

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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Committee on Technical Barriers to Trade

**FACTUAL COMPARISON BETWEEN THE ANNEX 3 OF THE WTO/TBT AGREEMENT
- CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND
APPLICATION OF STANDARDS AND THE ISO/IEC GUIDE 59
- CODE OF GOOD PRACTICE FOR STANDARDIZATION**

Note by the Secretariat

1. At its forty-seventh meeting on 4 May 1994, the Committee requested the Secretariat to prepare a paper comparing the Annex 3 of the WTO/TBT Agreement - Code of Good Practice for the Preparation, Adoption and Application of Standards and the ISO/IEC Guide 59 - Code of good practice for standardization. This Note responds to that request.

2. Table I is a side by side comparison of the two codes, putting together the provisions concerning the same subject matter.

3. The Secretariat's observations on some of the differences between the two codes are:

(1) **Objectives**

The principle objective of the WTO/TBT Code is to minimize obstacles to trade which arise from the preparation, adoption and application of standards. The objective of the ISO/IEC Guide, as stated in its Introductory Commentary 1.4, is to ensure a degree of order, coherence and effectiveness in worldwide standardization processes. The guide lays out the principles to be respected for the development of standards reached by consensus among voluntary standards bodies, their relation to the market, the openness of participation in the standards development process and the need to ensure coordination and transparency by an appropriate information system. The main interests of ISO/IEC are to streamline standards development methods and procedures; to promote the commercial significance of their standards and services; and to avoid overlapping of work with related international and regional standards bodies. As a result, the ISO/IEC Guide provides more guidelines for the procedures on standards development, participation in the standards development process, and the coordination of standardization activity in the global standardizing system.

(2) **Definition**

Although both codes use ISO/IEC Guide 2:1991 as a reference, the WTO/TBT Code uses it with certain modifications (as indicated in Annex 1 of the TBT Agreement).

(3) **Acceptance or Adoption**

The WTO/TBT Code is open to acceptance by any standardizing body within the territory of a Member of the WTO, including those which are not using the consensus principle. The ISO/IEC Guide is intended for adoption by any standardizing body which approves standards using procedures

based on principles of consensus. As a result the WTO/TBT Code is broader than that of the ISO/IEC Guide.

(4) Notification of acceptance or adoption

The WTO/TBT Code requires standardizing bodies which have accepted or withdrawn from the Code to notify either directly to ISO/IEC Information Centre, through the national member body of ISO/IEC or through ISONET system. The ISO/IEC Guide requires the notification of adoption to be made through the ISO or IEC national members which then forward to the ISO/IEC Information Centre. Only regional or international standardizing bodies and those standardizing bodies in countries without ISO or IEC members may notify directly to the ISO/IEC Information Centre.

(5) National and MFN Treatment

The WTO/TBT Code requires standardizing bodies, in respect to standards, to accord national and MFN treatment to products originating in the territory of any other Member of the WTO. The ISO/IEC Guide says that standards shall neither be written nor adopted so as to discriminate between products from different origins.

(6) The Application of Standards

The WTO/TBT Code requires standardizing bodies to ensure that standards are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade. The ISO/IEC Guide clearly defines how standards shall be written, but it does not directly address the effect of the application of standards.

(7) Participation in International Standardization Activity

The WTO/TBT Code encourages participation to take place, whenever possible, through one delegation representing all standardizing bodies in the territory of a Member. The ISO/IEC Guide says that participation is organized under the auspices of the appropriate national standards body which is the member of the relevant international standards organization.

(8) Avoid Duplication of Work

Avoidance of duplication of work between a standardizing body within the territory of a Member and relevant international or regional standardizing bodies is not mentioned in the ISO/IEC Guide, but is covered in the WTO/TBT Code.

(9) Work Programme

The WTO/TBT Code requires standardizing bodies to publish a work programme at least once every six months, containing *inter alia* the standards it is currently preparing and the standards it has adopted in the preceding period; and for each standard to indicate the subject matter, the stage in the standard's development and the references. Standardizing bodies are also required to provide a title of draft standards in GATT languages, if requested; and to announce the existence of the work programme in a publication and to notify the existence thereof to the ISO/IEC Information Centre, preferably through ISONET.

