

**SECOND TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION
OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE**

Note from Canada

I. INTRODUCTION

1. The Second Triennial Review of the World Trade Organization's Technical Barriers to Trade Agreement¹, to be completed by the end of this year, offers an opportunity for Canada to pursue clarifications and improvements to the Agreement without the necessity of open ended re-opening. At the 25 February 2000 meeting of the TBT Committee, Members declared themselves prepared to engage actively and constructively in the Review. The point of departure for the Review will be the First Triennial Review completed in 1997 (G/TBT/5), with assistance from the Secretariat's "stock taking" paper summarizing submissions since the First Triennial Review (G/TBT/SPEC/11 and 11/Add.1-2).

2. Following up on the work of the First Triennial Review, Canada's principal goal for the Second Triennial Review is to examine the level of implementation of the Agreement, and how this can be improved. More particularly, Canada wishes the outcome of the Review to mandate the Committee to pursue further significant work in the areas of international standardization, conformity assessment, and technical assistance.

3. Canada considers that a significant underpinning of the Agreement is domestic and international cooperation and coordination of trade, regulatory, voluntary standards, and conformity assessment policy and practice. Only through this cooperation and coordination will the Agreement fulfill its intended goals of trade liberalization and facilitation. In order to draw the most benefits from the Agreement, Members must take responsibility for cooperating and coordinating, at the domestic level, trade, regulatory, standards, and conformity assessment policy and practice. Canada foresees that this will foster the added advantage of advancing work in voluntary international standards and conformity assessment bodies which will complement and enhance the Agreement. This cooperation and coordination must then be taken a step further to the relationships between the international organizations themselves.

II. IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

4. Under the rubric of Notification Procedures, Canada would like the Committee to review notification obligations at the sub-national level, as detailed in Article 3 of the Agreement, "Preparation, Adoption and Application of Technical Regulations by Local Government Bodies and Non-Governmental Bodies". Canada is particularly concerned with the apparent low level of notification from the provincial/territorial/state/Länder/cantonal/etc. levels for Members where a large amount of regulatory responsibility lies at the sub-national level, and suggests that the Committee look at how to improve this.

¹ The World Trade Organization shall, from here on, be referred to as the "WTO"; the Technical Barriers to Trade Agreement as the "TBT Agreement", or simply "the Agreement"; the Technical Barriers to Trade Committee of the WTO as the "TBT Committee" or simply "the Committee"; the TBT Committee Secretariat as "the Secretariat"; and the Second Triennial Review as "the Review".

III. INTERNATIONAL STANDARDIZATION

5. Canada encourages the Committee to maintain flexibility in defining the principles to be met in the development of international standards. Acceptable principles would allow for the recognition of existing standardization and regulatory realities. Canada believes that the future value of standards systems, for legitimate regulatory purposes and the promotion of an open trading environment, requires that they be allowed to evolve so as to find their own solutions, without unnecessarily attempting to impose restrictive requirements from outside. This should be achieved, within the standards system, through the effective and appropriate coordination of trade and standards interests described in paragraph three.

6. Moreover, Members should be mindful of the particular problems and constraints faced by developing countries in the field of international standardization and should encourage their participation in international standards development so that, as the Agreement's provisions increasingly take effect and are strengthened, developing countries are not at a disadvantage.

7. To maximize openness, transparency, coherence, effectiveness and order in standardization, Canada's national accreditation organization, the Standards Council of Canada, has formally adopted both ISO/IEC Guide 59 "A Code of Good Practice for Standardization" and Annex 3 of the TBT Agreement as its accreditation requirements. The criteria for accreditation thus include: evidence of a consensus process representing balanced representation of interest categories, broad geographical representation, an appeals mechanism for the impartial handling of any substantial or procedural complaints, and notification of standardization activities in suitable media to afford interested persons or organizations an opportunity for meaningful contributions.

