



INTERNATIONAL  
**TRADE**  
ADMINISTRATION

*MONITORING FOREIGN  
COMPLIANCE WITH THE  
WTO AND U.S. FTA  
TECHNICAL BARRIERS TO  
TRADE (TBT) AGREEMENTS*

**Trade Compliance Center (TCC)**

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**June 25, 2008**

# Today's presentation:

- ❖ Trade agreements compliance: a top priority in the U.S. Department of Commerce.
- ❖ Role of the Trade Compliance Center (TCC)
- ❖ WTO TBT Agreement and Compliance
- ❖ Concrete examples of TCC strategies in action
- ❖ U.S. FTA/TBT Agreements
- ❖ Questions & Answers

# What is a trade agreement?

# What is trade agreements compliance?

# Why is it important?

- ❖ Legal commitment to expand commerce between two or more countries and increase predictability in the conduct of international commerce.
  - Tariffs (taxes and fees)
  - Non-tariff barriers (regulatory barriers)
- ❖ Ensuring foreign countries comply with U.S. trade agreements to level the international playing field
- ❖ Promoting U.S. exports and support U.S. jobs
- ❖ Creating confidence and support for future trade agreements to open other markets
- ❖ Top priority for U.S. Department of Commerce

# Trade Compliance Center

- ❖ Coordinates ITA's monitoring of and compliance with U.S. trade agreements
- ❖ Trade Agreements Compliance Program has 3 elements:
  - Pro-active Monitoring
  - Compliance Action
  - Outreach

Does your company face foreign trade barriers when exporting or investing abroad?

The Trade Agreements  
Compliance Program  
*Has Solutions*



# What kinds of trade barriers do our clients face?

- ❖ Excessive tariff and customs barriers
- ❖ Discriminatory rules of origin, certificates of origin, or import licensing requirements
- ❖ Burdensome standards, testing, labeling, or certification requirements
- ❖ Lack of Intellectual Property Rights protection
- ❖ Non-transparent government procurement contracts



Are you facing unnecessary barriers to trade in foreign markets?

# Compliance Action

- ❖ Identify unfair treatment
- ❖ Organize trade compliance team of industry experts, legal counsel, and foreign commercial officers
- ❖ Apply WTO/FTA agreement analysis
- ❖ Set success goal and craft action plan
- ❖ Implement plan

# Working for a Solution

**Team escalates the issue by bringing the full weight of the U.S Government to resolve the issue**

## Implementation of Action Plan

**Team uses leverage of relevant trade agreements:**

- Bilateral discussions
- Multilateral/ WTO fora
- FTA negotiations

**Additional Diplomatic Tools:**

- Meetings with foreign officials
- Phone calls and letters
- Non-papers
- Demarches
- Visits by Washington officials

**As a last resort: Team may recommend referral to USTR for WTO Dispute Settlement Body when appropriate**

# Scope of the WTO Agreement on Technical Barriers to Trade (TBT)

- ❖ Standards (voluntary): U.S. policy supports a “market-driven approach” to standards development; aversion to governments “choosing winners” (i.e., industrial policy).
- ❖ Technical Regulations (mandatory standards)  
*Potential Compliance Concern.*
- ❖ Conformity Assessment: (e.g., mandatory testing, inspection, registration, and verification)  
*Potential Compliance Concern.*

# Key provisions of the WTO Agreement on Technical Barriers to Trade (TBT)

- ❖ Ensure that technical regulations are not prepared, adopted, or applied with the effect of creating unnecessary obstacles to trade
- ❖ Provide non-discrimination: national treatment (NT); most favored nation (MFN)
- ❖ Base technical regulations on relevant international standards as much as possible
- ❖ Fulfill legitimate regulatory objectives in a manner that is no more trade-restrictive than necessary

# Key provisions of the WTO Agreement on Technical Barriers to Trade (TBT)

## ❖ Transparency:

- Establish and maintain a national inquiry point
- Notify draft regulations to the WTO Secretariat
- Provide copies of technical standards and conformity assessment procedures (upon request)
- Allow for a comment period while amendments can be still be introduced
- Take written comments/discussions into account in the final regulation
- Allow producers an interval between publication and entry into force to adapt to new requirements

# WTO Committee on Technical Barriers to Trade

- ❖ Monitors the implementation and administration of the TBT Agreement.
- ❖ Usually meets three times a year.
- ❖ Provides Members the opportunity to raise specific trade concerns in full-Committee or in informal bilateral meetings “on the margins.”
- ❖ Prepares Triennial Reviews (Committee policy recommendations) concerning the Agreement
- ❖ Conducts Workshops.

