilitate acceptance of conformity assessment results for children's products.<sup>101</sup> This approach contributes to a wide range of participating conformity assessment bodies (as of late 2019, 580 laboratories have been accepted from 47 economies) and the effectiveness of the regulatory actions taken (the overall number of toy recalls has dropped from 178 in 2008 to 33 in 2014, and to 12 in 2019).<sup>102</sup> Brazil accepts foreign test results for a number of products (children's products, domestic appliances (electrical safety), and photovoltaic panels) provided that the testing laboratory is accredited by an ILAC member and that tests are conducted according to requirements established in the regulation. With respect to certification schemes, Brazil accepts foreign results provided: (i) the foreign certification body is accredited by an IAF member and has a memorandum of understanding (MoU) with a national certification body; (ii) the MoU covers acceptance of assessments and testing; and

<sup>87</sup> [G/TBT/GEN/278](#), para. 1.10.

<sup>88</sup> [JOB/TBT/395](#), para. 1.1.; and [RD/TBT/333](#).

<sup>89</sup> [JOB/TBT/395](#), para. 1.2.; and [RD/TBT/334](#).

<sup>90</sup> [G/TBT/41](#), para. 4.17.b.

<sup>91</sup> [JOB/TBT/347](#).

<sup>92</sup> [JOB/TBT/358](#).

<sup>93</sup> [JOB/TBT/391](#).

<sup>94</sup> [JOB/TBT/406](#).

<sup>95</sup> [JOB/TBT/322](#).

<sup>96</sup> [JOB/TBT/349](#).

<sup>97</sup> [JOB/TBT/407](#).

<sup>98</sup> [JOB/TBT/326](#); [G/TBT/GEN/280](#).

<sup>99</sup> [JOB/TBT/273/Rev.8](#), Section 2.

<sup>100</sup> [JOB/TBT/395](#), para. 1.3.; and [RD/TBT/335](#).

<sup>101</sup> Using the terminology from the Indicative List, the programme requires a *Supplier's Declaration of Conformity (SDoC)*, *Use of Accreditation to Qualify Conformity Assessment Bodies* providing data supporting that declaration, and achieving global scale by leveraging *Cooperative (Voluntary) Arrangements between Domestic and Foreign Conformity Assessment Bodies* (ILAC MRA).

<sup>102</sup> [G/TBT/GEN/288](#), para. 1.2.

(iii) the national certification body issues the certificate, assuming full responsibility for the certification process.<sup>103</sup>

4.13. The European Union presented examples of the acceptance of self-declaration of conformity (SDoC) in the European Union in the fields of machinery, electrical and radio equipment. Manufacturers need to ensure that products are compliant with the applicable requirements, and on this basis, they establish the technical documentation, establish and sign the declaration of conformity, and affix the CE marking. Involvement of notified bodies is required only in exceptional cases under the Radio Equipment Directive 2014/53/EU (RED) and the Machinery Directive 2006/42/EC (MD), only if harmonized standards have not been applied or do not exist, or in the case of high-risk products.<sup>104</sup> The United States highlighted the example of the MDSAP, which allows recognized Auditing Organizations (AOs) to conduct a single audit of a medical device manufacturer that will satisfy the relevant requirements of the five participating regulatory authorities.<sup>105</sup> The regulatory authorities perform assessments of the AOs, which involve a formal recognition and monitoring process (using IMDRF Criteria and ISO/IEC 17021), as well as training and competency requirements for auditors. The MDSAP audit model includes 90 audit tasks covering all ISO 13485:2016 and regulatory requirements, as well as annexes specifying the audit of technical documentations and considerations relative to the audit of the controls of the sterility.<sup>106</sup> The International Electrotechnical Commission (IEC) described how several African countries<sup>107</sup> have nationally adopted IEC international standards and thereby leverage the IECEE CB Scheme<sup>108</sup> to accept certificates from foreign laboratories. Goods arriving at the border are accompanied by an IECEE CB Scheme certificate or test report, which can be authenticated by the relevant national certification bodies as legitimate on the IECEE online certificate system.<sup>109</sup>

4.14. South Africa outlined the challenges created by Certificates of Free Sale (CoFS) for exporters and regulators. In this respect, South Africa mentioned various issues, including: possible inconsistency with WTO provisions on non-discrimination as contained in the TBT Agreement and GATT; that CoFS are not based on relevant international guides and recommendations for conformity assessment procedures; that they create a *de facto* ban on products manufactured for the export market only due to the impossibility to obtain a CoFS; the difficulty to obtain CoFS for products comprised of multiple components produced in global value chains; Members requiring CoFS do not provide information on the legitimate objective pursued; and, that CoFS improperly place product liability on the exporting Member government. South Africa recommended that Members requiring CoFS replace them with appropriate technical regulations and conformity assessment procedures as a matter of urgency and seek technical assistance in this respect as needed.<sup>110</sup>

#### 4.1.4 Digital solutions and e-commerce

4.15. The European Union suggested the Committee hold a thematic session that would explore the current landscape of Member and stakeholder views and actions with regard to digital solutions for conformity certificates with a view to: understanding current Member attempts to promote the digitalisation of trade processes in general, and notably of conformity certificates; and promoting the application of digital regulatory approaches in accordance with core TBT principles and good regulatory practice to minimize trade costs while achieving the legitimate policy objectives.<sup>111</sup> Canada suggested the Committee hold a thematic session focusing on current issues and best practices for addressing and mitigating issues related to the conformity assessment of goods and services obtained through e-commerce.<sup>112</sup> Chinese Taipei suggested the Committee hold a thematic

<sup>103</sup> [G/TBT/GEN/288](#), para. 1.4.

<sup>104</sup> [G/TBT/GEN/288](#), para. 1.5.

<sup>105</sup> Australia, Brazil, Canada, Japan, and the United States.

<sup>106</sup> [G/TBT/GEN/288](#), para. 1.7.

<sup>107</sup> Côte d'Ivoire (342 IEC standards adopted), Ethiopia (251 IEC standards adopted), Senegal (67 IEC standards adopted), and Togo (568 IEC standards adopted).

<sup>108</sup> IEC System for Conformity Assessment Schemes for Electrotechnical Equipment and Components (IECEE) Certification Body (CB) Scheme.

<sup>109</sup> [G/TBT/GEN/288](#), para. 1.8.

<sup>110</sup> [G/TBT/GEN/288](#), para. 1.1.

<sup>111</sup> [G/TBT/W/758](#).

<sup>112</sup> [G/TBT/W/745](#), para. 1.4.

session that would allow Members to share experiences and best practices in enhancing online shopping product safety to protect the health and safety of online consumers.<sup>113</sup>

#### 4.1.5 Other information

4.16. On **metrology**, the International Bureau of Weights and Measures (BIPM) explained that metrology is essential for supporting innovation, conformity assessment activities and consumer protection, as well as the work of regulators. Sound measurements are achieved by ensuring metrological traceability to internationally agreed standards with the appropriate measurement uncertainty.<sup>114</sup>

4.17. Observers also provided relevant information. Updates were provided by ARSO<sup>115</sup>, BIPM<sup>116</sup>, CROSO<sup>117</sup>, IEC<sup>118</sup>, OIML<sup>119</sup>, UNECE<sup>120</sup> and UNIDO.<sup>121</sup>

#### 4.2 Recommendations

4.18. Building on this exchange as well as on previous decisions and recommendations of the Committee, in particular the mandate from the Fifth Triennial Review<sup>122</sup>, and with a view to furthering its work in the area of conformity assessment procedures, the Committee agrees:

- a. to *note* progress made in its work to *develop* non-prescriptive practical guidelines<sup>123</sup> aimed at supporting regulators in the choice and design of appropriate and proportionate conformity assessment procedures<sup>124</sup>, and to *finalize* this work;
- b. to *hold* thematic sessions on:
  - i. the topic of Member **accreditation** and related policies, and how these policies can be advanced to further reduce technical barriers to trade in goods, including those on the use of regional and international systems for conformity assessment;
  - ii. Member and stakeholder views on the use of **digital solutions** for conformity certificates and quality infrastructure activities as a whole, with a view to: understanding Member efforts to promote the digitalisation of trade processes, and notably of conformity certificates; and discuss digital regulatory approaches in accordance with core TBT principles and good regulatory practice to minimize trade costs while achieving the legitimate policy objectives;
  - iii. current challenges and best practices for addressing issues related to the conformity assessment of goods obtained through **e-commerce**. This session will consider, *inter alia*, how Members can work to enhance safety of products purchased online in order to protect consumer health and safety; and
  - iv. the key **role of the NQI** in Members' regulatory systems and for implementing the TBT Agreement.

<sup>113</sup> [G/TBT/W/753](#).

<sup>114</sup> [G/TBT/GEN/278](#), para. 1.4.

<sup>115</sup> [G/TBT/GEN/289](#).

<sup>116</sup> [G/TBT/GEN/266](#); [RD/TBT/274](#); [RD/TBT/279](#); [RD/TBT/310](#); [RD/TBT/327](#); [RD/TBT/343](#); and [RD/TBT/346](#).

<sup>117</sup> [RD/TBT/331](#).

<sup>118</sup> [RD/TBT/275](#); [RD/TBT/280](#); [RD/TBT/313](#); [RD/TBT/329](#); and [RD/TBT/341](#).

<sup>119</sup> [G/TBT/GEN/260](#); [G/TBT/GEN/268](#); and [G/TBT/GEN/283](#).

<sup>120</sup> [G/TBT/GEN/255](#); [G/TBT/GEN/259](#); [G/TBT/GEN/267](#); [G/TBT/GEN/281](#); [G/TBT/GEN/290](#); and [RD/TBT/315](#).

<sup>121</sup> [G/TBT/GEN/254](#); [G/TBT/GEN/261](#); [RD/TBT/276](#); [RD/TBT/311](#); [RD/TBT/332](#); and [RD/TBT/348](#).

<sup>122</sup> [G/TBT/26](#), para. 19(c).

<sup>123</sup> The guidelines would need to remain neutral in respect of the range of approaches that exist.

<sup>124</sup> [G/TBT/41](#), para. 4.17.b.

## 5 STANDARDS

The provisions concerning the preparation, adoption and application of **standards** are contained in Article 4 of the TBT Agreement and in the Code of Good Practice for the Preparation, Adoption and Application of Standards (the "Code of Good Practice"). In addition, Articles 2.4, 2.5, 5.4, and Paragraph F of Annex 3 of the Agreement promote the use of relevant international standards, guides and recommendations as a basis for standards, technical regulations and conformity assessment procedures. Articles 2.6, 5.5 and Paragraph G of Annex 3 emphasize the importance of Members' participation in international standardization activities related to products for which they have either adopted, or expect to adopt, technical regulations.

[G/TBT/1/Rev.14](#), p.18

### 5.1 Exchange of experiences

5.1. During the review period, most of the Committee's exchange of experiences on standards took place in the context of a thematic session held on 12 November 2019<sup>125</sup> and a workshop on the role of gender in the development of standards held on 8 December 2020.<sup>126</sup>

#### 5.1.1 Use of standards in regulation

5.2. Members discussed the **use of standards in regulation**. Canada explained how incorporation of standards by reference takes place in Canada and outlined the benefits to using standards as a regulatory tool. Incorporation by reference gives binding effect to the incorporated standard, and can be done by "static reference" (as of a specific date and meaning that the subsequent revisions to the standards are *not* automatically incorporated into the regulation); or by "ambulatory reference" (no mention of a date of issue or specific version).<sup>127</sup> Canada also noted certain advantages of incorporation by reference, including relying on the expertise of other bodies, regulatory agility and enhanced regulatory cooperation.<sup>128</sup> China outlined its standardization reform efforts, noting that most mandatory sector and local standards were abolished or converted into voluntary standards, reducing the number of mandatory national standards from 3,600 to 2,111. However, mandatory standards represent an important part of China's technical laws and regulations and the State Administration for Market Regulation (SAMR) will continue to promote their reform.<sup>129</sup> The European Union explained how to reference standards in EU legislation and noted that standardization in the EU supports the single market by eliminating unnecessary technical barriers to trade and facilitating the free movement of goods and services. Under the "New Approach" to technical harmonization and standards, legislative harmonization is limited to essential requirements, technical specifications are laid down in harmonized European standards, and products manufactured in compliance with these standards benefit from a presumption of conformity.<sup>130</sup>

5.3. The United States provided an overview of certain US laws and policies related to incorporation by reference, noting that the US National Technology Transfer and Advancement Act (NTTAA) requires US federal agencies to use "voluntary consensus standards" as a means to carry out policy objectives, except where they are inconsistent with applicable law or otherwise impracticable. The United States also said that many US-domiciled organizations, including ASTM International complies with the WTO's Six Principles for international standards development.<sup>132</sup> ASTM International has Memoranda of Understanding with 113 partners around the world, providing access to its full collection of standards as well as membership in its technical committees at no charge. There are references to ASTM International's standards in US federal regulations, and these are made available

<sup>125</sup> [G/TBT/GEN/277](#)

<sup>126</sup> [G/TBT/GEN/309](#).

<sup>127</sup> [G/TBT/GEN/277](#), para. 1.1.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/01\\_a\\_p1a\\_canada.pdf](https://www.wto.org/english/tratop_e/tbt_e/01_a_p1a_canada.pdf).