The procedures for transparency in the ISO/IEC Guide are less detailed. It requires notification of standardization activity to be made in suitable media; and that the information should be made accessible through ISONET.

(10) Comments on Draft Standards

The WTO/TBT Code requires standardizing bodies to allow at least 60 days for the submission of comments by interested parties within the territory of a Member of the WTO and to publish a notice announcing the period for commenting. There are also obligations to provide, if requested, each interested party within the territory of a Member of the WTO a copy of a draft standard and to reply to comments received through standardizing bodies that have accepted the Code. The ISO/IEC Guide provides an opportunity to review and comment on draft standards for all interested parties, wherever located without stating the precise obligations concerning the comment period and the notice announcing the period for commenting.

(11) Procedures for the Development of Standards

Part 4 of the ISO/IEC Guide lists out detailed guidelines for the procedures for the development of standards, including that it should be based on the consensus principle; it should contain an appeals mechanism and periodic revision; and that records of standards development activity shall be prepared and maintained. There is no corresponding WTO/TBT Code provision.

(12) Advancement of International Trade

Under Part 5 of the ISO/IEC Guide, there are "should" obligations on the drafting of standards in connection to consumers, administrative requirements and patented items. There is no corresponding WTO/TBT Code obligation.

(13) Participation in the Standards Development Process, Coordination and Information

Under Parts 6 and 7, the ISO/IEC Guide provides a detailed system at the international, regional and national levels. There is no corresponding WTO/TBT Code provision.

(14) Enforcement and review of the code

The WTO/TBT Code is referred to under Article 4 of the TBT Agreement and constitutes a part of the Agreement which at the same time is one of the agreements falling under the WTO. Article 14.4 of the TBT Agreement says that dispute settlement provisions can be invoked in cases where a Member considers that another Member has not achieved satisfactory results under Article 4 and its trade interests are significantly affected. There are also two Ministerial Decisions related to the WTO/TBT Code of Good Practice: "the Proposed Understanding on WTO-ISO Standards Information System" and "the Decision on Review of the ISO/IEC Information Centre Publication" which provide for a publication prepared by the ISO/IEC Information Centre, publishing the information received in the notifications made to it under paragraphs C and J of the Code; and the publication will be reviewed by the TBT Committee at least once a year. There is no corresponding ISO/IEC Guide provision.

Table I

<p>ANNEX 3</p> <p>CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS</p>	<p>ISO/IEC GUIDE 59:1994(E)</p> <p>CODE OF GOOD PRACTICE FOR STANDARDIZATION</p>
<p><i>General Provisions</i></p>	
<p>A. For the purposes of this Code the definitions in Annex 1 of this Agreement apply.</p>	<p>2. Definitions</p> <p>For the purposes of this code, the definitions of ISO/IEC Guide 2:1991 apply to any body which approves standards using procedures based on the principles of consensus. Such bodies form a subset of the bodies covered by Annex 3 of the GATT 1991 Agreement on Technical Barriers to Trade, as explained in annex A to this code</p>
<p>B. This Code is open to acceptance by any standardizing body within the territory of a Member of the WTO, whether a central government body, a local government body, or a non-governmental body; to any governmental regional standardizing body one or more members of which are Members of the WTO; and to any non-governmental regional standardizing body one or more members of which are situated within the territory of a Member of the WTO (referred to in this Code collectively as "standardizing bodies" and individually as "the standardizing body").</p>	<p>3. General provisions</p> <p>3.1 This code is intended for use by any standardizing body, whether governmental or non-governmental, at international, regional, national or sub-national level. Standardizing bodies that have adopted this code may notify this fact to the ISO or IEC member in their country, which will forward the notification to the ISO/IEC Information Centre in Geneva. The notifications should include the name and address of the body concerned and the scope of its current and expected standardization activities. Regional or international standardizing bodies in countries without ISO or IEC members, may notify their adoption of this code directly to the ISO/IEC Information Centre.</p>

