

people. However, concomitant with this right is an obligation that the measures that a country takes to achieve its selected level of protection not discriminate, to a greater extent than is necessary, against the products of other countries. The provisions of the Agreement apply to the standards-related measures that a country uses to achieve its desired level of environmental protection, not to the level of protection itself.

Environmental issues raised in the context of the Agreement on TBT include concerns that the Agreement will encourage downward harmonization of environmental standards and limit a government's ability to meet its environmental objectives. The paragraphs that follow review the Uruguay Round changes to the Agreement from the perspective of their potential impact on the ability of Canada to protect its environment.

i) Level of Protection

The Tokyo Round version of the Agreement on TBT implicitly allowed each country to establish its own level of environmental protection. This right is made explicit in the Uruguay Round version of the Agreement.

In light of the foregoing, Canadians will have an explicit right to continue selecting the levels of environmental protection that they consider most appropriate in light of Canadian conditions, values and priorities.

ii) Legitimate Objective

A fundamental premise of the Agreement on TBT is that countries have the right to adopt and apply technical regulations that are necessary for the fulfilment of a legitimate objective. Included in the Uruguay Round definition of legitimate objectives are: national security requirements; the prevention of deceptive practices; and the protection of human health or safety, animal or plant life or health, or the environment.

In the Canadian Environmental Protection Act, the environment is defined as meaning "the components of the Earth and including (a) air, land or water, (b) all layers of the atmosphere, (c) all organic and inorganic matter and living organisms, and (d) the interacting natural systems that include components referred to in paragraphs (a) to (c)." As the Agreement on TBT does not define environment, Canada's definition is unaffected.

iii) Trade-Restrictiveness

The explicit obligation that the degree of trade-restrictiveness be limited to that which is necessary to achieve a measure's objective has evolved from the application of Article XX of the 1947 GATT. Article XX(b) states that, provided