<sup>128</sup> [G/TBT/GEN/277](#), para. 1.6.; and

[https://www.wto.org/english/tratop\\_e/tbt\\_e/02\\_b\\_p2b\\_canada\\_pledge\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/02_b_p2b_canada_pledge_e.pdf).

<sup>129</sup> [G/TBT/GEN/277](#), para. 1.2.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/01\\_b\\_p1b\\_china.pdf](https://www.wto.org/english/tratop_e/tbt_e/01_b_p1b_china.pdf).

<sup>130</sup> [G/TBT/GEN/277](#), para. 1.3.; and

[https://www.wto.org/english/tratop\\_e/tbt\\_e/01\\_c\\_p1c\\_eu\\_vaccaro.pdf](https://www.wto.org/english/tratop_e/tbt_e/01_c_p1c_eu_vaccaro.pdf).

<sup>132</sup> [G/TBT/GEN/277](#), para. 1.4.; and

[https://www.wto.org/english/tratop\\_e/tbt\\_e/01\\_d\\_p1d\\_us\\_astm.pdf](https://www.wto.org/english/tratop_e/tbt_e/01_d_p1d_us_astm.pdf) and para. 1.5.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/02\\_a\\_p2a\\_us\\_owen.pdf](https://www.wto.org/english/tratop_e/tbt_e/02_a_p2a_us_owen.pdf).

at no charge in ASTM International's online reading room, in line with the federal government's reasonable access policy. Australia shared its perspective on the use of standards and risk assessments in policy and regulation, noting that the entire technical infrastructure should be taken into account when embarking on a regulatory process. Australia's "Best Practice Guide to Using Standards and Risk Assessment in Policy and Regulation" supports harmonisation across levels of government and addresses issues such as which standards to use (preferably relevant international standards), where to source an appropriate standard and how to reference it in regulation (direct or indirect, dated or undated).<sup>131</sup> Invited speakers also addressed the use of standards in regulation. UNECE provided an overview of its work on best practices for standards-based and risk-based rule making focusing on the work conducted by UNECE's Working party on Regulatory Cooperation and Standardization Policies and its Recommendation D on Reference to Standards.<sup>132</sup>

### 5.1.2 Approaches to standardization

5.4. On **approaches to standardization**, Japan outlined its standardization programme for new market creation, designed by the Ministry of Economy, Trade and Industry to give companies – including SMEs – alternative paths to develop standards to promote innovative products or technologies.<sup>133</sup> The United States explained that the US standardization system is "bottom up" – standards *users* drive standardization activities. She said that there are different tools for the development of globally relevant standards, ranging from "one-country-one-vote" based on national participation (e.g. ISO, IEC); direct participation (e.g. ASTM, ASME); and consortia-driven standards. All these types of standards are applied in the US market, with users selecting the tool that best fits their needs. The US system endorses the six principles developed by the TBT Committee on international standards, and ANSI accreditation of standards developers reflects these principles.<sup>134</sup> The European Union explained that standards developed by CEN and CENELEC: (i) are based on the national delegation principle; (ii) represent a consensus among all interested parties, including industry, SMEs and societal stakeholders; (iii) are voluntary; (iv) are developed by independent organizations clearly distinct from authorities; and (v) are in compliance with the TBT Agreement. The European standardization model means that standards are identical across member States, and there is an obligation to withdraw conflicting national standards.<sup>135</sup> Turkey said the Turkish Standards Institute became a full member of CEN/CENELEC in 2012 and 98% of its standards are harmonized with EU standards.<sup>136</sup>

### 5.1.3 The role of gender in the development of standards

5.5. Members discussed **perspectives, experiences and best practices on including gender considerations in standards development**. Canada presented several initiatives that have been undertaken in Canada to improve gender equality in the development of standards. At the Standards Council of Canada, an action plan has been developed to address the fact that standards are not gender responsive and are not having equitable outcomes for men and women. As evidence of the disparity, Canada highlighted research demonstrating that currently standards are more effective at protecting the health and safety of men than women.<sup>137</sup> South Africa presented the gender aspect of its national development plan, which seeks to advance women's socio-economic empowerment and promote gender equality. It was noted that the action plan on gender equality of the South African Bureau of Standards, which builds on the UNECE declaration on Gender Responsive Standards, focuses on three key areas of work: gender representation, gender responsiveness, and outreach and advocacy.<sup>138</sup> The European Union explained that, while the European Commission does not develop standards, the Commission does have a strong commitment towards gender equality, including by following the activities of the UNECE WP6 Gender-Responsive Standards Initiative.<sup>139</sup> The European Union also noted that CEN-CENELEC and many EU national standardization bodies

<sup>131</sup> [G/TBT/GEN/277](https://www.wto.org/english/tratop_e/tbt_e/02_c_p2c_australia.pdf), para. 1.7.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/02\\_c\\_p2c\\_australia.pdf](https://www.wto.org/english/tratop_e/tbt_e/02_c_p2c_australia.pdf).

<sup>132</sup> [G/TBT/GEN/277](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf), para. 1.7.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/02\\_d\\_p2d\\_canada\\_lorenza.pdf](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf).

<sup>133</sup> [G/TBT/GEN/278](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf), para. 1.5.

<sup>134</sup> [G/TBT/GEN/278](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf), para. 1.6.

<sup>135</sup> [G/TBT/GEN/278](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf), para. 1.7.

<sup>136</sup> [G/TBT/GEN/278](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf), para. 1.13.

<sup>137</sup> [G/TBT/GEN/309](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf), paras. 1.1-1.2; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/white\\_parkouda\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/white_parkouda_e.pdf).

<sup>138</sup> [G/TBT/GEN/309](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf), paras. 1.4-1.5; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/scholtz\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/scholtz_e.pdf).

<sup>139</sup> [G/TBT/GEN/309](https://www.wto.org/english/tratop_e/tbt_e/02_d_p2d_canada_lorenza.pdf), para. 1.6; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/vaccaro\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/vaccaro_e.pdf).



have signed the UNECE declaration on Gender responsive standards. CEN-CENELEC has developed an action plan with a focus on sharing information and collaboration, which led to the setting up of an informal Gender Coordination Group open to all CEN-CENELEC members.<sup>140</sup>

5.6. Members also shared **real-world examples of how gender considerations have been taken into account in standards development**. The European Union discussed the importance of gender considerations in the development of standards in relation to car safety. It was noted that women are more at risk of serious injuries and fatalities in traffic accidents compared to men because the standards of protection performances conducted for vehicles are not assessed for females to the same extent as they are for males.<sup>141</sup>

5.7. Invited speakers shared their relevant work and activities. The International Trade Centre (ITC) presented insights on standards and gender drawn from ITC's SheTrades Initiative, which aims to connect 3 million women entrepreneurs and women-owned businesses to international markets by 2021. The ITC highlighted three main areas of work in the initiative in relation to standards and gender: supporting compliance of women-owned businesses' to standards, supporting the participation of women in trade policy design and implementation, and developing an ISO international workshop agreement for women in trade.<sup>142</sup> UNECE provided an overview of its work on gender responsiveness in standards and standardization, focusing on its Gender Responsive Standards Initiative (GRSI), which aims to strengthen the use of standards and technical regulations as powerful tools to attain SDG 5<sup>143</sup>, integrate a gender lens in the development of both standards and technical regulations, and elaborate gender indicators and criteria that could be used in standards development.<sup>144</sup>

#### 5.1.4 The Activities of the Codex Alimentarius Commission (Codex)

5.8. Colombia suggested a thematic session in which Members could be informed about the activities of standards development in the Codex – including, for example, recent standards and those currently under development. Colombia suggested this dialogue could include sharing experiences among Members on how they take part in these discussions, good practices that could lead to a greater involvement by developing countries in these activities, as well as how Members incorporate international standards in their regulatory processes, including with respect to conformity assessment.<sup>145</sup>

#### 5.1.5 Other information

5.9. The United States provided an updated on the work of the Standards Alliance.<sup>146</sup>

5.10. Mexico and the United States drew the Committee's attention to the work conducted by the Codex Alimentarius Commission on certain labelling requirements to applicable formula food.<sup>147</sup>

<sup>140</sup> [G/TBT/GEN/309](#), paras. 1.7.-1.8.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/wautier\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/wautier_e.pdf).

<sup>141</sup> [G/TBT/GEN/309](#), paras. 3.1.-3.2.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/linder\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/linder_e.pdf).

<sup>142</sup> [G/TBT/GEN/309](#), paras. 2.1.-2.2.; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/fessehaie\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/fessehaie_e.pdf).

<sup>143</sup> SDG 5: "Achieve Gender Equality and Empower all Women and Girls".

<sup>144</sup> [G/TBT/GEN/309](#), paras. 2.3.-2.4.; and

[https://www.wto.org/english/tratop\\_e/tbt\\_e/vepsalainen\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/vepsalainen_e.pdf).

<sup>145</sup> [G/TBT/W/752](#)

<sup>146</sup> [G/TBT/W/597](#).

<sup>147</sup> [G/TBT/M/78](#), paras. 5.1.-5.3.

5.11. Observers also provided relevant information. Updates were provided by [ARSO](#)<sup>148</sup>, [BIPM](#)<sup>149</sup>, [CODEX](#)<sup>150</sup>, [CROSOQ](#)<sup>151</sup>, [IEC](#)<sup>152</sup>, [ISO](#)<sup>153</sup>, [OIML](#)<sup>154</sup>, [UNECE](#)<sup>155</sup> and [UNIDO](#).<sup>156</sup>

## 5.2 Recommendations

5.12. Building on this exchange as well as on previous decisions and recommendations of the Committee, and with a view to furthering its work in the area of standards, the [Committee](#) agrees:

- a. to *hold* a thematic session to: inform Members about the activities of **standards development in the Codex**, including recent TBT-relevant standards and those currently under development; share experiences and good practices on how Members take part in these discussions with a view to increase participation by developing Members; and,
- b. to *hold* a thematic session on how Members incorporate international standards in their regulatory processes, including with respect to conformity assessment.

## 6 TRANSPARENCY

"The TBT Agreement contains **transparency** provisions in: Articles 2 and 3 (technical regulations); Articles 5, 7, 8 and 9 (conformity assessment procedures); Annex 3, paragraphs J, L, M, N, O & P (standards); and Articles 10 (general transparency provisions) and 15 (final provisions). A number of decisions and recommendations have been made with a view to facilitating access to information and further improving the implementation of transparency procedures under the Agreement."

[G/TBT/1/Rev.14](#), p. 23 (emphasis added)

### 6.1 Exchange of experiences

6.1. During the review period, most of the Committee's exchange of experiences took place in the context of a thematic session on transparency, including the Ninth Special Meeting on Procedures for Information Exchange, held on 18-19 June 2019<sup>157</sup>, and a thematic session on transparency held on 4 February 2021.<sup>158</sup> A background note was provided by the Secretariat to assist delegations in deliberations on the topic of transparency.<sup>159</sup> The Secretariat provided updates on transparency related activities and online tools.<sup>160</sup> A TBT technical assistance Transparency Workshop took place in parallel to the TBT Committee meeting held in June 2019.<sup>161</sup>

6.2. Members continued to submit an increasing number of TBT notifications during the review period (Chart 1). During the review period, 4 Members submitted their first Statement on Implementation and Administration of the TBT Agreement under Article 15.2 of the TBT Agreement (15.2 Statement) and 4 Members submitted revisions to their statements; further, 3 Members submitted supplements thereto.<sup>162</sup>

<sup>148</sup> [G/TBT/GEN/289](#).

<sup>149</sup> [RD/TBT/251](#); [RD/TBT/274](#); [RD/TBT/279](#); [G/TBT/GEN/266](#); [RD/TBT/310](#); [RD/TBT/327](#); and [RD/TBT/343](#).

<sup>150</sup> [G/TBT/GEN/258](#); [G/TBT/GEN/282](#); [G/TBT/GEN/291](#); and [RD/TBT/328](#).

<sup>151</sup> [RD/TBT/331](#).

<sup>152</sup> [RD/TBT/275](#); [RD/TBT/280](#); [RD/TBT/313](#); [G/TBT/GEN/299](#); [RD/TBT/329](#); and [RD/TBT/341](#).

<sup>153</sup> International Organization for Standardization [G/TBT/M/76](#), para. 6.1.; [G/TBT/M/77](#), para. 6.2.; [G/TBT/GEN/269](#); [G/TBT/GEN/284](#); [G/TBT/GEN/292](#); and [RD/TBT/342](#).

<sup>154</sup> [G/TBT/GEN/283](#).

<sup>155</sup> [G/TBT/GEN/255](#); [G/TBT/GEN/259](#); [G/TBT/GEN/267](#); [G/TBT/GEN/281](#); and [G/TBT/GEN/290](#).

<sup>156</sup> [G/TBT/GEN/254](#); [G/TBT/GEN/261](#); [RD/TBT/311](#); and [RD/TBT/332](#).

<sup>157</sup> [G/TBT/GEN/265](#).

