

**UNITED NATIONS
ECONOMIC COMMISSION FOR EUROPE**

**STANDARDS
AND
REGULATIONS IN
INTERNATIONAL TRADE**

SUMMARY OF PROCEEDINGS

**Round Table on the impact of standards on international trade
Geneva, 15 June 1998**

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Preface

United Nations Economic Commission for Europe Trade and Investment Guide Series

The purpose of this series of trade and investment guides is to assist economies in transition, as well as economic actors in other countries, to become familiar with best practices in the areas of trade, investment and related legal and commercial practices. The guides are developed under the aegis of the United Nations Economic Commission for Europe's Committee for Trade, Industry and Enterprise Development and its subsidiary bodies, in this case the Working Party on Technical Harmonization and Standardization Policies.

The present guide was prepared by Miroslav N. Jovanovic, with substantial input from Serguei Kouzmine. Text editing was done by Christina O'Shaughnessy.

This is the second guide. The first title in this series is: "*Trade Finance in Transition Economies: Practical Ways to Support Exports and Imports*" and can be obtained from the UN Publications Service:

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INTRODUCTION

Carol Cosgrove-Sacks¹

The countries of central and eastern Europe have made considerable progress during the 1990s in their economic transition towards a market-based system as well as regarding their inclusion in the world economy. The level of progress has varied, however, from one country to another and there is still much to be reformed before they will achieve fully operating market economies.

A particular challenge for them will be to adjust to the standards, norms and regulations which are used in international trade. This is where the United Nations Economic Commission for Europe (UN/ECE) plays a role. UN/ECE provides a neutral and transparent international forum for setting these norms and standards which form an essential support for trade and development. Through its Committee for Trade, Industry and Enterprise Development, UN/ECE supervises an array of intergovernmental bodies that define such norms and standards.

Under the auspices of the Committee, significant work is being done by UN/CEFACT (Centre for the Facilitation of Procedures and Practices for Administration, Commerce and Transport) in relation to trade-facilitation standards and recommendations. The UN/ECE Working Party on Standardization of Perishable Produce and Quality Development deals with harmonizing national standards for a wide range of agricultural products into international standards of commercial quality.

The Working Party on Technical Harmonization and Standardization Policies develops, adopts and applies harmonized standards, technical regulations and conformity-assessment procedures. The Working Party's sessions serve as a forum for UN/ECE member States to establish a practical dialogue among national standard-setting bodies and their counterparts in regional and international standardization organizations.

¹ Director, Trade Division, UN/ECE, Geneva.

The Committee works towards developing closer economic relations among member States by assisting them in creating legal, administrative and business environments that are conducive to the creation of trade, investment and economic links. Eliminating technical barriers to trade is one of the major concerns of the Committee. Thus, in conjunction with its second session, in June 1998, the Committee organized a Round Table on Standards, Norms and Regulations and their Impact on International Trade.

Participants included representatives of international and regional standards and standardization organizations, national standards bodies from both market and transition economies (central and eastern Europe), delegates to the Committee session, diplomats from Geneva-based permanent missions and business persons.

The speakers represented, on the one hand, national, regional and international bodies and organizations responsible for setting standards or regulations as well as for formulating and implementing standardization policies, and, on the other hand, private companies who in their day-to-day operations have to abide by and use standards and regulations. The speakers were:

- (a) From the UN/ECE secretariat:

Yves BERTHELOT, Executive Secretary
Carol COSGROVE-SACKS, Director, Trade Division;

- (b) From UN/ECE subsidiary bodies:

Christer ARVIUS, Commercial Counsellor, National Board of Trade, Sweden; and Chairman, UN/ECE Working Party on Technical Harmonization and Standardization Policies

Miguel VILCHEZ BARROS, national coordinator for standardization, certification and conformity assessment; and Chairman, UN/ECE Working Party on Standardization of Perishable Produce and Quality Development

Ray WALKER, Adviser, Department of Trade and Industry, United Kingdom; and Vice-Chairman, UN/CEFACT;

(c) From international and regional organizations:

Philippe DENGLER, Manager, Technical Cooperation Unit, European Committee for Standardization (CEN)

Anwar EL-TAWIL, Director of the Programme, International Organization for Standardization (ISO)

Vivien LIU, Secretary, Committee on Technical Barriers to Trade, World Trade Organization (WTO);

(d) From transition economies:

Igor KOROVKIN, Head of Department, State Committee for Standardization, Metrology and Certification, Russian Federation

Gyorgy PONYAI, General Director, Hungarian Standards Institute;

(e) From the private sector :

Larry GOETZ, Associate Director, Procter & Gamble, United Kingdom

Sten LARSSON, Vice-President, Volvo (Belgium).

The Round Table examined the most important standardization-related problems at the international level and on how these are addressed by a number of international organizations. It also discussed the rules and practices accepted in WTO. Another strong focus of the Round Table was on the problems of economic and institutional transformation of the countries in transition and on the relevance to these countries of the experience of developed market countries with standards and related regulations. In geographical terms, the focus was primarily on central and eastern European countries with transition economies.

After identifying and discussing the above problems, participants proposed concrete solutions to a variety of problems. Their recommendations appear in the formal conclusions of the meeting.

In order to stimulate discussion and dialogue at the Round Table, the UN/ECE secretariat made available to the participants a number of background papers. Six such background papers on the subject of standards, norms and regulations in international trade were prepared and submitted to the Round Table. They devoted special attention to the impact of standards and regulations on countries in economic transition. These papers were prepared for the secretariat by experts to offer insight into various approaches to standardization issues and into the most acute problems on the international, regional and national levels. A selection of these papers were edited and are presented in this publication.

The purpose of publishing these papers is to elucidate the importance of norms, standards and regulations in international trade. An additional objective is to highlight some specific challenges that are facing countries in economic transition. Most of the papers are oriented to the needs of these countries to move towards the standards, norms and regulations which are accepted, applied and enforced in market-based economies.

The papers could also serve as an information base and analytical background for policy makers to evaluate alternative policy proposals and their impact on the economic transition and on integration into the world trading system. As such, they may contribute to establishing a positive policy agenda in countries with economies in transition. In addition, traders, investors, lawyers and other business persons may find information on the achievements, problems and expectations about future developments regarding norms, standards and regulations in countries in economic transition and elsewhere.

We express our grateful thanks to the contributors of papers, the speakers and the participants, whose interventions so enriched the discussions, bringing new dimensions to the debate and helping to see standardization-

related problems from global, national and sectoral points of view.

The present publication is structured as follows: it begins with an overview of the main issues raised and discussed at the Round Table. It is followed by a paper discussing trade-related harmonization issues in the multilateral trading system. Another paper analyses the role of technical harmonization in major regional integration groups. The subject matter of the third paper consists of the problems of integrating countries in economic transition into the multilateral trading system. The norms-related requirements for the entry of the European Union and the situation in transition economies acceding to EU are discussed in the fourth paper. The final paper examines the role of UN/ECE in standards-related areas. The publication also includes the text of the conclusions of the Round Table.

UN/ECE is keenly interested in the issue of norms, standards and regulations in international trade and welcomes an exchange of ideas and a pooling of experience and cooperation in this and other related matters. The aim is to develop a trading system in which norms, standards and regulations, rather than form a barrier, bring partners together, the ultimate goal being to improve assistance to its member countries, in particular those that are currently undergoing economic transition.

OVERVIEW OF THE ISSUES

Christer ARVIUS¹

I. STANDARDS, REGULATIONS AND INTERNATIONAL TRADE

Standards have many roles and functions. Not only do they establish a common trading language between buyers and sellers, but they also ensure public safety and the protection of the environment within and outside national borders. Moreover, in today's globalized production systems, standards ensure that parts produced across borders fit and that networks are compatible. Regulations and standards and the verification of their application through conformity assessment procedures have, therefore, many benefits. However, inappropriate regulations can result in high costs and inefficiencies in trading partner countries as well as in the domestic economy and have international repercussions.

Although the following discussion papers focus on transition economies, inefficiencies also exist in developed market economies. Today, many countries and regional bodies are reconsidering their standardization and related policies and reforming and upgrading their standards and regulations. In addition, national regulators in the West rely more and more on certain key principles such as taking into account the implications for small and medium-sized enterprises, using performance-based instead of design-oriented standards or carefully balancing public safety and economic interests. The overwhelming opinion today is that the regulatory process requires great discipline, coordination, accountability and transparency, both in the established market economies and in the transition countries.

¹Chairman, UN/ECE Working Party on Technical Harmonization and Standardization Policies.

These papers attempt to explain an essential and, as far as international trade is concerned, the most important, aspect of standardization and related procedures, i.e. the crucial outward effect of domestic rules and procedures on both international trade and investment. Restrictive or discriminatory national measures reduce the market entry prospects of foreign companies. A lack of transparent regulations has a significant negative effect on foreign firms, and duplicative certification procedures impose multiple costs on foreign business operators and result in an obvious reduction of related economies of scale. Eventually, consumer welfare decreases and the innovative capabilities of the economy become limited. A recent example of how inefficiencies and bad resource allocations could be eliminated is the Single European Market of the European Union. Although this regional grouping had already existed for a long time, substantial cost and price reductions were achieved when domestic barriers were removed and full benefit could be reaped from the positive external trade and investment effects of this reduction in trade barriers.

II. THE CHALLENGES FOR ECONOMIES IN TRANSITION

For transition economies, the challenge is double; not only are these countries faced with the same concerns and problem areas described above, but they also have a past legacy which is not easy to overcome. Some of the most urgent areas which have been identified and require appropriate attention are the following:

- Lack of transparency with respect to standards and certification procedures themselves, and also with respect to obtaining information, i.e. difficulties of timely receipt of the texts of standards and regulations, of their translation into other languages and the fees involved;
- Multiple certification requirements and the non-acceptance of foreign test results or certificates;
- Lack of internationally accepted accreditation procedures;

- Rigid structures and too stringent government control; i.e. still too frequent use of pre-market certification (instead of manufacturer's declarations and market surveillance procedures) and lack of voluntary standardization (sometimes, in practice, an absence of distinction between voluntary standards and mandatory technical specifications or regulations);
- Use of national instead of similar international standards and conformity assessment procedures;
- Implementation and enforcement problems; i.e. lack of required institutions (for example, for market surveillance), trained personnel, modern instruments and testing devices.

These problems result in an environment of uneasiness and uncertainty creating, as indicated by business operators, many possibilities for abuse, fraud and discriminatory practices with resulting high costs for both domestic and foreign trading partners. Since trade opportunities can only grow once diverging standards and duplicative procedures have been eliminated, national rules should be harmonized as much as possible with international regulatory practices. Once regulatory procedures have been streamlined and transparency and flexibility have gained ground, efficiencies and benefits from trade and the reallocation of resources will emerge and increase. The required reforms are therefore first and foremost domestic reforms which should deal with aspects such as:

- Reviewing existing standards and conformity assessment procedures to ensure international harmonization;
- More frequent use of performance standards (instead of design standards);
- Introducing new approaches such as market surveillance (instead of mandatory pre-market certification) and making recourse to product liability legislation;
- Possible reassigning of the tasks of institutions or organizations involved and training of personnel.

It is also extremely important to raise the awareness of domestic regulators in transition economies as to the impact national rules and procedures have on international

trade and investment decisions. As restrictive standards and duplicative and, often confusing procedures in conformity assessment impose high burdens on foreign firms, it can make them reconsider whether or not a particular market should be entered or a production facility should be built. Thus, while it might be difficult to assess the alleged positive influence of existing non-tariff barriers on domestic industry, their negative impact on the inflow of foreign capital which transition economies badly require for the overall economic development is certainly profound.

In practice, the experience of the developed market economies or of regional groupings provides useful precedents and guidelines for individual products, sectors or policies. On the international level, organizations such as the United Nations provide guidance and expertise. Regional organizations such as the European Union to which many of the countries of central and eastern Europe aspire to accede, have their assistance mechanisms to help and prepare transition economies. The internationally agreed-on framework of the World Trade Organization (WTO) encourages and complements the efforts of individual countries to increase trade and investment opportunities, economic efficiencies and transparency. WTO promotes harmonization and the expansion of mutual recognition agreements and establishes the commitment of national treatment, avoidance of unnecessary trade restrictiveness and proportionality.

The transition economies themselves (particularly in central Europe) have made great progress in the past years. With different degrees of effort and success, standardization policies have been reformed, standards have been adapted to international rules, institutional changes have been initialized or even accomplished and certification procedures have been restructured. Many countries of the region received funds and training, which permitted a faster transition to internationally accepted standardization practices. Furthermore, the aspired integration into either the European Union or WTO or the world economy has been a very strong incentive for all countries concerned and has spurred efforts over the past few years.

Despite these positive developments, there is still a long way to go. It is a complicated but challenging task to

find appropriate remedies for the problems described above; it takes time and human and financial resources to change procedures and mentalities, to reform institutions, to improve consumer information flows in order to avoid too stringent market regulations, to raise the awareness of national regulators with respect to international agreements, or explain to industry the new standardization and trade regimes and their concrete implications.

The experience in established market economies shows that even when basic international principles have been implemented and enforced, regulatory reform is still required. A complex and ongoing process, it can only work with a dynamic, open reform agenda combining the various elements of good regulatory practice, standardization, certification and accreditation. Furthermore, most countries have divergent social and economic objectives and policies. Therefore, despite all international or regional efforts in harmonizing or reforming at the same pace and level, regulations, procedures and practices will continue to differ and diverge between individual countries.

III. ROUND TABLE ON STANDARDS, NORMS AND REGULATIONS AND THEIR IMPACT ON INTERNATIONAL TRADE

Discussions at the Round Table held on 15 June 1998 showed that many of the key issues relating to standardization and development of trade in the UN/ECE region are closely linked to similar issues on the global level. Hence, it is extremely important to see all standardization developments in both a regional and an international context with respect to how they affect global trade. The importance of such a focus has been voiced by many parties.

The globalization of business operations and the growing involvement of companies in international trade are the most striking features of today's world economy. This is largely the result of technological progress, with new products and services being launched on the market continuously. It is also due to changes in the way traditional services/manufacturing of goods are provided, as well as

to the increase in the number of players since the opening of new markets. When companies move away from their domestic markets to compete internationally, whether they succeed or fail often depends on how familiar they are with the regulations and standards in export markets.

As trade becomes increasingly international, obstacles to international trade become increasingly apparent. For instance, following the continued reduction in tariff barriers, the importance of non-tariff barriers is increasing in the form of different technical regulations and standards in different markets. Significant differences between national and international standards are also making it more difficult for local companies to sell in foreign markets. Business operators claim that national technical regulations and procedures sometimes place them in an unfair position vis-à-vis domestic producers and shield local producers from foreign competition.

At present, significant changes are occurring in several major parts of the world, such as the single market integration of the European Union countries, the transformation to market economies in eastern Europe, the establishment of free trade agreements on the North American continent and similar efforts in other regions. All these changes give impetus to the need for encouraging the development and adoption of harmonized—or at least compatible—standards and conformity assessment procedures on an international scale.

The countries of central and eastern Europe are striving to develop a market economy on the thesis that regulations, standards and procedures for attesting conformity assessment to regulations and standards must be consistent with existing world markets if their economic transition should succeed. International harmonization of technical regulations and standards issues has become a vital matter for bolstering domestic economies and assuring the benefits of their international trade.

The usefulness of eventually harmonizing regulations and standards internationally is evident. In the meantime, Governments and national bodies should try to create a simple and transparent framework for adopting and applying their national technical regulations and standards. They should also keep foreign companies informed on

how to meet these requirements. Ideally, various countries would adopt and use internationally harmonized technical regulations and standards. As intermediate measures, countries could recognize equivalent regulations or standards. Such regulations or standards could at first permit a comparison of the differences in requirements for a product/service in the countries concerned and provide a basis for their eventual harmonization. Where harmonization is not immediately possible, countries might also rely on national conformity assessment procedures. These procedures would assure importers that their products complied with the technical specifications required to gain access to a particular market. Hence, mutual confidence in those aspects could pave the way for countries to agree to accepting the results of tests or certification carried on by foreign conformity-assessment bodies in accordance with the requirements of an importing country. Exporters could thereby complete the necessary procedures and supply goods with the required data so that the importing country could dispense with the need for further testing or certification.

The above factors constitute the framework for international standardization activities of a large number of international organizations, both governmental and non-governmental, which vary widely in structure, procedures and basis for participation.

IV. THE ROLE OF THE UN/ECE WORKING PARTY ON TECHNICAL HARMONIZATION AND STANDARDIZATION POLICIES

The UN/ECE Working Party on Technical Harmonization and Standardization Policies is an intergovernmental group of experts which looks into standardization-related problems at international, regional and national levels and tries to seek solutions in support of trade exchanges in the UN/ECE region.

Member States have full autonomy in their choice of regulatory tools or mechanisms to protect the public interest with regard to health, safety, environmental protection, etc. The purpose of the discussions at the Working

Party's sessions is *to attract attention to unnecessary obstacles and to help Governments achieve a reasonable balance* between national measures taken and the impact of these measures on international trade and cooperation.

It is a major concern of the Working Party to encourage the development, adoption and application of harmonized technical regulations and standards, as well as conformity assessment operations, in member States of the UN/ECE region. The Working Party devotes special attention to countries in transition with a view to providing them with recommendations/policy options to facilitate their market reforms and integration into the world economy.

Ways in which the activities of the Working Party could assist Governments in finding solutions to the complex set of issues in the standardization area were identified by participants in the Round Table and mentioned in the discussion papers in this publication. Besides acting as a think-tank on major global issues, as it was noted above, the Working Party also examines specific problem areas brought to its attention by Governments or business operators.

The specific activities of the Working Party fall into three categories: *coordination, harmonization and conformity assessment*. In addition, the Working Party monitors and coordinates the standardization-related activities of the UN/ECE principal subsidiary bodies and the secretariat.

In the area of coordination the Working Party is, for instance, preparing and updating a list of sectors in which member States consider that additional international standardization work would be useful and whose Governments consider it appropriate to develop regulations for reasons of safety, health, ecology, etc. It also formulates and disseminates recommendations on standardization, conformity assessment, mutual recognition agreements and other issues related to standardization policies.

