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**1 ARTICLE 12**

**1.1 Text of Article 12**

**Article 12**

*Special and Differential Treatment of Developing Country Members*

12.1 Members shall provide differential and more favourable treatment to developing country Members to this Agreement, through the following provisions as well as through the relevant provisions of other Articles of this Agreement.

12.2 Members shall give particular attention to the provisions of this Agreement concerning developing country Members' rights and obligations and shall take into account the special development, financial and trade needs of developing country Members in the implementation of this Agreement, both nationally and in the operation of this Agreement's institutional arrangements.

12.3 Members shall, in the preparation and application of technical regulations, standards and conformity assessment procedures, take account of the special development, financial and trade needs of developing country Members, with a view to ensuring that such technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to exports from developing country Members.

12.4 Members recognize that, although international standards, guides or recommendations may exist, in their particular technological and socio-economic conditions, developing country Members adopt certain technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Members therefore recognize that developing country Members should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs.

12.5 Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies and international systems for conformity assessment are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Members, taking into account the special problems of developing country Members.

12.6 Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies, upon request of developing country Members, examine the possibility of, and, if practicable, prepare international standards concerning products of special interest to developing country Members.

12.7 Members shall, in accordance with the provisions of Article 11, provide technical assistance to developing country Members to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing country Members. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting Members and in particular of the least-developed country Members.

12.8 It is recognized that developing country Members may face special problems, including institutional and infrastructural problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures. It is further recognized that the special development and trade needs of developing country Members, as well as their stage of technological development, may hinder their ability to discharge fully their obligations under this Agreement. Members, therefore, shall take this fact fully into account. Accordingly, with a view to ensuring that developing country Members are able to comply with this Agreement, the Committee on Technical Barriers to Trade provided for in Article 13 (referred to in this Agreement as the

"Committee") is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures, and the special development and trade needs of the developing country Member, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall, in particular, take into account the special problems of the least-developed country Members.

12.9 During consultations, developed country Members shall bear in mind the special difficulties experienced by developing country Members in formulating and implementing standards and technical regulations and conformity assessment procedures, and in their desire to assist developing country Members with their efforts in this direction, developed country Members shall take account of the special needs of the former in regard to financing, trade and development.

12.10 The Committee shall examine periodically the special and differential treatment, as laid down in this Agreement, granted to developing country Members on national and international levels.

## **1.2 Related TBT Committee decisions and recommendations**

1. In 1997, with a view to operationalizing and implementing the provisions of Article 12, the TBT Committee agreed to the following:

(i) the Committee will consider the following matters in its future programme of work, which could be taken up during the next three years and reviewed during the Second Triennial Review of the Agreement:

- the use of measures to engender capacity building in developing country Members, including the consideration of measures relevant to transfer of technology to these countries, for the purpose of preparation and adoption of technical regulations, standards or conformity assessment procedures, taking into account their special development, financial and trade needs;

- the preparation of a study by the Secretariat to establish the state of knowledge concerning the technical barriers to the market access of developing country suppliers, especially small and medium sized enterprises (SMEs) , as a result of standards, technical regulations and conformity assessment procedures;

- inviting representatives of relevant international standardizing bodies and international systems for conformity assessment procedures to make written and oral presentations to the Committee with a view to assessing whether and how account is taken of the special problems of developing countries in such bodies and systems. The Secretariat will circulate a compendium of the written contributions by the relevant organisations; and

- the encouragement of the organization of international meetings relevant to the provisions of the Agreement in the territories of developing country Members to give greater representative participation of such Members to the deliberations and recommendations of such international meetings, and to the electronic dissemination of information.<sup>1</sup>

2. At the same meeting in 1997, the TBT Committee agreed to invite Members, on a voluntary basis, to exchange information on the implementation of Article 12. At its meeting of 2006, in order to have a more focused exchange of information, the TBT Committee agreed:

(i) to encourage Members to inform the Committee of special and differential treatment provided to developing country Members, including information on how they have taken into account special and differential treatment provisions in the preparation of technical regulations and conformity assessment procedures; and

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<sup>1</sup> G/TBT/1/Rev.10, pp. 41-42.

- (ii) to encourage developing country Members to undertake their own assessments of the utility and benefits of such special and differential treatment.<sup>2</sup>
3. In 2006, in order to have a more focused exchange of information, the Committee agreed:
- (i) to encourage Members to inform the Committee of special and differential treatment provided to developing country Members, including information on how they have taken into account special and differential treatment provisions in the preparation of technical regulations and conformity assessment procedures; and
  - (ii) to encourage developing country Members to undertake their own assessments of the utility and benefits of such special and differential treatment.<sup>3</sup>

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Current as of: September 2011

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<sup>2</sup> G/TBT/1/Rev.10, p. 42.

<sup>3</sup> G/TBT/1/Rev.10, p. 42.