<p>C. Standardizing bodies that have accepted or withdrawn from this Code shall notify this fact to the ISO/IEC Information Centre in Geneva. The notification shall include the name and address of the body concerned and the scope of its current and expected standardization activities. The notification may be sent either directly to the ISO/IEC Information Centre, or through the national member body of ISO/IEC or, preferably, through the relevant national member, or international affiliate of ISONET, as appropriate.</p>	
<p><i>Substantive Provisions</i></p>	
<p>D. In respect of standards, the standardizing body shall accord treatment to products originating in the territory of any other Member of the WTO no less favourable than that accorded to like products of national origin and to like products originating in any other country.</p>	<p>5.5 Standards shall neither be written nor adopted so as to discriminate among products on the basis of the place of origin.</p>
<p>E. The standardizing body shall ensure that standards are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade.</p>	<p>5. Advancement of international trade</p> <p>5.1 Standards should be written to meet the needs of the market-place and should contribute to advancing free trade in the broadest possible geographic and economic contexts. Standards shall not be written so as to impede or inhibit international trade.</p> <p>5.2 Standards shall not be written as a means to fix prices, nor to exclude competition or otherwise inhibit commerce beyond that necessary to meet requirements of relevant technical regulations or other legitimate sectorial or local requirements for compatibility, environmental protection, health and safety.</p>
<p>F. Where international standards exist or their completion is imminent, the standardizing body shall use them, or the relevant parts of them, as a basis for the standards it develops, except where such international standards or relevant parts would be ineffective or inappropriate, for instance, because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems.</p>	<p>5.3 When international standards exist or their completion is imminent, they, or their relevant parts, shall be used as the basis for corresponding national or regional standards, except where such international standards or relevant parts would be ineffective or inappropriate, for instance because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems.</p>

<p>6.2 With a view to harmonizing standards on as wide a basis as possible, the standardizing body shall, in an appropriate way, give priority to playing a full part within the limits of its resources in the preparation by relevant international standardizing bodies of international standards regarding subject matter for which it either has developed or adopted, or expects to develop or adopt standards.</p> <p>6.3 At international level, national participation in the standardization process is organized under the auspices of the appropriate national standards body which is the member of the relevant international standards organization. National members shall ensure that their participation reflects a balance of national interests in the subject matter to which the international standardization activity relates.</p>	<p>G. With a view to harmonizing standards on as wide a basis as possible, the standardizing body shall, in an appropriate way, play a full part, within the limits of its resources, in the preparation by relevant international standardizing bodies of international standards regarding subject matter for which it either has adopted, or expects to adopt, standards. For standardizing bodies within the territory of a Member, participation in a particular international standardization activity shall, wherever possible, take place through one delegation representing all standardizing bodies in the territory that have adopted or expect to adopt, standards for the subject matter to which the international standardization activity relates.</p>
<p>7.5 Coordination responsibility between regional and international standardization activities should rest with the bodies concerned. In particular, regional standardizing bodies shall make every effort to avoid duplication of, or overlap with, the work of relevant international standardizing bodies.</p>	<p>H. The standardizing body within the territory of a Member shall make every effort to avoid duplication of, or overlap with, the work of other standardizing bodies in the national territory or with the work of relevant international or regional standardizing bodies. They shall also make every effort to achieve a national consensus on the standards they develop. Likewise the regional standardizing body shall make every effort to avoid duplication of, or overlap with, the work of relevant international standardizing bodies.</p>
<p>5.6 Whenever possible, in order to leave maximum freedom for technical development, the requirements of standards shall be expressed in terms of performance rather than design or descriptive characteristics.</p>	<p>I. Wherever appropriate, the standardizing body shall specify standards based on product requirements in terms of performance rather than design or descriptive characteristics.</p>