In the area of harmonization the main emphasis is on providing Governments with ideas and possible solutions for bringing their regulatory, standardization and conformity assessment systems into line with international developments; for adjusting and modifying regulatory re-

gimes to make them compatible with those of other countries, and for streamlining and increasing the efficiency of information back-up structures on standardization issues.

As for conformity assessment activities, the aim is to promote a better understanding of how to build confidence in countries' and organizations' capacity to test and in quality registering and other elements of conformity assessment services. One such tool is mutual agreements on conformity assessment, which enable manufacturers to test a product once and obtain its certification and acceptance in a number of markets. The mutual recognition of test data, product certification and recognized competence of accredited conformity assessment bodies represent significant potential for increased trade. Otherwise, companies are obliged to perform additional or repeated tests of their products overseas or to invite foreign inspectors to make factory inspections. Such requirements mean higher fees for exporting companies and increase the costs of their products on the market.

The above activities of the Working Party aim to draw attention to problems of an international nature that cannot be solved by international standardization until national legislation is harmonized. That is why sessions of the Working Party are attended not only by delegates from national standards and standardizing bodies but also by international and regional standardizing organizations and agencies. Private companies from various sectors also are regularly invited to share their experience and concerns on business operations in different parts of the UN/ECE region.

V. CURRENT ACTIVITIES OF THE UN/ECE WORKING PARTY ON TECHNICAL HARMONIZATION AND STANDARDIZATION POLICIES

Among current activities of the Working Party are: preparation of a draft for an international agreement on technical harmonization issues; examination of the issue of transposition (i.e. the incorporation of international standards into national standards, i.e. how international standardizing organizations could follow up the national

transposition by its members of the standards developed by these organizations) and use of international standards in national legislation and regulations and by business operators, and examining ways of standardization of test procedures (namely, elaboration of guidelines for measuring procedures).

Furthermore, the Working Party successfully organized an international workshop on the implementation and use of international standards (18 May 1999, Geneva), which was widely attended by government delegates (35 UN/ECE member States), national standards bodies, representatives of leading international standards organizations (the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Organization of Legal Metrology (OIML)), and regional organizations and groupings (the European Union (EU), the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC) and the Commonwealth of Independent States (CIS)) and business operators from developed and transition economies. Among major proposals raised at the workshop were the further development of cooperation between international standards bodies and business operators; commitments by national standards bodies to implement the results of international standardization; and the need to increase harmonization of technical regulations at the global level based upon the use of international standards.

As a follow-up to the workshop and the subsequent session of the UN/ECE Working Party on Technical Harmonization and Standardization Policies, an ad hoc Team of Specialists was established to examine the relationship between international standardization and regulations. This Team will work under the auspices of the Working Party. The Team will explore possibilities for reducing non-tariff barriers to international trade by limiting the content of regulations prepared at the national level to the essential requirements for meeting regulatory objectives and using reference to international standards as the preferred means for setting out detailed requirements.

This publication should help to raise awareness and improve understanding among regulators, standardizers, business persons and the general public of the complexity

of international standardization issues and the importance of comparing and contrasting various regulatory and conformity assessment approaches, with a view to identifying best practice and effective strategies, to accelerating and improving the international standardization process for the benefit of international trade and promoting efficient resource allocations and increased consumer welfare.

TRADE-RELATED HARMONIZATION ISSUES AND THE MULTILATERAL TRADING SYSTEM

Christina de Vaux²

I. INTRODUCTION

The World Trade Organization (WTO) supports a free and open multilateral trading system by encouraging its member countries to adhere to five core principles. These principles include the following:

- Non-discrimination, meaning a country should not discriminate between domestically produced and imported products, nor between trading partners;
- A decrease in trade barriers;
- Increased confidence by trading partners that they will not be subject to arbitrary tariffs;
- Increased competition through fair and open trade;
- Special provisions under WTO agreements for developing countries.

To encourage the adoption of these principles, WTO members have implemented several agreements geared towards eliminating the use of regulations to create technical barriers to trade. Among these are the Agreement on Technical Barriers to Trade (TBT), the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and other trade-related regulatory issues such as investment measures and intellectual property rights. Discussions have also been held on trade-related aspects of environment and labour standards. In recent years, particular note has been made of the obstacles faced by developing countries and countries in economic transition in implementing WTO agreements and dealing with these issues.

² National Institute of Standards and Technology, Washington, D.C.

This paper examines provisions of each of the multilateral agreements and issues mentioned above, with specific reference to provisions for developing countries and the impact on countries in economic transition and obstacles confronting these countries as they attempt to implement the agreements.

II. AGREEMENT ON TECHNICAL BARRIERS TO TRADE

A. TECHNICAL BARRIERS TO TRADE

A technical barrier to trade may take many forms. The most common TBTs include non-harmonized technical regulations and standards, duplicative and complex conformity assessment procedures, a lack of transparency in applicable laws and technical regulations, certain bureaucratic procedures, and a lack of operating procedures for private standards bodies that is consistent with open trade. As global tariff rates have decreased, there is concern that increased regulation is being used to create TBTs in order to protect domestic industries and block import competition.

In response to this concern and to strengthen the multilateral free trade system by reducing global barriers to trade, WTO members adopted the Agreement on Technical Barriers to Trade in the Uruguay Round of Multilateral Trade Negotiations, which was concluded in 1994. By June 1998, 132 Governments had accepted the obligations of WTO and thus of the TBT Agreement.

B. PRINCIPAL PROVISIONS OF THE AGREEMENT

Specific provisions under the TBT Agreement pertain to technical regulations, standards, conformity assessment practices, notification requirements and standards-developing bodies. These differ from previous provisions under the Standards Code, which was adopted during the Tokyo Round in 1979.

Key provisions pertaining to technical regulations and standards include process and production methods related to the characteristics of the product, as opposed to the Standards Code which only covered manufactured products.

Specifically, in the area of technical regulations and standards, the TBT Agreement states that members should:

- Ensure national treatment of products, i.e. accord the same treatment to imported products as that accorded to similar domestically produced goods;
- Accord the same treatment to all similar imported products, regardless of origin;
- Ensure that any technical regulations and standards used to protect human, animal or plant life or health or the environment are not more trade-restrictive than necessary;
- Use, in part or in whole, relevant international standards as a basis for technical regulations whenever possible;
- Participate in relevant international standards bodies to develop and adopt appropriate technical regulations and standards;
- Recognize technical regulations of other members as equivalent provided these regulations meet the objectives of their own regulations;
- Emphasize product performance requirements rather than design or descriptive requirements;
- Notify other members of proposed technical regulations and standards that may significantly affect trade.

Conformity assessment provisions have also been expanded from the Standards Code to include not only testing and certification programmes but also inspection, registration, laboratory accreditation and quality system registration. Specific provisions encourage members to:

- Ensure non-discrimination towards products;
- Restrict the use of conformity assessment procedures which create unnecessary obstacles to international trade;
- Use international guides or recommendations pertaining to conformity with technical regulations and

standards issued by international standard developing bodies;

- Participate in international standards bodies that develop conformity assessment guides and recommendations with the goal of harmonizing conformity assessment procedures;
- Notify other members of proposed conformity assessment procedures that may significantly affect trade;
- Recognize conformity assessment procedures of other members as equivalent provided these procedures provide guarantees of health and safety equivalent with those of their own procedures;
- Allow conformity assessment bodies located in territories of other members to participate as equally in conformity assessment procedures as bodies located in their territory or located in the territory of any other country.

In addition to the above measures, the TBT Agreement contains several other important mechanisms aimed at facilitating international trade. Article 10 of the Agreement requires each member to establish and maintain an enquiry point. The enquiry point is responsible for responding to all requests from other members pertaining to technical regulations, standards and conformity assessment procedures and for notifying proposed governmental and State technical regulations, standards and conformity assessment procedures that may significantly affect trade. The enquiry point also disseminates information about proposed foreign regulations to interested domestic parties.

Annex 3 to the TBT Agreement contains the Code of Good Practice for the Preparation, Adoption and Application of Standards. The Code outlines general guidelines for the preparation and use of standards by private-sector standards bodies. It encourages standards bodies to ensure transparency, non-discrimination towards imported products, alignment of national standards with international standards whenever possible and prohibits the implementing of regulations that may cause barriers to international trade. The Code is notable for being the first agreement to outline a framework of operation for private

standards bodies that is consistent with the practice of open trade. With adoption of the Code voluntary, more than 60 national standards bodies currently adhere to it.

C. PROVISIONS FOR DEVELOPING COUNTRIES

The Agreement recognizes the difficulties that developing countries face in complying with its provisions. It specifically recognizes that the necessary infrastructure to develop and implement standards, conformity assessment procedures and technical regulations may be underdeveloped or even non-existent. The Agreement therefore requests developed countries to give technical assistance to developing countries in any or all of the areas covered by the provisions. It also states that, in certain circumstances, developing member countries may be excused from adhering to the provisions of the Agreement if they have special developmental, financial and trade needs.

D. THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE

As part of its responsibilities to ensure the full and effective implementation of the Agreement for an open world economy, the TBT Committee conducts a triennial review to assess the operation of the Agreement. In its first review, which was submitted in November 1997, the Committee reported that the degree of country implementation of the Agreement “was not satisfactory”.³

The Committee noted the important role that international standards play in productive efficiency, international trade and the transfer of technology from developed to developing countries. However, it felt that member countries do not fully comply with the procedures outlined in the Agreement relating to the development and use of standards and technical regulations. For instance, many members do not fully participate in the process of developing international standards. This means that there exist international standards which do not incorporate the interests of all affected parties and may have an adverse effect on international trade.

³ WTO Committee on TBT—First Triennial Review of the Operation of the Agreement on Technical Barriers to Trade.

Regarding conformity assessment, the Committee reported that complex and duplicative conformity assessment procedures create costly, unnecessary barriers to international trade. It was agreed that the Committee would research the principle of “one standard, one test”, which would be accepted everywhere in order to help countries more easily meet the requirements that other countries and regional groups impose for market access for goods. The Committee was also of the opinion that initial steps must be taken to establish confidence in the conformity assessment procedures of other WTO members by adopting common procedures such as those specified in ISO/IEC Guides.

The Committee encouraged national standards developing bodies to adhere to the Code of Good Practice, citing the adverse effects on trade should national bodies not conform to international practices and adopt international standards whenever possible. National standards-developing bodies were also encouraged to play a larger role in developing international standards and to coordinate their involvement with other standards-developing bodies in their particular country and region.

The Committee also recognized that developing countries may face difficulties in complying with the notification procedures required under the TBT. Issues noted for future examination by the Committee include capacity-building, dissemination of knowledge about TBTs, the role of developing countries in international standards developing bodies and the convening of international TBT-related meetings in developing countries.

III. AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

A. SANITARY AND PHYTOSANITARY MEASURES

In August 1997, the United States of America brought before the WTO Dispute Settlement Board a case concerning the European Union’s Council “Directive 81/602/EEC”, Council “Directive 88/146/EEC” and Council

“Directive 88/299/EEC”. The United States claimed that these directives violate several international agreements, including the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The directives prohibit the import of meat to which growth-promoting hormones have been administered and further prohibit the placing on the market of meat from such animals; the processing of meat from such animals and the placing on the market of meat products prepared from or with such meat. Claiming this was a protectionist measure enacted to block imports, the United States engaged in bilateral discussions to resolve the situation. When these efforts failed, the United States brought the case before the Dispute Settlement Board, with Australia, Canada, New Zealand and Norway reserving their rights to participate in the Panel proceedings as third parties.⁴

This case illustrates a common fear in the multilateral trading arena. Sanitary and phytosanitary measures, owing to their highly technical and complex nature, present an easy and attractive way for countries to restrict imports. WTO recognizes that some trade restrictions may be necessary to adequately protect national food safety and animal and plant health but such measures should be justified in accordance with WTO rules. Otherwise, sanitary and phytosanitary regulations may be used in an unnecessary and unjustifiable manner to protect domestic industries from import competition.

B. AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) addresses the above issues. It is a stand-alone Agreement that applies to all domestically produced food or local animal and plant pests and diseases, as well as all imported products. The Agreement is based on previous GATT measures enacted to restrict the use of SPS measures for trade protection. The following are specific provisions of the Agreement:

⁴ WTO WT/DS26/R/USA, 18 August 1997, EC Measures Concerning Meat and Meat Products (Hormones), Complaint by the United States, *Report of the Panel*.

- Members have the right to protect health through the application of sanitary and phytosanitary measures, provided these measures are not more trade restrictive than necessary to ensure an adequate level of health protection and provided the measures are based on scientific principles;
- Members should harmonize sanitary and phytosanitary measures with international standards, guidelines and recommendations as much as possible;
- Members should participate in relevant international standards organizations which develop sanitary and phytosanitary standards, guidelines and recommendations;
- Members should accept the SPS measures of all other countries on an equal basis when the exporting countries demonstrate that their measures achieve the level of health protection required by the importing country;
- Members should develop appropriate risk assessment methods as a basis for sanitary and phytosanitary measures;
- Members do not have to align sanitary and phytosanitary measures to international standards should scientific evidence indicate that there are health risks entailed should the country do so;
- Members should notify standards and technical regulations pertaining to sanitary and phytosanitary goods to other members;
- Members should observe procedures for control, inspection and approval.

While the SPS Agreement does not prohibit countries from developing and implementing national standards that are more stringent than international standards, members must be aware that if they do not align national requirements with international requirements, they will have to justify their reasons for a more stringent standard if this standard restricts trade. The SPS Agreement specifically notes that there are alternatives to trade barriers which also ensure national protection of health. Examples are quarantining, treatment and increased inspections.

C. PROVISIONS FOR DEVELOPING COUNTRIES

By decreasing trade obstruction, the Agreement has the potential to benefit consumers and food and agricultural product industries in all WTO member countries. It also has the potential to benefit developing countries even more. Like the TBT Agreement, the SPS Agreement contains special provisions for developing countries. It recognizes that many developing countries have inadequate food safety and animal and plant health protection systems. Developed countries are therefore encouraged to assist developing countries in implementing this infrastructure. The Agreement accords developing countries more time to meet SPS requirements than developed countries. In the interim, developing countries' SPS measures do not have to comply with the provisions detailed in the SPS Agreement.

Another advantage of the Agreement for developing countries is the fact that the Agreement is international in scope, meaning that the same SPS measures apply equally to all countries. No country can be discriminated against with regard to sanitary and phytosanitary products based on other reasons. In addition, the Agreement mandates that, regardless of origin, all food and agricultural products be accepted for import, as long as the product in question meets the safety requirements of the importing country.

D. SANITARY AND PHYTOSANITARY COMMITTEE

A Sanitary and Phytosanitary Committee has been established to monitor the implementation of the Agreement. It meets twice a year and thus far has undertaken work on notification requirements, risk assessment procedures and issues pertaining to monitoring the use of international standards.

IV. OTHER TRADE-RELATED INTERNATIONAL REGULATORY ISSUES

Many other trade-related international regulatory issues also have the potential to create unnecessary barriers

that may distort trade. These issues affect both developed and developing WTO members and include topics such as environment, labour standards, trade-related aspects of intellectual property rights (TRIPS) and trade-related investment measures (TRIMs).

A. ENVIRONMENT

WTO transparency provisions ensure that members' environmental and trade policies are implemented in a complementary way. They also help to ensure that environmental requirements such as labelling and packaging requirements do not create unnecessary trade restrictions. However, should the situation arise, WTO members may place needs such as regarding the environment, national public health, or safety, ahead of their WTO obligation not to implement trade restrictions. In this case, environmental measures that incorporate trade provisions must not discriminate between domestic goods and imports, nor between different trading partners.

ISO 14001 (the international environmental management systems requirements standard) is heavily discussed and debated by countries in economic transition. While it is clear that product-related eco-labels and related standards are covered by the TBT Agreement, the position is less clear for environmental management systems. The question as to whether management standards (such as ISO 9000 and 14000) or only those standards directly related to products should be covered by the Agreement remains subject to internal discussion at WTO. There is as yet no empirical evidence of trade implications arising from the use of the ISO 14000 series of standards.

Trade-related measures permitted for environmental purposes include those carried out within the framework of multilateral environmental agreements (MEA). Although most MEAs do not contain such environmental measures, the few that do also contain provisions relating to non-discrimination and transparency. WTO notes that MEAs provide an effective alternative to trade obstruction in order to achieve multilateral solutions to transboundary environmental problems.

The gradual removal of other trade restrictions, specifically tariffs, non-tariff barriers, as well as export and import restrictions, has fostered hope among both devel-

oped and developing countries that a more open multilateral trade system will facilitate the protection of the environment and accelerate the progress of sustainable development efforts.

B. LABOUR STANDARDS

Labour standards refer to core standards governing the way workers are treated. The current body with responsibility for labour standards is the International Labour Organization (ILO). Although WTO is not carrying out any studies on the subject, some WTO members feel that labour standards are also an appropriate subject for WTO to examine. Thus far, WTO has for various reasons considered labour rights to be outside its purview.

The first issue concerns the appropriateness of establishing a relationship between trade action and core labour rights. Some members claim that to do so would create an excuse for protectionism. A central question here is whether countries that are violating workers' rights should be subject to disciplinary trade action. A second issue relates to the assertion that countries with lower labour standards have an unfair export advantage, an assertion if proved true could mean that labour standards may indeed be included within the scope of WTO.

Many developed member countries of WTO consider labour standards an appropriate issue to be discussed in the forum of WTO. They argue that encouragement from WTO would provide a powerful incentive for other members to improve work conditions. Other members feel that establishing a link between labour standards and multilateral trade negotiations would create an easy justification for protectionism. Still other countries feel that the effort to bring discussions about labour standards into WTO is but a ploy by developed countries to undermine the comparative advantage of countries, particularly low-wage developing countries, as noted during the WTO Singapore Ministerial Conference in 1996.

C. AGREEMENT ON TRADE-RELATED INVESTMENT MEASURES (TRIMs)

The Agreement on Trade-Related Investment Measures (TRIMs) is an elaboration of GATT recognition that

investment measures may restrict and distort trade. Noting that international investment promotes economic growth, the Agreement has as objectives the promotion of free trade and the facilitation of international investment.