8. Canada's experiences in implementing Article 2.7 of the Agreement (as detailed in G/TBT/W/71) have led to the belief that there should be procedures for standards development bodies to accept that a standard/standards applied in another country/other countries could meet their own standardization requirements. As such, Canada therefore supports a similar provision for voluntary standards as currently exists for mandatory regulations in Article 2.7. As described in New Zealand's note G/TBT/W/88, the objective of such a provision is to develop an equivalency provision in situations where no international standards exist. This will help promote efficiency in the regulatory and voluntary standards systems and facilitate trade, while the discussion on international standardization continues to advance in the TBT Committee.

9. The international, regional and local standards communities are founded on principles that naturally tend to promote the objectives of the Agreement. Canada considers that significant progress towards the Agreement's intended goals of trade liberalization and facilitation requires the positive engagement of these communities by the Committee and Members. While the Report of the First Triennial Review took the step of inviting international standardization bodies as observers to the Committee, recent dialogue suggests the need for even closer cooperation between these two groups. At the domestic level this implies implementing the Report of the First Triennial Review of the TBT Agreement which calls for better coordination between national standards bodies, regulatory authorities and national government representatives on the TBT Committee. More transparency and increased awareness of one another's activities, both at the national and international level, are essential ingredients in this process. This cooperative approach is endorsed by many major standards developers around the world, including ISO and IEC. Canada believes that much can be achieved through coordinated and more focussed efforts, and encourages the Committee, through the Second Triennial Review, to examine how to further improve communication with the international standardization community.

IV. CONFORMITY ASSESSMENT

10. The goal of conformity assessment is to ensure that the requirements of standards and technical regulations are met by given products and services. This is critical in order for buyers of those goods and services to have confidence that legitimate regulatory objectives are met and that the

goods and services meet their health, safety and other needs. There is little debate that confidence in the conformity assessment practices and procedures of other countries is important to the facilitation of trade. Indeed, there is broad support by both developed and developing countries for working towards this goal through the principle of “‘one standard, one test’ and if required ‘one certification, one time’” as stated in the First Triennial Review.

11. Where the debate rests, however, is on the different methods of pursuing the principle. Among the different approaches to conformity assessment, accreditation that is based on international standards and guides represents an independent test of the technical competence of conformity assessment bodies. Broad global acceptance of accreditation which addresses both regulatory requirements and market needs has provided the basis for the emergence of a number of international and regional cooperation of accreditation agreements. Further work is needed to encourage greater acceptance of these agreements, particularly among regulators and the public, and stronger participation among developing countries in their development. The Committee should also encourage the examination of other less formal approaches to conformity assessment, including supplier’s declaration of conformity (SDoC), to determine the costs and benefits and which industrial sectors would most benefit. Canada believes that formal accreditation of private testing and inspection laboratories, operating in support of SDoC would help facilitate wider acceptance of the concept among regulators and the public. Private multilateral agreements between certification organizations, such as the successful IEC System for Conformity Testing and Certification of Electrical Equipment (IECEE CB Scheme), should also be studied to assess applicability to other sectors.

12. Canada seeks to ensure that the continuing discussion on conformity assessment is balanced and comprehensive. This discussion should educate regulators, trade policy experts, industry, the conformity assessment community, and the public of the various forms of recognition, the products to which they are best suited, and the environments needed for their effective functioning. Furthermore, in order to ensure a workable path towards acceptance of internationally recognized conformity assessment systems, the dialogue must also take into account the various national regulatory and conformity assessment systems used by Members. This includes, in particular, a better understanding of the challenges faced by developing countries, and how best to assist them in meeting those challenges.

