

NIST Standards In Trade Workshop: ASEAN Conformity Mark

Applying WTO Obligations

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Summary

- ▶ A general understanding of the WTO Agreement on Technical Barriers to Trade (TBT) and how WTO Members can use its principles to inform policies and regulations.

USTR –About Us

- USTR is an agency in the Executive Office of the President.
- USTR has principal responsibility for administering U.S. trade agreements.
 - Monitoring our trading partners' implementation of trade agreements with the United States,
 - Enforcing America's rights under those agreements
 - Negotiating and signing trade agreements that advance the President's trade policy.
- Responsible for coordinating trade policy and negotiations via the Trade Policy Staff Committee Subcommittee on Technical Barriers to Trade
- Co-lead the Industry Trade Advisory Committee on Standards and Technical Barriers to Trade (ITAC 16) with DOC
- Publish an annual report on Technical Barriers to Trade
<http://www.ustr.gov/sites/default/files/2013%20TBT.pdf>

The WTO



- The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations.
- At its heart are the WTO agreements, negotiated and signed by 159 nations and ratified in their parliaments.
- The goal is to help producers of goods and services, exporters, and importers conduct their business.
- The Agreement on Technical Barriers to Trade is accepted by all 159 members.
- Other WTO Agreements this audience might be interested in are WTO Agreements on Sanitary and Phytosanitary Measures (SPS) and Government Procurement (plurilateral).

The Purpose of the WTO TBT Agreement

- To prevent unnecessary obstacles to trade.
- To provide transparency in the development and implementation of WTO Member technical regulations.
- Considered to be a “procedural agreement.”
- To use international standards and conformity assessment procedures in technical regulations when possible to fulfill the legitimate objective of regulation.
- Enforces the concepts of National Treatment and Most Favored Nation (MFN).
- Applies to both Federal and Sub-federal technical regulations.

WTO TBT Committee Notification Process (Articles 2 and 5)

- ▶ When a relevant international standard does not exist or a technical regulation or conformity assessment procedures is not in accordance with an international standard and it has a significant effect on trade, WTO members shall –
 - Publish a notification of the proposed measure and notify the measure through the WTO Secretariat.
 - Provide an opportunity for other members to comment
 - Provide a copy of the proposed measure upon request and identify parts that deviate from international standards.
 - Allow reasonable time for members to comment in writing, discuss comments upon request and take the comments into account.

TBT and Conformity Assessment

- ▶ 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.

TBT and Conformity Assessment

- ▶ Follow National Treatment and Most Favored Nation principles
 - ▶ Should not serve an unnecessary barriers
 - ▶ Expeditious, and time necessary to perform CAP should be published
 - ▶ Opportunity for corrective action; avoid delays in the process
 - ▶ Collect info only necessary to conduct CAP
 - ▶ Protect business confidential information
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TBT and Conformity assessment

