

**MAIN OBJECTIVES FOR THE THIRD TRIENNIAL REVIEW OF THE  
TECHNICAL BARRIERS TO TRADE AGREEMENT**

**GENERAL CONCEPT PAPER**

Submission by Canada

1. The Third Triennial Review of the World Trade Organization's Technical Barriers to Trade Agreement (TBT), to be completed by the end of this year, offers an opportunity to review the operations, and if necessary, seek clarifications or improvements to the Agreement. Canada's primary goal is to facilitate innovation and reduce administrative burdens through more consistent and effective implementation of the Agreement by all WTO Members, while emphasizing the need to account for both social and economic issues.

2. Further to the work undertaken during the Second Triennial Review, Canada's aim for the Third Triennial Review will be to examine the implementation of the Agreement, with a particular focus on (i) good regulatory practice, (ii) conformity assessment procedures, (iii) labelling and (iv) technical assistance.

**I. GOOD REGULATORY PRACTICE**

3. More than ever before, trade rules are focused on the reduction or elimination of behind-the-border barriers such as technical barriers to trade. In large part, trade rules have moved from the border to the floors of legislatures and to the offices of regulators, as relevant obligations arising from various international agreements increasingly need to be taken into account throughout domestic regulatory processes.

4. The TBT Agreement contains obligations in areas such as, *inter alia*, transparency, non-discrimination, and avoidance of unnecessary obstacles to trade. With respect to the issue of unnecessary obstacles to trade, Article 2.2 requires that technical regulations not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. The implementation of obligations under the TBT Agreement raises issues such as the design and operation of Members' domestic regulatory process; the level of resources devoted to the process; its capacity to deliver effective and efficient regulation-making and enforcement; and its capacity to ensure open and fair administrative and judicial review procedures.

5. Canada is of the view that the issue of good regulatory practice is important, evolving and worthy of further discussion in the TBT Committee and perhaps more broadly.

6. We therefore propose to submit for a future TBT Committee meeting a non-paper outlining what Canada believes to be the basic elements of good regulatory practice, with the goal of fostering discussion among delegations during the Review and possibly beyond.

## II. CONFORMITY ASSESSMENT PROCEDURES

7. Conformity assessment was also addressed during the Second Triennial Review with the Committee agreeing on a list of different approaches to the acceptance of conformity assessment results. The importance of using international standards and guides developed by international standardization bodies was underscored, as was the active participation of Members in the work of these bodies. The Committee also discussed the challenges faced by developing countries in the area of conformity assessment as well as the growing interest in supplier's declaration of conformance (SDoC).

8. Because of the substantial amount of time spent on negotiations leading to the decision on principles for the development of international standards during the second Review, limited progress was made on the conformity assessment file as a whole. Despite wide use of international standards, different approaches to testing and certification continue to persist among jurisdictions, which may result in unnecessary obstacles to trade. For the purpose of this Review, we propose to give priority to the following three related areas:

- (i) Continue to encourage greater adoption of international standards and guides by users of conformity assessment, including regulators, as well as the more effective participation by users in the development of these approaches. In particular, promote ISO/IEC Guide 60, a voluntary code of good practice for conformity assessment (similar to the code of good practice for standards). This guide, currently under revision, supports transparent, trade-friendly, ethical and cost effective conformity assessment practices and procedures.
- (ii) Promote strengthening the global conformity assessment system based on the common application of international standards and guides as the most effective vehicle to achieve multilateral recognition of conformity assessment results with the ultimate goal of achieving "one standard, one test, accepted everywhere".
- (iii) Explore with other WTO Members how regulatory bodies determine the level and type of conformity assessment with the view to ensuring that least trade restrictive approaches are being adopted.

9. We also propose to initiate a more in-depth discussion on the use of Supplier's Declaration of Conformity (SDoC) during the Third Review. The TBT Committee concurred during the Second Review that further discussion was required to identify circumstances where this form of conformity assessment would be appropriate and in particular, in the developing country context.

10. With this in mind, and to follow-up on one of the two outstanding implementation issues related to the TBT Agreement (Tiret 34 of the Doha mandate on outstanding implementation issues) suggesting that SDoC become a form of conformity assessment activity recognized as a Special and Differential Treatment provision under Article 12, Canada proposes to initiate a more in-depth discussion on the use of SDoC during the third Review. Canada also proposes to submit a paper on conformity assessment to contribute to the discussion during the Triennial Review.