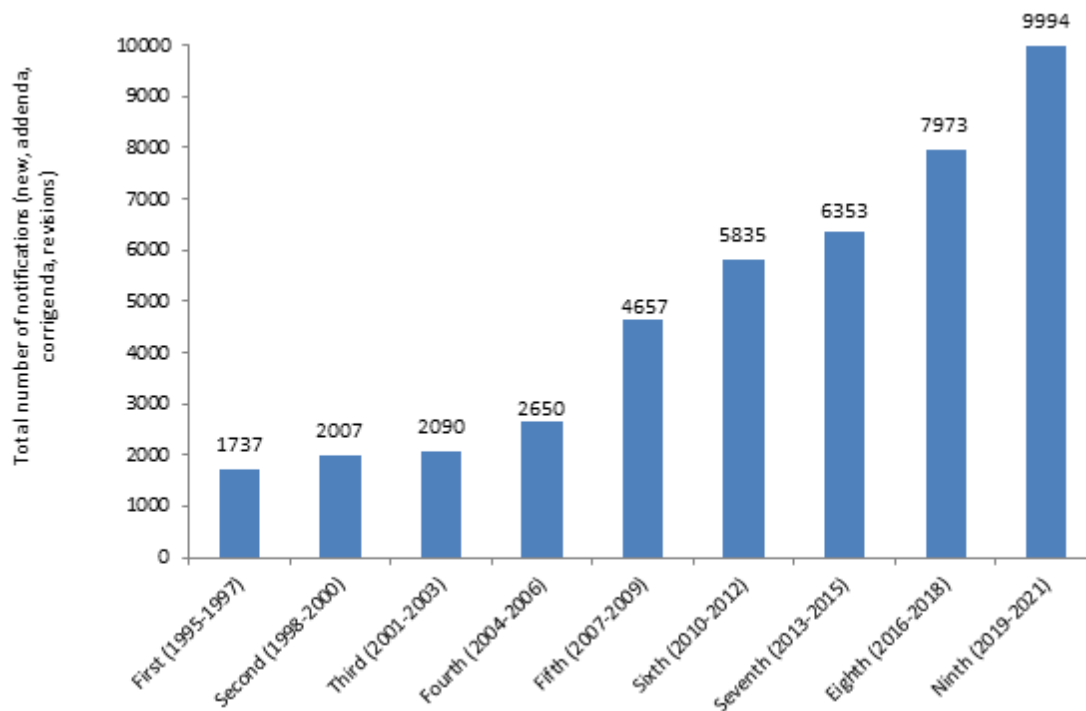
<sup>158</sup> [G/TBT/GEN/312](#); [G/TBT/M/78](#), para. 3.324.

<sup>159</sup> [JOB/TBT/320](#) and [JOB/TBT/320/Corr.1](#).

<sup>160</sup> [G/TBT/GEN/265](#), para. 2.1; [G/TBT/GEN/274](#); [G/TBT/GEN/276](#); [G/TBT/M/79](#), para. 2.319.; [G/TBT/M/80](#), paras. 2.379. and 2.396.; and [G/TBT/GEN/312](#), para. 1.2.

<sup>161</sup> [G/TBT/M/78](#), para. 4.2.

<sup>162</sup> Figures as of 1 November 2021.

**Chart 1: Total TBT notifications per Triennial Review period<sup>163</sup>**

### 6.1.1 Online tools: Tracking and reacting to Members' measures and notifications

6.3. Members discussed their **experiences about the process of gathering, disseminating, tracking and responding to TBT notifications, including by utilising ePing and other online tools and technology**.<sup>164</sup> Australia shared experiences on how it addresses Non-Tariff Barriers (NTBs), noting that it developed a Non-Tariff Barriers Action Plan, which is a whole-of-government strategy to increase efforts to improve market access through enhancing understanding of barriers that are legitimate and addressing barriers that are inconsistent with international trade rules. A gateway website was created to facilitate raising concerns for all businesses.<sup>165</sup> Viet Nam explained that its TBT National Enquiry Point, situated in the Directorate for Standards, Quality and Metrology (STAMEQ) in the Ministry of Science and Technology, is responsible for notifying and responding to all enquiries related to TBT issues; managing and operating the TBT Viet Nam portal; and providing and disseminating TBT information to stakeholders. The TBT Viet Nam Office also provides training on ePing.<sup>166</sup>

6.4. The United States described the role of the USA TBT Enquiry Point in making notifications available through NotifyUS; distributing comments to agencies of the US Government and to the appropriate Enquiry Points of WTO Members; responding to correspondence from WTO Members; providing information and guidance to US industries; and monitoring US Federal and State regulations to notify the WTO of potential TBTs.<sup>167</sup> Moreover, using the toy industry as an example for successful stakeholder engagement, the United States described how the US engaged stakeholders to reduce STCs.<sup>168</sup> The United States also underscored that the TBT process at the WTO is critical to the ability of the global cosmetic and personal care products industry to be informed about proposed regulations in a wide range of countries. By providing comments, the proposed regulations can be improved to avoid them becoming a trade barrier.<sup>169</sup>

<sup>163</sup> Figures as of 1 November 2021.

<sup>164</sup> [G/TBT/GEN/265](#); [G/TBT/M/79](#); [G/TBT/M/80](#); [G/TBT/M/82](#); [G/TBT/GEN/312](#).

<sup>165</sup> [G/TBT/GEN/265](#), para. 2.4.

<sup>166</sup> [G/TBT/GEN/265](#), para. 2.6.

<sup>167</sup> [G/TBT/GEN/265](#), para. 2.7.

<sup>168</sup> [G/TBT/GEN/265](#), para. 2.8.

<sup>169</sup> [G/TBT/GEN/265](#), para. 2.9.

6.5. Uganda shared its experience with the ePing platform, which is extensively used by the private sector and by central and local government officials to download notifications of draft measures. Uganda also uses the National Discussion Forum function to facilitate discussion of notifications and has created sector groups for discussion of notifications that may affect a particular sector.<sup>170</sup> Trinidad and Tobago laid out the challenges faced by the Trinidad and Tobago Bureau of Standards in its role as focal point, which include properly identifying who might be affected by a notification. At the regional level, CARICOM has established a regional committee to handle matters on Technical Barriers to Trade, Information Management and Enquiry Points, which will use ePing as a forum for regional discussions amongst enquiry point officers and to facilitate sectorial discussions on proposed notifications, among other things.<sup>171</sup> Egypt explained the work it has undertaken in fulfilling its TBT Agreement transparency obligations, noting that mechanisms are in place for both outgoing and incoming notifications, with public and private sector involvement throughout. It was noted that using ePing allows stakeholders to receive email alerts of notifications of interest to them and facilitates the provision of comments within the timeframe.<sup>172</sup>

6.6. On the **use and enhancement of ePing**, Switzerland noted that ePing facilitated, for example, information-sharing with respect to comments on notifications and replies to such comments. Switzerland observed that ePing could be a valuable tool to implement some of the Eighth Triennial Review recommendations, such as the recommendation encouraging Members to publish their comments and replies thereto.<sup>173</sup> Switzerland encouraged Members to use ePing for this purpose.<sup>174</sup> Moreover, Switzerland suggested that the Secretariat prepare a draft document further clarifying the purpose and the practical steps for sharing comments and replies via ePing, underlining its voluntary nature as well as the benefits.<sup>175</sup> Australia encouraged other Members to make use of the ePing features highlighted by Switzerland.<sup>176</sup> The United States was supportive of all the enhancements that had been made to ePing and strongly encouraged the WTO to continue enhancing that system and its integration with other TBT online systems, such as the TBT IMS. The United States appreciated the work of the ITC, WTO and UNDESA to make the system as useful as it is. ePing, it was emphasized, was a powerful tool that could strongly enhance transparency and facilitate information sharing – and could thus contribute to resolving STCs.<sup>177</sup> The European Union saw value in efforts to extend the functionalities of ePing and indicated that ePing should provide a comprehensive support to all TBT notifications, throughout their life-cycle and allow for the complete treatment of and follow-up to TBT notifications. The European Union encouraged the Secretariat to pursue these efforts and remained available for any support that may be needed in the development and testing phases of an updated ePing tool.<sup>178</sup>

6.7. The European Union noted ePing's potential as a vehicle to facilitate the implementation of the TBT Agreement and help the work of the TBT Committee. In particular, the European Union noted that, with further development, ePing could be used as a single notification platform to include all Members' notifications, from the initial notification drafts to the notification of final texts. ePing could have a public face allowing the public to see how TBT works and where comments on notifications can be published. In addition, ePing could have a restricted access area to be used by officials to communicate comments and replies, to request clarification on a measure and facilitate exchanges in general between Members. Another use for ePing could be as a repository for each notification, where drafts, addenda, stakeholders' contributions, comments and replies and the final texts could be contained in a single file. Any STC information might also be included there. The European Union also noted that these possible new features would pose challenges, such as deciding how much information should be shared just with WTO Members and how much with the general public, and the treatment of delicate information and personal data.<sup>179</sup> Switzerland supported the EU's suggestions to centralize the Committee's work in one platform, which would help better implement the transparency provisions.<sup>180</sup> The European Union suggested to expand the scope and

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<sup>170</sup> [G/TBT/GEN/265](#), para. 2.10.

<sup>171</sup> [G/TBT/GEN/265](#), para. 2.11.

<sup>172</sup> [G/TBT/GEN/265](#), para. 2.12.

<sup>173</sup> [G/TBT/M/79](#), para. 2.320.

<sup>174</sup> [G/TBT/M/80](#), para. 2.393.

<sup>175</sup> [G/TBT/M/82](#), para. 2.504.

<sup>176</sup> [G/TBT/M/80](#), para. 2.394.

<sup>177</sup> [G/TBT/M/80](#), para. 2.395.

<sup>178</sup> [G/TBT/M/82](#), para. 2.505.

<sup>179</sup> [G/TBT/GEN/312](#), para. 1.3.

<sup>180</sup> [G/TBT/GEN/312](#), para. 1.4.

functionalities of ePing.<sup>181</sup> Brazil suggested some enhancements to ePing, the TBT IMS, the Trade Concerns Database, and future eTools.<sup>182</sup>

6.8. Invited speakers also addressed developments in online tools. UNCTAD presented its Non-tariff Measures (NTM) programme, which covers a broad spectrum of measures including, but not limited to TBT and SPS measures.<sup>183</sup> The ITC introduced the Global Trade Helpdesk, a single-entry point for trade-related information that aims to integrate dispersed and complex information on trade.<sup>184</sup> ISO provided information on its MENA STAR project, which seeks to strengthen the institutional infrastructure on standards and regulations to support business and industry in the Middle East and North Africa, and provides hands on training on ePing.<sup>185</sup>

### 6.1.2 Handling of comments – disseminating comments and replies on a voluntary basis

6.9. The European Union described the process and tools used to manage and disseminate the increasing number of TBT notifications and related documents with their stakeholders. This process begins with the comment procedure, whereby the enquiry point distributes notifications received from the WTO database to EU Commission departments and to stakeholders. The relevant departments then provide technical input and assess stakeholder comments. Finally, the enquiry point prepares comments on behalf of the EU in cooperation with the Commission departments.<sup>186</sup> The United States described FDA's process for developing and implementing new regulations to meet US public health objectives, whilst respecting established laws, policies, and trade obligations. The FDA's goal in the rulemaking process is to engage all stakeholders (e.g. consumers/patients, domestic or foreign industry, foreign or US state governments, academics/researchers) to maximize substantive comments that may improve the proposed rule. It was noted that once a draft regulation is published in the Federal Register it is notified to the WTO, and set up for public comments by means of a docket on the [www.regulations.gov](http://www.regulations.gov) website. FDA reviews comments received through the enquiry point with USTR and works to address trading partners' concerns.<sup>187</sup> Brazil suggested that, whenever a Member submits a TBT notification with indication of a final date for comments, the notification include a website link in which all comments received by the enquiry point will be available.<sup>188</sup>

6.10. With respect to the **use of ePing to disseminate comments and replies on notifications**, the Secretariat introduced the first draft of a practical document<sup>189</sup> on the potential benefits of sharing comments and replies related to notifications on a voluntary basis, as well as subsequent discussions in the TBT Committee meetings. The Secretariat also introduced how ePing can be used for this purpose by means of a short tutorial video.<sup>190</sup> Switzerland observed that the centralization of this task on ePing led to increased transparency in the handling of comments, the early disclosure of problems or their solutions, and allowed for more discussion and solution of STCs and better coordination between interested Members. Switzerland added that it was already using ePing to inform Members that comments had been submitted and that, to date, no issues had been encountered when using the platform for this purpose. The United States and Canada stated that, while the function of posting comments to notifications on ePing would certainly facilitate Members' ability to comment, certain outstanding issues should be further discussed by the Committee, such as how comments would be treated and the privacy of those comments.<sup>191</sup> The United States indicated that, although there were some privacy concerns to be worked out, the developments in ePing were positive. Trinidad and Tobago shared the US' concerns on privacy and suggested that the new ePing chat feature could be used to share more sensitive information on a one-to-one basis. Australia saw considerable value in efforts to promote the practice of sharing comments on notifications and replies to comments via ePing. Australia also noted that the flexibility provided in the system was useful in managing privacy concerns expressed, because the document made clear that the comment and reply sharing practice would be voluntary and Members would determine

<sup>181</sup> [G/TBT/W/736](#), para. 2.2.

