

世界贸易组织系列读物



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# 《技术性贸易壁垒协定》

# 的理解

Understanding of  
*TBT Agreement*

葛志荣 主编

中国农业出版社

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# 前 言

《技术性贸易壁垒协定》是世界贸易组织关于各成员货物贸易的一项重要协定。它的宗旨是防止和消除国际贸易中的技术性贸易壁垒，避免各成员的技术法规、标准以及合格评定活动给国际贸易带来不必要的障碍，使国际贸易自由化和便利化，在技术法规、标准、合格评定程序以及标签、标志制度等技术要求方面以国际标准为基础开展国际协调，遏制以带有歧视性的技术要求为主要表现形式的贸易保护主义，最大限度地减少和消除国际贸易中的技术壁垒，为世界经济全球化服务。遵守协定的有关规则，是世界贸易组织各成员的义务；而对协定正确和充分的理解，则是各成员执行协定的基础。为此，世界贸易组织秘书处，组织有关专家陆续撰写了对协定理解的文章和资料。我国已经完成了加入世界贸易组织的全部法律程序，正确地理解有关协定是我们履行成员义务、享受成员权利的前提条件。为此，我们将世界贸易组织的相关资料编译成册，希望对社会各理解、掌握和应用有关协定有所帮助。

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# 第一章 几个问题

## 1. 为什么签署《技术性贸易壁垒协定》

### 1.1 数目繁多的技术法规和标准

近几年来,各国采用技术法规和标准的数量有显著的增长。人们生活水平的不断提高,促使生产商生产更加安全和优质的产品。与此同时,日益严重的水、空气和土壤污染,又促使现代社会去开发环保型产品,这些都导致了管理型政策数量的增多。

### 1.2 给国际贸易带来的影响

精确地估计出由于各国采用不同的技术法规和标准对国际贸易造成的影响是很困难的,但是,由此而明显地增加了生产商和出口商成本却是不争的事实。总体来说,翻译国外技术法规和标准,聘请技术专家对国外技术法规和标准进行讲解,以及为符合国外的技术法规和标准而对生产设备进行改造和换代是产品成本增加的主要原因。另外,出口商还需要证明其产品符合国外的技术法规和标准的要求。由于上述这些方面的费用很高,导致许多生产商失去了向国外出口产品的兴趣。在那些国际上尚无规章可循的领域,就可能出现采用本国的技术法规和标准来保护国内产业的情况。

# Chapter I The problem

## 1. Why an Agreement

### 1.1 High number of technical regulations and standards

In recent years, the number of technical regulations and standards adopted by countries has grown significantly. Increased regulatory policy can be seen as the result of higher standards of living worldwide, which have boosted consumers' demand for safe and high-quality products, and of growing problems of water, air and soil pollution which have encouraged modern societies to explore environmentally-friendly products.

### 1.2 Impact on international trade

Although it is difficult to give a precise estimate of the impact on international trade of the need to comply with different foreign technical regulations and standards, it certainly involves significant costs for producers and exporters. In general, these costs arise from the translation of foreign regulations, hiring of technical experts to explain foreign regulations, and adjustment of production facilities to comply with the requirements. In addition, there is the need to prove that the exported product meets the foreign regulations. The high costs involved may discourage manufacturers from trying to sell abroad. In the absence of international disciplines, a risk exists that technical regulations and standards could be adopted and applied solely to protect domestic industries.



### 1.3 从东京回合的《标准守则》到世界贸易组织的《技术性贸易壁垒协定》

1947年的《关税与贸易总协定(1947)》(以下简称《关贸总协定(1947)》)第3条、第11条和第20条中只对技术法规和标准做了一般性阐述。在关贸总协定期间,成立了一个专门的工作组负责针对非关税壁垒对国际贸易造成的影响进行评估,该工作组得出的结论是:技术性贸易壁垒是出口商所面临的最大的非关税壁垒。经过数年的磋商,在1979年东京回合谈判结束之际,32个关税和贸易总协定缔约方签署了诸边性质的《技术性贸易壁垒协定(1979)》(以下简称《TBT协定(1979)》),协定又被称为《标准守则》,对制定、采纳和实施技术法规、标准以及合格评定程序的原则做出了规定。新的世界贸易组织(以下简称世贸组织)的《技术性贸易壁垒协定》(以下简称《TBT协定》)强化和明确了东京回合《标准守则》的规定。乌拉圭回合谈判中达成的《TBT协定》是世贸组织一揽子协定的一部分。在对《TBT协定》进行详细阐述之前,首先,应明确“技术法规”、“标准”和“合格评定程序”的涵义。

