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Part IV

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Chapter 2

TBT code and standards

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Standards and the WTO Agreement on Technical Barriers to Trade (TBT)

Technical regulations and industrial standards may vary from country to country. Having too many different standards makes life difficult for producers and exporters. If regulations and standards are set arbitrarily, they can complicate foreign market access or they can even be used as instruments of trade protectionism. The WTO Agreement¹ on Technical Barriers to Trade aims at ensuring that regulations, standards, testing and certification procedures do not create unnecessary barriers to trade. Under the Agreement WTO members are bound to use international standards as a basis for their technical regulations, provided that such regulations are necessary and not more trade-restrictive than necessary to fulfil a legitimate objective. WTO members may abstain from using international standards when such standards would be ineffective or inappropriate for the fulfilment of the legitimate objectives pursued.

As the Agreement lacks a definition of an international standard there has been a lengthy debate between WTO members on the criteria for international standards. The input² prepared by the standardisation policy unit found acceptance and support from member states in the Article 133 Committee. The Commission, speaking on behalf of the member states in Geneva, was therefore amongst the most active contributors to this debate which resulted in a set of agreed principles for international standards development³ in relation with the WTO TBT Agreement. These principles have been adopted on 10 November 2000. Although these principles do not have a legal value as such, they can be considered as guidelines for regulators to choose the appropriate international standards as a basis for technical regulations.

Once a year, DG Enterprise organises together with DG Trade a seminar to explain the core provisions of the TBT agreement and their implications including relevant WTO dispute settlement results, notably for colleagues from the Commission and from authorities in the member states and candidate countries.

If you are involved in legal drafting, you should know about the TBT Agreement and its relation to international standards. Also, you should appraise yourself about the different techniques on how to make reference in European legislation.

¹ Link up to the Agreement
² G/Tbt/W/87, 87rev 1, G/TBT/W/141
³ G/TBT/9 of 10 November 2000 ANNEX 4