<sup>182</sup> [G/TBT/W/741/Rev.1](#), paras. 2.1.-2.2.; and [G/TBT/W/744](#), para. 2.1.

<sup>183</sup> [G/TBT/GEN/265](#), para. 2.2.

<sup>184</sup> [G/TBT/GEN/265](#), para. 2.3.

<sup>185</sup> [G/TBT/GEN/265](#), para. 2.13.

<sup>186</sup> [G/TBT/GEN/265](#), para. 3.1.

<sup>187</sup> [G/TBT/GEN/265](#), para. 3.2.

<sup>188</sup> [G/TBT/W/743](#), para. 2.1.

<sup>189</sup> [JOB/TBT/396](#).

<sup>190</sup> [G/TBT/GEN/312](#), para. 3.1.

<sup>191</sup> [G/TBT/M/82](#), paras. 2.506.-2.507.

whether comments could be shared in whole, in part, or Members could simply indicate that comments were made without disclosing the detail.<sup>192</sup>

6.11. Members also exchanged **experiences regarding the commenting process**. The European Union explained its process of preparing comments on TBT notifications submitted by other WTO Members, noting that the EU's approach is to submit, for each TBT notification, a single comment on behalf of the EU. The EU's Enquiry Point coordinates the preparation of EU comments so that it is based on different views expressed by various EU stakeholders (member States, European industries, individual stakeholders) against the background of general EU interests and policies. The European Union also shared the three major challenges faced when preparing comments on TBT notifications by other WTO Members: (i) the lack of translation of notified measures into one of the official/working WTO languages; (ii) late notifications and insufficient time for comments; and (iii) situations when measures are notified to both the TBT and SPS Committees, but this is not indicated by the notifying Member.<sup>193</sup> The United States presented how the US WTO Enquiry Point facilitates the sharing of comments from US industry and government on WTO Members' TBT notifications and of WTO Members' comments on US notifications. In essence, US entities submit comments, procedural questions, other information requests to the US Enquiry Point, which then distributes them to appropriate WTO Members' national Enquiry Points and also to the US government trade/export agencies. When WTO Members submit comments on US TBT notifications, the US Enquiry Point distributes these comments to the appropriate US regulators and trade agencies (e.g. USTR, Department of Agriculture, Environmental Protection Agency, etc.). The United States listed the key benefits of commenting through its Enquiry Point and certain challenges, such as the lack of responses to requests for extensions to the comment period.<sup>194</sup>

6.12. China shared its experience in how comments on TBT notifications are prepared. The TBT Enquiry Point receives and translates TBT notifications and selects those notifications that may have an impact on Chinese exports. These notifications are then emailed to the regulatory authority for further study and comment. Stakeholders are encouraged to use ePing to track notifications. Stakeholders also make comments on the selected notifications and submit them to the competent authority, which will send those approved to the Enquiry Point. The Enquiry Point translates the comments into English and submits them to the notifying Member. For China, the challenges include the financial costs and time required for translating the increasing number of notifications and full texts, as well as not receiving a response to requests to extend the comment period, especially when less than 60 days had been provided.<sup>195</sup> Russia queried what percentage of comments had been taken into account, and which type of stakeholders were providing the most comments (industry associations, individual exporters, research institutions, government experts, etc.). China, the United States, and the European Union shared their relevant experiences in this regard.<sup>196</sup> Brazil suggested that, whenever another Member that presented comments so requires, the notifying Member explain which proposals or contributions were taken into account and incorporated into the final technical regulation or conformity assessment procedure.<sup>197</sup>

6.13. Moreover, following up on the recommendation in the Eighth Triennial Review to develop a **good practice guide on how to prepare a comment on a WTO notified technical regulation or conformity assessment procedure**, Members shared views on the preparation of this good practice guide. Canada noted that the main challenges that it faced include the lack of availability of the notified regulations in one of the three official languages of the WTO, email addresses of Enquiry Points no longer being valid, and difficulties related to engaging stakeholders to provide inputs on notified measures.<sup>198</sup> Peru stated that the drafting of a good practice guide should consider challenges related to reaching out to stakeholders in a timely manner and the inclusion of the technical justification in the comments to ensure that the concerns raised are addressed in the most satisfactory manner.<sup>199</sup> The European Union suggested that the Committee set key elements for a

<sup>192</sup> [G/TBT/GEN/312](#), para. 3.2.

<sup>193</sup> [G/TBT/GEN/312](#), paras. 3.3.-3.4.

<sup>194</sup> [G/TBT/GEN/312](#), paras. 3.5-3.6.

<sup>195</sup> [G/TBT/GEN/312](#), para. 3.7.

<sup>196</sup> [G/TBT/GEN/312](#), paras. 3.8-3.9

<sup>197</sup> [G/TBT/W/737](#), paras. 2.1-2.2.

<sup>198</sup> [G/TBT/GEN/312](#), para. 3.11.

<sup>199</sup> [G/TBT/GEN/312](#), para. 3.12.

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good practice guide on how to improve product coverage in notifications and how to prepare a comment.<sup>200</sup>

### 6.1.3 Functioning of enquiry points

6.14. Members shared experiences on the role of enquiry points in facilitating internal coordination and the handling, accepting, and transmitting of comments, and explored ways to improve their functioning. The Secretariat presented updates in respect of the validation of Enquiry Point information at the 6-7 March 2019 Committee meeting<sup>201</sup>, at the thematic session on transparency<sup>202</sup>, and at the Committee's regular meeting held on 26-27 February 2020.<sup>203</sup>

6.15. China described the mechanisms for implementing the transparency provisions of the TBT Agreement in China and the process by which comments are collected from stakeholders, including through sector-specific research and comment centres. China also noted several challenges for the Chinese Enquiry Point.<sup>204</sup> Jamaica said that the Bureau of Standards Jamaica (BSJ), which is the designated TBT National Enquiry Point, responds to enquiries and informs local stakeholders about export requirements in international markets, including using ePing.<sup>205</sup> Chinese Taipei provided some insights on its process to respond to enquiries on TBT matters and noted the increasing use of the Enquiry Point. Chinese Taipei also indicated that the most frequent difficulties that it faces in sending enquiries to other Members include lack of acknowledgement, lengthy response time, and responses sometimes being incomplete.<sup>206</sup>

6.16. The United States indicated that increased communication between Enquiry Points could help to avoid, address and resolve STCs by exchanging information and questions on notified measures in between TBT Committee meetings. The United States observed that a possibility to enhance bilateral engagement is to look into whether ePing could be further used to facilitate such communications as it already includes a discussion forum for Enquiry Points.<sup>207</sup> Kenya presented its experience in managing notifications and comments. Kenya explained that the TBT National Enquiry Point covers a broad set of functions, such as the drafting and uploading of TBT notifications, responding to incoming comments on notifications and sending regular reports to the TBT National Committee, which is a key institution in TBT transparency matters.<sup>208</sup> The European Union described the procedure for TBT notifications in the EU, whereby EU draft measures are notified by the EU TBT Notification and Enquiry Point. EU member States also have individual TBT Notification and Enquiry Points, responsible for notifying national draft measures.<sup>209</sup>

### 6.1.4 Timing of notifications

6.17. Brazil suggested to discuss what is an early appropriate stage to present notifications to the TBT Committee. Brazil also suggested that Members evaluate whether their notifications are being made at an early appropriate stage, when amendments can still be introduced and taken into account and, if not, to adjust their notifications processes.<sup>210</sup> The United States suggested that Members notify draft technical regulations at the same time that domestic consultations occur.<sup>211</sup> The United Kingdom encouraged further discussion on the timing and substance of notifications. The European Union recalled the need to engage in additional exchanges on both timing and substance of notifications. South Africa indicated that Members' experiences on the timing of domestic consultations and notification of draft technical regulation differ and that it might not be possible for some Members to notify draft technical regulations at the same time that domestic consultations occur. Further discussions on the applicability of this proposal are needed.

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<sup>200</sup> [G/TBT/W/736](#), para. 2.2.

<sup>201</sup> [G/TBT/M/77](#), para. 3.278; [G/TBT/GEN/262](#), paras. 1.1-1.4.

<sup>202</sup> [G/TBT/GEN/265](#), para. 1.1.

<sup>203</sup> [G/TBT/M/80](#), para. 2.396.

<sup>204</sup> [G/TBT/GEN/265](#), para. 1.2.

<sup>205</sup> [G/TBT/GEN/265](#), para. 1.3.

<sup>206</sup> [G/TBT/GEN/265](#), para. 1.4.

<sup>207</sup> [G/TBT/GEN/265](#), para. 1.5.

<sup>208</sup> [G/TBT/GEN/265](#), para. 1.6.

<sup>209</sup> [G/TBT/GEN/265](#), para. 2.5.

<sup>210</sup> [G/TBT/W/742](#), paras. 2.1-2.2

<sup>211</sup> [G/TBT/W/749](#).

### 6.1.5 Submission of notifications (Format and Guidelines)

6.18. With respect to the **product coverage specified in notifications**, the Secretariat provided an overview of key issues about the operation of the Harmonized System and the Convention on the Harmonized Commodity Description and Coding System established under the auspices of the World Customs Organization (WCO).<sup>212</sup> An invited speaker, ISO, explained key aspects of the International Classification of Standards (ICS), which provides a structure for catalogues of international, regional and national standards and other normative documents and is used by the ISO as well as other standardizing bodies.<sup>213</sup> In response to questions regarding the lack of HS Codes in notifications and the possible availability of a concordance table between HS and ICS Codes, the Secretariat recalled that only about one third of notifications had included HS Codes in the past year while it was more common to see ICS Codes. To facilitate the identification of HS Codes and ICS Codes in notifications, the online Notification Submission System included drop-down options where Members could search for specific codes based on product names. In cases where the submitted notification did not include any HS or ICS Code, the Secretariat, more specifically the Central Registry of Notifications, assigned these Codes where possible. The additional codes did not appear in the official notification but were used to facilitate database searches and alerts, for example in the TBT IMS and ePing.<sup>214</sup> The European Union suggested that the Committee set key elements for a good practice guide on how to improve product coverage in notifications and how to prepare a comment.<sup>215</sup> The United States suggested that the WTO Secretariat build awareness and capacity by organizing a training on HS and ICS codes in notifications, with a focus on medical technology as a case study.<sup>216</sup> Ecuador supported training on HS and ICS codes, and suggested an additional case study focusing on processed foods. Chinese Taipei suggested to discuss, among other things, experiences and challenges in encouraging private sector engagement in TBT notifications and reasons/difficulties for Members in providing specific information on the products potentially impacted by notified measures, with special emphasis on the challenges of providing HS codes.<sup>217</sup> The Dominican Republic called for enhancing the use of HS and ICS codes in TBT notifications.

6.19. On **other information contained in the notification format**, Brazil suggested that Members provide more details of legitimate objectives pursued in notified measures.<sup>218</sup> Canada suggested that the Committee set additional specific parameters and elements to be included in the field "Description of content" for notification of measures which are published originally in a language other than English, French or Spanish.<sup>219</sup>

6.20. On **establishing whether a measure should be notified under the SPS Agreement and/or TBT Agreement**, the Secretariat presented its Background Note relevant to the discussion of whether a measure should be notified under the SPS Agreement and/or the TBT Agreement.<sup>220</sup> Brazil explained certain aspects of Brazil's regulatory framework that foster regular dialogue among its main regulators, international trade authorities and the TBT National Notification Authority, which help with the task of clarifying under which agreement a notification should be presented. Brazil also noted its enhanced transparency policy of going beyond the Agreements' minimum obligations and notifying all regulations that have impact on trade, as well as its increasing number of "double" TBT-SPS notifications. Brazil stressed that uncertainties regarding under which agreement a measure should be notified can have negative consequences for Members, including losing time to communicate drafts to interested stakeholders.<sup>221</sup> Brazil concluded with a proposal for the TBT Committee to "encourage[] Members to reflect on the benefits of notifying simultaneously to both [TBT and SPS] Committees".<sup>222</sup> Canada described its experience with notifications of regulations containing SPS and TBT elements. In Canada, the submission and receipt of notifications is performed by a single body that performs the tasks of Notification Authority and Enquiry Point for both TBT and SPS measures. Canada's Notification Authority and Enquiry Point and Canadian regulators work together to identify issues requiring notification and to prepare such notifications,

<sup>212</sup> [G/TBT/GEN/312](#), para. 2.1.

<sup>213</sup> [G/TBT/GEN/312](#), para. 2.2.

<sup>214</sup> [G/TBT/GEN/312](#), para. 2.3.

<sup>215</sup> [G/TBT/W/736](#), para. 2.2.

<sup>216</sup> See Section 7.1.2; [G/TBT/W/750](#)

<sup>217</sup> [G/TBT/W/753](#), Part 2.

<sup>218</sup> [G/TBT/W/738](#), paras. 2.1-2.2.

<sup>219</sup> [G/TBT/W/745](#), para. 3.4.

<sup>220</sup> [JOB/TBT/320](#), Section 3.2 and Annex II.

<sup>221</sup> [G/TBT/GEN/265](#), paras. 4.2-4.3.

