

ANNEX 1

Policy on National Framework on Technical Regulation and Conformity Assessment procedures

1. Scope

This framework is being established by the Government of Seychelles as per its commitment to comply with the requirements of the WTO Agreement on Technical Barriers to Trade (TBT).

The purpose is to identify and set up the mechanism and related principles of Good Regulatory Practice (GRP) to guide regulators in the preparation, adoption and application of technical regulations and conformity assessment procedures related to products or process and production methods in the efficient and effective implementation of the provisions of the TBT Agreement across the regulatory lifecycle.

Government acknowledges and agrees that the use of Good Regulatory Practice (GRP) can play a part in avoiding unnecessary obstacles to international trade; in the preparation, adoption and application of technical regulations and conformity assessment procedures, thereby contributing to the effective implementation of the TBT Agreement.

This framework policy is therefore being guided by the principles set out in the TBT Agreement and the Good Regulatory Practice produced by the WTO TBT Committee. These include, but are not limited to:

- a. non-discrimination;
- b. avoidance of unnecessary barriers to trade;
- c. the use of relevant international standards;
- d. transparency;
- e. technical assistance to other Members; and,
- f. special and differential treatment of developing country Members.

2. Definition

Conformity Assessment Procedures means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

Enquiry Point means the national authority designated by the Government of Seychelles to answer all reasonable enquiries from other countries and interested parties in other countries as well as to provide the relevant documents.

National Notification Authority means the single national authority designated by the Government of Seychelles to discharge the notification responsibilities in accordance to the provision of the TBT Agreement.

Standard means document approved by a recognised body that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is **not mandatory**. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

TBT means Technical Barriers to Trade.

Technical Regulation means document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is **mandatory**. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

WTO means World Trade Organisation

3. **General Objective**

The Government of Seychelles shall ensure that all technical regulations and conformity assessment procedures that are drafted are fully compatible with the WTO Agreement on Technical Barriers to Trade.

4. **Application of principles**

4.1 **Technical Regulations**

4.1.1 Seychelles shall ensure that in respect to technical regulations, products imported from WTO members shall be accorded treatment no less favorable than that accorded to like products of national origin and to like products originating in any other country.

4.1.2 Seychelles shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacle to international trade. For this

purpose, technical regulations shall not be more trade restrictive than to fulfill a legitimate objective taking account of the risk, non fulfillment will create. Such legitimate objectives are *inter alia*: national security requirement; the prevention of deceptive practices; protection of human health or safety; animal or plant life or health, or the environment. In assessing such risk relevant elements of consideration are *inter alia*: available scientific and technical information, related processing technology or intended end uses of products.

- 4.1.3 Technical regulations shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner.
- 4.1.4 Where technical regulations are required and relevant international standards exist or their completion is imminent, Seychelles shall use them, or the relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.
- 4.1.5 Seychelles shall give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfill the objectives of their own regulations.
- 4.1.6 Wherever appropriate, Seychelles shall specify technical regulations based on product requirements in terms of performance rather than design or descriptive characteristics.

4.2 Conformity Assessment

- 4.2.1 Seychelles shall ensure that, in cases where a positive assurance of conformity with technical regulations or standards is required, it shall apply the following provisions to products originating in the territories of other Members:
- 4.2.2 Conformity assessment procedures are prepared, adopted and applied so as to 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; access entails suppliers' right to an assessment of conformity under the rules of the procedure, including, when foreseen by this procedure, the possibility to have conformity assessment activities undertaken at the site of facilities and to receive the mark of the system;

- 4.2.3 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, taking account of the risks non-conformity would create.
- 4.2.4 In cases where a positive assurance is required that products conform with technical regulations or standards, and relevant guides or recommendations issued by international standardizing bodies exist or their completion is imminent, Seychelles shall ensure that it use them, or the relevant parts of them, as a basis for their conformity assessment procedures, except where, as duly explained upon request, such guides or recommendations or relevant parts are inappropriate for the Members concerned, for, *inter alia*, such reasons as: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological or infrastructural problems.
- 4.2.5 Seychelles shall ensure, whenever possible, that results of conformity assessment procedures in other Members are accepted, even when those procedures differ from their own, provided they are satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures. It further recognizes that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding
- 4.2.6 Any fees imposed for assessing the conformity of products originating in the territories of 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, taking into account communication, transportation and other costs arising from differences between location of facilities of the applicant and the conformity assessment body;

5 Domestication of the TBT Agreement

5.1 Establishment of the TBT National Committee (TNC)

5.1.1 A TBT National Committee is hereby established and shall have to following functions;

- I. To provide a forum for consulting and obtaining views of stakeholders in the public and private sectors on TBT issues;

- II. To co-ordinate implementation issues relating to TBTs at national, regional and international level;
 - III. To oversee the actions of the Enquiry point and National Notification Authority as established in section 5.2.
 - IV. To examine the effective implementation of the Seychelles rights and obligations under the WTO Agreement on Technical Barriers to Trade,
 - V. To be used as a forum for developing the Seychelles positions for meetings of the various regional and multilateral TBT Committees.
 - VI. To review the merits and provide guidance to regulatory bodies regarding technical regulation and conformity assessment procedures being proposed for adoption.
- 5.1.2 The TBT National Committee shall comprise of representatives of all regulatory bodies that are involved in the preparation, adoptions and application of technical regulations and conformity assessment procedures and the Secretariat to that Committee as established in section 5.1.3 below.
- 5.1.3 The Enquiry Point and National Notification Authority as established under section 5.2 shall serve as the Secretariat to the TNC.