## 2. 定义

### 2.1 《TBT协定》中所指的技术法规和标准

技术法规和标准规定了产品的具体特性,诸如产品的大小、形状、图案、功能,或在出售之前在其上加注标签和产品的包装

### 1.3 From the Tokyo Round Standards Code to the WTO TBT Agreement

The provisions of the GATT 1947 contained only a general reference to technical regulations and standards in Articles III, XI and XX. A GATT working group, set up to evaluate the impact of non-tariff barriers in international trade, concluded that technical barriers were the largest category of non-tariff measures faced by exporters. After years of negotiations at the end of the Tokyo Round in 1979, 32 GATT Contracting Parties signed the plurilateral Agreement on Technical Barriers to Trade (TBT) . The Standards Code, as the Agreement was called, laid down the rules for preparation, adoption and application of technical regulations, standards and conformity assessment procedures. The new WTO Agreement on Technical Barriers to Trade, or TBT Agreement, has strengthened and clarified the provisions of the Tokyo Round Standards Code. The TBT Agreement, negotiated during the Uruguay Round is an integral part of the WTO Agreement. Before examining the Agreement in detail, it is necessary to define the meaning of "technical regulations", "standards" and "conformity assessment procedures".

## 2. Definitions

### 2.1 Technical regulations and standards in the TBT Agreement

Technical regulations and standards set out specific characteristics of a product - such as its size, shape, design, functions and performance, or the way it is labelled or packaged before it is put on sale. In certain cases, the way a product is produced can affect these characteristics, and it may

方式等方面的内容。在某些情况下，某种产品的生产方式会影响到上述几个方面的特性，因此，针对产品生产过程和方式，而不是针对产品特性本身制定技术法规和标准显得更为合理。《TBT协定》允许从上述两方面考虑制定技术法规和标准（见《TBT协定》附件1）。

## 2.2 技术法规和标准之间的不同

标准和技术法规的区别在于对其遵守的程度不同。对标准的遵守是自愿性的，而对技术法规的遵守是强制性的。技术法规和标准对国际贸易的影响不同，不符合技术法规要求的进口产品，不允许在市场上销售；而那些不符合标准的进口产品可以在市场上销售。但是，如果消费者偏爱与当地标准相一致的产品，比如说纺织品和服装的质量及颜色，那么，那些与当地产品标准不一致的进口产品所占的市场份额将会受到影响。

## 2.3 合格评定程序

合格评定程序是确认产品是否符合技术法规和标准要求的技术性程序，包括检测、验证、检验和认证等。一般来说，由出口商承担这方面的费用。不透明的和歧视性的合格评定程序会成为保护主义者的有效工具。

# 3. 目的

## 3.1 保护人类的安全或健康

then prove more appropriate to draft technical regulations and standards in terms of a product's process and production methods rather than its characteristics *per se*. The TBT Agreement makes allowance for both approaches in the way it defines technical regulations and standards (Annex 1) .

## 2.2 Difference between a technical regulation and a standard

The difference between a standard and a technical regulation lies in compliance. While conformity with standards is voluntary, technical regulations are by nature mandatory. They have different implications for international trade. If an imported product does not fulfil the requirements of a technical regulation, it will not be allowed to be put on sale. In case of standards, non-complying imported products will be allowed on the market, but then their market share may be affected if consumers' prefer products that meet local standards such as quality or colour standards for textiles and clothing.

## 2.3 Conformity assessment procedures

Conformity assessment procedures are technical procedures - such as testing, verification, inspection and certification - which confirm that products fulfil the requirements laid down in regulations and standards. Generally, exporters bear the cost, if any, of these procedures. Non-transparent and discriminatory conformity assessment procedures can become effective protectionist tools.

