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## **BRAZILIAN PROPOSAL TO THE SECOND TRIENNIAL REVISION OF THE WTO - AGREEMENT ON TECHNICAL BARRIERS**

### **1. introduction**

Brazil regards that, since 1994, there has been a significant evolution in some of the technical disciplines included in the Agreement, some aspects of which may be appropriate to revise at present. For the most part, however, the Agreement may be considered up to date, and the main difficulties relate to its full implementation by Member Countries. Such difficulties are increased by technical limitations faced by most Member Countries when implementing the provisions of the Agreement.

Therefore, Brazil submits the following set of proposals, recommendations and reflections, in the context of the second triennial revision of the Agreement.

### **2. TERMS AND DEFINITIONS**

Brazil holds that the definitions included in Annex I of the Agreement are not completely adequate, in so far as some of them differ from those stated in ISO/IEC Guide 2 - *Standardization and Related Activities - General Vocabulary* (items 3, 4 and 12). Such discrepancies generate difficulties in the application of the Agreement since they either require the redefinition of terms in every new official document or give rise to different interpretations. Additionally, in Annex I the definition of some terms and concepts used in the Agreement - such as *accreditation* (Art.6.1.1 and Annex I paragraph 3 - Explanatory note) - are missing. Finally, it is necessary to define in some way certain other correlative concepts such as those related to metrology which, although not figuring explicitly in the text of the Agreement, should be understood in a common and objective manner in the application of the Agreement by Member Countries.

Brazil, accordingly proposes:

- a) That Annex I of the Agreement be altered, incorporating the definitions set out in ISO/IEC Guide 2 for the terms therein defined;
- b) To add to Annex I the definitions (in accordance with ISO/IEC Guide 2) of other terms used in the Agreement text for a better understanding and in order to facilitate its application;
- c) That paragraph 1.1 be modified to explicitly mention the ISO/IEC Guide 2, the *International Vocabulary of Basic and General Terms in Metrology* and the *Vocabulary of Legal Metrology*.

### **3. CONCEPT OF INTERNATIONAL STANDARDS**

Brazil considers that the use of international standards is a factor of major importance for international trade due to their role as the main harmonization process in the field of standards as well as a basis for technical regulations.

However, it is necessary to have an objective understanding of the meaning and characteristics of international standards. For this purpose, two sets of aspects must be considered:

- those related to entities which elaborate and adopt these standards;
- those related to the processes of elaboration and adoption of the standards.

In consistence with the definitions of the referred ISO/IEC Guide 2 (item 3.2.1.1), an international standard is one adopted by an International Standardizing Body.

Brazil considers that a new definition should be explicitly adopted for **International Standardizing Body**, in accordance with the same Guide (to be included in the revised Annex I): body engaged in recognized activities in the area of standardization and which is open to the participation of the relevant national body of at least all Member Countries (one per country).

In particular, an International Standards Body is defined as an International Standardizing Body that, on account of its statutes, has as one of its main functions the preparation, approval or adoption of standards which will be available to the public.

Furthermore, Brazil considers that to be recognized both International Standardizing and Standards Bodies should guarantee impartiality, openness and transparency in the development of their standardization activities .

These three principles: impartiality, openness and transparency are used with the following meaning :

*Impartiality:* to perform the activities without discrimination in what concerns the rights and obligations of Members Countries, so that no individual interest be put above other interests involved. ....

..... *Openness:* the participation in the process must be open to at least all Member Countries through their relevant national body without discrimination and under equal conditions.

*Transparency:* information about the establishment of work programs and their development should be supplied whenever requested, as well as circulated between at least all Member Countries with sufficient time to enable their participation; access to information should be without discrimination and at reasonable cost.

Furthermore, Brazil considers that the principle of singularity of **International Standardizing or Standards Bodies** should be endorsed; that is, in each area of standardization no more than one of such bodies should be recognized in order that conflicting standards be avoided.

Naturally, some overlapping of the activities of these organisms always may occur. Therefore, Brazil advocates that in these areas of intersection organisms act jointly or in cooperation. In other words, efforts should be made so that for each object of standardization there should be only one

international standard.

#### **4. MODERNIZATION OF TECHNICAL REGULATIONS**

Brazil considers that efforts should be made to adequate technical regulations to the principles established in Article 2 of the Agreement, specially in order to facilitate the use of equivalence between technical regulations as defined in paragraph 2.7

The objectives set out in Article 2 can be more easily achieved if the technical regulations are restricted to essential aspects relating to the legitimate objectives. These essential aspects do not inherently depend on technical progress, since in most cases they merely establish performance requirements.

In the other hand, it would be the goal of the standardizing activities to find an increasing rationality in the productive, commercial and consumption processes, with the necessary dynamism to accompany technical progress.

Consequently, the interrelation between the technical regulations and standards becomes a critical consideration.

#### **5. CONFORMITY ASSESSMENT**

Brazil considers that the Agreement should reflect the principle that Members should seek to create conditions that facilitate mutual recognition agreements or protocols, based on the principle of reciprocity, in the sense of Article 6 of the Agreement. Such agreements and protocols could be bilateral or plurilateral (involving more than two countries, and/or regional blocks) and could envisage several levels or systems related to conformity assessment. They should have as one of their main objectives the mutual acceptance of the results of conformity assessment procedures adopted by each party.

In this sense, the adoption of common rules is an extremely important factor in order to make a more concrete progress in the direction of mutual recognition.

However, international standards and guidelines already exist to guide procedures on conformity assessment in its different levels. Thus, all efforts should be concentrated on the adoption of these international standards and guides.

#### **6. TECHNICAL COOPERATION**

Brazil considers that the results of technical cooperation fall short of what could be desirable.

A certain confusion persists as to the meanings of technical cooperation and technical assistance. The latter is, without doubt, highly important and critical for countries with lower levels of development, and not only for these. However, technical cooperation, as herein considered, refers to the growing need for mutual knowledge and cooperation among the different technical agents involved in the fields of standardization, metrology and conformity assessment, as a basis for the establishment and strengthening of mutual

understanding and technical confidence necessary to mutual recognition.

Brazil proposes the establishment of a triennial cooperation program. This program should foresee financial support to be asked from several international sources ready to act in this field. It will then be the duty of the Technical Barriers Committee to follow up and evaluate annually the implementation and results of this program.

Such a program may be open to the participation of several technical organisms, international and otherwise, which eventually may also participate in its management.

## **7 . ACCESS TO INFORMATION**

Brazil considers that the dissemination of Internet usage over the last three years facilitates its use by Members as a mean to access and exchange information.

Accordingly, the WTO might consider the possibility of creating a portal for that purpose, organizing its data bases as required to facilitate the access to information by the Country Members, therefore strengthening the notification process.