Similar to the TBT and SPS agreements, the provisions of the TRIMs Agreement state that:

- National treatment shall be accorded to all products, regardless of origin;
- Members will notify all non-conforming TRIMs, with the goal of eliminating these TRIMs within a certain time period;
- Members may apply non-conforming TRIMs to new enterprises during the member's transition period provided the reason for such an action does not put disadvantages to the established enterprises which are subject to the TRIMs and provided the TRIMs are eliminated within the established time-frame;
- Members must ensure that TRIMs are transparent.

The TRIMs Agreement includes a list of examples of non-conforming TRIMs. Two examples of non-conforming TRIMs are local content requirements and trade-balancing requirements. The time line for elimination of non-conforming TRIMs is two years for developed countries, five years for developing countries and seven years for least developed countries.

In addition to stating that developing countries have a longer period of time to eliminate non-conforming TRIMs, it is emphasized that developing member countries gain the most from the Agreement in terms of investment, which will lead to economic growth. In addition, it is recognized that developing countries have special trade, development and financial needs that must be taken into consideration when implementing this Agreement.

D. AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)

Intellectual property rights are the rights over an individual's own creation. The rights belong exclusively to

the individual for a certain period of time. Because of widely varying standards and regimes to protect and enforce intellectual property rights, barriers to trade have been created in the areas of copyright issues and industrial property. Theft and counterfeiting are rampant. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) builds on the obligations derived at the Berne, Paris and Rome conventions. It covers issues pertaining to copyright, trademarks, geographical indications, industrial designs, patents, licensing practices, protection of undisclosed information and layout designs of integrated circuits. In each of these areas, minimum standards of protection are established.

Similar to other WTO agreements, the Agreement urges members to:

- Respect obligations agreed upon in previous conventions;
- Not discriminate between relevant domestically produced and imported products, nor between trading partners;
- Protect and enforce intellectual property rights in a way that promotes technological innovation, technology transfer and social and economic welfare;
- Adopt measures to promote public health and welfare and public interest in sectors of socio-economic and technological development, as long as those measures are not in conflict with other provisions of the Agreement;
- Ensure that intellectual property rights procedures are applied in a manner so as not to create barriers to trade;
- Ensure that intellectual property rights are not abused thereby causing trade to be adversely impacted;
- Ensure that procedures concerning the enforcement of intellectual property rights are open and fair.

The Agreement includes special provisions for developing countries and some countries in economic transition. While developed member countries have one year to meet their obligations, developing countries and select

countries in economic transition have five years and least developed countries have up to eleven years. Countries in economic transition that fall into this category are those which are facing problems in preparing and implementing intellectual property laws. These countries must ensure that any regulations later implemented do not violate the TRIPS Agreement. As in the SPS and TBT agreements, this Agreement requests technical assistance from developed countries to developing countries.

V. THE MULTILATERAL TRADING SYSTEM AND COUNTRIES IN ECONOMIC TRANSITION

A country in economic transition to a market system may encounter specific obstacles to participating in world trade. These obstacles may differ from those encountered by market-oriented systems. To understand the obstacles, the principal goals of WTO will be revisited. These goals are, to:

- Ensure non-discrimination;
- Decrease trade barriers;
- Increase confidence by trading partners that they will not be subject to arbitrary tariffs;
- Increase competition through fair and open trade;
- Ensure that special needs of developing countries are adequately met in provisions of multilateral trade agreements.

A. BENEFITS FOR COUNTRIES IN ECONOMIC TRANSITION

Some countries in economic transition are already members of WTO. Others are currently acceding or considering accession to WTO. WTO emphasizes the importance of transparent trade regimes in facilitating an open trading system between members. For a country with an economy in transition, greater transparency will help develop and improve trade relations, attract foreign direct investment and ensure that once trade reforms are

achieved, they will be maintained in spite of domestic protectionist impulses. These improvements will, in turn, better enable the countries to complete the transition to market systems.

There is debate over whether WTO membership helps accelerate this transition and whether a quick transition is better than a slow one. Countries undergoing slow reforms claim that this strategy helps them better finance the high cost of transition, while those undergoing a quick transition claim they are better able to arrest declining output and set their economies on the road to a stable, market-oriented economy. While there are no definitive case studies showing that WTO membership has any effect on the rate of the transition process, many countries in transition believe that membership does accelerate the process.

For countries in transition, WTO also provides a forum for fair trade. The WTO treats all of its members equally, regardless of geographic location or size. This equal treatment extends to the dispute-settlement mechanism of WTO, ensuring that trade disputes are settled in a fair manner.

B. ENTERING THE MULTILATERAL TRADING SYSTEM: DIFFICULTIES

It may be difficult for some countries in transition to meet the goals of WTO. These countries, therefore, need to consider carefully the requirements they must meet as members of WTO. The TBT and SPS agreements contain six core common provisions:

- Measures to protect human or plant and animal life or health or the environment are allowed so long as these measures are not more trade-restrictive than necessary;
- Non-discrimination;
- Acceptance of the trade and SPS measures of other members so long as they meet the objectives of the importing country;

- Alignment of technical regulations with international regulations and participation in international standards developing bodies;
- Transparency of technical regulations;
- Special measures for developing countries.

To achieve these goals, the countries in transition must make several changes. They need to develop and maintain sound regulatory, legislative, enforcement and institutional frameworks. A regulatory regime that comprises complex or badly implemented regulations, will obstruct economic growth, competitiveness, foreign investment and job creation and will raise administrative costs. On the other hand, regulations that are properly constructed and implemented can help create competitive market economies and raise living standards.

It can be difficult for countries in economic transition to develop and implement sound regulatory regimes. One obstacle is their limited access to pertinent information and technical expertise. When drafting legislation related to regulatory reform, many countries find themselves lacking adequate sources of information and expertise about current regulatory issues and thus draft inappropriate or ineffective legislation. Another problem is enforcement. Even if properly drafted legislation is in place, these countries may not have the necessary infrastructure to enforce such legislation. For this they will require investment in institutions, equipment, personnel and training.

C. DIFFICULTIES FACED BY COUNTRIES IN ECONOMIC TRANSITION IN ENTERING THE MULTILATERAL TRADING SYSTEM

1. Agreement on Technical Barriers to Trade

The central tenet of the TBT Agreement is to decrease trade barriers and the various distortions that they bring. When the barriers are decreased in an effective manner, this has a twofold effect on countries in economic transition. First, exposure to international competition forces changes in the domestic production systems and regulations, thereby increasing the efficiency of domestic producers. Secondly, the depth of trade-policy reform helps

influence the scope and rate of other structural changes being implemented. It has been suggested by both developing countries and countries in transition that some of the most effective ways for countries in transition to further their participation in the multilateral trading system are by:

- Ensuring consistency between trade and macroeconomic policies;
- Considering use of trade-policy mechanisms for non-trade objectives if necessary (such as collecting revenue);
- Consider using WTO-monitored import taxation as a means of addressing balance-of-payments problems resulting from difficulties faced by economies in transition in accessing markets of developed countries.

In terms of TBT requirements concerning participation in bodies that develop international standards, several countries have pointed out that the situation of developing countries and of countries in economic transition differs from that of developed countries. Less developed countries often do not have the funding to participate in these activities. They argue that because of this international standards are based on the needs of technologically developed countries. They go on to state that countries which cannot participate in the development of standards are also unlikely to have the means to comply with those standards, either financially or technologically.

Developing countries and countries in transition note, for instance, the potentially high expenditure associated with putting in place conformity assessment infrastructures that will enable them to certify locally produced products to meet international requirements. Many countries do not have operational accreditation infrastructures that could provide a basis for the recognition of test results and certificates in foreign markets. They also lack the funds required to purchase the necessary equipment. An even more significant problem in some countries is the lack of trained personnel.

2. *Agreement on the Application of Sanitary and Phytosanitary Measures*

The SPS Agreement deals with domestic and imported food or local animal and plant pests and diseases. It has generally been agreed that this Agreement marks the beginning of a turning away from government control over these goods and will gradually allow a more market-controlled system. For countries in economic transition, current exports in goods regulated by SPS measures have been disappointing owing to the products' inability to meet the sanitary and quality standards required in destination countries. This decrease in international trade, coupled with factors such as low productivity and high input costs present in the agricultural industry, helps to illustrate why domestic producers often cannot afford to buy the base agricultural products with which to make a finished good, even though they may have the technology and training to do so. These base materials are often exported to be made into a finished product which is then imported back into the country.

These obstacles can be resolved if effective SPS measures are implemented. As with trade policies, international competition will force the restructuring of resources and agricultural policies. To help create the appropriate legal and institutional framework and to train personnel, assistance is provided under the SPS Agreement by developed countries.

3. *Environment*

Countries in transition recognize that environmental issues cannot be ignored in the privatization process. They also recognize that in the light of WTO agreements, they should not implement policies that are more trade restrictive than necessary while attempting to protect the environment. In addition, investment is needed to develop environmental policies and risk assessment methods in order to better address pollution control and conservation.

There are two key ways in which countries in economic transition are seeking to resolve the question of environmental investment. First, the provisions of the international agreements mentioned in this paper call for technical assistance for developing countries. Countries in economic transition could use this assistance to provide environmental facilities, equipment, personnel and training. This assistance could also be provided in the form of

loans by international financial institutions. The second way for these countries to address environmental concerns has been to earmark revenues derived from other means for environmental improvements. However, it is often difficult to collect the pollution charges and other fees that serve as the main source of revenues for these funds. In addition, there may be numerous bureaucratic difficulties involved in the management of environmental funds.

4. *Labour standards*

In terms of labour standards, many countries in economic transition currently lack proper mechanisms to enforce labour laws. In addition, many labour laws are not complementary with current social policies, such as retirement incentives. Countries in transition need to create more employment (but with a different allocation of labour resources among different industries) if they are to restructure effectively and to maintain non-inflationary growth. To do so, they have begun investing in their labour forces by providing services such as training and job placement.

These countries also need to develop effective mechanisms for enforcing labour standards. While many have begun restructuring their enforcement mechanisms, others have not yet done so to any significant extent. With this in mind, many countries in transition argue that it is inappropriate to link labour standards to trade action at this time. To do so may enable other countries to use labour issues as a shield for protectionism which could damage the trade, and hence the output, of countries in economic transition.

5. *Agreement on Trade-Related Investment Measures*

The TRIMs Agreement cites international investment as an engine of growth. To attract investment, there must be confidence in the country's economic stability. The countries must therefore implement reforms in the financial sector. The banking system and capital markets must be strengthened, inflation must be curbed and the current-account deficit stabilized. Enterprises which are still State-owned must be privatized and the countries must eliminate all non-conforming TRIMs.

6. *Agreement on Trade-Related Aspects of Intellectual Property Rights*

The TRIPS Agreement presents a special challenge for countries in transition. Theft and counterfeiting of intellectual property are widespread throughout the world but especially in developing countries and countries in economic transition. Technologically advanced countries are putting heavy pressure on developing countries and countries in transition to develop and enforce intellectual property rights procedures. However, as with the other WTO agreements, countries in transition may lack the necessary infrastructure to adequately monitor intellectual property rights. Another disadvantage is that costs of enforcement may be higher. Lastly, the fact that much of the violation of intellectual property rights takes place underground or on the black market makes violations extremely difficult to monitor. Countries in economic transition will therefore need to develop a sound regulatory and legislative framework to enforce intellectual property rights. One advantage for these countries is that a number of reviews of countries already meeting their TRIPS obligations have been carried out. The results of these reviews serve as models for countries seeking to implement their own intellectual property rights legislation.

VI. CONCLUSION

To achieve a multilateral trading system that offers fair trade to all its members and promotes economic growth, one has to overcome several barriers. Potential barriers to trade include standards, technical regulations, conformity assessment procedures, sanitary and phytosanitary measures, environmental issues, labour standards, trade-related investment measures, as well as trade-related aspects of intellectual property rights. This paper has examined provisions of some of the discussions and multilateral agreements addressing these barriers, with specific mention made of the difficulties faced by countries in economic transition that are members of WTO or that may accede to WTO in the future as they attempt to meet the requirements of the agreements. Overall, most countries in economic transition will need to restructure their institutional, legislative and regulatory frameworks, as well as

to invest in human resources and equipment in order to enter effectively the world market. Developed countries can help in these matters through financial investment and through technical assistance.

WTO has already reviewed some of the agreements for effectiveness and has mechanisms in place to review most of the other areas mentioned. All the agreements and discussions share one common characteristic. They all contain the underlying theme that one day the global market place will become a true global market place where all producers can sell their goods without fear of encountering trade discrimination or restrictions.

THE ROLE OF TECHNICAL HARMONIZATION IN REGIONAL INTEGRATION

Christina de Vaux⁵

I. INTRODUCTION

Recent years have witnessed concerted efforts to liberalize and harmonize international trade. Through implementing trade agreements, the World Trade Organization (WTO) has become a driving force in this process by encouraging its members to offer tariff concessions, liberalize quotas and remove other trade restrictions, including non-tariff barriers. The institutional framework to do this has been provided by organizations that have helped establish trade policies and provide a strong impetus to trade liberalization. Internationally, these include the predecessor to WTO, the General Agreement on Tariffs and Trade (GATT), and the United Nations Conference on Trade and Development (UNCTAD). Regionally, they consist of customs unions, free-trade areas and organizations that promote regional technical harmonization activities.

The regional groups considered in this paper are the European Union, the European Free Trade Association, the European Economic Area, Asia-Pacific Economic Cooperation, North American Free Trade Agreement, Pan American Standards Commission, Organisation for Economic Co-operation and Development (OECD), African Regional Organization for Standardization (ARSO) and Interstate Council for Standardization, Metrology and Certification in the Commonwealth of Independent States (CIS). The reasons behind the integration of each of these groups are numerous. In many cases, one of the principal reasons is that of technical harmonization. This paper will examine the role played by various entities and regional groups dealing with technical harmonization in encourag-

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ing regional integration. Additional attention will be devoted to the current objectives and activities regarding technical harmonization of each group. Reference will also be made to historical antecedents to regional organizations.

II. EUROPEAN UNION

The European Economic Community (EEC) was established in 1958 with the ultimate goal of creating “an ever closer union among the peoples of Europe”. By 1986, the EEC included 12 member countries. In 1998, the now 15 member countries of the European Union (EU) represent the largest market in the world. The original goal of the group was to promote political integration through economic unity. Although political integration has not yet become a reality, progress in achieving economic unity has made much more significant strides. EU member countries have established a customs union, in which all tariffs and quotas for internal trade have been abolished and a common external tariff has been established.

Recognizing that technical harmonization within the region and on an international level can promote economic growth, the EU developed a “New Approach” to technical harmonization. The goal is to streamline technical harmonization and the development of standards for certain product groups. Under the New Approach, directives for the harmonization of standards by member States are limited to essential safety or other performance requirements in the general public interest. The technical details of how to meet these requirements are left to manufacturers who self-certify products. The three principal organizations that oversee technical harmonization activities in the EU are the European Committee for Standardization, the European Committee for Electrotechnical Standardization and the European Telecommunications Standards Institute.

The European Commission has also developed a policy on harmonized rules and procedures for conformity assessment called “The Global Approach to Certification and Testing”. The aim is to establish conditions to implement the mutual recognition agreements (MRAs). This will allow for a notified body’s test results to be recog-

nized by all EU member States or test results to be accepted between two Governments.

A. EUROPEAN COMMITTEE FOR STANDARDIZATION

Established in 1961, the European Committee for Standardization (CEN) is responsible for creating voluntary European standards in all areas except electrotechnical and telecommunications. CEN's aim is to eliminate trade barriers resulting from differing national technical standards in order to stimulate industry and trade and promote safety and efficiency through creating and harmonizing European standards.

CEN's primary areas of activity are in:

- Mechanical engineering
- Building and civil engineering
- Health technology
- Information technology
- Biology and biotechnology
- Quality
- Certification and testing
- Environment
- Workplace health and safety
- Gas and other energies
- Transport and packaging
- Consumer goods
- Sports and leisure
- Food
- Materials (iron and steel)
- Chemistry.

B. EUROPEAN COMMITTEE FOR ELECTROTECHNICAL STANDARDIZATION

The European Committee for Electrotechnical Standardization (CENELEC) is an international association established in 1972. Its goal is to produce a single set of harmonized electrotechnical standards in Europe, including ones that support EU directives. CENELEC develops standards in the field of electrotechnical and electronic engineering where no International Electrotechnical Commission (IEC) standards are available. It also aims to expedite the publication and adoption of international standards. CENELEC works very closely with the IEC and maintains an open exchange of information.

C. EUROPEAN TELECOMMUNICATIONS STANDARDS INSTITUTE

The mission of the European Telecommunications Standards Institute (ETSI) is to create telecommunications standards for improving communications between the member States of the EU. Established in 1988, ETSI is currently one of the largest international technical associations in the field of telecommunications. ETSI develops standards relating to public and private telecommunications systems and equipment, local area networks, and other electronics equipment for Governments and consumers.

III. EUROPEAN FREE TRADE ASSOCIATION⁶

The European Free Trade Association (EFTA) was originally conceived in 1960 as a free trade area for manufactured goods with special provisions for trade in farm products. Unlike the EEC, EFTA's seven original member States did not adopt a common external tariff but were instead free to determine their own trade policies towards external countries.

⁶ This section is based on a contribution by Mr. Patrick Burkhalter of the EFTA Secretariat in Brussels.

Owing to the enlargements of the EU, Iceland, Liechtenstein, Norway and Switzerland remained the member countries of EFTA in 1998. EFTA's objective is to remove trade barriers among its member countries and to support non-discriminatory practices in world trade. Members are guided by the principles outlined in the Stockholm Convention. The primary goal is to eliminate import duties and quantitative restrictions on trade in manufactured goods. The internal trade system is based on rules of origin and agreements between the national customs authorities. The Convention also provided general principles in areas such as State aid, public procurement and restrictive business practices (competition) so as not to jeopardize the internal liberal trade regime.

The EFTA Committee on Technical Barriers to Trade oversees notifications on technical regulations and provides a forum for cooperation with the goal of facilitating trade by technical and legislative means. In addition, there are ongoing contacts with the EU and its standardization bodies CEN, CENELEC and ETSI in order to prepare European standards. This type of cooperation is further reinforced as three EFTA countries take part in the European Economic Area (EEA).