### **III. LABELLING**

11. Labelling was only briefly discussed during the Second Triennial Review. In its final report on the Review (G/TBT/9), however, the Committee noted the high frequency with which concerns regarding labelling were raised during Committee meetings, and reiterated the importance of ensuring that labelling requirements be consistent with the disciplines of the Agreement in order that they do not serve as disguised barriers to trade. The Doha Ministerial Declaration adopted on 14 November 2001 also calls upon the Committee on Trade and Environment (CTE) to examine “labelling requirements for environmental purposes”. The TBT Committee has confirmed its role in addressing this issue as well; we therefore expect both committees to do useful and mutually supportive work on the-specific issue of labelling requirements for environmental purposes.

12. To follow-up on this aspect of the Review, Canada submitted a paper (G/TBT/W/174/Rev.1) to the TBT Committee in May 2002, with the aim of establishing a structured approach to discussing labelling issues in the TBT Committee. In its conclusion, Canada recommended that the Committee consider holding an informal workshop on labelling. Given the increasingly visible and prominent concerns on labelling issues in international trade, the idea of conducting a workshop on labelling was very well received by Members.

13. Calls are increasing from some quarters for enhanced mandatory labelling to deal with concerns beyond those of protection of health and safety, especially in the area of what is broadly termed consumer information, which includes, among other things, labelling dealing with environmental concerns, animal welfare and social issues (e.g. child labour). The EU’s recent set of policy proposals with respect to animal welfare, for example, contains significant provisions dealing with labelling. Another example is the proposed U.S. regulations for country of origin labelling for certain agricultural products, which has been portrayed as a measure aimed at increasing consumer information. There have also been international efforts aimed at certification and labelling. Canada believes strongly in consumer information and choice, provided that measures applied in this regard are not discriminatory, and do not create unnecessary barriers to trade, *i.e.* with a focus on a voluntary, market-driven approach. Growing consumer focus on product information highlights the need for a framework within which to address consumer concerns, while adhering to the disciplines under the TBT Agreement, which require Members to use the least trade-restrictive means to meet legitimate policy objectives.

14. The Triennial Review provides an important opportunity to address in an open and positive environment Members’ key concerns with respect to labelling, looking at ways to more effectively implement the TBT Agreement in a manner which reduces trade frictions while respecting consumer desires for information and choice. A thorough dialogue would, in our view, lead to a clearer understanding of key elements of the labelling issue. Moreover, it would be an opportunity to discuss Members’ differing approaches to labelling, and identifying areas of agreement.

15. Canada plans to submit for a future TBT Committee meeting a non-paper identifying key elements of the debate on labelling in order to contribute to a structured and productive discussion of labelling concerns.

### **IV. TRADE-RELATED TECHNICAL ASSISTANCE (TRTA)**

16. Trade-related technical assistance is a priority area for Canada in its continued efforts to strengthen global economic growth and sustainable development by assisting least developed, and developing countries to more fully participate in and benefit from the global trading system. In response to the second implementation issue (Tiret 33 of the Doha mandate on outstanding implementation issues) to make Article 11 of the TBT Agreement (Technical Assistance to Other Members) a mandatory provision, Canada reiterated its commitment to providing technical assistance

to developing and least-developed countries, and maintained that Article 11 is already a mandatory provision. We have also indicated that the Technical Assistance Programme developed during the Second Triennial Review is a clear indication of the Committee's commitment to assisting Members with the implementation of the Agreement.

17. It was agreed that progress made in executing the Technical Assistance Programme should be assessed in the context of the Third Triennial Review. Canada supports this recommendation and therefore advances to furthering these discussions during the current Review.

18. In the past, Canada has insisted that the Committee's role in the case of technical assistance should be that of a facilitator. The Committee should be involved with the administrative aspects of operating the Programme but should ensure to task proper donor agencies to deliver technical assistance in response to identified needs.

19. To date, the following elements of the Programme have been completed:

- (i) Design of a survey to assist developing countries in need identification;
- (ii) Identification and prioritization by developing and least developed country Members of their specific needs;

20. It is anticipated that the following element will be addressed during the Workshop on Technical Assistance, scheduled to be held on the margins of the March 2003 TBT Meeting:

- (iii) Consideration of existing technical assistance activities by multilateral, regional and bilateral organizations with a view to the effective and efficient development of technical assistance programmes.

21. In preparation for this Workshop, Canada is developing a list of technical assistance activities it currently has to offer.

22. The final elements of the Programme are as follows:

- (iv) Enhancement of cooperation between donors;
- (v) Reassessment of needs in light of agreed priorities, identification of technical assistance partners and financial considerations.

23. Based on the outcome of the Workshop on Technical Assistance, Canada will continue the discussions on trade-related technical assistance and maintain its commitment to the provision of assistance to developing and least-developed countries.

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