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**1 ARTICLE 4**

**1.1 Text of Article 4 and Annex 3**

**Article 4**

*Preparation, Adoption and Application of Standards*

4.1 Members shall ensure that their central government standardizing bodies accept and comply with the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3<sup>1</sup> to this Agreement (referred to in this Agreement as the "Code of Good Practice"). They shall take such reasonable measures as may be available to them to ensure that local government and non-governmental standardizing bodies within their territories, as well as regional standardizing bodies of which they or one or more bodies within their territories are members, accept and comply with this Code of Good Practice. In addition, Members shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such standardizing bodies to act in a manner inconsistent with the Code of Good Practice. The obligations of Members with respect to compliance of standardizing bodies with the provisions of the Code of Good Practice shall apply irrespective of whether or not a standardizing body has accepted the Code of Good Practice.

4.2 Standardizing bodies that have accepted and are complying with the Code of Good Practice shall be acknowledged by the Members as complying with the principles of this Agreement.

**ANNEX 3**

CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND  
APPLICATION OF STANDARDS

*General Provisions*

A. For the purposes of this Code the definitions in Annex 1 of this Agreement shall apply.

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").

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<sup>1</sup> In connection with the Code of Good Practice for the Preparation, Adoption and Application of Standards, the Marrakesh Ministerial Conference adopted two decisions on 15 December 1994.

C. Standardizing bodies that have accepted or withdrawn from this Code shall notify this fact to the ISO/IEC Information Centre in Geneva.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.

*Substantive Provisions*

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.

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.

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.

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, whenever 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.

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.

I. Wherever appropriate, the standardizing body shall specify standards based on product requirements in terms of performance rather than design or descriptive characteristics.

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.

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.

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.

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.

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.

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 foreign and domestic parties.

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.

O. Once the standard has been adopted, it shall be promptly published.

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 cost of delivery, be the same for foreign and domestic parties.

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.

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

### **1.2.1 General**

1. In 2000, the TBT Committee adopted a decision in respect of the principles to be observed, when international standards, guidelines and recommendations (as mentioned under Articles 2, 5 and Annex 3 of the TBT Agreement) are developed, so as to take account of, *inter alia*, transparency, openness, impartiality and consensus, and to ensure that the concerns of developing countries are considered.<sup>2</sup>

### **1.2.2 Regional standards-related activities**

2. In 1995, the TBT Committee decided that, in order to keep abreast of the activities of regional standardizing bodies and systems for conformity assessment, that representatives of such bodies and systems may be invited to address the Committee on their procedures and how they relate to those embodied in the Agreement, on the basis of agreed lists of questions.<sup>3</sup> In 2006, with regard to the acceptance of the Code of Good Practice by regional standardizing bodies, the

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<sup>2</sup> G/TBT/1/Rev.10, pp. 13, 46-48.

<sup>3</sup> G/TBT/1/Rev.10, p. 15.

Committee agreed to encourage regional standardizing bodies to accept the Code of Good Practice and to notify their acceptance of the Code to the ISO/IEC Information Centre.<sup>4</sup>

### **1.3 Annex 3: Related TBT Committee decisions and recommendations**

#### **1.3.1 General**

3. Notifications under the Code are circulated by the WTO Secretariat in the document series G/TBT/CS/N/\*.

4. Pursuant to the Ministerial Decision taken in Marrakesh on 15 April 1994 on "Proposed Understanding on WTO-ISO Standards Information System", a "Memorandum of Understanding (MoU) on WTO Standards Information Service Operated by ISO" was reached between the Secretary-General of the ISO Central Secretariat and the Director-General of the WTO. This MoU established a WTO-ISO Information System regarding standardizing bodies under Paragraphs C and J of the Code of Good Practice. Pursuant to Paragraph 2 of the MoU and in order to ensure a uniform and efficient operation of the procedures for notifications, the ISO and the WTO Secretariats developed notification formats and related guidelines, which were to be used by standardizing bodies accepting the Code of Good Practice (contained in G/TBT/W/4).

#### **1.3.2 Paragraph C**

5. In 1997, in order to improve the transparency, acceptance of, and compliance with the Code, the TBT Committee agreed:

- (i) to invite Members to share their experience with respect to the steps taken to fulfil their obligations under Article 4 and to exchange information on the reasons why certain standardizing bodies as identified in Article 4.1 have not yet accepted the Code;
- (ii) that Members should take appropriate action to inform standardizing bodies of the provisions of the Code and the benefits they would gain from accepting it;
- (iii) that the Secretariat will draw up a list of standardizing bodies on the basis of information provided by Members of this purpose.<sup>5</sup>

6. With a view to facilitating the implementation of transparency procedures under the Agreement, in 2006 the TBT Committee agreed to encourage regional standardizing bodies to accept the Code of Good Practice and to notify their acceptance of the Code to the ISO/IEC Information Centre.<sup>6</sup>

#### **1.3.3 Paragraph J**

7. In 1999, the TBT Committee adopted the following decision relating to the communication of the work programme of standardizing bodies via the Internet:

"The communication of the work programmes of standardizing bodies via the Internet would be another possibility to fulfil paragraph J obligations on transparency. Hard copies of such work programmes would, nevertheless, always be made available on request in accordance with paragraph P of the Code of Code of Good Practice."<sup>7</sup>

8. The Committee made related recommendations in 1997 and 2006.<sup>8</sup>

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<sup>4</sup> G/TBT/1/Rev.10, p. 16.