IV. EUROPEAN ECONOMIC AREA⁷

The internal market of the EU was extended to Iceland, Liechtenstein and Norway on 1 January 1994 when the EEA entered into force.⁸ The EEA provides for an economic area with a free movement of manufactured goods, services, capital and persons. This area covers 18 countries with over 380 million consumers and is the largest single market in the world.

The EEA is based on the concept of homogeneity. The member countries offer identical rules and conditions for competition to the firms that are internal residents. To maintain homogeneity, the EEA Agreement can be continuously amended in order to ensure that the relevant EU

⁷ This section is based on a contribution by Mr. Patrick Burkhalter of the EFTA Secretariat in Brussels.

⁸ Voters in Switzerland rejected participation in the EEA in December 1992.

competition-related legislation is integrated into the national legislation of the three EFTA countries in the EEA. These three EFTA countries take part regularly in the EU expert group meetings when they develop EU legislation that is relevant to the EEA. In addition, the three EFTA countries are in the process of concluding parallel mutual recognition agreements (MRAs) in the conformity assessment with the same third countries with which the EU concluded such agreements.

The implementation of the common rules throughout the EEA is surveyed by the European Commission in the 15 EU countries, while the same authority is granted to the EFTA Surveillance Authority for the three EFTA countries. Judicial powers are accorded to the EFTA Court in Luxembourg.

V. ASIA-PACIFIC ECONOMIC COOPERATION

The Asia-Pacific Economic Cooperation was established in 1989 in response to the growing interdependence among Asia-Pacific economies. Begun as an informal dialogue group, APEC has since become the primary regional mechanism for promoting open trade and economic cooperation. APEC now includes all the major economies in the region, as well as some of the most dynamic economies in the world. In 1995, APEC's 18 member countries had a combined gross domestic product of over US\$ 13 trillion. This represents approximately 55 per cent of total world income and 46 per cent of global trade.

Leaders of APEC economies initially recognized that by supporting an open, international trading system and the reduction of trade and investment barriers they would share the benefits of economic growth through higher incomes and free-flowing goods, services, capital and investment. One of APEC's key objectives, therefore, was to develop an appropriate technical infrastructure that would, in turn, encourage harmonization of technical requirements.

The principal goal of APEC's Subcommittee on Standards and Conformity Assessment of the Committee on Trade and Investment is to enhance trade between Asia-Pacific member countries by reducing standards-related technical barriers and by building an appropriate infrastructure for facilitating trade. The priority areas targeted for technical infrastructure development and harmonization include:

- National standards for physical measurement and a network of accredited calibration laboratories with traceability to primary standards;
- A network of accredited testing and measurement laboratories;
- Accreditation of quality system certifiers;
- Accreditation of inspection bodies and certification of inspection personnel.

In 1995, the Subcommittee made a policy decision to rely on specialist regional bodies to develop the technical infrastructure within the region rather than create new bodies. These bodies include the following: the Pacific Area Standards Congress (PASC); the Asia-Pacific Laboratory Accreditation Cooperation (APLAC); the Asia-Pacific Legal Metrology Forum (APLMF); the Asia-Pacific Metrology Program (APMP); and the Pacific Accreditation Cooperation (PAC).

Pacific Area Standards Congress

PASC assists national standards developers by sharing of technical input for international standards development. Members of PASC coordinate regional input regarding standards development for technical groups that report to the International Organization for Standardization and the International Electrotechnical Commission.

Asia-Pacific Laboratory Accreditation Cooperation

APLAC is a group of more than 25 laboratory accreditation bodies in 18 Asia-Pacific economies. Its members recently signed an MRA to recognize accreditation in the fields of testing and calibration. The MRA is expected to enhance confidence in the procedures of member accreditation bodies, thereby paving the way for increased

regional and international trade. Under the MRA, a product tested by a laboratory accredited by a member body need not be retested in another member's country.

Asia-Pacific Legal Metrology Forum

The APLMF seeks to promote trade through harmonizing legal metrology regulations in the region under the International Organization of Legal Metrology and to organize the infrastructure of legal metrology in its member countries.

Asia-Pacific Metrology Program

Current activities of the APMP include comparison studies of chemical measurement capabilities, the results of which will be compiled with other regions' studies, including those of the North American Metrology Agreement.

Pacific Accreditation Cooperation

PAC seeks to promote the worldwide acceptance of certificates of conformity issued by certification bodies accredited by PAC members. To accomplish this, PAC is seeking to establish a multilateral MRA between accreditation body members of PAC.

Future goals of APEC include:

- To reduce the negative efforts on trade and investment flows in the region due to differing standards and conformance arrangements;
- To foster and promote international standardization which would stimulate trade through active participation by APEC members in the development of international standards and conformity assessment practices;
- To facilitate the further development of open, market-driven interdependence in the Asia-Pacific region, while making the most efficient possible use of available resources, by encouraging greater alignment of members' standards with international standards;
- Liaising more closely and developing greater consistency of approach to standards and conformance issues in relevant international bodies;

- Making progress on developing mutual recognition of conformity assessment in the region.

VI. NORTH AMERICAN FREE TRADE AGREEMENT

Signed in December 1992, the North American Free Trade Agreement (NAFTA) created the largest free trade area in the world, a duty-free zone with economic output exceeding US\$ 8 trillion and nearly 400 million consumers. NAFTA is an agreement that attempts to eliminate tariffs and also removes many of the non-tariff barriers and other trade-distorting restrictions. The Agreement is based on the previous Canada-US Free Trade Area, although coverage under NAFTA has been expanded to include issues relating to intellectual property rights, transportation services and rules against investment distortion. In the area of standards, it specifically requires that standards-related measures be applied in a non-discriminatory manner to both domestically produced and imported products. The standards development process of NAFTA members is supposed to be open and transparent.

NAFTA also recognizes the crucial role of standards and technical regulations in promoting safety and protecting the environment and consumers and human, animal and plant life and health. It provides a framework of rules and cooperative mechanisms for enhancement and compatibility of such measures and ensures that these mechanisms do not operate as unnecessary barriers to trade within the free trade area.

Specific objectives of NAFTA include the following:

- Elimination of barriers to trade in goods and services between members;
- Facilitation of the cross-border movement of goods and services between members;
- Promotion of conditions of fair competition in the free trade area;
- Enhancement of investment opportunities in member countries;

- Provision of an adequate and effective protection and enforcement of each member's intellectual property rights;
- Creation of effective procedures for the implementation and application of NAFTA and for its joint administration and the resolution of disputes;
- Establishment of a framework for further trilateral, regional and multilateral cooperation to expand and enhance the benefits of the Agreement.

VII. PAN AMERICAN STANDARDS COMMISSION

The Pan American Standards Commission was originally formed in 1961 as the Pan American Technical Standards Committee (COPANT). It was created because of the recognition that each country should have a standardization agency and that there should be one group responsible for coordinating the standards activities of those agencies.

One of the primary objectives of COPANT is to promote the development of technical standardization and related activities with the aim of promoting industrial, scientific and technological development in its member countries.

Specific goals of COPANT are to:

- Devise standards of interest to countries in the region that have not been developed by recognized international agencies or, if so, do not correspond to their particular needs;
- Encourage coordination among COPANT members to facilitate harmonization of their technical standards;
- Ensure increased utilization and application of international standards in business and industry;
- Represent COPANT members in other international forums with similar goals or in regional and international organizations requiring technical standardiza-

tion support to fulfil their economic, scientific or technological functions;

- Encourage and facilitate an exchange of information between COPANT members and the international system;
- Promote technical education and training in standardization areas and in related activities;
- Encourage the development of certification systems based on international criteria;
- Promote the harmonization of certification systems;
- Ensure the harmonization of policies and technical positions of member institutes with international policies and technical positions.

Further objectives of COPANT include:

- Achieve greater participation in ISO and the IEC when such efforts correspond to explicit needs of the region;
- Encourage the development and adoption of relevant international standards;
- Implement all standardization work already accomplished;
- Maintain relationships with the international and regional bodies whose activities are related to the use of Pan American standards.

VIII. ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The precursor to the Organisation for Economic Co-operation and Development (OECD) was the Organization for European Economic Cooperation (OEEC) which was established in 1948 to coordinate European reconstruction plans and distribute aid from the Marshall Plan to recipient European countries. When the reconstruction was complete, the Governments concerned decided to use

the OEEC as a mechanism to help integrate their economies into the rapidly growing international trade system. The OEEC was renamed OECD in 1960.

OECD promotes policies designed to:

- Achieve the highest sustainable economic growth and employment and a rising standard of living in member countries, while maintaining financial stability, thus contributing to the development of the world economy;
- Contribute to sound economic expansion in member and non-member countries in the process of economic development;
- Contribute to the expansion of world trade on a multi-lateral, non-discriminatory basis in accordance with international obligations;
- Evaluate issues which affect economic and social policy, such as agriculture, environment, education, trade and foreign investment;
- Facilitate domestic policy-making and more coordinated international practices;
- Enhance transparency among members.

One priority area identified for action by OECD members is that of regulatory reform. OECD provides policy advice to members undertaking reform projects. Reform is supposed to improve the quality and efficiency of regulations. This often includes improvements in the regulation-creation process as well. The outcomes of regulatory reform include enhanced competition, increased ability of countries to adapt to change and remain competitive in global markets and increased efficiency.

OECD advocates the use of harmonized standards. When harmonization with international standards is carried out effectively, multiple and duplicative regulatory requirements can be overcome. In addition, OECD addresses the health and safety aspects of imported products through the effective design and monitoring of conformity assessment procedures.

IX. AFRICAN REGIONAL ORGANIZATION FOR STANDARDIZATION

Established in 1977, the African Regional Organization for Standardization (ARSO) currently has 23 members. The Organization has five principal objectives:

- To promote and coordinate standardization, quality control, certification marking and metrology practices in Africa;
- To develop African regional standards for products of interest to Africa;
- To promote social, industrial and economic development and provide consumer protection and human safety by advocating and establishing activities concerning standardization in Africa;
- To operate as a regional clearing house for information on standards and technical regulations;
- To promote the harmonization of the views of members and promote their contribution and participation at the international level in the field of standardization and related activities.

ARSO develops African regional standards in the following nine areas: general standards, agriculture and food products, building and civil engineering, mechanical engineering and metallurgy, chemistry and chemical engineering, electrotechnology, textiles, transport and communications, environmental protection and pollution control. ARSO also organizes training programmes for personnel of member States engaged in standardization work and operates a network of documentation and information systems on standards and technical regulations in Africa.

ARSO is currently adopting a regional certification marking scheme to assure the quality of African products. The scheme would include a regional laboratory accreditation programme. It plans to begin a regional metrology programme aimed at improving the measurement capabilities of member States and sharing of metrology facilities through a network of testing, metrology, and instrumentation centres.

X. INTERSTATE COUNCIL FOR STANDARDIZATION, METROLOGY AND CERTIFICATION

Founded in 1992, the Interstate Council for Standardization, Metrology and Certification (ISC) is composed of 12 heads of national standards, metrology and certification bodies within the Commonwealth of Independent States. The principal goals of the Council are to:

- Define rules for inter-State standardization work;
- Define general technical standards and requirements;
- Define mandatory requirements pertaining to quality of products, processes and services of inter-State application;
- Define uniform methods of testing products;
- Define units of physical quantities for inter-State application, physical constants and standard reference materials;
- Define uniform requirements for protection of the environment.

The Council is also responsible for the following:

- Developing, storing and maintaining the archive of inter-State, international and regional standards, as well as national standards of foreign countries. The Council also serves as a source of information about those standards for member States (the archives of the Council's inter-State standards contains more than 19,000 normative documents; 30-60 per cent of those are sector-specific and meet international norms and requirements; more than 2,900 normative documents were developed and revised during 1993-1997);
- Undertaking international cooperation in standards, metrology, certification and quality;
- Maintaining and evolving measurement standards and traceability;

- Maintenance of databases on measuring instruments, standard reference materials and standard reference data on properties of substances and materials;
- Developing the rules and procedures for the mutual recognition of accredited testing, calibration and measurement laboratories, certification bodies, product certificates and quality systems.

XI. CONCLUSION

One may conclude that the regional groups will continue to serve as a means for countries to better attain the goals advocated by WTO; principally, the goal to decrease trade barriers and to increase competition through fair and open international trade regimes.

INTEGRATION OF COUNTRIES IN ECONOMIC TRANSITION INTO THE MULTILATERAL TRADING SYSTEM

Ivar Foss⁹

I. INTRODUCTION

The present paper deals with the integration of countries in economic transition into the multilateral trading system. Special attention is devoted to the Commonwealth of Independent States and to the entry into the World Trade Organization (WTO). The countries in transition, as referred to in this paper, are the central and eastern European countries which were previously members or linked to the Council for Mutual Economic Assistance (CMEA). Following the political and economic upheavals, the dissolution of the Soviet Union, Czechoslovakia and the former Yugoslavia, these countries are going through a rapid and fundamental change to a market system, involving a complete overhaul of the legislation, technical regulations, standards and conformity assessment procedures that relate to trade.

With this in mind, the national objectives of all these countries are:

- To protect society against the harmful effects of products or activities, including health, safety and the environment (this concerns domestic products and activities, as well as imported products);
- To increase and facilitate trade with other countries and regional trading blocs.

In relation to various trading groups and international associations, countries in economic transition are in different positions. For analytical purposes of this paper, central and eastern European countries can be divided into three groups:

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- Countries with European Union (EU) association agreements;
- Countries with other types of arrangement with the EU;
- Countries aspiring to become members of WTO.

Most of the republics of the former Soviet Union are in the process of becoming members of WTO. Three Baltic States (Estonia, Latvia and Lithuania) are aiming at accession to the EU, although only Estonia was invited by the EU to start entry negotiations in 1998. Ten central and eastern European countries have association agreements with the EU and expect to join in the future. However, the EU invited in 1997 only the Czech Republic, Estonia, Hungary, Poland and Slovenia to start entry negotiations in March 1998.

The basic principles for trade within the Single European Market are in line with the requirements set out in the WTO Agreement on Technical Barriers to Trade. However, the reference documents and practical implementation are different.

II. TECHNICAL REGULATIONS, STANDARDIZATION AND CONFORMITY ASSESSMENT IN CENTRAL AND EASTERN EUROPE: THE OLD SYSTEM

A. CENTRAL PLANNING

Central and eastern European countries used to be economically tied through the CMEA. The demise of the central planning system left these countries in a certain vacuum. They also faced the mammoth task of reorienting their economies.

Estonia, Latvia, Lithuania and most of the central and eastern European countries outside the former Soviet Union chose to orient themselves primarily towards western Europe and the international market. Other former Soviet republics developed independently of existing trade

groupings, with the Russian Federation as a leading player in the Commonwealth of Independent States. This paper is devoted to the conditions in the Russian Federation and Ukraine, which are the two largest economies in the region of the former Soviet Union. With a population of 148 million in the Russian Federation and 51 million in Ukraine, these two countries together make up about 72 per cent of the population of the Commonwealth of Independent States.

In the former Soviet Union there were 22,000 mandatory State standards and about 20,000 sectoral standards dealing with areas such as raw materials, technical specifications, quality, testing and other aspects for particular products/commodity groups. Competition between manufacturers for export markets hardly existed. Each company was instructed in advance what it had to make, it knew who its customers were, and customers had a limited, if any, choice of suppliers.

There was little direct contact between customer and supplier. Product specifications were to a large extent based on public, mandatory standards. In many cases, manufacturing companies were monopolies. Within this system, manufacturers had little incentive to improve product quality or reduce unit costs of production. If improvements took place, that could mean upward revision of future planning targets or reduction in budgets, corresponding to the improvement made. Product design and development were often carried out separately in scientific institutes. The manufacturer was simply instructed to manufacture the resulting product. This separation of functions meant that State enterprises had very limited in-house design and development capability and further reduced the possibility for communication of customer needs to those developing the product or manufacturing it.

On the positive side of the centrally planned system, the sheer size of each industry meant the creation of a large and technologically diverse industrial structure across the CMEA. In addition, a considerable scientific and engineering base encouraged by the planning system for certain industries permitted the development of highly specialized human capital. Certain successful enterprises were able to compete and to sell on the world markets,

especially in developing countries that were unable to afford more sophisticated Western goods and equipment. Some of this success, however, can be attributed to the exporters' status as subsidized State enterprises.

B. REGULATORY SYSTEM

The implementation of standards in centrally controlled countries was an important policy measure. Standards were not only intended to serve technical and economic interests but also to serve as legal instruments of State policy. All standards had a legal status and had to be adhered to, and a complex legal apparatus was developed to enforce the system. It was based on four categories of laws pertaining to standardization:

- *Administrative laws*, to define the competence of standards bodies, to prescribe procedures for the preparation of standards and to adopt programmes and plans for standardization;
- *Civil laws*, to regulate the use of standards in trade and industry, covering guarantees for conformity, delivery conditions and action to be taken in cases of non-conformance;
- *Labour laws*, to deal with savings of material and manpower resources and appropriate timing for the introduction of new standards;
- *Penal laws*, to prescribe the responsibilities of the officials concerned with the implementation of standards and the penalties that might be imposed in case of non-observance.

The comprehensive character of this apparatus demonstrates the importance that was attached to standardization. The rigid adherence to standards, where all means of production and distribution of goods and services were subject to central control, was supposed to improve the quality and performance of products. The Soviet Union was the first country in the world to elevate its national standards body to full ministerial rank so that it was no longer dependent on other governmental organs and exercised direct responsibility for enforcing compliance with them. This Soviet decision reinforced the power of stand-

ardization bodies in other countries with a similar economic system.

Responsibility for metrology, certification, quality and market surveillance was also given to the national standardization body. All these activities were centrally funded by the State budget. In those days, Gosstandart had a staff of 1,000 in Moscow and 125,000 in the entire Soviet Union.

The transition of the Russian Federation towards a market-type economy has resulted in the incapability of the central Government to finance these services on the scale that existed prior to the reform process. As a result, testing and certification centres have to earn up to 80 per cent of their income by charging for their services.

