

Technical barriers to trade

Technical requirements exist in all sectors of the economy and have an impact on most products that we buy. The labelling of the food that we eat, the safety of toys that our children play with, the technical specifications of our cars or the safety and energy efficiency of our home appliances are all, to a certain degree, influenced by such requirements.

What are TBTs?

The term "technical barriers to trade" (TBT) refers to mandatory technical regulations and voluntary standards that define specific characteristics that a product should have, such as its size, shape, design, labelling / marking / packaging, functionality or performance.

The specific procedures used to check whether a product is in compliance with these requirements are also covered by the definition of TBT. These so-called "conformity assessment procedures" can include, for example, product testing, inspection and certification activities.

TBTs are usually introduced by government authorities with a legitimate public policy objective in mind – for example, protecting human health and safety, animal and plant life and health or the environment, or safeguarding consumers from deceptive practices. Nevertheless, TBTs often have an impact on trade and the competitiveness of exporters, and in particular small and medium enterprises (SMEs). Adjusting products and production processes to comply with different requirements in export markets, as well as demonstrating compliance with these requirements, increase product costs and time-to-market, and can ultimately hurt the competitiveness of EU exporters. This is why many of these exporters put technical requirements at or near the top of their concerns on trade barriers.

The WTO TBT Agreement

The objective of the World Trade Organisation's [Agreement on Technical Barriers to Trade](#) as a preventive instrument is to ensure that such measures do not result in discrimination or arbitrary restrictions on international trade. The Agreement does not in any way undermine the right of governments to take measures to pursue legitimate public policy objectives, such as the ones mentioned above; it simply aims to ensure that such measures are prepared, adopted and applied according to some basic principles, in order to minimise the negative impact on trade.

The growing importance of TBTs in the multilateral trade context

The significance of technical barriers to trade has increased considerably over the past years, as tariffs steadily decline and governments worldwide introduce more and more regulatory requirements to address inter alia health, safety or environmental concerns. The TBT Agreement is therefore an important tool with which the EU can tackle technical barriers to trade and address requirements of third countries which might pose significant problems to European economic operators. In the WTO, the EU has consistently pushed to:

- Achieve greater harmonisation, through more wide-spread use of international standards
- Adopt a more risk-oriented approach in deciding what conformity assessment procedures should be used for assessing compliance of products
- Improve the implementation of transparency provisions, to ensure that trade partners are systematically consulted on regulatory initiatives that might influence trade
- Promote and enhance the effectiveness of technical assistance to developing countries in the TBT field

A central EU objective in the TBT field is to facilitate exports by EU manufacturers by reducing technical barriers which unnecessarily restrict trade in world markets. To this end, the European Commission examines the legislative proposals of WTO Members to check compliance with the TBT Agreement, and uses all means at its disposal to tackle unnecessary barriers to trade and improve market access for European exporters.

Principles of the TBT Agreement

The five principles at the core of the WTO TBT Agreement are:

- Transparency (see *Transparency Obligations under the TBT Agreement*) - a WTO Member planning to introduce a measure that might have an important impact on trade should notify this to the WTO, and take into account comments submitted by other countries on the draft legislation
- Non-discrimination and national treatment - a measure should not discriminate among different importing Members and should apply in the same way to both imports and similar domestic goods
- Proportionality - a measure should not be more trade restrictive than necessary to achieve the legitimate goal pursued
- Use of international standards - whenever possible, international standards should be used as a basis for technical regulations
- Equivalence - WTO Members should consider accepting technical regulations of other Members as equivalent to their own, provided that these measures are an effective way of addressing the objectives pursued

Relevant documents:

- [TBT Committee meeting minutes](#)
- [MRA newsletters](#)

Depending on the country and on the type of barrier, the EU has a variety of means at its disposal for tackling an unnecessary TBT and improve market access for EU exporters:

- Submitting written comments under the TBT notification procedure (see below: *Transparency Obligations under the TBT Agreement*)
- Raising the issue in the [WTO TBT Committee](#) meetings, taking place three times per year
- Working together with stakeholders (Member States, European industry, technical experts) in the [Market Access Partnership](#) to gather information, seek solutions and ensure a coordinated approach
- Bilateral discussions with the authorities of the country concerned, on a case by case basis or in the framework of [EU Regulatory Dialogues](#)
- Including a specific Chapter on Technical Barriers to Trade in all [Free Trade Agreements](#) that the EU is currently pursuing
- Negotiating Agreements on Conformity Assessment and Acceptance of Industrial Products (ACAAs) (see below: [More on ACAAs and MRAs](#)) with eligible countries in the European Neighbourhood
- Ensuring efficient implementation of the EU's Mutual Recognition Agreements (see below: [More on ACAAs and MRAs](#))
- Providing TBT-related capacity building to developing countries

Transparency Obligations in the WTO TBT Agreement

The key objective of the TBT notification procedure is to inform other WTO Members about legislative proposals that might have a significant impact on trade, in order to provide them with the opportunity to submit comments on the proposal before it is finalized. The WTO TBT Agreement requires Member countries to:

- Notify draft measures to the WTO at an early stage, when comments from third countries can still be taken into account in the legislative process
- Allow sufficient time (usually 60 days) for other WTO Members to comment on the draft measure in writing, and take these comments into account in the final version of the measure
- Ensure that all adopted measures are promptly published (for example in that country's Official Journal)
- Allow a reasonable period between the publication and entry into force of the measure, in order to allow foreign operators to adapt their products to the new requirements. This delay should be of at least 6 months, except in those cases where a measure needs to be implemented immediately in order to address an urgent health, safety, environmental or national security concern.

The [TBT notifications database](#) is a very useful tool to keep up-to-date with TBT notifications in your field and/or country of interest. The database offers the possibility to access WTO TBT notifications, as well as any related documents available (such as the draft measures, EC comments on a notification, replies received to EC comments, etc.)

Agreements on Conformity Assessment and Acceptance of Industrial Products

ACAAs provide for an extension of certain benefits of the Internal Market to third countries in the European neighbourhood, in sectors for which technical regulations and standards have been aligned to European ones. ACAAs therefore facilitate market access by eliminating technical barriers to trade with respect to industrial products. Each ACAA consists of a framework agreement and one or more annexes, setting out the products covered, and the means adopted to extend the benefit of trade in that sector.

The ACAA provides for two mechanisms:

- recognition of equivalence in technical regulation, standardization and conformity assessment for industrial products subject to equivalent regulations in Community law and the national law of the partner country and
- mutual acceptance of industrial products that fulfill the requirements to be lawfully placed on the market in one of the Parties.

Under the first mechanism, mutual recognition of products operates on the basis of the *acquis communautaire* that has been transposed by the partner country, in the same way as it would apply to products placed on the market of a Member State. It allows industrial products attested as compliant according to the procedures of the European Union to be placed on the partner country's market without having to undergo any further approval procedures, and vice versa. The partner country takes over the Community technical legislation in the sector covered by the Annexes to the Protocol and participates in the European organisations in the sector covered by it.

The second mechanism, i.e., the mutual acceptance of industrial products not commonly regulated, provides that, where no European technical regulations exist, industrial products listed under that particular Annex, which are lawfully traded in the market of either Party (i.e. on the territory of Israel or that of one of the Member States of the EU) may be lawfully traded in the other. No annexes making this mechanism operational are at present included.

The European Union has an ACAA currently in place with Israel; further ACAAs are in negotiation with Croatia, the former Yugoslav republic of Macedonia, and Ukraine.