# Common TBT compliance problems

- ❖ Lack of transparency in regulatory process
- ❖ No notification of proposed regulation
- ❖ Notified the day before or after implementation
- ❖ More restrictive measure than necessary
- ❖ An alternative standard or testing requirement will facilitate trade and meet regulatory requirements

# Case (1): Switzerland – Diesel Filter Regulation

- ❖ A U.S. auto association expressed concern over a draft Swiss ordinance that would create burdensome emissions standards and require the use of special filters on all diesel cars.
- ❖ The U.S. Government raised the issue at the WTO Committee on Technical Barriers to Trade, questioning if the draft ordinance was based on sound science and its consistency with international standards.
- ❖ Subsequently, Switzerland retracted the draft ordinance.

# Case (2): Taiwan Excessive Packaging Regulation

- ❖ Commercial Service (Taipei) reported new draft regulation on excessive packaging.
- ❖ TCC sent out early warning and advised U.S. industry to comment via U.S. Inquiry Point.
- ❖ Team raised concern that Taiwan authorities:
  - notify the WTO TBT Committee
  - address comments before final draft
- ❖ Taiwan agreed to narrow scope of regulation.
- ❖ Team followed-up with Taiwan at the WTO to ensure full compliance with TBT Agreement.

# Case (3): China Health Ministry Regulation on Distilled Spirits Ingredients

- ❖ U.S. industry association raises concerns over a China Ministry of Health mandatory standard, setting maximum limits on naturally occurring substances resulting from the distilled spirits production process known as “fusel oils.”
- ❖ Compliance team questions Chinese officials regarding the justification for the measure in bilateral meetings and, with EC support, in the WTO TBT Committee.
- ❖ Compliance team organizes and participates in several technical exchanges between U.S. and Chinese regulators.
- ❖ Success: China notifies the WTO that it has retracted its unique ingredient requirements.

# Case (4): China Redundant Medical Device Product Registration & Factory Inspections

- ❖ U.S. industry meets with TCC and explains complaint that two separate Chinese ministries, AQSIQ and SFDA, require duplicative and costly product registration certifications and factory inspections.
- ❖ Compliance team raises concerns in bilateral meetings in preparation for the 2006 U.S.-China Joint Commission on Commerce and Trade (JCCT).
- ❖ Team recommends cooperation with EC. Together in the WTO TBT Committee, the US and EC urge China to implement less-trade restrictive requirements.
- ❖ *Success Milestone:* Chinese Vice Premier commits to eliminating the duplicative requirements. Team continues to press for specific revisions to regulations.

# U.S. FTA/TBT Agreements

- ❖ **Affirm WTO Agreement plus additional disciplines:**
  - **International Standards:** "open, transparent, and impartial"
  - **Trade Facilitation:** intensify cooperation for market access
  - **Conformity Assessment:** national treatment; must explain non-acceptance (on request)
  - **Transparency:**
    - 1) allow persons to participate on non-discriminatory basis
    - 2) send TBT notifications to WTO and FTA partner
    - 3) notification must explain regulatory objectives and approach
    - 4) provide additional information (on request)
    - 5) publish significant comments in final regulation
- ❖ **FTA/TBT Coordinators or Committee:** monitor administration and implementation of the Agreement

[www.trade.gov/tcc](http://www.trade.gov/tcc)

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- ❖ Checklist of common trade concerns
- ❖ Over 270 trade and related agreements
- ❖ Exporter Guides: quick, concise explanations of individual trade agreements
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### Making America's Trade Agreements Work for You!

The Trade Compliance Center, the TCC, in the U.S. Department of Commerce's International Trade Administration, is the U.S. Government's focal point for monitoring foreign compliance with trade agreements to see that U.S. firms and workers get the maximum benefits from these agreements.

The TCC is your one-stop shop for getting U.S. government assistance in resolving the trade barriers or unfair situations you encounter in foreign markets.

For more information about the Trade Compliance Center, see our list of [Frequently Asked Questions \(FAQs\)](#) or [Contact the TCC](#).

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The purpose of **Notify U.S.** is to collect and fulfill subscriber requests for information on [World Trade Organization \(WTO\)](#) Agreements relating to **Technical Barriers to Trade (TBT)**. Member countries of the [World Trade Organization \(WTO\)](#) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries. The WTO Secretariat distributes this information in the form of "notifications" to all Member countries.

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# Summary

- ❖ Trade Compliance Center services
- ❖ Monitoring and compliance advocacy
- ❖ WTO TBT Agreement
- ❖ Common compliance problems
- ❖ Concrete examples of strategies in action
- ❖ U.S. FTA/TBT Agreements
- ❖ Useful tools and contacts

# Thank You

For questions on WTO and U.S. FTA TBT Agreements and Compliance, contact:

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