- ▶ Fees imposed should be equitable
 - ▶ Siting of facilities should be reasonable
 - ▶ Test modifications to products in a reasonable manner.
 - ▶ A complaint process should be established
 - ▶ Participate in international standards for conformity assessment and use them
 - ▶ If you don't use them, then notify them to the WTO, allow reasonable interval for comment and implementation and consider comments.
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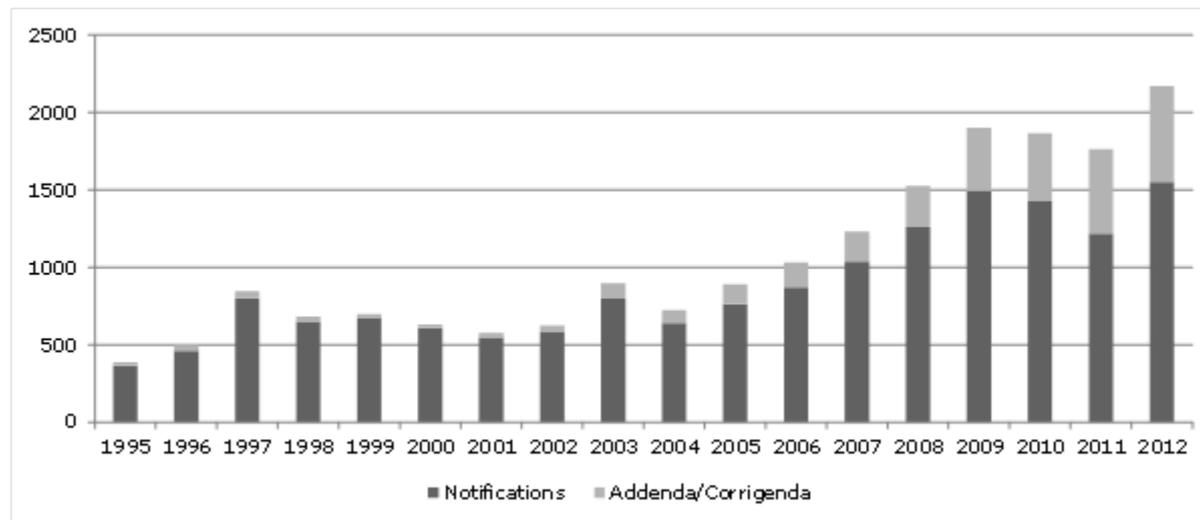
TBT and Conformity Assessment

- ▶ Members shall use international standards for conformity assessment (i.e. ISO/IEC CASCO standards)
