

Non-Tariff Barriers to Trade (in Particular Standards, Technical Regulations and Conformity Assessment), Policies of China and the EU

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Contents

JANGTSE-DELTA CONFERENCE – 16 TO 19 OCTOBER 2002	2
NON-TARIFF BARRIERS TO TRADE (IN PARTICULAR STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT), POLICIES OF CHINA AND THE EU	2
BY PROF. PH.D. ARNOLD VAHRENWALD	2
1. THE ROLE OF NON-TARIFF BARRIERS IN INTERNATIONAL TRADE	3
1.1. VOLUNTARY INDUSTRY STANDARDS AND GOVERNMENT REGULATIONS	3
1.2. INSUFFICIENT PROTECTION OF INTELLECTUAL PROPERTY	3
1.3. MEASURES ON CONSUMER PROTECTION.....	3
1.4. NON-TRANSPARENT RULES	3
1.5. RESTRICTIONS ON SERVICES BASED	3
1.6. PROTECTIONIST POLICIES	3
1.7. MEASURES AIMING AT A BALANCING OF ECONOMIC INTERESTS.....	4
2. WTO RULES APPLICABLE TO NTBS	4
2.1. GATT	4
2.2. GATS	4
2.3. TBT (AGREEMENT ON TECHNICAL BARRIERS TO TRADE).....	4
2.4. SPS (AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES)	5
2.5. ATC (AGREEMENT ON TEXTILES AND CLOTHING).....	5
2.6. TRIMS (AGREEMENT ON TRADE RELATED INVESTMENT MEASURES).....	5
2.7. TRIPS (AGREEMENT ON TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY).....	5
3. SHOULD NTBS BE ELIMINATED?	5
4. THE POLITICAL AGENDA BETWEEN CHINA AND THE EU	6
4.1. THE POLITICAL AGENDA CHINA-EU	6
4.2. CHINESE NTBS	6
4.3. NTBS AND THE EU	6
4.3.1. <i>NTBs at the Internal Level</i>	7
4.3.2. <i>NTBs such as Standards and Technical Regulations on a Global Level</i>	7
5. THE DEVELOPMENT OF THE EU'S POLICY CONCERNING STANDARDS AND TECHNICAL REGULATIONS	7
5.1. BASIC RULES ON STANDARDISATION.....	7
5.2. ADMISSIBLE SCOPE OF DIFFERENCES IN NATIONAL LEGISLATIONS	8
5.3. EU SYSTEM OF INFORMATION IN THE FIELD OF STANDARDS AND TECHNICAL REGULATIONS	8
5.3.1. <i>European Standard Bodies</i>	8
5.3.2. <i>Duty of Information on Standards</i>	8
5.3.3. <i>Standing Committee</i>	9
5.3.4. <i>Duty of Information on Technical Regulations</i>	9
5.4. CONFORMITY ASSESSMENT AND CE-MARKING.....	9
5.4.1. <i>General Guidelines</i>	9
5.4.2. <i>CE Marking</i>	10
5.5. EXAMPLES: MODULES FOR CONFORMITY ASSESSMENT	10

5.5.1. <i>Module A (internal production control)</i>	10
5.5.2. <i>Module E (product quality assurance)</i>	11
5.6. EXAMPLES: EU DIRECTIVES ON CERTAIN PRODUCTS REGULATING STANDARDS AND TECHNICAL REGULATIONS	11
5.7. ACCREDITATION OF CONFORMITY ASSESSMENT BODIES.....	11
6. MEASURES TO CURTAIL NEGATIVE EFFECTS OF NTBS	11
6.1. POLITICAL MEASURES	11
6.2. EXPORTERS' MEASURES	11

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BY PROF. PH.D. ARNOLD VAHRENWALD

1. THE ROLE OF NON-TARIFF BARRIERS IN INTERNATIONAL TRADE

NTBs are measures or policies which restrict trade and which have similar effect to tariffs.¹ Typical NTBs are:

1.1. Voluntary Industry Standards and Government Regulations

Technical standards and regulations, in particular:

- product standards;
- technical specifications and requirements;
- country of origin requirements;
- product safety requirements;

Other standards and regulations such as those concerning:

- human health;
- animal and plant life and health;
- consumer safety;

Conformity assessment procedures;

- labelling requirements, for example concerning contents;
- accreditation of laboratories;
- packaging;

Certification requirements.

1.2. Insufficient Protection of Intellectual Property

- patents;
- business and trade secrets;
- designs;
- trade marks;
- copyright;
- unfair competition.

1.3. Measures on Consumer Protection

- regulation of product liability;
- labeling and marking requirements.

1.4. Non-Transparent Rules

- import and customs procedures;
- import licensing.

1.5. Restrictions on Services Based

- requirements on the establishment of a business;
- rules on the grant of visa;
- exchange and money transfers;
- restrictions on foreign personnel.

1.6. Protectionist Policies

- government procurement regulations and discriminatory government procurement practices;
- domestic production subsidies;
- limitations on joint venture ownership;
- discriminatory government procurement practices;
- state-sponsored monopolies;
- import quotas and import bans;
- voluntary export restraints (VERs)
- customs valuation procedures;

¹ Alan V. Deardorff: "Nontariff Barriers and Domestic Regulation", lecture at the World Bank on 06/04/99 at 13 and 27.

- subsidies on exports or certain industries;

1.7. Measures Aiming at a Balancing of Economic Interests

- countervailing duties;
- anti-dumping measures;
- boycotts.

