

ix) Processes and Production Methods

Many environmental regulations and standards either prescribe or prohibit particular processes and production methods (PPMs).⁵ While some PPMs affect the physical or chemical properties of goods (e.g. chlorine-free paper), others do not (e.g. the level of emissions released into the air or water by a manufacturing plant).

Unlike its predecessor, the Uruguay Round Agreement on TBT explicitly incorporates rights and obligations related to processes and production methods. In the case of mandatory technical regulations that address the environmental, health or safety characteristics of a product, the new Agreement on TBT expressly allows importing countries to subject imported goods to PPM-based regulations. However, when the technical regulation does not address product characteristics, the new text does not allow an importing country to impose its PPMs-based regulations on other countries. This distinction is consistent with the belief that countries should have the right to determine their own level of environmental protection.

Processes and production methods are dealt with differently in the case of voluntary standards. In this instance, imported products may be required to meet all PPM-based specifications, regardless of whether these affect the characteristics of the product. This approach is consistent with the voluntary nature of standards. While, on the one hand, a voluntary standard does not oblige exporting countries to change their environmental priorities, regulations or standards, on the other, it allows consumers in the importing country to choose products on the basis of the particular processes or production methods that were used.

Canada's Environmental Choice program applies PPM-based voluntary standards to both domestic and imported products. This approach is consistent with the provisions of the new agreement.

x) Code of Good Practice

Under the existing TBT text, voluntary standards are generally subject to the same rights and obligations as mandatory technical regulations. The Uruguay Round Agreement on TBT differs from its predecessor by addressing voluntary standards in an annex to the Agreement. The annex, entitled "Code of Good Practice for the Preparation, Adoption and Application of Standards," includes obligations related to prenotification, non-discrimination and unnecessary obstacles. In addition, it requires that, whenever possible, national standards be based on international standards. As in the case of technical regulations, these disciplines apply to the measures that are implemented to attain a chosen level of environmental protection, not to the level of protection itself.