<sup>5</sup> G/TBT/1/Rev.10, p. 27.

<sup>6</sup> G/TBT/1/Rev.10, p. 27.

<sup>7</sup> G/TBT/1/Rev.10, p. 28.

<sup>8</sup> G/TBT/1/Rev.10, p. 28.

### 1.3.4 Paragraph L

9. In 1997, the TBT Committee agreed, in order to improve the transparency, acceptance of, and compliance with the Code that:

"(i) without prejudice to the views of Members concerning the coverage and application of the Agreement, the obligation to publish notices of draft standards containing voluntary labelling requirements under paragraph L of the Code is not dependent upon the kind of information provided on the label."<sup>9</sup>

10. At its meeting of November 2003, with regard to the electronic transmission of information on proposed standards, technical regulations and conformity assessment procedures, the Committee took note of paragraph L and agreed:

"(i) that the electronic publication of notices announcing the periods for comments can constitute another possibility for the fulfilment of this transparency obligation."<sup>10</sup>

### 1.4 Decision on Proposed Understanding on WTO-ISO Standards Information System

11. The Ministerial Decisions and Declarations adopted by the Trade Negotiations Committee on 15 December 1993 included two decisions relating to the TBT Agreement. The first reads:

#### **Decision on Proposed Understanding on WTO-ISO Standards Information System**

*Ministers,*

*Decide* to recommend that the Secretariat of the World Trade Organization reach an understanding with the International Organization for Standardization ("ISO") to establish an information system under which:

1. ISONET members shall transmit to the ISO/IEC Information Centre in Geneva the notifications referred to in paragraphs C and J of the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 to the Agreement on Technical Barriers to Trade, in the manner indicated there;
2. the following (alpha)numeric classification systems shall be used in the work programmes referred to in paragraph J:
  - (a) *a standards classification system* which would allow standardizing bodies to give for each standard mentioned in the work programme an (alpha)numeric indication of the subject matter;
  - (b) *a stage code system* which would allow standardizing bodies to give for each standard mentioned in the work programme an (alpha)numeric indication of the stage of development of the standard; for this purpose, at least five stages of development should be distinguished: (1) the stage at which the decision to develop a standard has been taken, but technical work has not yet begun; (2) the stage at which technical work has begun, but the period for the submission of comments has not yet started; (3) the stage at which the period for the submission of comments has started, but has not yet been completed; (4) the stage at which the period for the submission of comments has been completed, but the standard has not yet been adopted; and (5) the stage at which the standard has been adopted;
  - (c) *an identification system* covering all international standards which would allow standardizing bodies to give for each standard mentioned in the work

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<sup>9</sup> G/TBT/1/Rev.10, p. 29.

<sup>10</sup> G/TBT/1/Rev.10, p. 29.

programme an (alpha)numeric indication of the international standard(s) used as a basis;

3. the ISO/IEC Information Centre shall promptly convey to the Secretariat copies of any notifications referred to in paragraph C of the Code of Good Practice;
4. the ISO/IEC Information Centre shall regularly publish the information received in the notifications made to it under paragraphs C and J of the Code of Good Practice; this publication, for which a reasonable fee may be charged, shall be available to ISONET members and through the Secretariat to the Members of the WTO.

### **1.5 Decision on Review of the ISO/IEC Information Centre Publication**

12. The second of the two TBT Agreement related Ministerial Decisions and Declarations adopted by the Trade Negotiations Committee on 15 December 1993 reads as follows:

#### **Decision on Review of the ISO/IEC Information Centre Publication**

Ministers,

*Decide* that in conformity with paragraph 1 of Article 13 of the Agreement on Technical Barriers to Trade in Annex 1A of the Agreement Establishing the World Trade Organization, the Committee on Technical Barriers to Trade established thereunder shall, without prejudice to provisions on consultation and dispute settlement, at least once a year review the publication provided by the ISO/IEC Information Centre on information received according to the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the Agreement, for the purpose of affording Members opportunity of discussing any matters relating to the operation of that Code.

In order to facilitate this discussion, the Secretariat shall provide a list by Member of all standardizing bodies that have accepted the Code, as well as a list of those standardizing bodies that have accepted or withdrawn from the Code since the previous review.

The Secretariat shall also distribute promptly to the Members copies of the notifications it receives from the ISO/IEC Information Centre.

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