



TRANSPARENCY

TENTH TRIENNIAL REVIEW

Proposal from Brazil

The following submission, dated 26 January 2024, is being circulated at the request of the delegation of Brazil.

1 BACKGROUND

1.1. Over the past 28 years, world trade has changed. With this transformation, the WTO has faced new challenges to avoid unnecessary barriers to trade while pursuing legitimate objectives. Following this trend, the TBT Committee has also undergone changes. From one-day meetings in 1995 to full TBT weeks in the present.

1.2. The implementation of the TBT Agreement has brought several improvements to the Committee that were unimaginable in the first years after its signature. Members submitted more than 3,800 notifications of product standards and regulations in 2022, including 31% from least developed countries. And as a result of this compliance, about half of Members are notifying on a regular basis, with an average of 58 days for comments.¹

1.3. In 2023, the TBT Committee discussed 53 new trade concerns related to the implementation of the TBT Agreement. This feature is remarkable considering that STCs became a standing agenda item with this name only after 9 years of Committee meetings, in 2004.

1.4. The increasing relevance of the TBT Committee is shown not only by the results in transparency and the discussions of trade concerns, but also in the Committee's growing openness to trade operators and other stakeholders. It is worth mentioning that more than 19,000 users have registered on ePing, the main WTO tool for TBT notifications and trade concerns.²

1.5. Certainly, the increasing awareness of its usefulness and the growth of Members' capacity to deal with trade issues are important factors. But technology also plays a significant role. The Internet, and then systems such as ePing and eAgenda, have made it easier to make notifications and track specific trade issues. These gains in transparency open up opportunities to strengthen TBT agreement clauses related to them.

1.6. At the last Triennial Review, Brazil submitted a proposal to improve transparency ([G/TBT/W/742](#)). The Committee discussed what was an appropriate early stage for submitting notifications to the TBT Committee. Several valuable contributions were made by Members. The report concluded that further discussion was needed on the applicability of this proposal.

¹ [Technical Barriers to Trade Agreement - 10 key results from 2022](#).

² *Ibid.* p. 10.

1.7. It is clear from these discussions and from the meetings of the TBT Committee that the early and adequate notification of proposed technical regulations is a mandatory clause of the TBT Agreement.

1.8. As there was a consensus on the obligation to notify technical regulations at a stage where comments could still be taken into account, it is also important to know which proposals or contributions were considered and incorporated into the final technical regulation or conformity assessment procedure.

1.9. Therefore, Brazil invited the Committee to share its experience in making or receiving comments and how they were taken into account.

1.10. In Brazil's experience, the received comments are always considered and, if the proposal is consistent with the objectives of the technical regulation and the scientific evidence, it is included in the new technical regulations.

1.11. Regarding comments sent by Brazil, we compare the notified draft and the final version when it is communicated to the Committee. In a sample of notified texts, Brazil was able to find some changes that were made from Brazilian comments or from other publicly available comments. Nevertheless, in our research we could identify Members that never took Brazilian comments into account in a positive way.

1.12. While this is a possible outcome, it is still a frustrating one. If the comments are never taken into account, one hypothesis is that these members are not notifying at an early stage where it is possible to participate in the formulation of technical regulations.

1.13. In light of the above, Brazil would like to present its proposal to the Committee. The Committee could have a separate agenda item on notification where, if requested by a Member at least three weeks before the Committee meeting, the requested Member could inform to what extent, if any, the received comments have been effectively taken into account.

1.14. This would facilitate the monitoring of the TBT Agreement, reinforce good regulatory practices and make new technical regulations transparent, thereby avoiding unnecessary barriers to trade.

2 PROPOSAL

2.1. The TBT Committee decides to define "*Notifications - Consideration of comments*" as a standing agenda item in order to open the dialogue on adopted technical regulations. Brazil will present specific proposals on how to implement this idea in a way that is not a repetition of STCs discussions and which could benefit from and stimulate the use of online tools, such as ePing.
