

TaPP Insight: Agreeing at the WTO - Lessons from the TBT Guidelines on Conformity Assessment Procedures

Summary

This Insight summarises reflections from a TaPP workshop on the newly agreed [Guidelines](#) for Conformity Assessment Procedures ([CAPs](#)) under the WTO Technical Barriers to Trade Agreement ([TBT Agreement](#)). The workshop heard from UK officials directly involved in the development of UK policy and negotiation of the Guidelines, followed by a discussion including TaPP academic members and policy colleagues. Aside from its importance for reducing barriers to trade, the agreement of the Guidelines also serves as a case study for using the institutions of the WTO - such as committees - to develop new instruments of trade policy.

1. The Context: the TBT Committee and Conformity Assessment Procedures (CAPs)

Conformity assessment procedures ([CAPs](#)) are used to determine whether products comply with established requirements of mandatory national technical regulations or voluntary standards. They constitute one of the three measures governed by the WTO TBT Agreement, alongside standards and technical regulations. Although CAPs may seem technical, they are highly relevant to everyday life, most commonly encountered by consumers on products from electronics to pint glasses, with markings which demonstrate that a product meets safety and quality requirements. When unclear or inconsistent across markets, CAPs can create unnecessary and costly barriers to trade.

The [TBT Committee](#) acts as a forum for WTO Members to address market access issues in this field, monitors implementation of and compliance with the TBT Agreement, and facilitates transparency through [notification procedures](#) and allowing Members to raise [Specific Trade Concerns in Committee](#).

Following recommendations of successive reviews¹, the TBT Committee has been developing guidelines to promote convergence in CAP design and assessment methods, with extensive negotiations spanning multiple committee Chairs. The Guidelines were finally [agreed in March 2024](#).

2. The Guidelines

The Guidelines set out principles and best practices in the design of CAPs. They encourage the development and application of CAPs that enhance trust and confidence, while also being ‘appropriate and proportionate’ in their design.²

[The Guidelines](#) have four underpinning principles:

- (i) ‘non-prescriptive’ - they are voluntary and do not bind WTO members
- (ii) ‘neutral’ - they allow for different approaches to CAPs by regulators across the diverse WTO membership
- (iii) ‘flexible’ - intended to allow for innovation in approaches and tools in the field of CAP

¹ The [Eighth Triennial Review](#) in 2018

² See Art 1.2 of the [Guidelines](#).

- (iv) 'complementary' - they contribute to the ongoing work of governments, regulators, accreditation bodies, and others, at national, regional and international levels, rather than replace existing work and guidance.

And nine elements:

1. **Considerations in relation to risk:** Regulators should assess product-specific risks based on complexity, supply chain transparency, and intended use while ensuring that CAPs are proportionate to the level of risk involved. Decisions should be evidence-based, relying on scientific research, best practices, and international standards to determine the appropriate level of regulatory confidence, with periodic reviews to adapt to technological and market changes.
2. **Market Surveillance:** Effective market surveillance requires balancing pre- and post-market controls based on national capacities and adopting risk-based approaches such as targeted sampling and testing. Regulatory authorities should have clear mandates to inspect, request information, and enforce compliance while maintaining strategic oversight, ensuring transparency, and remain independent from conformity assessment bodies.
3. **International Standards, Guides, and Recommendations:** Aligning conformity assessment procedures with international standards, such as ISO/IEC frameworks to facilitate trade, reduce costs, and ensure consistency across regulatory frameworks while enabling recognition of assessment results.
4. **Confidence in Conformity Assessment:** Ensuring confidence in conformity assessment bodies requires impartiality, oversight mechanisms, and strong data protection measures while promoting openness and recognition of assessment bodies from different regions. The use of digital technologies can further enhance transparency, improve supply chain integrity, and facilitate efficient conformity verification.
5. **Acceptance of Conformity Assessment Results:** To reduce duplicative testing and certification burdens, governments can rely on accreditation, mutual recognition agreements, and alternative regulatory cooperation approaches. Accepting conformity assessment results from internationally recognized bodies and leveraging existing regulatory frameworks can enhance efficiency and trade facilitation.
6. **Transparency and Consultation:** Stakeholder engagement and open communication are crucial for ensuring that conformity assessment procedures are well-designed, effective, and widely accepted, requiring transparent consultations and timely publication of relevant regulatory information.
7. **Domestic Coordination:** Collaboration between government agencies, the private sector, and national quality infrastructure institutions is necessary to avoid duplication of efforts and ensure that CAPs align with domestic and international best practices.
8. **Development Considerations:** Developing countries may face challenges in implementing CAPs, requiring technical assistance, capacity-building initiatives, and flexible regulatory approaches to facilitate their participation in international trade.
9. **Flexibility and Agility:** CAPs should be adaptable to technological advancements, market changes, and unforeseen crises, such as the COVID-19 pandemic, by integrating digital solutions and maintaining a dynamic regulatory approach