13. As a contribution to the discussion on how to pursue the principle of “‘one standard, one test’ and if required ‘one certification, one time’”, what follows is a brief description of Canada’s experience, thus far, with MRAs²:

14. The Mutual Recognition Agreements or Arrangements (MRAs) to which Canada has become a Party involve conformity assessment (e.g. the testing and certification procedures undertaken to assess whether a product meets the requirements set out in a given standard or regulation). These MRAs cover specific sectors, in which they provide for recognition of inspection results, test reports and/or conformity certificates issued by bodies located in the territory of the exporting party (or parties), but deemed capable of testing to the importing party’s regulatory requirements. By eliminating duplicative testing and certification requirements, these MRAs are intended to reduce the burden on both industry and regulatory agencies, thereby facilitating trade.

15. Canada has found that the negotiation of MRAs can be a labour intensive exercise, with MRA implementation also having significant short and medium term resource implications. Therefore,

² Canada has been involved in negotiating various bilateral and multilateral Mutual Recognition Agreements/Arrangements on conformity assessment in recent years, including multi-sector MRAs with the European Union, Switzerland, and Norway, Iceland and Liechtenstein (the EEA countries). In the telecommunications equipment sector, Canada concluded a bilateral Mutual Recognition Arrangement with Korea in 1997, and is participating in multilateral arrangements through APEC and the Inter-American Telecommunications Commission (known as CITEL). Canada also actively participated in negotiating the APEC Arrangement on Conformity Assessment of Electrical and Electronic Equipment.

clear criteria for undertaking MRA negotiations are important to ensure that these reflect economic and stakeholder interests.

16. Although Canada's views on MRAs are still evolving, there is an emerging preference for single sector MRAs over the multi-sector framework model. Not only are single-sector MRAs easier to negotiate and implement, but they tend to avoid the heavy bureaucratic structure associated with multi-sector MRAs. Moreover, plurilateral MRAs seem to be more cost-effective than bilateral MRAs. At the same time, it must be recognized that MRAs are just one tool which can be employed to reduce or simplify regulatory requirements in the international context, and may not be appropriate to every situation.

17. Canada notes the importance of promoting common global approaches to conformity assessment. In this respect Members should be encouraged to participate in the work of standardization and conformity assessment bodies developing international standards, guides and recommendations for conformity assessment. This work serves the interests of consumers, industry, and regulators, while improving trade. G/TBT/W/72/Rev.1 provides a list of relevant ISO/IEC international guides and recommendations related to conformity assessment procedures. Among these voluntary guides is ISO/IEC Guide 60, Code of Good Practice for Conformity Assessment. Canada believes that Guide 60, which is designed to promote equal right of access to conformity assessment worldwide, provides a good framework for the performance of all conformity assessment bodies whether governmental or non governmental, domestic or international. However, the guide is not widely used and needs to be reviewed, and updated, if necessary, to better meet the objectives of the Agreement. Therefore, Canada recommends that the Committee invite the ISO Council on Conformity Assessment (CASCO) to undertake the necessary work. Members should be encouraged to adopt the revised Guide 60 on a voluntary basis. Canada considers the proper forum for work on conformity assessment to be in the voluntary sector, and does not wish to burden the Agreement further with a mandatory Code of Good Practice on conformity assessment.

V. TECHNICAL ASSISTANCE

18. Canada has been assisting developing countries in meeting their TBT Agreement obligations by supporting technical assistance offered by several international fora, such as the WTO, the International Trade Centre, APEC and the World Bank. Bilaterally, Canada offers technical assistance related to regulation, standards and conformity assessment systems principally through the Canadian International Development Agency, the Standards Council of Canada, government departments, and standards development organizations. Some of this work has included assistance with respect to fulfilling enquiry point obligations, notification procedures and provision of standards and standards-related information.

19. The workshop on technical assistance held by the Committee in July 2000 addressed a number of important issues relating to, *inter alia*, developing country participation in international standardization, and the coordination of technical assistance initiatives by international organizations and Members. It is Canada's hope that the workshop will provide the basis for specific conclusions and recommendations in the Review.

20. Indeed, Canada would like a significant part of the Second Triennial Review to focus on identifying the substantive needs of developing countries in meeting their obligations under the Agreement and how best to answer these needs.