<sup>222</sup> [G/TBT/GEN/265](#), para. 4.3. (emphasis omitted).



including by assessing whether elements in the regulation fall under the SPS or TBT Agreement. Canada concluded by making a "best practice" suggestion for Members to indicate in their notification if the regulation has been notified to another WTO Committee.<sup>223</sup> The European Union stressed the importance of indicating whether a notified measure falls under *both* the TBT and SPS Agreements. Non-simultaneous SPS and TBT notifications could prevent Members from submitting identical comments in such cases.

6.21. At the Committee meeting held on 28-29 October 2020, the Secretariat noted that the **online TBT Notification Submission System**, through which 88% of TBT notifications had been submitted in 2019, had undergone a series of enhancements. One of the most significant changes related to the incorporation of more recent versions of HS Codes into the system, making it easier for Members to find the specific codes for the products they intend to regulate.<sup>224</sup>

#### 6.1.6 Texts of notified technical regulations and conformity assessment procedures

6.22. The Secretariat drew delegations' attention to certain recommendations dealing with final texts.<sup>225</sup> Members were invited to consider the revised formats<sup>226</sup> and provide any comments in writing and to provide information to the Secretariat about where (e.g. website addresses) Members maintain up-to-date information regarding adopted final texts of technical regulations and applicable conformity assessment procedures.<sup>227</sup> The Secretariat updated Members on the availability of final texts of notified technical regulations, noting that the annual review report for 2019 contained a list of the websites from Members that had come forward with information regarding where they stored adopted final texts at the national level.<sup>228</sup>

6.23. The Committee adopted a revised Recommendation on the "Coherent use of notification formats", at its 13-15 November 2019 meeting.<sup>229</sup> At the Committee meeting held on 28-29 October 2020, the Secretariat confirmed that the revised Addendum format became operational on 16 July 2020 following the completion of adjustments to various online systems. The main difference with the earlier version of the format was that when providing updates on notified measures, Members could now indicate the reason for the Addendum, making it easier to track the evolution of notified measures.<sup>230</sup>

#### 6.1.7 Provision of translations

6.24. The Philippines suggested that where a Member has translated into any of the official WTO languages the full text of another Member's notified measure/s, that Member is encouraged to announce the availability of the translation through ePing.<sup>231</sup> Singapore suggested that the Secretariat explore the use of available IT tools such as translation software to enable the provision of translations for all notified documents in the WTO's three official languages.<sup>232</sup> The European Union stressed that in many cases inaccessibility of texts in the languages enumerated in Article 10.5 of the TBT Agreement leads to the impossibility of providing comments within the set deadline. Machine translations may contain important errors that can lead to misinterpretations as regards the notified draft measures. The European Union advocated for better cooperation on sharing the translations between the TBT Committee Members.

#### 6.1.8 Members' experience with domestic coordination

6.25. The United Kingdom explained how awareness of TBT obligations was raised through the United Kingdom's Regulatory Impact Assessment process in which the UK's Department for International Trade engaged stakeholders across Government, raising awareness of WTO obligations and providing training to other Departments and Regulators.<sup>233</sup> Ecuador presented its experience

<sup>223</sup> [G/TBT/GEN/265](#), para. 4.4.

<sup>224</sup> [G/TBT/M/82](#), para. 2.504.

<sup>225</sup> [JOB/TBT/320](#), paras. 2.34–2.38.

<sup>226</sup> [JOB/TBT/320](#), Annexes III and IV.

<sup>227</sup> [G/TBT/GEN/265](#), para. 6.1.

<sup>228</sup> [G/TBT/M/80](#), para. 2.396.

<sup>229</sup> [G/TBT/M/79](#), para. 2.318.

<sup>230</sup> [G/TBT/35/Rev.1](#); [G/TBT/M/82](#), para. 2.501.

<sup>231</sup> [G/TBT/W/746/Rev.1](#).

<sup>232</sup> [G/TBT/W/755](#), Section 1.

<sup>233</sup> [G/TBT/GEN/312](#), para. 4.2.

with respect to TBT notifications, the functioning of their national Enquiry Point, internal coordination among regulatory agencies, private sector participation, and the use of good practices.<sup>234</sup> In addressing regulatory issues in the context of emerging technologies, the United States spoke about the importance of transparency, coordination, and engagement at all stages of the regulatory process in order to ensure that regulations effectively address legitimate policy objectives and do so in a technologically neutral manner.<sup>235</sup> The European Union suggested to exchange experiences on good practices for domestic coordination and engagement with regulators and the private sector.<sup>236</sup> Chinese Taipei shared experiences on enhancing private sector engagement in the TBT notification process, which included introducing an information filtering and interpretation system to facilitate private sector participation, as well as outreach activities to industry associations and firms.<sup>237</sup>

### 6.1.9 Notification under Article 10.7 of the TBT Agreement

6.26. Brazil suggested that notifications under Article 10.7 of the TBT Agreement include information on mutual or unilateral recognition or harmonization foreseen in preferential trade agreements or their annexes and/or in thematic, sectorial or product-specific arrangements to which that Member is a part. In this respect, Brazil suggested the format for notification under Article 10.7 of the TBT Agreement be amended to include a "Text of the agreement/arrangement/annex" field.<sup>238</sup>

### 6.1.10 Statement on Implementation and Administration of the TBT Agreement (Article 15.2)

6.27. The United States suggested that Members notify their National Quality Infrastructure laws as a good practice – and that this be done in accordance with the Article 15.2 notification (distinct from proposed technical regulations and conformity assessment procedures). The United States also suggested, in respect of online consultation platforms used to facilitate transparency, that Members notify or update the information in their Article 15.2 notification on where Members' comments on draft technical regulations could be submitted. The United States suggested that the Secretariat propose a format for notification of updated national measures that underpin or assist Members in meeting their TBT obligations in Article 15.2.<sup>239</sup>

### 6.1.11 Technical Assistance and Cooperation

6.28. The United States described the TBT transparency-related aspects of US-Brazil and US-Argentina Commercial Dialogues, which promote industry-specific cooperation to address issues in each partner Member, and highlighted technical assistance provided by the Standards Alliance for TBT Enquiry Points of African Members.<sup>240</sup> A TBT technical assistance Transparency Workshop took place in parallel to the TBT Committee meeting held in June 2019.<sup>241</sup> Saint Kitts and Nevis said that the Transparency Workshop had been a very useful opportunity to share ideas and discuss challenges.<sup>242</sup>

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<sup>234</sup> [G/TBT/GEN/312](#), para. 4.3.

<sup>235</sup> [G/TBT/GEN/312](#), para. 4.4.

<sup>236</sup> [G/TBT/W/736](#), para. 2.2.

<sup>237</sup> [G/TBT/GEN/312](#), para. 4.1.

<sup>238</sup> [G/TBT/W/740](#), paras. 2.1-2.2.

<sup>239</sup> [G/TBT/W/749/Rev.1](#).

<sup>240</sup> [G/TBT/GEN/265](#), paras. 5.1-5.2.

<sup>241</sup> [G/TBT/M/78](#), para. 4.2.

<sup>242</sup> [G/TBT/M/78](#), para. 4.3.

## 6.2 Recommendations

6.29. Building on this exchange as well as on previous decisions and recommendations of the Committee, and with a view to furthering its work in the area of transparency, the Committee agrees:

- a. with respect to **online tools**:
  - i. to *request* the Secretariat to improve and streamline current online TBT tools, including ePing, and work towards integrating these tools into a more comprehensive centralized platform;
  - ii. to *request* the Secretariat to explore ways of improving alerts on notifications and STCs;
- b. with respect to **handling of comments**:
  - i. to *encourage* Members, taking into account their individual situations and practices, to provide more transparency on submitted comments and replies, including through a website or a common platform such as ePing;
  - ii. to *encourage* Members, taking into account their individual situations and practices, and upon the request of another Member, to explain which comments were taken into account in the final technical regulation or conformity assessment procedure;
- c. with respect to **timing of notifications**:
  - i. to *discuss* the processes that Members follow in order to submit notifications "at an early appropriate stage", and, in light of this discussion, to *consider* the need to provide further guidance in this regard;
  - ii. to *discuss* Member practices to the sequencing of domestic consultations and the notification of draft technical regulations and conformity assessment procedures, to ensure that comments from WTO Members are duly taken into account;
- d. with respect to **submission of notifications (format and guidelines)**:
  - i. to *encourage* Members, taking into account their individual situations, to provide additional details in Item 7 of the notification format<sup>243</sup> on the legitimate objectives pursued by the notified measures, building on the recommendation of the Committee from the Eighth Triennial Review<sup>244</sup>;
  - ii. to *amend* the notification format and associated guidelines to enable a more fulsome description of content under Item 6<sup>245</sup>, in particular when notified measures are published in a language other than English, French or Spanish;
  - iii. to *hold* a thematic session on challenges that Members face in providing specific information on the product coverage of notified measures, with special emphasis on HS codes;

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<sup>243</sup> [G/TBT/1/Rev.14](#), Annex 3.2.

<sup>244</sup> [G/TBT/41](#), para. 1.7. b.

<sup>245</sup> [G/TBT/1/Rev.14](#), Annex 3.2.

- e. with respect to **provision of translations**:
- i. to *encourage* Members to announce, through ePing, the availability of the translation of either partial or the full text of another Member's notified measure into any of the official WTO languages;
  - ii. to *request* the Secretariat to explore the use of available IT tools, such as translation software, in order to provide unofficial translations of notified documents into the three official WTO languages through TBT online tools;
- f. with respect to **domestic coordination**:
- i. to *hold* a thematic session on good practices and challenges for domestic coordination and engagement with regulators and the private sector, including with respect to notifications;
- g. with respect to **Article 10.7 notifications**:
- i. to *encourage* Members to notify information on mutual recognition, unilateral recognition or harmonization in preferential trade agreements or their annexes, and/or in thematic, sectorial or product-specific arrangements to which that Member is a part; and
  - ii. to *encourage* Members to provide a hyperlink to the full text of the corresponding agreement, arrangement or annex, and, for this purpose, to *amend* the notification format<sup>246</sup> to include a "Text of the agreement/arrangement/annex" field;
- h. with respect to **statements on implementation and administration of the TBT Agreement (Article 15.2)**:
- i. to *request* the Secretariat to develop a notification format under Article 15.2 that allows Members to notify information that underpins or assists in the implementation of the TBT Agreement;
  - ii. to *encourage* Members to notify, under Article 15.2, their National Quality Infrastructure laws and any subsequent changes to such laws; and,
  - iii. to also *encourage* Members to notify, under Article 15.2, information on where Members' comments on draft technical regulations can be submitted, such as online consultation platforms.

## 7 TECHNICAL ASSISTANCE

Provisions on technical assistance are contained in Article 11 of the TBT Agreement. Technical assistance has been considered an area of priority work for the Committee since its establishment; it figures on the agenda of the Committee on a permanent basis. Members have regularly, on a voluntary basis, exchanged experiences and information on technical assistance in order to enhance the implementation of Article 11 of the TBT Agreement.

[G/TBT/1/Rev.14](#), p. 49

### 7.1 Exchange of experiences

7.1. During the review period, most of the Committee's exchange of experiences took place in the context of a thematic session on technical assistance, held on 27 October 2020<sup>247</sup>, and in the context of the Ninth Special Meeting on Procedures for Information Exchange, held on 18-19 June 2019.<sup>248</sup>

<sup>246</sup> [G/TBT/1/Rev.14](#), Annex 4.

<sup>247</sup> [G/TBT/GEN/306](#).

<sup>248</sup> [G/TBT/GEN/265](#).

7.2. Australia presented the Australian perspective on capacity building in metrology to support participation in global frameworks for the reduction of technical barriers to trade and highlighted the important role of metrology and quality infrastructure. Australia referred to technical assistance programmes being conducted under the two inter-governmental treaties in metrology to foster participation in these frameworks by Countries and Economies with Emerging Metrology Systems and related programmes being undertaken at the regional level, for example in the Asia Pacific.<sup>249</sup>

7.3. The United States presented its ongoing efforts to support understanding and implementation of the TBT Agreement under several capacity building mechanisms, and highlighted examples of work by the American National Standards Institute (ANSI) with African countries to promote international standards and good regulatory practices to support clean energy and ICT technologies. The United States also presented the technical assistance provided through the Standards Alliance to build capacity on TBT Matters. In particular, it was noted that Phase 2 of the Standards Alliance was launched with a view to supporting the capacity of developing countries in the areas of legal and regulatory framework, standards development, conformity assessment procedures, and private sector engagement.<sup>250</sup> The United States also presented an overview of the technical assistance programmes provided by ASTM International, which aims to promote communication between ASTM International and national standards bodies worldwide.<sup>251</sup>

7.4. The European Union provided an overview of the EU's support through technical assistance in the field of TBT and noted that its technical assistance activities in this area can take different forms: (i) it can be embedded in a broader trade-related programme; (ii) it can be part of a sector support programme; or (iii) it can target specific components of QI.<sup>252</sup> The European Union also presented the experience of the National Board of Trade Sweden with respect to TBT technical assistance coordination and how their capacity building has changed as a result of the pandemic.<sup>253</sup> Moreover, the European Union presented an overview of efforts in Germany to harmonize and build capacities with other countries with regards to QI and highlighted that working towards a global QI is key to eliminating technical barriers to trade.<sup>254</sup>

7.5. Mozambique outlined technical assistance needs around quality infrastructure, to effectively implement the National Quality System Act (2018) and meet market demands for QI services delivered by the *Instituto Nacional de Normalização e Qualidade* (INNOQ). Specific training, equipment and standards development needs were identified in the areas of certification, testing and inspection, and accreditation.<sup>255</sup> Vanuatu, on behalf of the Pacific Islands Forum, highlighted the low to non-existent level of QI development among Pacific Island Countries (PICs) (notably only Fiji and Papua New Guinea have QI institutions and systems in place). In order to improve this situation and enhance international competitiveness, the promotion of a culture of quality through QI systems was deemed a priority, based on the nature of trade of each PIC, and via the incremental establishment of pathways for those lacking physical infrastructure. A Pacific Regional QI Workshop was held in September 2019 to advance these efforts.<sup>256</sup> Australia noted that the Pacific Quality Infrastructure (PQI) Project to increase the capacity of Pacific region standards and conformance infrastructure is underway, with Standards Australia and the National Measurement Institute of Australia supporting needs assessment and capacity building.