 - ▶ Members regularly review the role of regional and international systems for conformity assessment as covered by Article 9 and how these systems could contribute to solving the problems of multiple testing and certification/registration for traders.
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CAPs: An Indicative List

- ▶ Mutual Recognition Agreements (MRAs) For Conformity Assessment to Specific Regulations
- ▶ Co-Operative (Voluntary) Arrangements Between Domestic And Foreign Conformity Assessment Bodies
The Use Of Accreditation To Qualify Conformity Assessment Bodies
- ▶ Government Designation
- ▶ Unilateral Recognition Of Results Of Foreign Conformity Assessment
- ▶ Manufacturer's / Supplier's Declarations (SDoC)

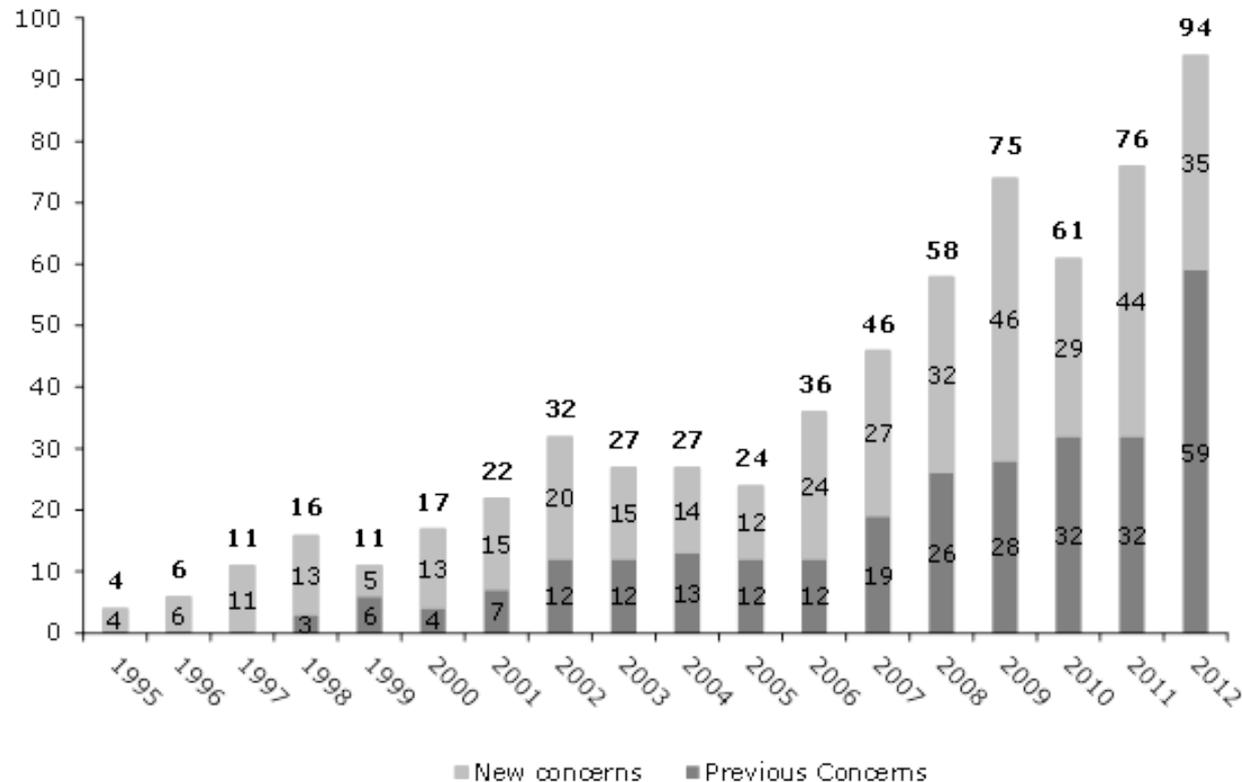
Number of WTO TBT Notifications since 1995 (G/TBT/33)