In the Russian Federation, Gosstandart remains the federal authority for standards, certification, metrology and consumer protection. However, other ministries, State committees and organizations have their own approach regarding the institutional framework. In 1992, Russian authorities communicated through the GATT information system that a new law on the safety of consumer products had been adopted and imposed in January 1993. Mandatory certification of products was covered by its scope. As a result of pressure from EFTA countries and the European Commission, the implementation of the law was postponed to 1 January 1994. The law is wide in scope and leaves considerable power of interpretation.

In the context of the Russian programme for accession to the WTO Agreement on Technical Barriers to Trade (TBT), several aspects of the Russian procedures may be difficult to justify under future TBT obligations:

- Lack of transparency of requirements and standards, and varying or arbitrary fees for certification;
- Discrimination between different suppliers as exporters complain that some suppliers receive more favourable treatment or face simpler conformity assessment procedures than others;
- Excessive use of third-party certification procedures and multiple certification requirements for sectors and risks which could be regulated more lightly (the rules

failed the test of proportionality, and could also be inconsistent with the requirement to use international adopted standards and procedures wherever possible).

The extent to which the law on safety of consumer products may constitute a technical barrier to trade cannot be assessed without considering the special situation created by market shortcomings. Many goods are sold outside their traditional market and some conformity assessment procedures which are used in stable market economies are rendered unsuitable in the Russian Federation. The falsification of certificates is also a serious problem. Structural changes, the divergent views of authorities and the persistence of important problems related to safety and quality of marketed products hamper the evolution of the system. However, important changes are being made in the preparation of technical regulations, standards, accreditation and certification.

III. ACCESSION TO THE WORLD TRADE ORGANIZATION: REQUIREMENTS

The Russian Federation, Ukraine and many of the other Commonwealth of Independent States countries are seeking to become full members of WTO. It is therefore useful to review the progress they have made regarding the adjustments that are necessary to meet the obligations of the WTO agreements. The central document in this respect is the Agreement on Technical Barriers to Trade of 15 April 1994. Some of the principal clauses in this Agreement are summarized below. Further on, there is a consideration of the current state of reforms with reference to these clauses.

A. PREPARATION AND APPLICATION OF TECHNICAL REGULATIONS AND STANDARDS

According to WTO terminology, a *technical regulation* is a document that lays down product characteristics with which compliance is *mandatory*. A *standard* is a document approved by a recognized body that provides rules, guidelines or characteristics for products or related processes and production methods, with which compliance is *not mandatory*. Standards prepared by the interna-

tional standardization community are based on consensus. The TBT Agreement also covers documents that are not based on consensus.

Some of the principal requirements that are valid for technical regulations as well as standards are summarized below with reference to the article number in the WTO/TBT Agreement.

- Members shall ensure that in respect of technical regulations, products imported from the territory of any member shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country (art. 2.1);
- Members shall ensure that technical regulations are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking into account the risks non-fulfilment would create (art. 2.2). In other words, the product requirements should be in proportion to the risk being addressed and the least possible trade restrictive means should be applied (the proportionality principle);
- Technical regulations shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or are changed (art. 2.3);
- Where technical regulations are required and relevant international standards exist or their completion is imminent, members shall use them as a basis for their technical regulations (art. 2.4). A Code of Good Practice for Standards has been prepared and is referred to below;
- A member preparing, adopting or applying a technical regulation which may have significant effect on trade of other members shall, upon request, explain the justification for that technical regulation (art. 2.5);
- Members shall give positive consideration to accepting as equivalent technical regulations of other mem-

bers even if these regulations differ from their own (art. 2.7);

- Whenever appropriate, members shall specify technical regulations based on product requirements in terms of performance, rather than design or descriptive characteristics (art. 2.8).

In view of the importance assigned to the use of international standards as a means for facilitating trade, the TBT Agreement includes as an annex a Code of Good Practice for the Preparation, Adoption and Application of Standards (Code of Good Practice). Members shall ensure that their central Government's standardizing bodies accept and comply with this Code (art. 4.1).

The Code includes the following provisions:

- 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;
- The standardizing body within the territory of a member shall make every effort to avoid duplication of, or overlap with, the work of other standardization bodies;
- Whenever appropriate, the standardizing body shall specify standards based on product requirements in terms of performance, rather than design or descriptive characteristics;
- 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. The International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) shall be notified of the existence of the work programme;
- Before adopting a standard, the standardizing body shall allow a period of at least 60 days for the summation of comments on the draft standard by interested parties within the territory of a member of WTO. The standardizing body shall take into account the

comments received during the period for commenting;

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

B. CONFORMITY ASSESSMENT

Conformity assessment procedures are used to determine that relevant requirements in technical regulations or standards are fulfilled. Common conformity assessment procedures include sampling, testing and inspection; evaluation, verification and assurance of conformity, including certification, registration, accreditation and approval, as well as their combinations.

The most important provisions related to assessment of conformity are:

- Conformity assessment procedures shall grant access for suppliers of like products originating in the territories of other members under conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country in a comparable situation (art. 5.1.1);
- Conformity assessment procedures are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade. This means *inter alia* that conformity assessment procedures shall not be more strict or be applied more strictly than is necessary to give the importing member adequate confidence that products conform with the applicable technical regulations or standards (art. 5.1.2).

When implementing these provisions members shall ensure that:

- Conformity assessment procedures are undertaken and completed as expeditiously as possible (art. 5.2.1);
- Information requirements are limited to what is necessary to assess conformity and determine fees (art. 5.2.3);

- Fees for assessing products from other members are equitable in relation to any fees chargeable for assessing the conformity of like products of national origin or originating in any other country (Art. 5.2.5);
- The siting of facilities used in conformity assessment procedures and the selection of samples are not such as to cause unnecessary inconvenience (art. 5.2.6);
- Members shall ensure, whenever possible, that results of conformity assessment procedures in other member States are accepted (art. 6.1).

C. NOTIFICATION AND INFORMATION

A basic principle of the TBT Agreement is that members shall not introduce new technical regulations or standards which may have a significant effect on trade of other members without due justification. In cases where international standards do not exist and new technical regulations are deemed necessary, members shall:

- Publish a notice in the publication in such a manner as to enable interested parties in other members to become acquainted with it (art. 2.9.1);
- Notify other members through the secretariat of the products to be covered by the proposed technical regulation together with a brief indication of its objective and rationale (art. 2.9.2);
- Upon request provide to other members particulars or copies of the proposed technical regulation (art. 2.9.3);
- Without discrimination, allow reasonable time for other members to make comments in writing and take the comments into account (art. 2.9.4).

In addition to the notification procedure outlined above, each member shall ensure that an inquiry point exists which is able to answer all reasonable inquiries, as well as provide relevant documents regarding:

- Any technical regulation adopted or proposed within its territory (art. 10.1.1);

- Any standards adopted or proposed within its territory (art. 10.1.2);
- Any conformity assessment procedures which are operated within its territory by central or local Government, or by non-governmental bodies (art. 10.1.3);
- The membership and participation of the member in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements within the scope of the TBT Agreement (art. 10.1.4);
- The location of published notices and enquiry points (arts. 10.1.5 and 6);
- Each member shall, promptly after the date on which the WTO Agreement enters into force for it, inform the Committee of measures in existence or taken to ensure the implementation and administration of this agreement (art. 15.2).

IV. ONGOING REFORMS

A. RUSSIAN FEDERATION

1. Overview

Since 1993, the Russian Federation has been substantially opened for trade with countries outside the former CMEA. It is a national objective to join WTO. Bilateral negotiations are also conducted with the United States, the EU and other major trade partners. This section presents the progress made along those lines, as well as referring to the remaining tasks and problem areas. Reference is also made to developments in Ukraine and to other countries members of the Commonwealth of Independent States.

Reforms in Russia and Ukraine have been supported through the EU TACIS programme. TACIS assistance to Russia was estimated to be around ECU 290 million in 1997. A project on standardization and certification in Russia and Ukraine started at the end of 1995. It was based on the agreed terms of reference in 1994. More than 600 officials have already received training through this

programme, which also involves consultancy assistance and development of information systems. The programme is due to end in 1998.

Since the start of the current TACIS programme on standardization and certification, the political and institutional situation in Russia has passed through a number of changes. The general trend within some of the main bodies designated as partners for the TACIS programme is favourable. Gosstandart of Russia, the Chamber of Commerce and Industry, the Ministry in charge of construction, and others, have received a considerable amount of know-how from western European experts in the fields of technical regulations, standardization, accreditation and certification. They are now well aware of what needs to be done in order to adapt the Russian system to one which is more compatible with that in the developed market economies. These organizations have started to take the necessary measures to prepare the necessary documents within their fields of competence. It is expected that the structural changes in the relevant Ministries or State Committees will speed up the process of legal and institutional change.

Another aspect of the TACIS programme in the fields of standardization and certification is linked to the negotiations for the accession of the Russian Federation to WTO. These negotiations deal with concrete matters such as the TBT Agreement and the one on phytosanitary measures. As the Russian system of regulation, standards, accreditation and, especially, mandatory certification, still differs from corresponding systems in market economies, this represents a cornerstone of the ongoing negotiations.

Considerable progress has been made within specialized circles in grasping the principles of a market economy and preparing changes in technical regulations, standards, accreditation and certification. Following the adoption by the Russian partners in 1996 of the strategic plan prepared by the TACIS experts, several important texts have been either prepared or adopted concerning standards, certification and accreditation:

- In the field of standardization, where the main task is the separation of what is of a regulatory nature from

what is of a “voluntary” nature, important modifications taking this requirement into account have been brought to the text describing the principles of organization of the Russian standardization system Gost R 1.0-92, amendment 2: “State system of standardization of the Russian Federation”. Amendments have also been prepared to the Federal Law of 1993 on standardization. Both texts are a proper basis for using standardization as a tool for developing a market economy and for harmonization with western Europe;

- Several draft technical laws/regulations have been reviewed to take into account the TACIS experts’ comments pertaining to their suitability as far as compatibility with a market economy is concerned;
- In the more general field of harmonization, it is to be noted that Gosstandart took a World Bank loan which it is going to use to complement what has already been done (or is being done) within the framework of the TACIS programme, notably for harmonization purposes. The World Bank programme has already given rise to several calls for tenders, directed towards more supply of equipment and the installation of a LAN between Gosstandart’s institutes, as well as towards developing a methodology for harmonization of standards and technical regulations in fields deemed to be an economic priority. More is to come, especially from the point of view of re-equipping metrology centres and testing houses;
- In the field of accreditation, there is a project pending concerning the creation of the Russian System of Accreditation of Certification Bodies, Testing and Measuring Laboratories (ROSA). It is expected that this text, which is suited to Russian purposes whilst adapted as much as possible to western and international practice, will be adopted in the near future by the Russian Government;
- As far as certification is concerned, the Russian partners within TACIS have also prepared a draft federal law introducing amendments and addenda to the Law of the Russian Federation of 1993 on Certification of Goods and Services. Lastly, a project of the former Ministry of Industry for the setting up of a voluntary

certification system, Promsertika, has been developed and commented upon.

2. *Problem areas*

Economic and social transition from a totally regulated economy to one organized along the principles of a liberal-market economy is already very difficult and time consuming. In Russia, this process is rendered even more so by several factors:

- Owing to many structural changes since 1995, there appeared diverse points of view between different government bodies. Views and practices regarding the quality and even safety of products that are marketed in Russia present serious problems. In those circumstances, it is hard to bring quickly noticeable changes within the system. As mentioned above, many elements for the change are ready, but most of them have not yet been implemented;
- Different “philosophical” standpoints between governmental bodies lead to conflicts of power which have as a secondary result the continuous lack of transparency of the system. It is hoped that this can be improved soon, at least on a technical level, thanks to the supply of equipment which will permit the setting up of a WTO inquiry point in VNIKI, one of Gosstandart’s institutes;
- The competence of the Russian conformity assessment bodies is frequently questioned by western experts. These bodies are often not separated from regulatory bodies and their competence and impartiality is not verified by any independent body. In Russia, there is not yet in effect a system of accreditation based on internationally accepted principles;
- Gosstandart sets mostly national standards. Only 18 per cent of Russian standards are based on ISO/IEC standards. Russia has an ambitious programme of replacing national standards with ISO/IEC standards in the years to come. Many standards are not in line with the principles of the WTO/TBT Agreement. Whenever appropriate the standardizing body shall specify standards based on product requirements in terms of performance rather than design or descriptive charac-

teristics. Many standards in the Russian Federation contain detailed technical specifications. In fact, several are, in effect, company standards developed for the previous State-owned monopolies. In addition, the standards have not always been implemented and technical equipment for verification of compliance with the standards may be missing;

- Many products imported for sale into the Russian Federation are required to have a certificate of conformity issued by Gosstandart. Gosstandart tests and certifies products according to Russian Government standards, rather than other widely accepted international standards. There are also other mandatory certification arrangements in effect;
- Business operators claim that the conformity assessment system in Russia is very elaborate and not transparent. Mandatory pre-market product certification is still extensive and western experts often find that the conformity assessment procedures are out of proportion with the justification for these measures, such as protection of health, safety and the environment. Russia is a very large country and the enforcement of regulations is left to local authorities. There is little control over the uniform implementation of existing requirements and it is very difficult for outsiders to obtain reliable information in advance regarding the conformity assessment procedures. A certificate issued in Moscow may, for instance, not be accepted in Saint Petersburg;
- The complications briefly summarized above have led to widespread evasion of regulations, or even to fraud. Falsified certificates, acceptance of bribes and mutual “services” are not uncommon. Such opportunities have, on the other hand, tempted exporters to export sub-standard or even hazardous products into Russia. This again hinders the Russian authorities in their liberalization of the system;
- Circulation of dangerous substances is limited to those possessing a “Substance Safety Licence” after being registered at the “Russian Register of Potentially Hazardous Chemical and Biological Substances”. Therefore, information about substance identification,

characteristics, potential dangers, production, field of usage, safety measures and procurements concerning transport and storing has to be offered. The final date of application was 31 March 1996, but there are uncertainties regarding this date, creating significant obstacles to trade;

- Acceptance of test reports, product certificates and notably certificates for quality systems lacks transparency and seems to be subject to arbitrary consideration by inspection officials of the customs authority. In particular the non-acceptance of products meeting international standards and the lack of clear rules on acceptance of tests and certificates from competent European certification bodies raise concern.

The problems outlined above refer to many important sectors of the economy, e.g. agriculture, pharmaceuticals, machinery, electrical and electronic equipment.

3. *Prospects for an enlarged involvement in international trade*

An enlarged participation of the Russian Federation in world trade represents an opportunity for integration into the world economy and a positive long-term impulse to economic adjustment and development. Expanded exports of Russian goods may boost the domestic economy. In particular, Russia is concerned about retaining important markets in central and eastern European countries which are now acceding to EU.

Imports of (investment) goods from the developed market economies represent an opportunity for the development of Russia's industry and economy. However, such imports may also represent a threat to domestic producers that are unwilling or unable to adjust to the new circumstances and who, in many cases, may not be able to compete on an open market with world-class producers.

Simplification of the system for technical regulations, standards and conformity assessment procedures will ease life for the domestic suppliers, by reducing the amount of administration associated with placing a product on the Russian market. In order to become a full partner in WTO, four main categories of action are useful:

- Harmonization of Russian technical regulations and standards with internationally acknowledged ones in a number of sectors;
- Extended use of conformity assessment procedures for products and services within the framework of technical regulations and standards in accordance with international guides and recommendations, as well as the development of a network of pilot laboratories which can engage into a procedure of mutual recognition with Western counterparts;
- Initialization of a process of support to the different Russian federal bodies in charge of market surveillance and supervision, in order to help them ensure the quality and safety of goods put on the market and reduce fraud in the field of conformity assessment; and
- Setting up in the Russian Federation a system of accreditation of conformity assessment bodies, in conformity with the rules and procedures of ISO/IEC and following accepted international guides and recommendations.

B. STANDARDIZATION-RELATED DEVELOPMENTS IN CIS (COMMUNITY OF INDEPENDENT STATES) COUNTRIES: PROGRESS AND CHALLENGES

The accession of Kyrgyzstan to WTO was probably the most encouraging sign that a CIS country's trading framework was approaching the requirements of WTO (also in the area of standardization). It gave a very promising signal to other potential CIS candidates. However, it should also be noted that, despite recent changes in the CIS economies under market transformation, reforms are still required. In the area of standardization, these countries still have similar regulatory and organizational systems and are interdependent in many areas of trade and economic cooperation. This is the reason why CIS States try to coordinate their policies in the areas of standardization, metrology and certification. To this end, an agreement was signed by 12 countries, members of the grouping, in 1992. This agreement provides, *inter alia*, for acceptance of the "living" State standards and State

measurement standards of the former USSR as CIS inter-State standards.

Among other accords concluded in the 1990s between CIS States are: on mutual recognition of certificates in respect of goods which are subject to mandatory certification; on mutual acceptance of the accreditation of calibration laboratories and of results of their tests; on preparation of intra-State standards and regulations on certification of tourism services; on labour safety. Although countries of the grouping face various difficulties in their cooperation on these issues, nevertheless it is still considered to be more successful than in many other areas of economic integration.

The practical work on coordination is entrusted to the CIS Interstate Council on Standardization, Metrology and Certification (CSMC), which has its secretariat in Minsk. It could be noted that major coordination and standardization initiatives in the grouping come mainly from the Russian Federation and Belarus.

Within the CIS Council (CSMC) the standard-setting activities are carried out by 230 inter-State technical committees. During 1993-1997, 950 standards were revised and more than 1,900 new standards were developed and approved. The total number of inter-State standards in the CIS at present is about 20,000.

4. National standardization

There are significant differences in a number of standards and regulations adopted and used at national level. Thus, while the total number of standards and regulations approved by the primary standards body in Kyrgyzstan reaches 40,000, with about 40 per cent of them considered mandatory, in Belarus there are 20,000 standards and regulations and all of them are partially or totally mandatory.

There is no official information on to what extent CIS standards are harmonized with international standards. According to estimates of CIS experts, the average share of standards identical to or based on international standards varies in the CIS States depending on sector from 30 per cent to 65 per cent.

The main reason for the slow process of transposition of international standards to national standards in the CIS is the lack of financial funds. Owing to budgetary constraints, CIS national standardization bodies are experiencing difficulties even in getting reduced allocations to which they are entitled from the State budgets in their countries.