Although voluntary, the Guidelines are expected to influence CAP design globally, fostering trust among stakeholders.

3. The Negotiation Process and the UK's Role

The negotiations over the Guidelines spanned several years (from 2018-2024) with varying levels of intensity at different stages. They involved extensive multilateral engagement and technical deliberation, where key challenges included defining terms such as ‘appropriate’ and ‘proportionate’ and ensuring the Guidelines’ non-binding nature to the satisfaction of Members.

Negotiations involved input from regulators, industry stakeholders, and capital-level experts. Developing countries participated actively, with efforts from developed Members to accommodate their resource constraints and perspectives. This required a flexibility of approach by larger Members, for example, accommodating the more restricted diaries of delegates that cover many briefs in smaller Missions.

In general, the technical complexity of the subject-matter, and the non-binding nature of the Guidelines allowed for a less contentious, more pragmatic negotiation process. The ‘day-to-day’ practice of driving forward talks involved engagement at the multilateral level, but also many bilateral engagements with partners. The UK played a proactive role as a broker, facilitating discussions and driving consensus among members, explicitly signalling the importance of the Guidelines’ completion to the UK and its willingness to work on them.

4. Challenges and Lessons Learned

Ensuring that Members could properly engage in the process was constant a challenge. Finding ways to support extremely resource-constrained partners on these technical topics required targeted engagement strategies, such as prioritising the time of developing country partners where possible.

Building trust and maintaining transparency were crucial to securing consensus, and were key to enabling the UK and partners to have difficult conversations. Pragmatic, solution-oriented approaches best dealt with divergent positions and disagreements. But negotiations could not be considered in isolation given that relationships between delegates cut across briefs.

Balancing fast-moving developments in Geneva with securing cross-Whitehall, cross-UK, and cross-interest group participation was, as ever, a challenge - one that has been noted elsewhere in UK negotiations.³

Nevertheless, the UK’s willingness to signal clearly and explicitly that the Guidelines were a priority placed a certain degree of responsibility on the UK (and entailed a reputational risk for failure). The willingness of a Member to do the less glamorous broking and shepherding, working closely with the Chair of the Committee was key in driving the negotiations forward.

5. Future Directions

How influential and useful the Guidelines become will depend on their implementation. Efforts are expected to include capacity-building programs, thematic sessions on CAPs at the TBT Committee, and promoting wider awareness of the Guidelines through partners in the quality assurance infrastructure.

The TBT Committee’s future work will draw on the Guidelines, focussing on transparency, risk assessment, and mutual recognition agreements. Continued engagement with stakeholders, including leveraging digital tools like the [ePing platform](#), are expected to be prioritized.

6. Conclusions

³ See [UK-CH Financial Services note](#).

The new TBT guidelines could become influential in reducing unnecessary trade barriers while respecting public policy goals. The Guidelines' adoption marks a step forward in aligning global regulatory practices, benefiting businesses, regulators, and consumers alike. The negotiation process showcased effective multilateral cooperation and highlighted the role of the TBT Committee as a model for constructive engagement in the WTO framework.

Three key observations can be made that can extend beyond the experience of the Guidelines:

1. **Trust** is the *sine qua non* of negotiations at the WTO and the key basis for the success of any talks.
2. **Engaging with resource-constrained partners** is as practical as it is a policy priority, including accommodating busy diaries or place of meeting to show understanding and secure opportunities to engage.
3. Should the Guidelines be drawn upon by WTO Members, at the institution and elsewhere, they will demonstrate the importance of **non-binding yet useful instruments** that that can nonetheless be influential in supporting a more open and inclusive trading system.