7.6. Chile<sup>257</sup>, China<sup>258</sup>, Colombia<sup>259</sup> and Guatemala<sup>260</sup> highlighted national workshops on TBT matters organized by the WTO Secretariat. Trinidad and Tobago, speaking for the CARICOM region, welcomed quality infrastructure strengthening and said that many of the members of CARICOM were currently undertaking work in this respect.<sup>261</sup> Mozambique commended the Secretariat for the TBT

<sup>249</sup> [G/TBT/GEN/306](#), para. 1.1.

<sup>250</sup> [G/TBT/M/77](#), para. 5.1.; [G/TBT/W/597](#); [G/TBT/M/79](#), para. 3.1.; [G/TBT/GEN/279](#); [G/TBT/GEN/306](#) para. 1.7.; [G/TBT/GEN/311](#); [G/TBT/M/83](#), para. 5.1.; and [G/TBT/GEN/316](#).

<sup>251</sup> [G/TBT/GEN/306](#), paras. 1.8-1.9.

<sup>252</sup> [G/TBT/GEN/306](#), paras. 1.2-1.3.

<sup>253</sup> [G/TBT/M/78](#), para. 4.1; and [G/TBT/GEN/306](#), paras. 1.4-1.5.

<sup>254</sup> [G/TBT/GEN/306](#), para. 1.6.

<sup>255</sup> [G/TBT/GEN/278](#), para.1.21.

<sup>256</sup> [G/TBT/GEN/278](#), para.1.24.

<sup>257</sup> [G/TBT/M/77](#), para. 5.1.

<sup>258</sup> [G/TBT/M/79](#), para. 3.2.

<sup>259</sup> [G/TBT/M/79](#), para. 3.2.

<sup>260</sup> [G/TBT/M/77](#), para. 5.1.

<sup>261</sup> [G/TBT/M/79](#), para. 3.4.

Advanced Course and requested further support to address gaps in the area of quality infrastructure.<sup>262</sup>

### 7.1.1 Technical assistance on transparency

7.7. The United States described the TBT transparency-related aspects of US-Brazil and US-Argentina Commercial Dialogues, which promote industry-specific cooperation and good regulatory practices (GRP) to address issues in each partner Member. The United States also highlighted technical assistance provided by the Standards Alliance for TBT Enquiry Points of African Members focusing on capacity building and the development of action plans to improve the effectiveness of the Enquiry Points and Notification Authorities in line with the needs of each Member assisted.<sup>263</sup>

7.8. Following up on the recommendation in the Eighth Triennial Review to develop a **good practice guide on how to prepare a comment on a WTO notified technical regulation or conformity assessment procedure**<sup>264</sup>, Members shared views on the preparation of this good practice guide. Canada noted that the main challenges that it faced include the lack of availability of the notified regulations in one of the three official languages of the WTO, email addresses of Enquiry Points no longer being valid, and difficulties related to engaging stakeholders to provide inputs on notified measures.<sup>265</sup> Peru stated that the drafting of a good practice guide should consider challenges related to reaching out to stakeholders in a timely manner and the inclusion of the technical justification in the comments to ensure that the concerns raised are addressed in the most satisfactory manner.<sup>266</sup> The European Union suggested that the Committee set key elements for a good practice guide on how to improve product coverage in notifications and how to prepare a comment.<sup>267</sup>

7.9. The United States suggested the WTO Secretariat build awareness and capacity by organizing a training on HS and ICS codes in notifications, with a focus on medical technology as a case study. Following the trainings, an update should be provided to the Committee on suggestions for increasing the uniformity in the use of ICS and/or HS codes and/or product names used in notifications.<sup>268</sup> Ecuador supported training on HS and ICS codes, and suggested an additional case study focusing on processed foods. The Dominican Republic emphasized the importance of providing HS and ICS codes in notifications in order to allow timely and coordinated provision of comments.

7.10. The Secretariat informed the Committee that a TBT Transparency Workshop had taken place in parallel to the TBT Committee meetings held on 20-21 June 2019. It was noted that the participants attended parts of the Committee, including the transparency thematic session and also participated in other training sessions, including on the use of online tools and on experience-sharing among themselves.<sup>269</sup> Saint Kitts and Nevis said that the Transparency Workshop had been a very useful opportunity to share ideas and discuss challenges. For example, experiences showed that it paid off to submit notifications using the NSS, and that ePing was a useful tool for enquiry points as well as industry. At the national level, working on guidelines helped Enquiry Points stay up to date, respond to notifications, and focus on quality rather than quantity of notifications.<sup>270</sup>

### 7.1.2 Other information

7.11. The Secretariat provided information on its TBT technical assistance activities.<sup>271</sup> The Secretariat updated the Committee on technical assistance related to quality infrastructure, and the

<sup>262</sup> [G/TBT/M/79](#), para. 3.5.

<sup>263</sup> [G/TBT/GEN/265](#), paras. 5.1-5.2.

<sup>264</sup> [G/TBT/41](#), para. 7.12. c.

<sup>265</sup> [G/TBT/GEN/312](#), para. 3.11.

<sup>266</sup> [G/TBT/GEN/312](#), para. 3.12.

<sup>267</sup> [G/TBT/W/736](#), para. 2.2.

<sup>268</sup> [G/TBT/W/750](#).

<sup>269</sup> [G/TBT/M/78](#), para. 4.2.

<sup>270</sup> [G/TBT/M/78](#), para. 4.3.

<sup>271</sup> [G/TBT/M/77](#), para. 5.2.; [G/TBT/GEN/262](#); [G/TBT/M/78](#), para. 4.2.; [G/TBT/M/79](#), para. 3.3.; [G/TBT/M/80](#), paras. 4.1.-4.2.; [G/TBT/M/82](#), para. 4.1.; and [G/TBT/GEN/305](#).

mandate from the Eighth Triennial Review.<sup>272</sup> In addition, the Secretariat introduced the Third Edition of the WTO Agreements Series Technical Barriers to Trade Handbook.<sup>273</sup>

7.12. Observers also provided relevant information. Updates were provided by ARSO<sup>274</sup>, BIPM<sup>275</sup>, CROSO<sup>276</sup>, IEC<sup>277</sup>, ISO<sup>278</sup>, OECD<sup>279</sup>, OIML<sup>280</sup>, UNECE<sup>281</sup> and UNIDO.<sup>282</sup>

## 7.2 Recommendations

7.13. Building on this exchange as well as on previous decisions and recommendations of the Committee, and with a view to furthering its work in the area of technical assistance, the Committee agrees:

- a. to *request* the Secretariat to organize trainings on HS and ICS codes in notifications, starting with a focus on medical technology as a case study; and, in light of these discussions, to *request* the Secretariat to provide an update to the Committee on suggestions for increasing the uniformity in the use of ICS and/or HS codes and/or product names used in notifications; and
- b. to *develop* a good practice guide on how to improve product coverage in notifications, and how to prepare a comment on notifications, building on the recommendation of the Committee from the Eighth Triennial Review.<sup>283</sup>

## 8 COVID-19

### 8.1 Exchange of experiences

8.1. During the review period, most of the Committee's exchange of experiences took place in the context of an informal meeting held on 8 December 2020.<sup>284</sup> The Secretariat issued two TBT-related COVID-19 information notes.<sup>285</sup> Members submitted a total of 179 COVID-19-related TBT notifications.<sup>286</sup> These notifications covered, *inter alia*, streamlining conformity assessment procedures for essential medical goods; ensuring that medical goods are safe; making food available by relaxing technical regulations; and announcing implementation delays due to the COVID-19 pandemic.<sup>287</sup>

8.2. The United States outlined the partnerships supported by the US Medical Technology Sector to assist the global COVID-19 response through regulatory convergence and implementation of the TBT Agreement.<sup>288</sup> China described measures it took to help manufacturers of protective clothing, masks and other epidemic prevention products for export, while, at the same time, strictly guaranteeing the quality of export products by strengthening supervision. The market regulation

<sup>272</sup> [G/TBT/GEN/275](#); [G/TBT/41](#), para. 7.12. b.

<sup>273</sup> [G/TBT/M/83](#), para. 5.2.

<sup>274</sup> [G/TBT/GEN/289](#).

<sup>275</sup> [G/TBT/GEN/266](#); [RD/TBT/310](#); [RD/TBT/327](#); and [RD/TBT/343](#).

<sup>276</sup> [RD/TBT/331](#).

<sup>277</sup> [RD/TBT/313](#); [RD/TBT/329](#); and [RD/TBT/341](#).

<sup>278</sup> [G/TBT/GEN/269](#); [G/TBT/GEN/284](#); [G/TBT/GEN/292](#); and [G/TBT/GEN/314](#).

<sup>279</sup> [G/TBT/GEN/313](#).

<sup>280</sup> [G/TBT/GEN/260](#); and [G/TBT/GEN/283](#).

<sup>281</sup> [G/TBT/GEN/259](#); [G/TBT/GEN/267](#); [G/TBT/GEN/281](#); [G/TBT/GEN/290](#); and [RD/TBT/315](#).

<sup>282</sup> [G/TBT/GEN/261](#); [RD/TBT/276](#); [RD/TBT/311](#); [RD/TBT/332](#); and [RD/TBT/348](#).

<sup>283</sup> [G/TBT/41](#), para. 7.12. c.

<sup>284</sup> [JOB/TBT/395](#).

<sup>285</sup> [JOB/TBT/395](#), paras. 2.1-2.2. "Standards, Regulations and COVID-19 - what actions taken by WTO Members" and "Developing & delivering COVID-19 vaccines around the world". Available on the WTO webpage dedicated to the topic of "COVID-19 and world trade". ([https://www.wto.org/english/tratop\\_e/covid19\\_e/covid19\\_e.htm](https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm)).

<sup>286</sup> Figures as of 1 November 2021. The first COVID-19 related TBT notification was submitted on 16 March 2020. For the full list of COVID-19 related notifications, see: [https://www.wto.org/english/tratop\\_e/covid19\\_e/notifications\\_e.htm](https://www.wto.org/english/tratop_e/covid19_e/notifications_e.htm).

<sup>287</sup> See "Standards, Regulations and COVID-19 - what actions taken by WTO Members" available on the WTO webpage dedicated to the topic of "COVID-19 and world trade".

([https://www.wto.org/english/tratop\\_e/covid19\\_e/covid19\\_e.htm](https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm)). See also [G/TBT/M/84](#), para. 4.473.

<sup>288</sup> [JOB/TBT/395](#), para. 2.3.; [RD/TBT/336](#).

department investigated promptly and strictly any cases of illegality so as to safeguard the quality of such products.<sup>289</sup> The European Union highlighted the joint communication by the Ottawa Group – "COVID-19 and Beyond: Trade and Health"<sup>290</sup> – and the importance of enhancing regulatory alignment with the aim of facilitating trade and reducing adaptation costs for manufacturers of essential medical goods, including through work in the TBT Committee.<sup>291</sup> The European Union described measures taken in the context of the COVID-19 pandemic for medical devices.<sup>292</sup> The European Union also explained its conformity assessment requirements for personal protective equipment (PPE), and adjustments made in the COVID-19 context.<sup>293</sup> Brazil outlined some of the temporary measures it had taken in the context of the pandemic to improve access to medical goods, such as the simplification of documentation and registration procedures (e.g. for certificates), or the acquisition of pulmonary ventilators and in vitro diagnostic tests without registration as long as these products were regulated and marketed in one of the members of the International Medical Device Regulators Forum.<sup>294</sup> Australia described some evolving influences on conformity assessment, and the shift from on-site to remote office assessment and review of certification documents, brought on in part by the COVID-19 pandemic.<sup>295</sup> Regarding lessons learnt during the COVID-19 crisis, the European Union suggested that the Committee set best practices on key aspects of streamlining conformity assessment procedures to facilitate trade in essential products, and international regulatory cooperation.<sup>296</sup>

### 8.1.1 Other information

8.3. Observers also provided relevant information. Updates were provided by BIPM<sup>297</sup>, CODEX<sup>298</sup>, CROSO<sup>299</sup> and UNIDO.<sup>300</sup>

### 8.2 Recommendations

8.4. Building on this experience as well as on previous decisions and recommendations of the Committee, the Committee agrees:

- a. with a view to improving future pandemic preparedness, to *examine and compile* best practices for: understanding international standards; streamlining conformity assessment procedures (including temporary or emergency alternatives) to facilitate trade in select essential medical goods, including vaccines, during pandemics; and, enhancing international regulatory cooperation.

