Technical Requirements, WTO Rules and Trade

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Chair, APEC Subcommittee on Standards and Conformance

Standards-related Measures® and Trade

- Meet regulatory, procurement and policy objectives (safety, health, the environment)
- Manage the flow of produce-related information through complex, global supply chains
- Organize production processes around replicable routines for greater quality assurance
- Ensure the connectivity, interoperability and compatibility of inputs sourced in global markets

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However

Outdated, burdensome or discriminatory SRMs can reduce competition, stifle innovation and create unnecessary obstacles to trade.

Firms can face significant challenges in accessing information on and complying with, diverse and evolving requirements in export markets.

Costs and delays attributable to unnecessary, duplicative and unclear testing and certification requirements are a key concern for exporters.

Building understanding is critical

Standards-related measures are often highly technical and complex.

Processes for development and implementation of standards-related measures vary considerably across APEC member economies.

Engagement often strengthens the implementation and effectiveness of trade obligations:

- Need ongoing dialogue among technical experts, regulators, industry and trade officials

WTO Rules

- Agreement on Technical Barriers to Trade
- Agreement on Sanitary and Phyto-Sanitary Measures
  - Transparency - Notice & Comment on Proposed Measures: Inquiry Point
SPS Agreement
- Allows economies to set own health standards.
- Must be based on science.
- Applied only to the extent necessary to protect human, animal, and plant health; and
- Cannot be arbitrary or used to unjustifiably discriminate in favor of diagnoses ("national treatment") nor between trading partners.
- Measures cannot be more trade-restrictive than necessary to achieve appropriate level of protection.

Science is fundamental
- SPS Agreement obligates members to use international standards (OIE, IPPC and CODEX).
- Members can apply measures that result in higher or lower level of protection than set out in an international standard;
- Higher level allowed with scientific justification, and consistent application.

TBT Agreement
Objective: improve efficiency of production and facilitate trade by
- Ensuring that regulations and standards do not create unnecessary obstacles to trade, and
- Encouraging the development of international standards and conformity assessment systems.
- Members have the right to regulate at levels they deem appropriate to achieve legitimate objectives, provided that they do not discriminate in an arbitrary or unjustified manner.

Measures covered by the TBT Agreement
- Technical regulation (TR): a document setting out product characteristics or the related processes and production methods, with which compliance is mandatory (tolerance, labeling, packaging, symbols, etc.).
- Standard: a document approved by a recognized body that provides for common and repeated use rules, guidelines, or characteristics for products or related processes and production methods, with which compliance is voluntary.
- Conformity assessment procedure (CAP): a procedure used to determine that requirements in TRs and standards are fulfilled.

Conformity Assessment Procedures
- Sampling
- Testing
- Inspection
- Certification
- Evaluation
- Registration
- Verification
- Accreditation
- ... and combinations thereof

Some examples of obligations in conformity assessment:
- Pre-establishment (5.1.1)
- Fair order of treatment (5.1.1)
- Establish processing periods (5.5.2)
- Explain delays (5.6.2)
- Limit information requirements (5.6.5)
- Respect confidentiality (5.6.1)
- Equitable fees (5.6.1)
- Avoid inconvenient siting of facilities (5.6.1)
- Procedure for review (5.6.1)
Some TBT concerns on Wine raised in the WTO

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**The Challenge**

Promote policies to maximize the positive contribution of standards-related measures to regional economic integration and growth.

Address practices that result in protectionist, discriminatory or unnecessarily burdensome measures that restrict trade.

**Thank you**