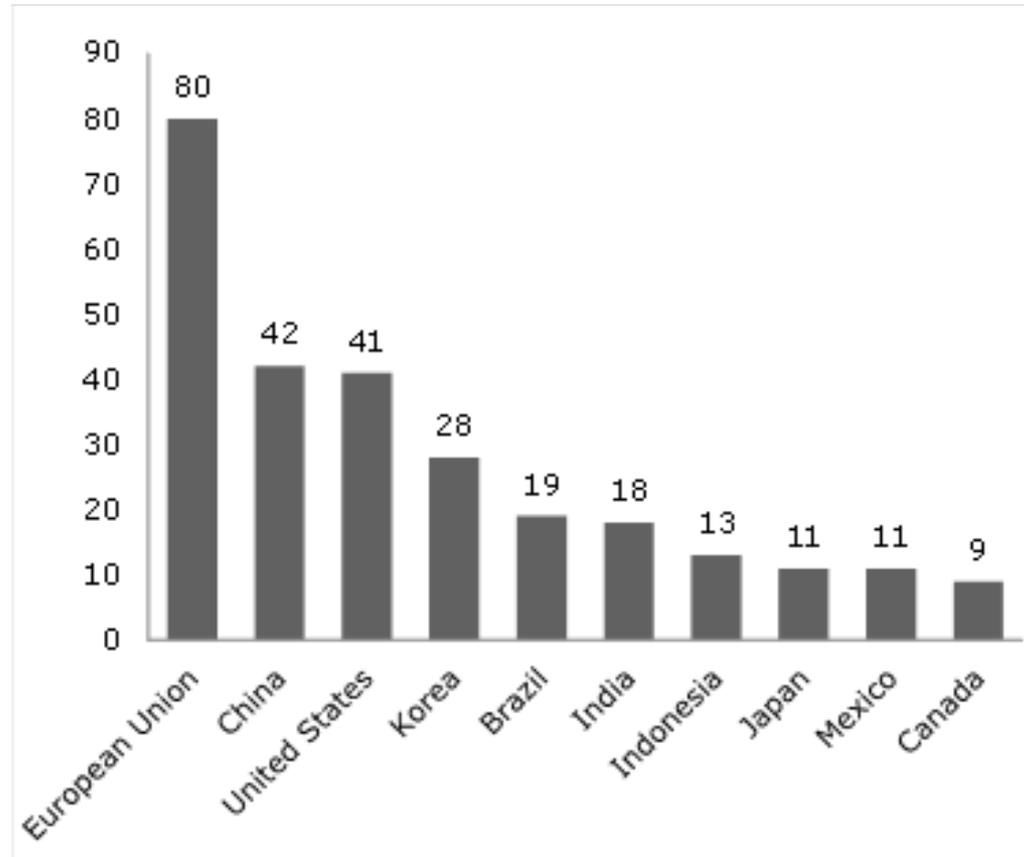
WTO TBT Committee

- WTO Secretariat administers a TBT Committee that meets 3 times a year (March, June/July, October/November).
- At each committee meeting Members discuss Specific Trade Concerns, issues related to the Implementation of the Agreement
- Every three years the TBT Committee reviews the implementation of the Agreement (called the Triennial Review).
- In 2012, we completed the 6th Triennial Review of the Agreement.
- Decisions and recommendations adopted by TBT Committee (G/TBT/1/Rev.10)
- The Committee also conducts specially themed workshops (examples include operations of an inquiry point, or thematic discussions on Good Regulatory Practice, Standards or Conformity Assessment).

Number of specific trade concerns raised per year (G/TBT/33)



Members whose measures have been most frequently discussed



Free Trade Agreements: TBT Chapters

- The United States has free trade agreements (FTAs) in effect with 17 countries.
 - Build on the foundation of the WTO Agreement, with more comprehensive and stronger disciplines than the WTO Agreement.
- The United States and Singapore have a bilateral FTA.
- Trans Pacific Partnership – Twelve country negotiation. Relevant partners in ASEAN are –
 - Singapore
 - Brunei Darussalam
 - Malaysia
 - Vietnam
 - United States
- Expect additional obligations on conformity assessment in the TPP.

Regional Activities Supporting Implementation of the TBT Agreement

- ▶ APEC Subcommittee on Standards and Conformance (SCSC)
 - Electrical and Electronic (EE) MRA
- ▶ ASEAN Consultative Committee on Standards and Quality (ACCSQ)
 - EE MRA
- ▶ Asia Pacific Laboratory Accreditation Cooperation (APLAC)
 - Mutual Recognition Arrangement for Laboratory Accreditation
- ▶ Pacific Accreditation Cooperation

General Trends to Watch on Regional Activities with Relation to the TBT Agreement

- ▶ Regional Customs Unions, Political or Economic Organizations are not WTO members, with the exception of the EU
- ▶ Regional regulation is a trend to watch
 - How those regulations are implemented by their members may be uneven.
 - Each WTO Member has an obligation to notify their adoption of a regional regulation.
 - If there are overlapping national and regional technical regulations, those requirements may represent unnecessary obstacles to trade.
- ▶ Influence of the EU and its Agreements on Conformity Assessment for Industrial Products

Case Study: Saudi Arabia and the GSO Conformity Assessment Mark

- ▶ Gulf Standards Organization just recently notified a regional conformity assessment program through its members (open for comment now)
- ▶ Saudi Arabia has a new national conformity assessment program that was not notified to the WTO.
 - Feedback from U.S. stakeholders –
 - Lack of understanding on which conformity assessment program will be required
 - Lack of transparency of what will be required by whom?
 - Will there be overlaps?

Questions about the ASEAN Conformity Mark in Relation to WTO Commitments

- ▶ Will the ASEAN conformity mark reduce the amount of marks required in ASEAN? Or will it be an additional (11th requirement)?
- ▶ How will the ASEAN members notify the application of the ASEAN mark to the WTO (at the same time, or individually)?
- ▶ Can ASEAN use the opportunities under the ACCSQ Dialogue Partnership to provide additional information to U.S. stakeholders on ASEAN mark implementation? Can APEC SCSC be used to educate training partners on the ASEAN mark?
- ▶ How will laboratory accreditation and the APLAC MRA be considered with the ASEAN mark?
- ▶ With TPP coming on-line in the next couple of years, will the ASEAN mark be compliant?

Thank you and Questions

▶ Contact Information

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