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<sup>289</sup> [JOB/TBT/395](#), para. 2.4.; [RD/TBT/337](#).

<sup>290</sup> [WT/GC/223](#)

<sup>291</sup> [JOB/TBT/395](#), para. 2.5.

<sup>292</sup> [JOB/TBT/395](#), para. 2.6.; [RD/TBT/338](#).

<sup>293</sup> [JOB/TBT/395](#), para. 2.7.; [RD/TBT/339](#).

<sup>294</sup> [JOB/TBT/395](#), para. 2.8.

<sup>295</sup> [JOB/TBT/395](#), para. 1.1.; and [RD/TBT/333](#).

<sup>296</sup> [G/TBT/W/736](#), para. 3.3.

<sup>297</sup> [RD/TBT/327](#).

<sup>298</sup> [RD/TBT/298](#) and [RD/TBT/328](#).

<sup>299</sup> [RD/TBT/331](#).

<sup>300</sup> [RD/TBT/332](#) and [RD/TBT/348](#).



## 9 OPERATION OF THE COMMITTEE

**Operation of the Committee.** Pursuant to Article 13 of the TBT Agreement, the TBT Committee was established with the purpose of: "affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives, and shall carry out such responsibilities as assigned to it under this Agreement or by the Members". Since its first meeting, Members have used the TBT Committee as a forum to discuss issues related to specific measures (technical regulations, standards or conformity assessment procedures) maintained by other Members. These are referred to as "specific trade concerns" (STCs) and relate normally to proposed draft measures notified to the TBT Committee or to the implementation of existing measures. The Committee also holds thematic sessions that address cross-cutting issues related to the implementation and operation of the TBT Agreement.

[G/TBT/1/Rev.14](#), p. 55.

### 9.1 Exchange of experiences

9.1. During the review period the Committee held nine regular meetings, from March 2019 to November 2021.<sup>301</sup> A total of 131 new specific trade concerns (STCs) were raised in the review period, whilst over the same period, 435 previously raised STCs were also discussed (Chart 2).<sup>302</sup> Back to back with the regular meetings, the Committee also held thematic sessions and informal meetings that addressed the following cross-cutting issues related to the operation and implementation of the TBT Agreement: good regulatory practice<sup>303</sup>; regulatory cooperation between Members<sup>304</sup>; technical regulations<sup>305</sup>; conformity assessment procedures<sup>306</sup>; standards<sup>307</sup>; transparency (the Committee's Ninth Special Meeting on Procedures for Information Exchange)<sup>308</sup>, technical assistance<sup>309</sup>; COVID-19 information sharing<sup>310</sup>; and the operation of the Committee.

9.2. The Committee adopted a Decision on "Procedures for the inclusion of specific trade concerns in the annotated draft agenda of the TBT Committee", at its 20-21 June 2019 meeting.<sup>311</sup> These procedures were initially applied on a provision basis during the March and June 2019 meetings, following the recommendation from the Eighth Triennial Review.<sup>312</sup>

9.3. Brazil suggested that the Committee monitor the status of implementation of all recommendations from triennial reviews<sup>313</sup>, especially past recommendations that have not been fully implemented.<sup>314</sup>

<sup>301</sup> [G/TBT/M/77](#), [G/TBT/M/78](#), [G/TBT/M/79](#), [G/TBT/M/80](#), [G/TBT/M/81](#), [G/TBT/M/82](#), [G/TBT/M/83](#), [G/TBT/M/84](#), and [G/TBT/M/85](#).

<sup>302</sup> Figures as of 1 November 2021. Detailed information on STCs are available in the Trade Concerns Database (<https://tradeconcerns.wto.org/>).

<sup>303</sup> [G/TBT/GEN/256](#); and [G/TBT/GEN/287](#).

<sup>304</sup> [G/TBT/GEN/287](#).

<sup>305</sup> [G/TBT/GEN/307](#).

<sup>306</sup> [G/TBT/GEN/257](#); [G/TBT/GEN/278](#); [G/TBT/GEN/288](#); and [JOB/TBT/395](#).

<sup>307</sup> [G/TBT/GEN/277](#); and [G/TBT/GEN/309](#).

<sup>308</sup> [G/TBT/GEN/265](#); and [G/TBT/GEN/312](#); [G/TBT/M/78](#), para. 3.324.

<sup>309</sup> [G/TBT/GEN/306](#).

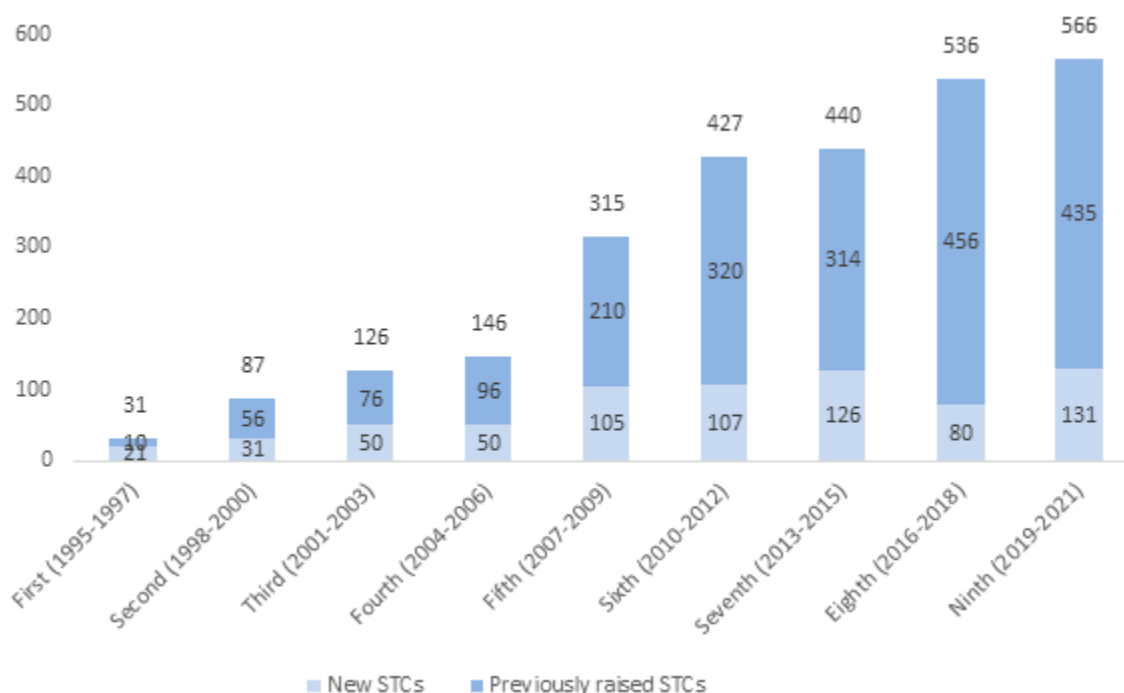
<sup>310</sup> [JOB/TBT/395](#).

<sup>311</sup> [G/TBT/43](#); [G/TBT/M/78](#), para. 3.322.

<sup>312</sup> [G/TBT/41](#), para. 8.2.b.i., and footnote 305.

<sup>313</sup> As compiled in the latest revision of document G/TBT/1.

<sup>314</sup> [G/TBT/W/739](#).

**Chart 2: STCs per triennial review period<sup>315</sup>**

9.4. During the review period, the Committee piloted and launched eAgenda, a collaborative online platform aimed at improving the efficiency and effectiveness of discussions on STCs. The platform simplifies Members' submission of STCs to the agenda, increases transparency and early notice of STCs giving Members more time to prepare ahead of meetings, and allows Members to share statements more easily with each other. The use of eAgenda allowed the Committee to continue its work on STCs during the COVID-19 pandemic. On 13 June 2020, the Committee held an informal meeting to gather feedback from Members on the use of eAgenda.<sup>316</sup> The Secretariat updated the Committee on developments in eAgenda.<sup>317</sup> Members provided additional feedback on and discussed their use of eAgenda.<sup>318</sup> Singapore suggested that Members use eAgenda to share information on their engagements that relate to discussions on STCs, which are held outside of the Committee's regular meetings, and provide links to access the information, where available. Clarifications that Members received bilaterally could be useful to other Members and could pre-empt similar issues from returning to the agenda of the TBT Committee, thereby improving the efficiency of discussions on STCs.<sup>319</sup>

## 9.2 Recommendations

9.5. Building on this experience as well as on previous decisions and recommendations of the Committee, the Committee agrees:

- a. to *request* the Secretariat to monitor the status of implementation of Committee recommendations from triennial reviews compiled in the document series G/TBT/1/\*;
- b. to *discuss* enhancing and optimizing the use of eAgenda, including by exploring means to facilitate progress towards resolving STCs; and
- c. with respect to thematic sessions, building on the valuable experiences gained in the context of thematic sessions since 2012, to *continue* to hold thematic sessions in

<sup>315</sup> Figures as of 1 November 2021.

<sup>316</sup> [JOB/TBT/367](#).

<sup>317</sup> [G/TBT/M/79](#), para. 2.139 and [G/TBT/GEN/276](#); [G/TBT/M/80](#), para. 2.379; [G/TBT/M/82](#), para. 2.485; [JOB/TBT/368](#).

<sup>318</sup> [G/TBT/M/80](#), paras. 2.380-2.381; and [G/TBT/M/82](#), para. 2.485.

<sup>319</sup> [G/TBT/W/755](#).

conjunction with its regular meetings during 2022 to 2024, with a view to further deepening the Committee's exchange of experiences on the following topics:

i. to *hold* the following thematic sessions:<sup>320</sup>

- March 2022: conformity assessment procedures (accreditation)<sup>321</sup> and conformity assessment procedures (digital solutions)<sup>322</sup>;
  - June 2022: transparency<sup>323</sup>, and regulatory cooperation between Members (MSMEs)<sup>324</sup>;
  - November 2022: good regulatory practice<sup>325</sup> and standards (standards development in Codex)<sup>326</sup>;
  - March 2023: regulatory cooperation between Members (plastic regulation)<sup>327</sup> and regulatory cooperation between Members (climate change)<sup>328</sup>;
  - June 2023: regulatory cooperation between Members (digital products and cybersecurity)<sup>329</sup> and one additional topic to be defined in November 2022;
  - November 2023: good regulatory practice<sup>330</sup> and one additional topic to be defined in November 2022; and
  - in 2024, Members will continue to hold thematic sessions on topics to be defined in November 2023.
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<sup>320</sup> This listing provided below is flexible. Members may agree to include other matters for discussion, or they may agree to otherwise adapt this work programme to reflect unforeseen developments and additional priorities. The Committee will organize these thematic sessions based on proposals from Members.

<sup>321</sup> See para. 4.18.b.i.

<sup>322</sup> See para. 4.18.b.ii.

<sup>323</sup> See para. 6.29.

<sup>324</sup> See para. 2.11.e.

<sup>325</sup> See para. 1.7.

<sup>326</sup> See para. 5.12.a.

<sup>327</sup> See para. 2.11.b.

<sup>328</sup> See para. 2.11.a.

<sup>329</sup> See para. 2.11.c. and 2.11.d.

<sup>330</sup> See para. 1.7.

**ANNEX: SUBMISSIONS FROM MEMBERS BY TOPIC (NOV. 2018 – NOV. 2021)<sup>1</sup>**

Member	Symbol	Date	Title
<b>Good Regulatory Practice</b>			
Mexico	<a href="#">JOB/TBT/425</a>	27 September 2021	Comments from Mexico on <a href="#">JOB/TBT/413</a>
Australia	<a href="#">JOB/TBT/420</a>	16 September 2021	Comments from Australia on <a href="#">JOB/TBT/413</a>
United States	<a href="#">JOB/TBT/418</a>	15 September 2021	Comments from the United States on <a href="#">JOB/TBT/413</a>
Dominican Republic	<a href="#">JOB/TBT/417</a>	15 September 2021	Comments from the Dominican Republic on <a href="#">JOB/TBT/413</a>
New Zealand	<a href="#">JOB/TBT/414</a>	7 September 2021	Comments from New Zealand on <a href="#">JOB/TBT/413</a>
Malaysia	<a href="#">JOB/TBT/412</a>	19 July 2021	Comments on Proposals
United States	<a href="#">G/TBT/W/751/Rev.1</a>	2 July 2021	Proposal on Improving Member Adherence to TBT Obligations through Domestic Process Improvements - Revision
Australia	<a href="#">JOB/TBT/411</a>	18 June 2021	Comments on Proposals
United States	<a href="#">G/TBT/W/751</a>	21 May 2021	Proposal on Improving Member Adherence to TBT Obligations through Domestic Process Improvements
<b>Regulatory Cooperation Between Members</b>			
Paraguay	<a href="#">JOB/TBT/433</a>	15 October 2021	Comments from Paraguay on <a href="#">JOB/TBT/413/Rev.1</a>
China	<a href="#">JOB/TBT/421</a>	16 September 2021	Comments from China on <a href="#">JOB/TBT/413</a>
Australia	<a href="#">JOB/TBT/420</a>	16 September 2021	Comments from Australia on <a href="#">JOB/TBT/413</a>
Japan	<a href="#">JOB/TBT/419</a>	16 September 2021	Comments from Japan on <a href="#">JOB/TBT/413</a>
United States	<a href="#">JOB/TBT/418</a>	15 September 2021	Comments from the United States on <a href="#">JOB/TBT/413</a>
Dominican Republic	<a href="#">JOB/TBT/417</a>	15 September 2021	Comments from the Dominican Republic on <a href="#">JOB/TBT/413</a>
Canada	<a href="#">JOB/TBT/416</a>	15 September 2021	Comments from Canada on <a href="#">JOB/TBT/413</a>
Malaysia	<a href="#">JOB/TBT/412</a>	19 July 2021	Comments on Proposals
Australia	<a href="#">JOB/TBT/411</a>	18 June 2021	Comments on Proposals
United States	<a href="#">G/TBT/W/756</a>	28 May 2021	Proposal for Cooperation on Measures to address Plastic Packaging Pollution
United States	<a href="#">G/TBT/W/747</a>	17 May 2021	Proposal on Regulatory Cooperation Cybersecurity of Software-Enabled and/or Network Connected Goods

<sup>1</sup> Submissions are arranged by subject, in reverse chronological order. Should a submission be relevant to more than one topic it will appear more than once. More general information, such as the reports provided by the Chairperson on thematic sessions or information provided by Observers, is not included in this list.