<p>J. At least once every six months, the standardizing body shall publish a work programme containing its name and address, the standards it is currently preparing and the standards which it has adopted in the preceding period. A standard is under preparation from the moment a decision has been taken to develop a standard until that standard has been adopted. The titles of specific draft standards shall, upon request, be provided in English, French or Spanish. A notice of the existence of the work programme shall be published in a national or, as the case may be, regional publication of standardization activities.</p> <p>The work programme shall for each standard indicate, in accordance with any ISONET rules, the classification relevant to the subject matter, the stage attained in the standard's development, and the references of any international standards taken as a basis. No later than at the time of publication of its work programme, the standardizing body shall notify the existence thereof to the ISO/IEC Information Centre in Geneva.</p> <p>The notification shall contain the name and address of the standardizing body, the name and issue of the publication in which the work programme is published, the period to which the work programme applies, its price (if any), and how and where it can be obtained. The notification may be sent directly to the ISO/IEC Information Centre, or, preferably, through the relevant national member or international affiliate of ISONET, as appropriate.</p>	<p>4.3 Notification of standardization activity shall be made in suitable media as appropriate to afford interested persons or organizations an opportunity for meaningful contributions. This entails timely notification in appropriate media of new, current and completed standards development activities, and reporting on status changes as appropriate.</p> <p>7.7 All information referred to in clause 4 should be made accessible through ISONET. The ISO member body in any country, or an international or regional standardizing body, should define its appropriate focal point and referral agent for standards-related enquiries.</p>
<p>K. The national member of ISO/IEC shall make every effort to become a member of ISONET or to appoint another body to become a member as well as to acquire the most advanced membership type possible for the ISONET member. Other standardizing bodies shall make every effort to associate themselves with the ISONET member.</p>	<p>3.2 Members of ISO shall make every effort to become members of ISONET or to appoint another body to become a member, as well as to acquire the most advanced membership type possible for the ISONET member. Other standardizing bodies shall make every effort to associate themselves with ISONET (see annex B for description of the ISONET system).</p>

<p>L. Before adopting a standard, the standardizing body shall allow a period of at least 60 days for the submission of comments on the draft standard by interested parties within the territory of a Member of the WTO. This period may, however, be shortened in cases where urgent problems of safety, health or environment arise or threaten to arise. No later than at the start of the comment period, the standardizing body shall publish a notice announcing the period for commenting in the publication referred to in paragraph J. Such notification shall include, as far as practicable, whether the draft standard deviates from relevant international standards.</p> <p>M. On the request of any interested party within the territory of a Member of the WTO, the standardizing body shall promptly provide, or arrange to provide, a copy of a draft standard which it has submitted for comments. Any fees charged for this service shall, apart from the real cost of delivery, be the same for domestic and foreign parties.</p> <p>N. The standardizing body shall take into account, in the further processing of the standard, the comments received during the period for commenting. Comments received through standardizing bodies that have accepted this Code of Good Practice shall, if so requested, be replied to as promptly as possible. The reply shall include an explanation why a deviation from relevant international standards is necessary.</p>	<p>4.4 On the request of any interested party, the standardizing body shall promptly provide, or arrange to provide, a copy of a draft standard which it has submitted for comments. Any fees charged for this service shall, apart from the real cost of delivery, be the same for domestic and foreign parties. Interested parties, wherever located, shall be provided with reasonable opportunity to review and comment on draft standards. Prompt consideration and response, if so requested, shall be given to all views and comments received, including, for instance, explanation why a deviation from relevant international standards is necessary.</p>
<p>O. Once the standard has been adopted, it shall be promptly published.</p> <p>P. On the request of any interested party within the territory of a Member of the WTO, the standardizing body shall promptly provide or arrange to provide a copy of its most recent work programme or of a standard which it produced. Any fees charged for this service shall, apart from the real costs of delivery, be the same for foreign and domestic parties.</p>	<p>4.7 All approved standards shall be published promptly. Copies shall be made available under reasonable terms and conditions to any person, wherever located.</p>

<p>Q. The standardizing body shall afford sympathetic consideration to, and adequate opportunity for, consultation regarding representations with respect to the operation of this Code presented by standardizing bodies that have accepted this Code of Good Practice. It shall make an objective effort to solve any complaints.</p>	<p>3.3 The standardizing body shall afford sympathetic consideration to, and adequate opportunity for, consultation regarding representations made, with respect to the operation of this code, by other standardizing bodies that have accepted it. The standardizing body shall make an objective effort to resolve any complaints.</p>
	<p>1. Introductory commentary</p> <p>1.1 Standards play an important role in trade and commerce within and between all countries of the world. These standards are developed by many bodies, at sub-national, national, regional and international levels, a significant number of which prepare their documents by consensus processes. Alongside the growth of international trade and technological cooperation, standardizing bodies have developed procedures and modes of cooperation which are commonly considered to constitute good practices for standards development at all levels. These practices are set out here in the form of a code, applicable to governmental and non-governmental consensus bodies.</p> <p>1.2 At international level, the voluntary standardization process is essentially coordinated under the auspices of the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and the International Telecommunications Union (ITU). These bodies are apex organizations for an extensive infrastructure which has its foundations at national level, and extends into regional activities whenever necessary. This global system (i.e. standardization at national, regional and international level) is linked together via collaboration agreements between ISO, IEC and ITU at international level; by similar agreements between standardization organizations at regional level, such as CEN, CENELEC and ETSI in Europe; and at the base, through an extensive array of collaboration agreements between the national members of the three apex organizations.</p>