At the same time, in the area of quality infrastructure, many CIS countries transposed and adopted as national standards the ISO 9000 and ISO 14000 series of standards. National quality certification bodies, in the area of quality management systems for example, were established in Belarus, Republic of Moldova, Russian Federation, Ukraine, and first national ISO 9000 certificates have been issued.

5. *Legislative framework*

Market transformation reforms in the CIS States showed, *inter alia*, the need for new principles for organization of standardization and conformity assessment activities on a national level. It could be noted that the necessity of adopting the philosophy of a market economy is well understood and it has already resulted, for instance, in the change from a mandatory to a voluntary role of standards, in separation between regulatory and voluntary regulations, in recognition of gaps in national legal frameworks. With this in view, most of the CIS countries passed laws on the protection of consumers and on certification of products and services. But, in certain cases, the combat against dishonest business operators led to the introduction of mandatory certification for dozens of commodity groups.

The change of emphasis from permanent control by the State over all aspects of standardization activities and manufacturers and traders, in particular in the area of conformity assessment, to market-driven mechanisms and schemes requires radical changes in the existing national systems in the CIS.

To meet these requirements, CIS countries are aiming, *inter alia*, at filling the legal vacuum with new laws and regulations. For example, in Russia, laws and regulations on technical barriers to trade, on conformity assessment,

on suppliers' declarations and other issues are being debated in Parliament.

Ukraine, in turn, has embarked on an ambitious programme to change its national technical regulation system. In March 1997 the Cabinet of Ministers issued a decree on actions related to the implementation of the EU directives, sanitary, environmental, veterinary, phytosanitary norms and international and European standards in Ukraine. This decree calls for the preparation of 25 new laws as well as of 14 sectoral programmes aimed at updating and revising national libraries of standards and regulations.

New laws on the quality and safety of food products and agricultural raw materials and on imports of agricultural products have already been enacted in Ukraine. Drafts of laws on the supplier's responsibility, on standardization and certification, on accreditation, on milk and milk products, on fish and sea products, laws on safety for different groups of products are being prepared or discussed in Ukraine at present.

Active changes in the legal framework are also being carried out in other CIS countries.

In spite of these efforts, even in the area of general legislation (for example, on general product safety) the situation in the CIS is still quite different from that in developed market economies. Thus, excessive reliance on certification in the CIS results also from numerous loopholes in existing legislation. For example, in some cases, Governments are using certification as a market surveillance means against low quality or dangerous goods being placed on the market. Here, one area requiring new legislation is the liability of manufacturers/traders for non-compliance with self-declared quality or other characteristics of a product.

6. Current problem areas

The example mentioned above shows that additional significant changes still need to be made in the regulatory systems into the CIS in order to bring it in line with core principles pursued by WTO.

Concerning typical problems faced by business operators (primarily foreign) on markets of the CIS States, the following issues should be mentioned:

- Still existing confusion about clear distinction between voluntary standards and mandatory technical regulations (in some CIS States new “voluntary standards” contain mandatory provisions, for example, concerning safety);
- Necessity for many important products to have a certificate of conformity, usually issued by local testing laboratories. Existence, in practice, of different regimes for similar imported and domestic products owing to loopholes in regulations and to absence of an efficient market surveillance mechanism, which allows to a great extent uncontrolled sale of products through “unorganized” trade (open air markets, “car boot” sales, etc.);
- Complicated and non-transparent conformity assessment system; existence of mandatory pre-market product certification (particularly extensive in Russia), which western exports often find to be out of proportion with the justification for safety, environmental or other requirements;
- Non-acceptance of products meeting international standards and lack of clear rules of recognition and acceptance of tests and certificates from competent European certification bodies.

Considerable support to adopt principles of a market economy in the areas of standardization, technical harmonization and conformity assessment is provided to the CIS by the EU through its TACIS programme.

A special project on standardization and certification in Russia and Ukraine was launched in 1995. This project includes extensive training for State officials, consultancy assistance (for example, in drafting new laws) and development of information systems. Russian “Gosstandart” is also using the loan it received from the World Bank to get new computer equipment and create the necessary technical basis for accelerating harmonization of national technical regulation systems, with international standards and regulations.

Besides TACIS-funded programmes for the Russian Federation and Ukraine, a special TACIS project is being implemented for 10 other CIS States. Under this project (with CEN as an executing agency) the secretariat of the CIS Interstate Council on Standardization, Certification and Metrology will receive the database of all EU normative documents (standards, regulations and directives); necessary software and equipment in order to establish an information centre in Minsk and to link it with standards bodies in other capitals of the CIS States; and also training on the EU regulatory system and practice is organized for officials from these countries.

Without looking into specific problems faced by individual CIS States the major challenges to be met by them to become members of WTO and to be integrated in the international trade system include:

- Preparation and implementation of general and sectoral legislation framework and change in regulatory systems in accordance with WTO rules;
- Revision of the existing standards and their harmonization with international standards;
- Respect of WTO principles referring to standardization and conformity assessment, in particular through adoption of international guides and recommendations in the area of conformity assessment (and as a first step introduction of less restrictive means of verification and assurance of conformity);
- Introduction into the practice of principles of voluntary and flexible certification and of equal regulatory requirements for domestic and foreign manufacturers and traders;
- Restructuring of accreditation systems (separation of accreditation activities) in conformity with accepted international practice.

TRANSITION ECONOMIES AND INTEGRATION INTO THE INTERNAL MARKET OF THE EUROPEAN UNION

Ivar Foss¹⁰

I. INTRODUCTION

The objective of this paper is to shed light on the impact on central and eastern European countries (CEECs) of trading with and accession to the European Union (EU). Economic integration in the EU and the Single European Market is based on four freedoms of movement: goods, services, capital and people. Free circulation of products is based on the following key elements:

- Products legally manufactured in a member State should benefit from free circulation throughout the EU;
- If a product does not fulfil essential safety and health requirements, this has to be demonstrated by the member States, not by the manufacturers;
- Member States can intervene only when a product does not respect an essential requirement, meaning that in all other cases member States must allow free access to the goods on their market.

Following these principles, the European Council, in May 1985, approved a *Resolution on the New Approach* to technical harmonization and standardization. It combines the harmonization of regulations and national standards, as well as the mutual recognition principles, by adopting a new strategy, based on five principles:

- The harmonization directives determine the essential requirements to be met by products placed on the market if they are to benefit from free movement within the Community;

¹⁰Ivar Foss, Quality Management, Oslo.

- The technical specifications governing the production and marketing of products meeting the essential requirements set out in the directives will be laid down in European standards by the European standardization bodies (CEN, CENELEC, ETSI);
- Recourse to European standards remains voluntary and compliance with the essential requirements may be demonstrated in alternative ways;
- The manufacture of products in line with harmonized European standards leads to a presumption of conformity with the said essential requirements and should lead to less burdensome certification processes;
- Conformity with the essential requirements or with European standards is indicated by affixing a European conformity certification to the product (CE marking).

The new approach set requirements for products, as part of the implementation of the Single Market. Seventeen new approach directives have been approved on this basis. Further, in its resolution of 21 December 1989 on the *Global Approach to Certification and Testing*, the European Council stated as its aim to provide a homogeneous, transparent and credible technical environment within the Single Market in which public authorities, firms and users should be able to have confidence and which will ultimately lead to higher quality products.

The resolution on the Global Approach provides guiding principles for the EU policy as regards conformity assessment along the following dimensions:

- Use of “modules” concerning the different stages of the conformity assessment procedures and of the criteria for the designation and notification of bodies under those procedures;
- Generalized use of the European standards relating to quality assurance (ISO 9000) and the setting up of accreditation systems;
- Promotion of mutual recognition agreements concerning testing and certification in the non-regulatory

sphere, under the aegis of the European Organisation for Testing and Certification (EOTC)

- Reinforcement of the development of existing quality infrastructures within the EU to minimize their differences
- Promotion of external EU relations with the third countries by means of mutual recognition agreements and cooperation and technical assistance programmes.

II. IMPLEMENTATION OF STANDARDS

A. LEGISLATION, TECHNICAL REGULATIONS AND STANDARDS

The degree to which directives have been implemented in national legislation (laws and technical regulations) is summarized in table 1. At the beginning of 1997, over 90 per cent of the directives had been implemented in most of the 15 EU member States, depending on the area under consideration.

TABLE 1. National implementation of directives in EU on 1 January 1997

Area	Number of countries	
	78-90% implementation	90-100% implementation
Foodstuffs	3	12
Pharmaceuticals	2	13
Chemical products	6	9
Motor vehicles	0	15
Industrial products (machinery, electrical, etc.)	0	15

In addition to implementing harmonized EU legislation, member States continue to prepare and implement national regulations in areas not covered by EU legislation. According to the information procedure (83/189/EEC), member States shall notify proposals for new national regulations. The number of proposals notified during the period 1994-1996 was as presented in table 2.

Thus, even though the Single Market was, in principle, completed at the end of 1992, the EU member States continued to introduce a substantial amount of national technical regulations, in addition to those harmonized on the EU level.

TABLE 2. Notification about new national regulations

Year	Proposals
1994	389
1995	439
1996	523

Creation of EU standards has increased sharply since 1990. These harmonized European standards (EN) are developed by three European standardization bodies:

- CEN (general standards)
- CENELEC (electrotechnical standards)
- ETSI (telecommunication standards).

In 1997, the total production of European standards by CEN (by 1999 the number of European standards produced by CEN reached 4,720) was around 800 and the total number of applicable European standards was around 4,000. The transposition of EU standards into national standards without change is important for the visibility and common application by the firms. National transposition should take place within six months of the adoption of the European standard.¹¹

Production of European standards has, however, been one of the bottlenecks for the implementation of the New Approach Directives. As a consequence of missing standards, manufacturers cannot use the alternative of compliance to harmonized European standards for affixing the CE mark to their product.

¹¹For example, in 1995, 14 of the 15 EU member countries transposed more than 85 per cent of the standards developed by CEN. At the same time 13 members had transposed more than 80 per cent of the CENELEC standards. Only two members had transposed more than 80 per cent of the ETSI standards.

B. QUALITY INFRASTRUCTURE FOR CONFORMITY ASSESSMENT

The concept of manufacturers' declarations was widely recognized through the introduction of the New Approach directives. However, in spite of their advantages, manufacturers' declarations have not yet seen the widespread use that was expected. As a consequence of the new policies, the product-certification bodies had to change their procedures for certification, in order to comply with the directives and standards. Furthermore, many certification bodies were not independent of regulatory authorities and reorganization was required. Many product certification bodies have been privatized or have received a status independent from their State owner. This transition is well under way all over western Europe.

The application of quality systems has received a strong boost within western Europe. The number of quality-system certificates issued by the end of 1996 in western Europe was 108,425. The leading country in this regard was the United Kingdom (over 53,000 certificates). It was followed by Germany (about 13,000), France and the Netherlands (8,000 each) and Italy (more than 7,000). Accreditation was also one of the novelties promoted as part of the new policies, even if a few accreditation bodies had existed previously. Since the late 1980s, almost every country in western Europe has established one or more accreditation bodies. In 1998, most countries had one accreditation body, the most notable exception being Germany which boasts five.

The confidence in accreditation rests on compliance with the standards for accreditation in the EN (European Standard) 45000 series. Accreditation bodies have established multilateral agreements for mutual recognition of accreditation. Those bodies which have signed such agreements accept the other signatories' accreditation as being equal to their own. Consequently, this will also simplify the further recognition of certificates, test results and calibrations in all the signatory countries without their having to do their own independent evaluation. Most countries in western Europe are now members of at least one mutual recognition agreement and the number of members in each agreement is increasing steadily. Since accreditation is voluntary, its application varies from country to country

and from industry to industry. Most of the certification bodies in western Europe are accredited or are in the process of obtaining accreditation. For calibration laboratories, accreditation is also widespread. In most countries, accreditation of testing laboratories is much less common.

C. PROBLEM AREAS AND FUTURE CHALLENGES

In spite of the relative simplicity of the legal system introduced by the New Approach, the legal system in the Single Market is still complicated. The New Approach is valid only for a specified number of industries and the principles have not been implemented consistently in all of them. In addition, a large volume of directives remains in the “old” format.

Certain industries are still lagging behind regarding the practical implementation of directives and national legislation (for example, with regard to construction goods). The European standardization bodies still have much to do. Comparing the volume of European standards at present with the volume of standards in major industrial countries, several thousand standards remain to be developed.

The conformity assessment infrastructure is highly developed, even if there are still new areas to be covered. Many countries have reported technical barriers to trade in the form of national requirements to marking, repeated testing or recertification, particularly in large industrial countries such as France, Germany and the United Kingdom.

III. REQUIREMENTS FOR THE ACCEDING COUNTRIES

A number of central and eastern European countries (CEECs), including the Baltic States, are aiming at accession to the EU. This section considers primarily the situation for the countries that already have association agreements with the EU (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia). The EU selected five applicant CEECs in 1997 to start negotiations for full membership. The countries in this group are the Czech Republic, Esto-

nia, Hungary, Poland and Slovenia. Accession negotiations started in March 1998. However, most of the other countries in the CEEC group have a system that operates according to the same principles and they expect to get association agreements in the future.

The principal requirements for countries that want to become full members of the EU were laid down by the European Council meeting in Copenhagen in June 1993. The following was stated:

The associated countries in central and eastern Europe that so desire shall become members of the Union. Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions. Membership requires:

- That the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- The existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- The ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

The European Commission presented the White Paper: *Preparation of the associated countries of Central and Eastern Europe for integration into the Internal Market of the Union* in 1995. The White Paper provides a guide that assists the associated countries in preparing for competition under the requirements of the Single Market. Alignment with the Single Market is to be distinguished from accession to the EU, which will entail full acceptance and implementation of the *acquis communautaire* (all applicable EU laws and practices).

The White Paper identifies the key measures in each segment of the Single Market and suggests a sequence in which the approximation of legislation should take place. However, a merely formal transposition of legislation will not be enough to achieve the desired economic impact or to ensure that the Market functions effectively af-

ter further enlargement. Accordingly, equal importance is attached to establishing adequate structures for implementation and enforcement, which may be a far more difficult task.

The White Paper focuses on the legislation that is essential for the operation of the Single Market. It presents this legislation in a way that shows the key measures in each segment and the measures that should be tackled first. It does not attempt to establish priorities between various segments of the Market.

Under the heading *Free movement and safety of industrial products*, the White Paper addresses the following areas:

- Prevention of new barriers to trade (introduction of the notification procedure, Dir. 83/189/EEC);
- New Approach directives;
- Sectoral-approach directives.

The acceding countries themselves have the main responsibility for alignment within the Single Market and will establish their own priorities, but the EU is already providing assistance, notably through the PHARE programme. Under PHARE, there are national programmes for several of the associated countries. In addition, there is the Regional Programme on Quality Assurance (PRAQ). PRAQ 91 comprised the six countries that were first to enter into association agreements with the EU (Bulgaria, Czech Republic, Hungary, Poland, Romania and Slovakia). PRAQ 92 comprised the three Baltic countries, plus Albania and Slovenia. PRAQ III was established for the four-year period 1996-1999 with a budget of ECU 30 million, financed by the EU and the European Free Trade Association (EFTA). In addition to the countries mentioned above, Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia were admitted to PRAQ III, bringing the total number of countries covered by this programme to 13.

PRAQ III addresses three principal areas:

- Harmonization and alignment of legislation and technical regulations;

- Development of the quality infrastructure;
- Actions related to economic operators.

Additional help is provided through the Technical Assistance Information Exchange Office (TAIEX), established by the European Commission in 1996. TAIEX offers a range of services such as providing texts of legislation, short-term expert missions and workshop sessions in Brussels on key Single Market issues.

Negotiations have now been initiated to establish mutual recognition agreements with the countries acceding to the EU as full members. To make the distinction with traditional mutual recognition agreements clear, the title *European Conformity Assessment Agreements* is used. The acceding countries are preparing to take over, implement and enforce the entire *acquis communautaire* and to align their technical regulations with EU legislation. These agreements concern not only third-party certification but also other forms of conformity assessment such as the application of the manufacturers' declarations.

Agenda 2000 for a Stronger and Wider Union is the EU plan for the medium-term future (2000-2006). Delivered in July 1997, it operationalized the enlargement procedure. As was the case during all previous enlargements of the EU, the basis for the accession is the EU *acquis communautaire* as at the time of enlargement (around 80,000 pages of legislation in 1998). *Agenda 2000* emphasizes that the objective of the EU is to have the new members apply, implement and enforce the *acquis* upon accession; in particular, the measures necessary for the extension of the Single Market should be applied immediately. Transition measures—but no derogations—may be agreed in the course of negotiations, in duly justified cases. They should ensure the progressive integration of the new members into the Union within a limited period of time,¹² otherwise, the new members would be prevented from exercising their right to participate fully in the Union's decision-making process. The EU wants to prevent any kind of second-class membership or opt-outs.

¹² European Commission: *Agenda 2000 for a Stronger and Wider Union*, Brussels, 15 July 1997, COM(97) 2000 final, vol. I, pp. 60-61.

In-depth preparation for full membership on the part of all the applicant countries prior to the entry is therefore of key importance for both parties.

IV. REFORMS IN THE ACCEDING COUNTRIES

A. LEGISLATION, TECHNICAL REGULATIONS AND STANDARDS

The status on implementation of legislation and technical regulations, as well as for standardization, in the 13 PHARE countries is summarized in table 3.

The implementation status of legislation and technical regulations has been divided into three groups. Seven countries are at an early stage of implementation. Typical for this group, there are isolated efforts in a few ministries to translate EU legal documents and implement them in the national legislation. Since there is no coordinated organization for translation, the quality of the latter may be highly variable. A national structure for the implementation work has not yet been organized in all countries, but is under establishment. In the Czech Republic and Hungary a large number of the White Paper's requirements have already been implemented in a systematic way. Poland, Romania, Slovakia and Slovenia are in the process of implementation, with various stages of progress.