Member	Symbol	Date	Title
Canada	<a href="#">G/TBT/W/745</a>	28 April 2021	Proposals on Conformity Assessment, Environment and Climate Change, Transparency, Digital Products, and Micro, Small and Medium-Sized Enterprises (MSME)
<b>Technical Regulations</b>			
<b>Conformity Assessment Procedures</b>			
South Africa	<a href="#">JOB/TBT/436</a>	5 November 2021	South Africa's response to the United States proposal on Conformity Assessment Procedures ( <a href="#">G/TBT/W/748</a> ) requesting examination of Members accreditation policies
South Africa	<a href="#">JOB/TBT/435</a>	4 November 2021	Comments from South Africa on <a href="#">JOB/TBT/413/Rev.2</a>
European Union	<a href="#">JOB/TBT/426</a>	29 September 2021	Comments from the European Union on <a href="#">JOB/TBT/413</a>
Brazil	<a href="#">JOB/TBT/424</a>	27 September 2021	Comments from Brazil on <a href="#">JOB/TBT/413</a>
United Kingdom	<a href="#">JOB/TBT/422</a>	16 September 2021	Comments from the United Kingdom on <a href="#">JOB/TBT/413</a>
China	<a href="#">JOB/TBT/421</a>	16 September 2021	Comments from China on <a href="#">JOB/TBT/413</a>
Australia	<a href="#">JOB/TBT/420</a>	16 September 2021	Comments from Australia on <a href="#">JOB/TBT/413</a>
Malaysia	<a href="#">JOB/TBT/412</a>	19 July 2021	Comments on Proposals
Australia	<a href="#">JOB/TBT/411</a>	18 June 2021	Comments on Proposals
Brazil	<a href="#">JOB/TBT/409</a>	16 June 2021	Comments from Brazil on the Chinese Taipei Proposals on Enhancing Product Safety in Online Shopping Environment, and Transparency ( <a href="#">G/TBT/W/753</a> )
European Union	<a href="#">G/TBT/W/758</a>	15 June 2021	Proposal on Digitalisation of Product Information
Chinese Taipei	<a href="#">G/TBT/W/753</a>	27 May 2021	Proposals on Enhancing Product Safety in Online Shopping Environment, and Transparency
United States	<a href="#">G/TBT/W/748</a>	21 May 2021	Proposal on Conformity Assessment Procedures
Canada	<a href="#">G/TBT/W/745</a>	28 April 2021	Proposals on Conformity Assessment, Environment and Climate Change, Transparency, Digital Products, and Micro, Small and Medium-Sized Enterprises (MSME)
European Union	<a href="#">G/TBT/W/736</a>	1 February 2021	Proposals on Conformity Assessment Procedures, Transparency, and COVID-19

Member	Symbol	Date	Title
<b>Standards</b>			
Australia	<a href="#">JOB/TBT/420</a>	16 September 2021	Comments from Australia on <a href="#">JOB/TBT/413</a>
Japan	<a href="#">JOB/TBT/419</a>	16 September 2021	Comments from Japan on <a href="#">JOB/TBT/413</a>
United States	<a href="#">JOB/TBT/418</a>	15 September 2021	Comments from the United States on <a href="#">JOB/TBT/413</a>
Canada	<a href="#">JOB/TBT/416</a>	15 September 2021	Comments from Canada on <a href="#">JOB/TBT/413</a>
Australia	<a href="#">JOB/TBT/411</a>	18 June 2021	Comments on Proposals
Colombia	<a href="#">G/TBT/W/752</a>	26 May 2021	International Standards - Codex Alimentarius
<b>Transparency</b>			
South Africa	<a href="#">JOB/TBT/437</a>	5 November 2021	South Africa's response to the United States proposal ( <a href="#">G/TBT/W/749</a> ) on Transparency Practices
South Africa	<a href="#">JOB/TBT/435</a>	4 November 2021	Comments from South Africa on <a href="#">JOB/TBT/413/Rev.2</a>
Paraguay	<a href="#">JOB/TBT/433</a>	15 October 2021	Comments from Paraguay on <a href="#">JOB/TBT/413/Rev.1</a>
United States	<a href="#">JOB/TBT/431</a>	15 October 2021	Comments from the United States on <a href="#">JOB/TBT/413/Rev.1</a>
Mexico	<a href="#">JOB/TBT/430</a>	15 October 2021	Comments from Mexico on <a href="#">JOB/TBT/413/Rev.1</a>
Canada	<a href="#">JOB/TBT/429</a>	13 October 2021	Comments from Canada on <a href="#">JOB/TBT/413/Rev.1</a>
United States	<a href="#">JOB/TBT/428</a>	1 October 2021	Comments from the United States on <a href="#">JOB/TBT/419</a>
United States	<a href="#">JOB/TBT/427</a>	1 October 2021	Comments from the United States on <a href="#">JOB/TBT/422</a>
European Union	<a href="#">JOB/TBT/426</a>	29 September 2021	Comments from the European Union on <a href="#">JOB/TBT/413</a>
United Kingdom	<a href="#">JOB/TBT/422/Add.1</a>	27 September 2021	Comments from the United Kingdom on <a href="#">JOB/TBT/413</a>
Mexico	<a href="#">JOB/TBT/425</a>	27 September 2021	Comments from Mexico on <a href="#">JOB/TBT/413</a>
United Kingdom	<a href="#">JOB/TBT/422</a>	16 September 2021	Comments from the United Kingdom on <a href="#">JOB/TBT/413</a>
Japan	<a href="#">JOB/TBT/419</a>	16 September 2021	Comments from Japan on <a href="#">JOB/TBT/413</a>
United States	<a href="#">JOB/TBT/418</a>	15 September 2021	Comments from the United States on <a href="#">JOB/TBT/413</a>
Dominican Republic	<a href="#">JOB/TBT/417</a>	15 September 2021	Comments from the Dominican Republic on <a href="#">JOB/TBT/413</a>
Switzerland	<a href="#">JOB/TBT/415</a>	15 September 2021	Comments from Switzerland on <a href="#">JOB/TBT/413</a>
Malaysia	<a href="#">JOB/TBT/412</a>	19 July 2021	Comments on Proposals
Brazil	<a href="#">G/TBT/W/741/Rev.1</a>	19 July 2021	Proposal on Transparency: Introduction of "Follow this Notification" and "Follow this STC" Tools - Revision

Member	Symbol	Date	Title
United States	<a href="#">G/TBT/W/749/Rev.1</a>	2 July 2021	Proposal on Transparency Practices - Revision
Australia	<a href="#">JOB/TBT/411</a>	18 June 2021	Comments on Proposals
Philippines	<a href="#">G/TBT/W/746/Rev.1</a>	17 June 2021	Proposal on Transparency - Revision
Brazil	<a href="#">JOB/TBT/410</a>	16 June 2021	Comments from Brazil on the Singapore Proposals on Transparency, and the Sharing of Written Questions and Responses from Members on Specific Trade Concerns ( <a href="#">G/TBT/W/755</a> )
Singapore	<a href="#">G/TBT/W/755</a>	28 May 2021	Proposals on Transparency, and the Sharing of Written Questions and Responses from Members on Specific Trade Concerns
Chinese Taipei	<a href="#">G/TBT/W/753</a>	27 May 2021	Proposals on Enhancing Product Safety in Online Shopping Environment, and Transparency
United States	<a href="#">G/TBT/W/750</a>	21 May 2021	Proposal on Enhancing the Quality and Uniformity of TBT Notifications
United States	<a href="#">G/TBT/W/749</a>	21 May 2021	Proposal on Transparency Practices
Philippines	<a href="#">G/TBT/W/746</a>	7 May 2021	Proposal on Transparency
Canada	<a href="#">G/TBT/W/745</a>	28 April 2021	Proposals on Conformity Assessment, Environment and Climate Change, Transparency, Digital Products, and Micro, Small and Medium-Sized Enterprises (MSME)
Brazil	<a href="#">G/TBT/W/744</a>	16 February 2021	Proposal on Transparency: Improvement of the TBT Information Management System (IMS)
Brazil	<a href="#">G/TBT/W/743</a>	16 February 2021	Proposal on Transparency: Transparency on Comments to TBT Notifications received by National Governments
Brazil	<a href="#">G/TBT/W/742</a>	16 February 2021	Proposal on Transparency: Notifying at an early appropriate stage
Brazil	<a href="#">G/TBT/W/741</a>	16 February 2021	Proposal on Transparency: Introduction of "Follow this Notification" and "Follow this STC" Tools
Brazil	<a href="#">G/TBT/W/740</a>	16 February 2021	Proposal on Transparency: Notification of Relevant TBT Provisions in Preferential Trade Agreements under Article 10.7
Brazil	<a href="#">G/TBT/W/738</a>	16 February 2021	Proposal on Transparency: Details of Legitimate Objectives Pursued in Notified Measure
Brazil	<a href="#">G/TBT/W/737</a>	16 February 2021	Proposal on Transparency: Taking Comments from All Members into account
European Union	<a href="#">G/TBT/W/736</a>	1 February 2021	Proposals on Conformity Assessment Procedures, Transparency, and COVID-19

Member	Symbol	Date	Title
<b>Technical Assistance</b>			
Australia	<a href="#">JOB/TBT/420</a>	16 September 2021	Comments from Australia on <a href="#">JOB/TBT/413</a>
Dominican Republic	<a href="#">JOB/TBT/417</a>	15 September 2021	Comments from the Dominican Republic on <a href="#">JOB/TBT/413</a>
Malaysia	<a href="#">JOB/TBT/412</a>	19 July 2021	Comments on Proposals
Australia	<a href="#">JOB/TBT/411</a>	18 June 2021	Comments on Proposals
United States	<a href="#">G/TBT/W/750</a>	21 May 2021	Proposal on Enhancing the Quality and Uniformity of TBT Notifications
European Union	<a href="#">G/TBT/W/736</a>	1 February 2021	Proposals on Conformity Assessment Procedures, Transparency, and COVID-19
<b>COVID-19</b>			
Paraguay	<a href="#">JOB/TBT/433</a>	15 October 2021	Comments from Paraguay on <a href="#">JOB/TBT/413/Rev.1</a>
European Union	<a href="#">JOB/TBT/426</a>	29 September 2021	Comments from the European Union on <a href="#">JOB/TBT/413</a>
United States	<a href="#">JOB/TBT/418</a>	15 September 2021	Comments from the United States on <a href="#">JOB/TBT/413</a>
Dominican Republic	<a href="#">JOB/TBT/417</a>	15 September 2021	Comments from the Dominican Republic on <a href="#">JOB/TBT/413</a>
Australia	<a href="#">JOB/TBT/411</a>	18 June 2021	Comments on Proposals
European Union	<a href="#">G/TBT/W/736</a>	1 February 2021	Proposals on Conformity Assessment Procedures, Transparency, and COVID-19
<b>Operation of the Committee</b>			
Japan	<a href="#">JOB/TBT/432</a>	15 October 2021	Comments from Japan on <a href="#">JOB/TBT/413/Rev.1</a>
United States	<a href="#">JOB/TBT/431</a>	15 October 2021	Comments from the United States on <a href="#">JOB/TBT/413/Rev.1</a>
Mexico	<a href="#">JOB/TBT/425</a>	27 September 2021	Comments from Mexico on <a href="#">JOB/TBT/413</a>
Japan	<a href="#">JOB/TBT/419</a>	16 September 2021	Comments from Japan on <a href="#">JOB/TBT/413</a>
Singapore	<a href="#">G/TBT/W/755</a>	28 May 2021	Proposals on Transparency, and the Sharing of Written Questions and Responses from Members on Specific Trade Concerns
Brazil	<a href="#">G/TBT/W/739</a>	16 February 2021	Proposal on the Operation of the Committee: Reporting of Pending Recommendations from Triennial Reviews