

*Strengthening Compliance in the TBT Field
through Cross-Border Collaboration:
Examples from the U.S. Experience*

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Questions Asked:

- Why are governments are paying more attention to compliance?
- How can international collaboration improve compliance, including in the area of market surveillance?
- What are key aspects of such collaboration, and what are recent initiatives in this area?
- What, if any, principles of good-practice for cross-border collaboration can be identified?

USTR's Statutory Responsibilities

- Develop U.S. trade policy in coordination with interagency, industry, and other stakeholders
- Negotiate trade agreements and “mutual arrangements on standards related matters”
- Implement trade agreements, including WTO TBT and SPS Agreements

U.S. Collaborative activities that strengthen TBT implementation

- Cooperative activities in international and regional bodies (e.g., OECD, APEC, ICPSC, GHTF, SAICM) and FTAs (e.g., NAFTA CSRM)
- Bilateral MOUs and information sharing arrangements (e.g., FDA, CPSC)
- Good regulatory practice initiatives (e.g., OECD, APEC, TEC, SPP)
- Standards development in intergovernmental bodies (e.g., Codex, ITU)
- Participation in voluntary consensus standardizing activities in non-governmental bodies (e.g., ISO, IEC, ASTM)
- Participation in accreditation arrangements (e.g., ILAC, IAF)
- Mutual Recognition Agreements (e.g., APEC TEL, EU MRA, Japan TEL, CITES)
- Equivalence arrangements (e.g., Canada organics)

Conformity Assessment

Annex 1 of the TBT Agreement:

Conformity assessment procedures

Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

Explanatory note

Conformity assessment procedures include, *inter alia*, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; registration, accreditation and approval as well as their combinations.

“Efforts to Strengthen Compliance”

...also includes broader issues relevant to ensuring that policy and regulatory objectives are met:

- information sharing,
- capacity building,
- good regulatory practice,
- etc.

Stretching and expanding models of TBT collaboration

- The TBT Agreement promotes collaboration through the use of/participation in international standards, MRAs, equivalence arrangements, and international/regional CA systems
- In Fifth Triennial Review, expect Members of the TBT Committee to take a new look at arrangements and models of regulatory cooperation and other trade facilitative arrangements

Recent U.S.-led Initiatives in APEC

- Toy Safety Initiative

...to increase transparency, encourage better alignment and reduce unnecessary impediments to trade related to toy safety standards and practices in the region while promoting a high level of product safety (2009/SOM2/SCSC/033)

- Food Safety “Partnership Training Institute Network”

...to enlist leadership from the private sector and academia to bring additional expertise, resources and commitment to fulfilling critical food safety capacity building needs identified by the Food Safety Cooperation Forum (2009/SOM2/SCSC/016)



Key Aspects of Cross Border Collaboration

- High-level commitment
- Public-private partnerships/sector focus
- Guidance from established principles
- Coordination of trade policy, standards and regulatory officials
- Flexible approach, with process-driven component
- Transparency/information sharing
- Capacity building
- Mutually beneficial goals/outcomes

High-Level Commitment: Food and Product Safety

- *Interagency Working Group on Import Safety Action Plan for Import Safety: A Roadmap for Continual Improvement*, A Report to the President, November 2007.
- *APEC Leaders' Statement*, November 2007 and November 2008
- *APEC Ministers Responsible for Trade Statement*, 2007, 2008, 2009
- *Implementing a National Public Health Approach to Food Safety: Report to the Nation*, Food Safety Working Group Report to the President, June 2009

Guidance from established principles

- TBT Agreement and recommendations/decisions
- WTO SPS Agreement
- OECD/APEC/SCSC on good regulatory practice
- ISO/IEC/Codex et. al. on practices related to conformity assessment

Public-Private Partnerships

- USG partnered with the Toy Industry Association (TIA) to develop and implement the APEC Toy Safety Initiative.
- USG partnered with the Groceries Manufacturers Association (GMA) and the University of Maryland (JIFSAN) to develop and implement the Partnership Training Institute Network (PTIN).

Coordination among trade, regulatory and standards officials

The Toy Initiative

- Trade, regulatory and national standards body officials from 20 economies and ICTI, CEN TC 52, ASTM F 15, COPOLCO, ILAC experts came together in Singapore
- Discussed practical ways to move forward towards greater standards alignment and to improve TBT consistency of CAPs to improve toy safety.
- Next steps: Survey/Compendium, coordination w/ other fora, all stakeholders.

Flexible, process-driven approach

- TBT Agreement recognizes that processes for engagement are essential in preventing unnecessary obstacles to trade
- One off events useful, but need commitment to strategy for collaboration. Long term, if needed, to achieve goals.
- Exchange at the technical level is resource-intensive and complex. Must be well staged.
- High level engagement must balance setting direction/goals and avoid mandating technical solutions.

Transparency and Info Sharing

- Not an inconsequential or simple process
- Understanding differences essential
- Source of differences is key: regulatory framework, risk perception, level of technical understanding, institutional capacity, motive, etc.

Capacity Building

The PTIN

- Trade, regulatory, academic, industry, SRBs* and World Bank experts came together in Singapore
- Goal to develop curricula and training modules based on international standards and best practices and build network/delivery system of industry, institutes, donors on critical capacity building priorities to improve food safety.
- Next steps: Outreach, Experts WG, concrete deliverables.

**SRBs – APEC Specialist Regional Bodies (APLAC, PAC, PASC, etc.)*

Mutually beneficial goals/outcomes

- Understand differences in goals and practical constraints that participants bring to the table
- Goals of good regulation, technically relevant and responsive standards, efficient and effective CAPs and trade facilitation are largely complementary
- Shape process and outcomes accordingly.

Concluding Observations

- US involved in wide range of cross border initiatives to improve implementation of TBT Agreement
- Vehicle for collaboration depends on many factors – eg, Canada* provides cogent view on MRAs – including happenstance
- Support goal of best practices/principles for most effective and efficient engagement to achieve TBT goals

*(G/TBT/W/167)

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