TABLE 3. Status on implementation of legislation and technical regulations and of standardization in the PHARE countries

Country	Implementation of legislation and technical regulations (1)	Standardization			
		Stand. body	Voluntary (2)	Member of CEN (3)	No. of Ens (4)
Albania	-	DCS	-	(x)	139
Bosnia and Herzegovina	-	SMP	-	(x)	..
Bulgaria	-	BIS/CSM	x	x	175
Czech Republic	x	CSNI/COSMT	x	(x)	3 973
Estonia	-	EVS	-	..	67
FYR of Macedonia	-	ISM	-	-	-
Hungary	x	MSZT	(x)	(x)	1 499
Latvia	(x)	LVS	..	(x)	137
Lithuania	-	LST	x	(x)	285
Poland	(x)	PKN	x	(x)	851
Romania	(x)	IRS	x	(x)	398
Slovakia	(x)	UNMS	(x)	(x)	1 262
Slovenia	(x)	SMIS	x	(x)	2 345

(1) x = advanced; (x) = in progress; - = early stage; .. = not known.

(2) x = yes; (x) = partly; - = no; .. = not known.

x = full member; (x) = associated member; - = no; .. = not known.

Data from CEN (May 1999).

Source: Data from CEN and/or national sources.

B. STANDARDIZATION

The initials of the national standards bodies in the 13 countries are given in table 3. In most cases these bodies have a history as national standardization bodies from the central-planning era. For some countries the standardization bodies are normally based on branches of the previous national standardization body. The standardization institutions are in many cases national competence centres, not only for standardization, but also for certification, metrology, accreditation, quality management and, in one case, intellectual property rights.

The combination of activities mentioned above may create conflict of interests between accreditation and certification or metrology. It is particularly important that

accreditation be independent of such activities and that regulatory functions be separate from conformity assessment. This conflict of interest is most pronounced in Albania, Bulgaria, Poland and Romania.

The standardization bodies were previously parts of government, sometimes independent ministries. At the end of the 1990s, the degree of independence from government varies from one country to another, but in most countries the bodies have a fairly independent status.

An important indicator of the progress of reforms is the extent to which voluntary standardization has been introduced. In the previous system, standardization was mandatory for a large number of products. Table 3 shows that voluntary standardization is well advanced. In six countries this principle is fully implemented, with a few small exceptions, perhaps. In Hungary and Slovakia, the principle has been accepted, but has not yet been fully implemented. However, rapid progress is being made.

In all countries where the situation is known, the national standardization body is either a full member of CEN or an affiliate member. One of the requirements for becoming a full member is for more than 80 per cent of the CEN standards (ENs) to have been implemented nationally. The acceding countries consider this to be a very strict requirement.

C. QUALITY INFRASTRUCTURE FOR CONFORMITY ASSESSMENT

In the former centrally planned system, central and eastern European countries were subject to more or less the same mandatory certification regime. Pre-market product certification was required for a vast range of products. Certification depended to a large extent on testing. Many countries had a well-developed laboratory infrastructure, often associated with scientific research institutes. Most of the equipment is currently out of date and many testing procedures are related to the GOST standard. Financial constraints have slowed down the renewal of testing equipment in most CEECs. However, the competence of the staff could meet, in general, EU standards. At the same time some of the candidate countries have already experienced significant progress both in application

of European standardization and in upgrading of laboratory equipment of relevant bodies.

The situation in the certification area is illustrated in table 4. All countries are now working to reduce the scope of mandatory product certification, but in 1997 they had at least a limited amount of mandatory product certification. In some countries (Czech Republic, Estonia, Hungary and Romania), mandatory product certification was limited to a few sectors with strong safety implications. Typical examples are foodstuffs and electrical equipment.

In Poland, for instance, a system of mandatory pre-market product certification was established in 1994, covering more than 1,400 manufactured products. These come from a range of industries, including steel, chemicals, pottery and ceramics, paper, electrical appliances and automobiles. Poland signed a Protocol on European Conformity Assessment Agreement with the European Commission in March 1997 to remedy this situation. New laws on testing and certification, as well as product liability and safety, were under preparation in 1998. This is expected to resolve the country's certification problems.

TABLE 4. Status of selected conformity assessment indicators in the PHARE countries (as of June 1998)

Country	Mandatory product certification (1)	No. of certification bodies	Accreditation		
			Accreditation body	Accred. labs	Accred. cert. bodies
Albania	x	1	DSC, DKMK	<5	0
Bosnia and Herzegovina	x	8	SMP	0	0
Bulgaria	x	a few	CSM	250	0
Czech Republic	(x)	41	CAI	215	33
Estonia	(x)	5	EVS	3	0
FYR of Macedonia	ISM
Hungary	(x)	70	OMH/MAB NAT	250	0
Latvia	x	7-10	LATAK	30	1
Lithuania	x	7-10	LA	10	1
Poland	x	..	PCBC	100	40
Romania	(x)	4	IRS RELAR	30 ..	4 ..
Slovakia	x	10	SNAS	115	10
Slovenia	x	15	SMIS	15	1

(1) x = yes; (x) = limited; .. = not known.

The Czech Republic adopted the Act of Technical Requirements for Products in 1997. This Act should pave the way for the adoption there of technical regulations, standards and conformity assessment procedures which are virtually compatible with the EU New Approach to technical harmonization and the Global Approach to conformity assessment.

In all PHARE countries where information is available, product certification bodies have been established. The approximate numbers are indicated in table 4. The market for voluntary product certification is difficult in most countries. Manufacturing is familiar with mandatory certification and is not yet convinced about the value added of voluntary product certification as a means to

satisfy safety requirements and strengthen the market position of its products.

The flexible system of conformity assessment procedures introduced through the EU Global Approach requires a system for market surveillance in order to check compliance. In general, such systems are not developed in the PHARE countries. On the other hand, most of the countries have traditional State Inspectorates which were previously used to supervise the mandatory product certification. In many countries these are very large organizations which are in need of major restructuring.

Quality-system certification is rapidly increasing in central and eastern Europe. At the end of 1996, 1,536 certificates were issued in that region (including the CIS), a huge growth from the 8 certificates issued at the beginning of 1983. Hungary (with 423 certificates at the end of 1996), the Czech Republic (366), Poland (260), Slovenia (152) and Slovakia (135) stand out as the top five countries in this respect.

Quality-system certification does not have the same traditions as product certification in central and eastern Europe. Several PHARE countries have not yet established a national quality system certification body. However, all countries have access to the quality system certification bodies in western Europe. These bodies operate globally and they have established local offices in several central and eastern European countries.

D. METROLOGY

Metrology activities in central and eastern Europe have also been subject to a major change. These institutions were traditionally concentrated on legal metrology to confirm compliance with laws and regulations. Their main task was to maintain a list of instruments to be calibrated and to check that all the instruments were in order. In a market economy the metrological institutes have to cater to the needs of industry. Industry has to know with certainty when they make their measurements and the metrological institutes must provide a service to this effect.

The Czech Republic, Hungary, Poland and Slovakia have already advanced well in their reforms, and Slovenia

is developing quickly. The other countries, however, are at variable stages of transition and development. In some, reforms are at a very early stage. Metrological equipment is expensive and there is a rapid technological development in this field. Owing to financial constraints and various priorities, equipment in many of the countries is obsolete. A special problem in metrology is traceability of national standards to international ones. The EU-acceding countries already have traceability to western European and global standards. Some of the other countries have traceability to Russian standards, but many have no traceability at all.

E. ACCREDITATION

Accreditation is one of the principal mechanisms for implementation of the Single Market. The principles of accreditation were not applied by the previous system in central and eastern Europe. It is therefore impressive that all PHARE countries have established their own national accreditation bodies. An overview, giving their acronym, is presented in table 4. Most countries have one accreditation body, following the current trend in western Europe, but three countries have two such bodies.

Laboratory accreditation is most widespread and the number of accredited laboratories indicates a high level of activity. These include testing laboratories, as well as calibration laboratories. Accreditation of certification bodies is not as advanced but countries such as the Czech Republic, Poland and Slovakia have already certified a large number of certification bodies. Some countries, in addition to product certification and quality-system certification, have also introduced certification of personnel, e.g. of welders or non-destructive testing operators.

V. PROBLEMS

A. NATIONAL LEVEL

Regarding legislation and technical regulations the basic problem is to create an understanding of the mechanisms of the Single Market, which all associated countries aim to join. A considerable number of princi-

ples which are new to central and eastern Europe have to be introduced. Some of the most important ones include:

- Distinction between essential safety requirements and technical specifications (standards, etc.);
- Principle of voluntary standardization;
- Introduction of a flexible modular system for conformity assessment;
- Principle of voluntary product certification;
- Opportunity to use manufacturers' declarations;
- Introduction of quality system (ISO 9000) as a means of conformity assessment;
- Certification of quality system;
- Concept of notified body;
- Accreditation of laboratories, certification bodies and inspection bodies;
- Notification procedure as a means to prevent the creation of new barriers to trade.

In addition to these matters of principle comes the practical problem of translating the large volume of documents, as well as the implementation in large and complicated organizations. Another problem area is the organization of the quality infrastructure and separation between regulatory functions and other functions of the quality infrastructure. In particular, this is important for the standardization bodies which often find themselves in conflict-of-interest situations.

There is also a need to develop institutions to deal with quality infrastructure. This may mean establishing new institutions or restructuring older ones. This is not only a reorganization but a deep transformation, including the fundamental role of each institution. The institutions in question are:

- Certification bodies (product, quality system and personnel certification);

- Metrology institutions (national metrology centre and calibration laboratories);
- Market surveillance organizations;
- Accreditation bodies.

Testing and inspection bodies have not been included since the problems in these areas are limited. The financial constraints are important for the restructuring of the quality infrastructure. The limited and sometimes slow understanding of the new trade regime in industry is also an important problem area. Industry will have to adapt to the new system, not only when exporting to western Europe, but also for products to be placed on their domestic markets. Finally, it should be recognized that an overriding target of public authorities in these countries is to protect their society against sub-standard or hazardous products and activities. After the previous regime, several of the countries were left without any legal infrastructure at all and had to build one from scratch. The opportunity was seized by many unscrupulous traders who marketed goods of low quality or even hazardous products.

B. INTERNATIONAL TRADE PARTNERS

The major obstacles experienced by international trade partners have already been referred to but are listed below only to serve as a brief reminder:

- Mandatory product certification;
- Western European certificates, even from accredited certification bodies, are not recognized (rules for recognition have not been established or are ambiguous);
- Repeated testing is required;
- Conformity assessment procedures cause additional costs and long delays.

C. PROSPECTS

Considering the immense task of transforming the economies of central and eastern Europe, the results already achieved could be described as quite impressive. Countries such as the Czech Republic and Hungary stand out as good examples in several of these aspects.

The process of economic transition represents an opportunity for integration not only into the EU, but also into the world trading system. Such integration is one of the main conditions for a positive economic development. Many of these countries are now in a position to boost their export and open up new markets.

Simplification of the system for technical regulations, standards and conformity assessment procedures will also facilitate business for domestic suppliers by reducing the amount of administration and costs associated with placing a product on the market.

VI. CONCLUSION

In the coming years the PHARE countries will gradually continue to adjust their rules and conformity assessment procedures to those applied in the Single Market. Whereas the most advanced transition countries have made important steps in this direction, it must be expected that around a decade will elapse before all the PHARE countries are at this stage. In other words, one is facing a rather long period of transition.

There has been a tendency for the PHARE countries to reduce the proportion of their foreign trade with the Commonwealth of Independent States, while at the same time, increasing their trade with western Europe. Under the previous regime the bulk of trade was within CMEA. Despite these changes, trade with the CIS is expected to remain important in the future. The PHARE countries will therefore have a dual system during the transition period, which incorporates Single Market principles, as well as principles valid for their main trading partners in the CIS. The GOST standard can be expected to gradually lose ground. However, it is uncertain how long a time it will take until the conformity assessment procedures of Russia, Ukraine and other large CIS countries are changed according to the WTO/TBT Agreement.

Even if the PHARE countries are now developing their system in accordance with the principles of the Single Market, they should still be able to retain a certain advantage over western European countries in their trade with the CIS region. They are familiar with that system from

the past and they still may have good personal contacts. It should be possible for the PHARE countries to operate the dual system during the transition phase, thus avoiding a loss of trade with the CIS region as a consequence of their gradual approximation to the Single Market legislation.

The advantage for the PHARE countries will be to strengthen their own economies through increased trade with western Europe. The PHARE countries are competitive at least in several manufacturing industries and are at the moment eagerly developing new business relations with western Europe. On the other hand, they will be exposed to increased competition in their domestic markets as trade barriers are removed. It is of paramount importance for them to develop the competitiveness of the manufacturing sector in parallel with lowering the barriers to trade. Any imbalance could give rise to serious economic problems.

These countries represent a growing market for western European products. Western Europe will also be able to use them as an industrial base, perhaps mainly as subcontractors in their own industrial ventures. In a few sensitive areas, however, western European industry may be threatened by export products from these countries.

Russia, Ukraine and other countries in the CIS region may experience a widening economic gap between the CIS and the PHARE countries. This development is already visible. The difficult economic situation in the CIS countries may, however, be a more decisive reason for the differences than trade barriers themselves.

Other present and future trade partners of the PHARE countries should mainly be positively affected by the PHARE countries' approach to the Single Market. This development will result in a faster transformation of regulatory and conformity assessment practices than could otherwise be expected. As the system in the PHARE countries gets into line with the Single Market regime, trade partners who are used to western European practices will meet a familiar regime.

ROLE OF UN/ECE IN STANDARD-SETTING AND STANDARDIZATION-RELATED AREAS

Serguei Kouzmine¹³

I. OVERVIEW

The United Nations Economic Commission for Europe (UN/ECE), through its various subsidiary bodies, provides forums for discussing issues relating to the facilitation of intraregional trade and investment, and economic cooperation and integration. Responding to the needs of its member States, UN/ECE assists Governments in two principal forms:

- By setting standards and making recommendations;
- By providing the latest official data, which are subsequently used in the decision-making process, raising awareness about the problems and their solutions, as well as by promoting participation of main interested groups such as Governments and the public and private sector in the work activities.

UN/ECE thus contributes to the integration of sustainable development principles into policies pursued at the national, subregional and regional levels. This paper gives a brief outline of UN/ECE's standard-setting and related activities.

II. GENERAL ACTIVITIES

UN/ECE provides countries with up-to-date information, statistical and other data, results of economic analysis, and exchange of experience. The purpose is to inform policy makers of the tools available for formulating and implementing policy, as well as to enhance the dialogue among interested parties within a single country or in the

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region. This form of assistance is of particular use to the countries in economic transition, which have serious problems to overcome in their transition process.

With regard to developing/setting standards, norms, regulations and recommendations, UN/ECE activities can be divided into:

- Preparing and implementing intergovernmental agreements and conventions (usually of a “framework” type);
- Preparing and implementing technical regulations/recommendations and standards that simplify trade documentation and thus facilitate trade;
- Developing methodologies, classifications, norms/indicators;
- Preparing policy guidelines, best-practice guides and recommendations of model contracts.

Intergovernmental agreements, conventions and protocols are binding for countries parties to agreements; other legal and policy instruments, however, are voluntary.

Governments can use UN/ECE standards and recommendations by adopting them entirely as models for legal instruments or they can use them in preparing and drafting relevant national regulations. Model contracts (guides on preparing agreements on specific subjects) and/or their provisions are used by business operators in their transactions or as a basis for drafting new contracts.

III. SPECIFIC ACTIVITIES

A. ENVIRONMENT

Twelve internationally binding legal instruments (five conventions and seven protocols) relating to the environment have been developed and adopted. The conventions relate to long-range transboundary air pollution (seven protocols to this Convention concern control over particular air pollutants), environmental impact assessment, transboundary effects of industrial accidents and the protection and use of transboundary waters. A draft conven-

tion on access to environmental information and public participation in environmental decision-making has recently been prepared.

B. TRANSPORT

Fifty-one major agreements and conventions currently facilitate international transport in the following areas:

- Transport infrastructure (European agreements on: main international traffic arteries, railway lines, combined transport lines, inland waterways of international importance);
- Road safety (conventions/agreements on road traffic, road signs and signals, road markings, issue and validity of driving permits);
- General problems relating to international road transport (conventions/protocols on different issues, such as the working conditions of drivers, taxation, private law questions;
- Technical regulations for road vehicles, their equipment and parts;
- Border-crossing facilitation (customs conventions: on temporary importation of road vehicles; on harmonization of frontier controls of goods; on customs treatment of pool containers used in international transport; and on international transport of goods under the TIR convention);
- Inland navigation (conventions and protocols concerning inland navigation-registration, measurement of vessels, liability of owners, etc.);
- Transport of dangerous goods;
- Carriage of perishable foodstuffs.

Over 100 concrete and detailed technical regulations/uniform provisions for wheeled vehicles have also been adopted. These regulations are concluded in relation to the international agreement of 20 March 1958 concerning the uniform conditions of approval and reciprocal recognition of approval for motor vehicles, equipment and parts that can be fitted and/or used on them.

C. TRADE FACILITATION

UN/ECE has for several decades been involved in simplifying and harmonizing trade-standard documentation. Adopted in 1963, the first UN/ECE model for documents in foreign trade transactions (UN/ECE Layout Key) was later used as a basis for standardizing forms of various documents such as the ones relating to international carriage of goods by different means of transport or for customs purposes. In 1985, the Layout Key was issued as an international standard by the International Organization for Standardization (ISO).

In 1986, UN/ECE launched UN/EDIFACT with the goal of creating a single standard for electronic data interchange, which would be flexible enough to meet the specific needs of Governments and private business operators. The importance and international dimension of this challenge is widely supported by the active participation in these activities of a number of countries and organizations from outside the UN/ECE region.

In March 1997, UN/ECE established the Centre for the Facilitation of Procedures and Practices for Administration, Commerce and Transport (UN/CEFACT). Over 100 standard electronic “messages” (formats or simplified versions of certain parts of foreign trade documents) have been developed under the auspices of UN/EDIFACT.

UN/ECE also prepares recommendations with a view to encouraging harmonization of standard documents used in foreign trade (26 such recommendations have been adopted). Some of the recommendations constitute a model for the design of trade and transport documents (concrete or in general), allowing for a uniform form of transmission of information and data, or for complementing or replacing documents that existed earlier.