5.2 Establishment of the Enquiry Point and National Notification Authority (NNA)

- 5.2.1 The Ministry responsible for Trade will serve both as the single enquiry point and the single national notification authority.
- 5.2.2 Its obligation as the enquiry point shall be to answer all reasonable enquiries from other countries and interested parties in other countries as well as to provide the relevant documents regarding;
- I. Any technical regulations adopted or proposed within Seychelles, by a body which have legal power to enforce a technical regulation;
 - II. Any standards adopted or proposed within Seychelles
 - III. Any conformity assessment procedures or proposed conformity assessment procedures which are operated within Seychelles.
 - IV. The membership and participation of Seychelles in international and regional standardizing bodies and conformity assessment system as well as bilateral and multilateral arrangements

within the scope of the TBT agreement; providing also reasonable information on the provisions of such systems and arrangements

- V. The location of notices published pursuant to the TBT agreement, or the provision of information as to where such information can be obtained.

5.2.3 Its obligation as the national notification authority shall be to:

- I. Notify members through the WTO secretariat of the proposed technical regulations and conformity assessment procedures which may affect international trade using the appropriate notification forms as per the established procedures;
- II. Provide copies of proposed regulations and conformity assessment procedures on request;
- III. Download notifications from WTO secretariat on technical regulations and conformity assessment procedures adopted or proposed by other WTO members and disseminating them to Seychelles Stakeholders, importer, exporters, and other interested parties for information, review and comments; and
- IV. Ensure that comments are handled correctly.

6. Procedures for preparation, adoption and application of technical regulations and conformity assessment procedures

6.1 Preparation

- 6.1.1 Regulatory bodies confirm the need for government intervention, and set policy objectives having undertaken due needs and regulatory impact assessment;
- 6.1.2 All regulatory bodies shall communicate draft technical regulations or conformity assessment procedures they are proposing to adopt to the TBT National Committee (TNC) through the Secretariat of the TNC;
- 6.1.3 The TNC shall review and consider whether the regulatory bodies have exhausted other available alternatives;
- 6.1.4 If the TNC finds any conflict on proposed technical regulation or conformity assessment procedure vis a vis Seychelles commitment under the WTO TBT Agreement, it shall refer the matter back to the regulatory bodies;
- 6.1.5 If the proposed technical regulation and conformity assessment procedure is found to be in conformity to the WTO TBT Agreement, the Secretariat to the TNC shall ensure that all draft

technical regulations or conformity assessment procedures being proposed for adoption are published in a communications medium with national distribution or on its web site;

- 6.1.6 The NNA will ensure early notice of the draft technical regulations or conformity assessment procedures being proposed for adoption. The notice indicated in 6.1.5 above shall be published sufficiently in advance of the date the measure is adopted, so as to allow written comments within a period of no less than 60 days to be submitted;
- 6.1.7 The Secretariat shall notify WTO members through the WTO Secretariat of the products to be covered by the proposed regulations or conformity assessment procedures together with a brief indication of its objective and rationale. Such a notification shall take place at an early appropriate stage, when comments can be taken into account;
- 6.1.8 Upon request, the Secretariat to the TNC shall provide WTO members particulars of copies of the proposed technical regulation or conformity assessment procedures; and
- 6.1.9 Without discrimination, allow members reasonable time for other WTO members to make comments in writing, discuss these comments upon request, and take these written comments and results of these discussions into account.

6.2 Adoption and Application

- 6.2.1 All technical regulations and conformity assessment procedures which have been adopted shall be published promptly or otherwise made available in such a manner as to enable interested parties in other Members to become acquainted with them.
- 6.2.2 Except as provided for by the provisions of subsection 6.3 of this policy, reasonable time shall be allowed between the date of publication and entry into force of technical regulations or conformity assessment procedures. A reasonable time shall be understood to mean a period of no less than six months.

6.3 Emergency adoption

- 6.3.1 Subject to the provisions of subsections 6.1.5 to 6.2.2 above, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, Seychelles may omit such steps enumerated in those subsections as it finds necessary provided that upon adoption of technical regulation or the conformity assessment procedure shall;
 - I. Notify immediately other WTO members through the WTO Secretariat of the particular technical regulation conformity assessment procedures and the products covered with a brief indication of the objective and rationale of the technical regulation or conformity assessment procedure including the nature of the urgent problem;

- II. Upon request provide WTO members with copies of the technical regulation or conformity assessment procedure;
- III. Without discrimination, allow other WTO Members to present their comments in writing, discuss these comments upon request and take these written comments and the results of these discussions into account.