# 3. Objectives

## 3.1 Protection of human safety or health

为保护人类安全或健康已制定了大量的技术法规和标准。例如，国家法规规定机动车内需配备安全带，以便将交通事故的伤亡降到最小；生产插座时要考虑防止使用者触电，这些技术法规和标准都是以保护人类安全或健康为首要目标的。最常见的用于保护人类健康的法规就是要求在香烟标签上标明“吸烟有害健康”。

### 3.2 保护动物和植物的生命或健康

保护动物和植物生命或健康的法规也是非常常见，主要包括避免动物和植物种类因水、空气以及土壤污染而濒危的法规。例如，有些国家规定对于濒危鱼种，只有其长到一定的尺寸后才准许捕捞。

### 3.3 保护环境

消费者越来越关心环境问题。日益严重的空气、水和土壤的污染迫使许多政府制定法规来保护环境，此类法规主要包括纸和塑料制品的回收以及机动车尾气排放水平的规定等。

### 3.4 防止欺诈行为

绝大多数此类法规主要是通过对标签的要求向消费者提供一定的信息来保护消费者。其他法规还包括为防止欺诈行为而规定的分类、说明和包装要求方面的内容，以及其他一些相关措施，如对尺寸、重量等的要求。

The largest number of technical regulations and standards are adopted to aim at protecting human safety or health. Numerous examples can be given. National regulations that require that motor vehicles be equipped with seat belts to minimise injury in the event of road accidents, or that sockets be manufactured in a way to protect users from electric shocks, fall under the first category. A common example of regulations whose objective is the protection of human health is labelling of cigarettes to indicate that they are harmful to health.

### 3.2 Protection of animal and plant life or health

Regulations that protect animal and plant life or health are very common. They include regulations intended to ensure that animal or plant species endangered by water, air and soil pollution do not become extinct. Some countries, for example require that endangered species of fish reach a certain length before they can be caught.

### 3.3 Protection of the environment

Increased environmental concerns among consumers, due to rising levels of air, water and soil pollution, have led many governments to adopt regulations aimed at protecting the environment. Regulations of this type cover for example, the re-cycling of paper and plastic products, and levels of motor vehicle emissions.

### 3.4 Prevention of deceptive practices

Most of these regulations aim to protect consumers through information, mainly in the form of labelling requirements. Other regulations include classification and definition, packaging requirements, and measurements (size, weight etc.), so as to avoid deceptive practices.

### 3.5 其他目的

制定法规的其他目的包括质量问题、技术协调或便利贸易等。在一些发达国家，针对质量问题制定技术法规的做法非常普遍，例如对蔬菜和水果的大小做出适于销售的规定。一些关于在某些方面统一技术法规的规定已经在像欧盟和欧洲自由贸易区这样的经济一体化区域内得到广泛应用，例如欧盟制定了关于统一通讯和终端设备领域的技术法规。

## 4. 各国技术法规的差异增加了出口商的成本

### 4.1 对规模经济造成的损害

如果一家公司要遵守各个市场存在的各种各样的技术要求，就必须对其生产设备进行更换，那么，生产成本会相应增加，这对中小企业影响尤甚。

### 4.2 合格评定程序所需的费用

是否符合技术法规需要通过确认。确认的方式可以通过实验室或认证机构进行检测、认证或检验等形式，而费用通常由出口公司承担。

### 4.3 获取信息的费用

主要包括对国外技术法规造成的影响进行评估、翻译和发布产品信息所需的费用以及专家的培训费用等。

### 3.5 Other objectives

Other objectives of regulations are quality, technical harmonization, or simply trade facilitation. Quality regulations - e.g. those requiring that vegetables and fruits reach a certain size to be marketable - are very common in certain developed countries. Regulations aimed at harmonizing certain sectors, for example that of telecommunications and terminal equipment, are widespread in economically integrated areas such as the European Union and EFTA.

## 4. Divergent regulations - costs for exporters

### 4.1 Loss of economies of scale

If a firm must adjust its production facilities to comply with diverse technical requirements in individual markets, production costs per unit are likely to increase. This imposes handicap particularly on small and medium enterprises.

### 4.2 Conformity assessment costs

Compliance with technical regulations generally needs to be confirmed. This may be done through testing, certification or inspection by laboratories or certification bodies, usually at the company's expense.

### 4.3 Information costs

These include the costs of evaluating the technical impact of foreign regulations, translating and disseminating product information, training of experts, etc.



#### 4.4 意想不到的费用

当新的技术法规公布时，相对于进口国的公司来说，出口商在调整成本方面明显处于劣势地位。