Other recommendations deal with the presentation of specific types of information in international trade contracts (by providing codes and abbreviations for goods, types of cargo, modes of transport, units of measurement, names of locations, currencies, etc.). These facilitate the presentation of data in an unambiguous and automated form in data interchange between participants in international trade.

In 1997, UN/ECE adopted a recommendation on the use of the UN/EDIFACT standard. The Commission has passed it on to the Economic and Social Council of the United Nations for endorsement as an international United Nations recommendation. At present, the UN/EDIFACT standard is widely used in the region covered by UN/ECE by a growing number of public and private companies and international organizations. The endorsement of this standard by the Economic and Social Council will facilitate its implementation in other parts of the world.

D. AGRICULTURE

UN/ECE also deals with harmonizing national standards with international standards that deal with the commercial quality of a wide range of perishable products, including fresh and dried fruit and vegetables, seed potatoes, egg products, meat and cut flowers. General conditions for sale of various agricultural goods and arbitration rules for certain categories of perishable agricultural products were prepared during the 1960s and 1970s.

The UN/ECE Working Party on Standardization of Perishable Produce and Quality Development and its meetings of experts have drawn up close to 100 standards for the purpose of facilitating international trade among and with UN/ECE member countries. This work is based on the Geneva Protocol on Standardization of Fresh Fruit and Vegetables and Dry and Dried Fruit. Worldwide Codex standards for fruit juices and quick frozen foods have also been drawn up jointly by groups of experts of UN/ECE and the FAO/WHO Codex Alimentarius Commission.

Many of the UN/ECE standards for perishable produce have served as the basis of the quality standards of the EU. Explanatory brochures based on UN/ECE Standards are prepared by the Organisation for Economic Co-operation and Development (OECD) Scheme for the Application of International Standards for Fruit and Vegetables. These publications include colour photographs as illustrations of specific defects and instructions for the evaluation of such defects. They serve as a practical tool for interpreting standards, as well as for promoting uniform application internationally. These commercial quality standards find

wide international acceptance. Explanatory publications have also been issued for poultry meat and eggs in shell by UN/ECE Meetings of Experts. Workshops on the harmonization of national standards with international commercial standards and quality-control procedures have been organized in countries in transition as a means for facilitating trade.

The standards set by UN/ECE clearly affect all countries that export perishable produce, particularly those that export to the European region.

E. TIMBER

General conditions for export and import of sawn wood, as well as of hardwood logs and sawn hardwood from the temperate zone, were prepared under the Timber Committee during the 1950s and 1960s. UN/ECE drew up and recommended standards on stress grading and on finger jointing of coniferous sawn timber during the 1980s. These were later partially adopted as part of the relevant ISO standards.

F. TRADE

During the 1950s and 1960s UN/ECE drew up a series of standard general conditions of sale for exports and imports of engineering industrial and consumer goods. Some of them (for example, general conditions for the supply of plant and machinery for export) are still being used by firms as the basis for contracts.

From the 1970s to the beginning of the 1990s, UN/ECE also prepared a series of guides on drawing-up international contracts relating to the transfer of know-how, large industrial projects, technical assistance, joint venture, counter-purchase and buy-back contracts. During the 1990s, UN/ECE has been publishing guides on legal aspects of privatization in industry, for managers and for small and medium-sized enterprises in countries in economic transition.

The European Convention on International Commercial Arbitration provides for the settlement of problems relating to international transactions. Concluded in 1961, this Convention is currently being revised.

G. STATISTICS

Principal activities in the field of statistics include harmonization of terminology used for the collection of statistical data in different sectors, and the preparation of guidelines for uniform data collection, use and interpretation.

The prepared statistical standards, classifications and recommendations cover various areas:

- Energy (format for presenting various forms of energy in a common unit);
- Transport (glossary of recommended definitions for transport statistics);
- Information technology (standardization of statistical indicators);
- Population and housing censuses (recommendations for the 1960, 1970, 1980 rounds of censuses and in preparation for 2000);
- Housing and building statistics;
- Environmental classification (land, water use; air, freshwater and marine water quality; wastes; environmental protection; environmental indicators).

Some of the recommendations were prepared in cooperation with experts from OECD, the EU (Eurostat) and the European Conference of Ministers of Transport.

H. ENERGY

Various elements of an international classification for coal were drawn up by UN/ECE. This includes international codification for certain types of coal, international classification of dynamic phenomena in mines and an international classification of coals in seam. A Uniform Code of techniques and equipment specifications for determining the weight of bulk coal cargoes was also drawn up.

In 1997 UN/ECE endorsed a United Nations Classification for reserves/resources of solid fuels and mineral commodities. The classification creates a uniform and consistent framework. It makes national and regional

classification systems both compatible and comparable. In addition, it enhances communication and provides for a better understanding of the available resources. Over 60 countries participated in developing this Classification. Projects on the harmonization of standards and certifications of mining equipment, on harmonization of energy efficiency standards and labelling systems, on an international codification system for low-grade coal use are currently being drawn up.

I. HUMAN SETTLEMENTS

UN/ECE drew up and adopted Guidelines on housing-policy techniques and on land-administration principles. These Guidelines provide analysis and dissemination of experience of UN/ECE member States in related areas. They include the UN/ECE Compendium of model provisions for building regulations.

J. TECHNICAL HARMONIZATION AND STANDARDIZATION POLICIES

UN/ECE Working Party on Technical Harmonization and Standardization Policies has as its goal to enhance intraregional cooperation between Governments in standardization-related areas, as well as to facilitate trade and industrial cooperation through promoting internationally accepted standards.

Recommendations to UN/ECE Governments on Standardization Policies

Since 1970, the following 11 recommendations have been drawn up and approved:

- Further developments in international cooperation on technical harmonization and standardization policies (first version adopted in 1970, amended in 1995);
- Coordination of standardization activities (first version adopted in 1970, slightly amended in 1988 and again in 1995);
- International harmonization of standards and technical regulations (new version adopted in 1995, replacing previous texts adopted in 1980 and 1970);

- Reference to standards (first version adopted in 1974, amended in 1980, 1984, 1988 and 1995);
- Treatment of imported products, processes and services (first version adopted in 1970);
- Creation and promotion of international agreements on conformity assessment (first version adopted in 1980, revised in 1988);
- Acceptance of conformity assessment results (first version adopted in 1988);
- Presentation of UN/ECE recommended standards and harmonized technical regulations;
- Methodological studies and education (first version adopted in 1970);
- Definitions (amended in 1997);
- Metrological assurance of testing.

The UN/ECE Standardization List (list of sectors where the Governments consider it necessary to issue regulations, as the lack of harmonized standards may create obstacles to industrial and trade cooperation) is also updated at regular intervals. The objective is to promote substantial participation by the member Governments in implementing international standards and in the activities of the competent international standardizing agencies.

IV. USE OF UN/ECE STANDARDS AND RECOMMENDATIONS

If we look into the UN/ECE activities mentioned above, from the point of view of standardizers and policy makers UN/ECE has three major types of legal instruments which fall under the categories considered here. They are:

- Model contracts and guides;
- International intergovernmental conventions and agreements;

- Recommendations, resolutions on different issues (technical and policy).

Outputs falling under all these groups may or may not contain technical specifications or other product requirements (quality tolerance, packaging, etc.). From the point of view of their application and the obligation of countries to transpose them, they are mainly different by the way they are prepared and adopted.

These legal instruments are drawn up by different groups (working parties) of experts representing member States. They are adopted by a group of experts by consensus and are of a voluntary character (i.e. a country is free to apply them or relevant national standards/rules) with the exception of conventions which constitute inter-governmental agreements and whose provisions are thus obligatory for country-signatories.

An example of the *first type of legal instrument* are the activities of the UN/ECE Working Party on Standardization of Perishable Produce and Quality Development (WP.7) which elaborates standards for fresh and dried fruits and vegetables, eggs and egg products, cut flowers, meat, etc. These standards are widely used in international trade but a decision as to their use in transactions is made by business operators who might use entire texts or change certain provisions of model contracts depending on the specific needs of clients. Another example of such UN/ECE contracts or guides are General Conditions for the supply and erection of plant and machinery for import and export which were prepared by UN/ECE in the late 1950s and are still often referred to in agreements with engineering and construction companies.

Usually, the groups of experts that prepare such standards/model contracts or guides do not monitor how and where they are used. Nonetheless, from time to time surveys are carried out with a view to identifying to what extent their standards/contracts are used in member States. Such a survey is currently under preparation, for example, by the Working Party 7 mentioned above.

The *second group of UN/ECE legal, signed instruments* consists of conventions and agreements which are officially signed by Governments and provisions which are binding for contracting parties.

Among the most widely used UN/ECE conventions and agreements, one should mention the Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, signed at Geneva on 20 March 1958 and including amendments that entered into force on 16 October 1995, as well as Conventions and European Agreements on Road Traffic, on Road Signs and Signals and/or Road Markings, etc.

The implementation of the Agreement of 20 March 1958 (with further amendments to it of 16 October 1995) is being carried on by the UN/ECE Working Party on the Construction of Vehicles (WP.29). The UN/ECE regulations are annexed to, and form part of, the Agreement.

That Working Party prepares new regulations and updates the existing ones, in order to follow the wish of the contracting parties to the Agreement and the development of the technology. The regulations by their nature are optional and countries may choose either to transpose them into their national legislation or to use them in parallel to their national rules or regulations.

The Working Party on the Construction of Vehicles has six subsidiary working parties (Pollution and Energy; General Safety Provisions; Brakes and Running Gear; Lighting and Light-Signalling; Noise; Passive Safety) which draw up regulations concerning safety, protection of the environment and conservation of energy. The Working Party in general does not set technical requirements or means to achieve these safety or other targets (technical standards are prepared by ISO technical committees). Regulations agreed on and adopted are voluntary and countries could choose stricter safety requirements rules if they deem that these are necessary. But if a country applies a regulation, this regulation constitutes the minimum level of requirements which are to be met to allow motor vehicles, their equipment or parts to be released on a particular national or international market. A country applying a regulation (annexed to the Agreement) has an obligation to accept for marketing and operational use products complying with the said regulation.

The original Agreement of 20 March 1958 established regulations as agreements between two or more contracting parties. After their entry into force, other contracting parties to the Agreement were free to accede and apply these regulations.

Thus, from the point of view of monitoring, the Agreement of 29 March 1958 provides for in-built procedures which oblige countries to transpose adopted regulations to which they acceded.

This Agreement, as amended in 1995, provides for a new mechanism. In accordance with the Agreement, a regulation prepared and approved by the Working Party is submitted to the Administrative Committee of the Agreement for a vote (the majority rule applies). This starts a legal procedure; if within a specified period of time (6 months) fewer than one third of the contracting parties object, the regulation enters into force for those parties who did not object to it. If more than one third of the contracting parties provide negative responses, then the regulation is rejected.

By declaring application of a particular regulation, the country-contracting party to the 1958 Agreement (as amended in 1995) is obliged to accept products supplied domestically or from abroad and manufactured and type-approved (certified) to this regulation. In their turn, on a reciprocal basis, after the approvals have been recognized, local manufacturers can export the same type of product to other countries applying the same regulation. The responsibility for the conformity of mass production with the type approved lies with the administrative department of the contracting party which issued the type-approval certificate. Thus, in the case of the Working Party, acceptance of a regulation means, in fact, its transposition on a national level.

In this area the real situation with regard to the application of UN/ECE regulations in particular countries (and any deviations from them) is monitored by the International Organization of Motor Vehicle Manufacturers (OICA), which regularly publishes information on the application of UN/ECE regulations and a register of specific national rules.

Under the Convention on Long-Range Transboundary Air Pollution of 13 November 1979, seven protocols were prepared and signed in the 1980s and in the 1990s. These protocols contain obligations of countries to control and reduce various hazardous emissions and, in some cases, protocols setting factual (technical) limits of such emissions. The compliance with obligations is reviewed every five years by an Implementation Committee, assisted by the secretariat. The latest revision was in 1998 and should be published in 1999 (as ECE/EB.AIR/65).

At the same time, other conventions have provisions which are more difficult to monitor and, in this respect, there are more difficulties in checking countries' compliance with them. Thus, compliance with the provisions of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes is reviewed by the parties every three years at their regular meetings. As the Convention does not contain numerical standards, the compliance regime focuses on procedural aspects of implementing the Convention. Recommendations and guidelines are being developed to assist parties to the Convention, as well as joint bodies (such as river commissions), in the implementation of the Convention. The most recent are the Guidelines on Water-Quality Monitoring and Assessment of Transboundary Rivers; Recommendations to UN/ECE Governments on Specific Measures to Prevent, Control and Reduce Groundwater Pollution from Chemical Storage Facilities and Waste-Disposal Sites; and Guidelines on Licensing Waste-Water Discharges from Point Sources into Transboundary Waters (*Water Series No. 3*, ECE/CEP/11).

Other recommendations were published in the *Water Series No. 2: Protection and Sustainable Use of Waters—Recommendations to ECE Governments* (ECE/CEP/10).

By March 2000 (the date of the second Meeting of the Parties to the Convention) the following guidelines will be available: on monitoring transboundary groundwaters, flood prevention, and prevention of water pollution from industrial accidents.

As far as the *third group of UN/ECE legal instruments* is concerned, namely, recommendations on technical issues, one could mention as an example the following commonly used recommendations: consolidated resolu-

tion on facilitation of road transport, which provides *inter alia* for the “green card” insurance system used in Europe (R.E.4); European Code for Inland Waterways (CEVNI) and Signs and Signals on Inland Waterways (SIGNI).

In the area of trade facilitation, a number of standards on the exchange of structured information between computers have been drawn up by UN/ECE (United Nations layout key for trade documents, codes for currencies, for modes of transport, etc.). Within this area one also finds the UN/EDIFACT (United Nations Electronic Data Interchange for Administration, Commerce and Transport) standard. This is a constantly evolving standard which now includes over 150 types of message. It is used primarily by the private sector and administrations. Tracking its use would be a resource-intensive activity.

Recommendations on standardization policies and the ECE Standardization List drawn up by the Working Party on Technical Harmonization and Standardization Policies could also be classified under this category.

As an interesting example of monitoring adopted resolutions and recommendations relating to this group of legal instruments, reference could be made to the experience gained by the Working Party on Inland Water Transport, which continuously monitors use, on the basis of responses from Governments, and publishes information on the application of its resolutions. The latest such review is published as document TRANS/SC.3/1998/6.

VI. CONCLUSION

One of the main goals of UN/ECE is to facilitate trade and investment in the region by assisting Governments in the policy-making process and by helping business to become more efficient in the production and exchange of goods, services and information. Hence, the agreed or recommended standards ought to stimulate trade and investment, rather than act as barriers. Most of the UN/ECE meetings are open to the business and academic communities, non-governmental organizations and other interested groups. UN/ECE is particularly concerned with integrating into the world economy those member States that are in economic transition and standard-setting is one of the areas where UN/ECE supports that process.

**CONCLUSIONS OF THE ROUND TABLE ON THE
IMPACT OF STANDARDS ON INTERNATIONAL TRADE
(Geneva, 15 June 1998)**

INTRODUCTION

The Round Table was organized in conjunction with the session of the Committee for Trade, Industry and Enterprise Development. Participants included representatives of international and regional standards and standardizing organizations, national standards bodies, delegates to the Committee, diplomats from Geneva-based permanent missions and private business persons. As a result of the discussions, presentations and dialogue at that meeting, the Round Table adopted the following conclusions.

THE ROUND TABLE

Recognizing:

1. The substantial contribution that elimination of technical barriers to trade will provide to the international exchange of goods and services;
2. The obstacles faced by business operators in their operations which are due to different regimes for conformity assessment and standards/regulations in the ECE region;
3. The problems in the ECE region that must be overcome in order to harmonize existing national standards and practices in line with internationally accepted standards and rules;
4. The special problems faced by transition economies in their efforts to align their standards with international and regional standards.

Invites ECE member State Governments to consider:

1. Intensifying their efforts to implement and use international standards and regulations and create a transparent and stable framework facilitating the trade and business activities of private operators, whilst keeping the legitimate interest of health and safety for their citizens;
2. Encouraging initiatives of the Working Party on Technical Harmonization and Standardization Policies to elaborate concrete proposals for enhancing cooperation in the ECE region on technical harmonization and standards-related issues;
3. Ensuring close cooperation between relevant governmental and international organizations and coordination of their activities on standardization-related issues, including in the area of technical assistance to countries in transition, with a view to avoiding duplication of work and waste of resources;
4. Further intensifying business-government dialogue whenever appropriate and in particular the understanding of standards by businesses and of the needs of businesses by public authorities and standardizers.

Invites the Governments of transition economies to consider:

1. Recognizing and promoting the importance and the necessity of close cooperation and coordination of the national bodies engaged in standardization-related activities, in particular in countries acceding to the World Trade Organization or the European Union;
2. Ensuring continuous information to national administrations and economic operators on the importance of the use of international standards;
3. Providing necessary financial and political support to their standards bodies in order to enable them to carry on their functions efficiently, as well as supporting the transition towards independent structures in these fields;
4. Improving transparency of the existing national framework for standardization and conformity assessment activities;

5. Taking measures to ensure that standards bodies in transition economies are sufficiently well equipped with the necessary skilled staff, and to engage in appropriate actions of recruitment and training when necessary.

Invites Governments of advanced market economies to consider:

1. Continuing to allocate high priority to standards-related activities in view of their important contribution to economic development and cooperation in the region;
2. Taking into account the financial and technical needs of the countries in transition when implementing their reforms in standards-related areas and to consider possibilities for further technical assistance to transition economies in these areas.

Requests international standards and standardizing organizations to:

1. Ensure clear separation of functions and areas of activities between the standardizing organizations;
2. Put in place mechanisms to determine the extent to which their standards are actually implemented at national level by their members and encourage measures to enhance such implementation;
3. Create effective means to allow for members from countries in transition to participate efficiently in the work of these organizations.

Requests the Executive Secretary of UN/ECE to:

1. Continue to study the issue of the role and impact of standards and regulations on intraregional trade and economic cooperation with a view to suggesting ways and means of strengthening and facilitating cooperation on these issues between ECE member States;
2. Ensure necessary cooperation and coordination with other interested regional and international organizations, in particular on matters affecting countries in transition.