	<p>1.3 Within the global standardization system, the national members of the three apex organizations assume the major responsibility for ensuring coherency and coordination. For this reason a distinction is made, in the definitions and under clauses 6 and 7 of this code, between a standardizing body (of which there may be many in the same country) and a national standards body which in addition is the national member of one or more of the international apex bodies, and of the corresponding regional organizations where relevant.</p> <p>1.4 Adoption of this code is voluntary and intended to ensure openness and transparency, together with an optimum degree of order, coherence and effectiveness in worldwide standardization processes. Provisions which should be of a binding nature are given in the form of requirements, using the modal auxiliary "shall".</p>
	<p>4. Procedures for the development of standards</p> <p>4.1 Written procedures based on the consensus principle should govern the methods used for standards development. Copies of the procedures of the standardizing body shall be available to interested parties in a reasonable and timely manner upon request.</p> <p>4.2 Such written procedures should contain an identifiable, realistic and readily available appeals mechanism for the impartial handling of any substantive and procedural complaints.</p> <p>4.5 Formal approval of standards should be based on evidence of consensus.</p> <p>4.6 All standards should be reviewed on a periodic basis and revised in a timely manner. Proposals for the development of new or revised standards, when submitted according to appropriate procedures by any materially and directly interested person or organization, wherever located, should be given prompt consideration.</p>

<p>4.8 Proper records of standards development activity shall be prepared and maintained.</p>	
<p>5. Advancement of international trade</p> <p>5.4 Standards should not be written so as to allow them to be used to mislead consumers and other users of a product, process or service addressed by the standard.</p> <p>5.7 Administrative requirements relating to conformity assessment and marks of conformity or other, non-technical issues should be presented separately from technical and/or performance requirements.</p> <p>5.8 Standards should not be drafted in terms that include the use of a patented item unless the use of such an item is justifiable for technical reasons, and the rights holder agrees to negotiate licences with interested applicants, wherever located, on reasonable terms and conditions.</p>	
<p>6. Participation in the standards development process</p> <p>6.1 Participation in standardization processes at all levels shall be accessible to materially and directly interested persons and organizations within a coherent process as described in this clause.</p> <p>6.4 At regional level, participation in the consensus standardization process, which is organized to suit the particular needs of the technology and the region, should always reflect a balance of national and regional interests in regional standardizing work. Opportunities for effective and meaningful contributions from countries not within the region should be organized under the auspices of the national standards bodies of those countries and should be done in cooperation with the international standards organizations in which membership is common.</p>	

	<p>6.5 At national level, participation should be organized by standardizing bodies and national standards bodies according to their respective consensus-building procedures which should provide for balanced representation of interest categories such as producers, buyers, consumers, etc. Opportunities for effective and meaningful contributions from other countries should be organized under the auspices of the national standards bodies of those countries and should be done in cooperation with the international and regional standards organizations in which membership is common.</p>
	<p>7. Coordination and information</p> <p>7.1 In order for standards to be mutually consistent and free from contradiction for the largest possible user communities, standardization activities should be actively, but voluntarily, coordinated at and between international and regional levels, and within each country.</p> <p>7.2 Coordination responsibility at international level should rest with each international standards organization.</p> <p>7.3 Coordination responsibility at regional level should rest with each regional standards organization.</p> <p>7.4 Coordination responsibility at national level should rest with the national standards body.</p> <p>7.6 Coordination of standardization activity between regional standards organizations and national standards bodies outside the region in question should be organized under the responsibility of these bodies in consultation with the international standards organization in which membership is common.</p>