2. WTO RULES APPLICABLE TO NTBS

2.1. GATT

Basic principles and rules contained in the GATT are:

- most-favoured nation principle, Art. I;
- national treatment, Art. III;
- country of origin rule, Art. IX;
- principle of transparency, Art. X, concerning:
 - laws - regulations - judicial decisions - administrative rulings; such measures shall: promptly be published - not enforced prior to publication - be administered in a uniform, impartial and reasonable manner;
- general prohibition of quantitative restrictions (quotas), Art. XI;
 - exceptions to the general prohibition may be made such as:
 - prohibitions or restrictions necessary to apply standards for the classification, grading, or marketing of commodities in international trade;
 - import restrictions on agricultural or fisheries products;
 - restrictions to safeguard the balance of payments (Art. XII and XVI);
 - restrictions on the importation of products which threaten human, animal and plant life or health (Art. XX(b)).

2.2. GATS

Article XVI provides that in sectors where commitments on market access are undertaken, WTO Members shall not adopt or maintain certain limitations in the form of an economic needs test (or in other forms, such as quotas or monopolies) unless specified in their schedule. Such limitations may be on the:

- number of service suppliers;
- total value of service transactions or assets;
- total number of service operations or on the total quantity of service output in terms of designated numerical units; or
- total number of natural persons that may be employed in a particular service sector or that a service supplier may employ in relation to the supply of a specific service.

2.3. TBT (Agreement on Technical Barriers to Trade)

The TBT Agreement contains rules on:

- measures to be applied in non-discriminatory manner, Art. 2.1;
- technical regulations may not create unnecessary obstacles to international trade and not be more trade-restrictive than necessary, Art. 2.2;
- technical regulations shall be based on international standards, Art. 2.4;
- principle of equivalence concerning foreign standards and regulations, Art. 2.7;
- principle of transparency, Art. 2.11;
- certification assessment, Art. 5-9;
 - principle of national treatment, Art. 5.1.1;
 - duty of expeditious conformity assessment procedure, Art. 5.2.1;
 - publication of standard procedure period, Art. 5.2.2;
 - limitation of information requirements to what is necessary to assess conformity, Art. 5.2.3;
 - fees on an equitable basis, Art. 5.2.5;
 - siting of facilities and selection of samples not to cause unnecessary inconvenience, Art. 5.2.6;
 - complaints procedure, Art. 5.2.8;

- relevant guides and recommendations issued by international standardisation bodies to be used as a basis for conformity assessment procedures, Art. 5.4;
- Members to participate in preparation of guides and recommendations on conformity assessment procedures by international standardisation bodies, Art. 5.5.;
- duty of communication concerning guides or recommendations which are not based on those issued by international standardisation bodies, Art. 5.8;
- recognition of conformity assessment by central governmental bodies, Art. 6;
 - basic principle: Members shall ensure that results of conformity assessment processes in other Members are accepted;
 - recognition of adequate technical competence of conformity assessment bodies in the exporting Member: there will be accreditation if it is based on guides or recommendations issued by international standardisation bodies, Art. 6.1.1;
- Procedure for assessment of conformity by local government bodies and by non-governmental bodies similar to Art. 5 and 6 according to Art. 7 and 8;
- information about technical regulations, standards and conformity assessment procedures in particular through enquiry points, Art. 10;
- rules on disputes, Art. 13, 14.

2.4. SPS (Agreement on the Application of Sanitary and Phytosanitary Measures)

The SPS Agreement contains rules on:

- measures relating to food safety, to plant and animal life and health;
- measures must have a scientific basis.

A system of international food standards is contained in the Codex Alimentarius; work continues within the Codex committee Food Import and Export Controls and the Certification System (CCFICS)

2.5. ATC (Agreement on Textiles and Clothing)

The ATC establishes a quota system for textiles and clothing which will phase out by 2005.

2.6. TRIMS (Agreement on Trade Related Investment Measures)

The TRIMS regulates local content requirements, trade balancing requirements, foreign exchange balancing requirements and export performance requirements.

2.7. TRIPs (Agreement on Trade Related Aspects of Intellectual Property)

The TRIPs establishes requirements for the protection of patents, designs, trademarks, copyright, trade and business secrets.

3. SHOULD NTBS BE ELIMINATED?

National economies benefit from larger trade which result in an increase of the growth rate of the economy and a higher standard of living.² Economic analysis shows that the liberalisation of trade in services and the elimination of NTBs generates overall welfare gains. Economic analysis also shows that the establishment of the EU's Internal Market and the corresponding reduction of NTBs generated trade in new industries and intra-industry trade in new industries, in particular through the reduction of fixed cost components consistent with the notion of NTBs.³ But even though NTBs may cause harm to the improvement of the overall welfare, they may be difficult to eliminate, particularly, if they have positive effects. Thus NTBs can serve public goods such as consumer protection, national health or safety. Accordingly, the economic analysis which evaluates the effects of NTBs may have to consider the circumstances of the individual case.

² Gary HUFBAUER, Barbara KOTSCHWAR and John WILSON: "Trade Policy, Standards, and Development in Central America", paper for the World Bank (2000) at 2.

³ Thomas MATHÄ: "Non-Tariff Barriers, Market Access, and Trade", SSE/EFI Working Paper Series in Economics and Finance, No. 455, July 2001, chapter V at 21.

4. THE POLITICAL AGENDA BETWEEN CHINA AND THE EU

Within the framework of China's WTO accession also NTBs were the subject-matter of discussion.

4.1. The Political Agenda China-EU

China and Europe accuse each other mutually of unjustified NTBs. China alleged that the EU's NTBs would increasingly limit China's exports on grounds of hygiene and technology standards, the number of anti-dumping cases against Chinese companies rose considerably.⁴ On the other hand, Germany, for example, complained that her trade deficit with China (the value of German exports is half of the value of her imports from China) was caused, inter alia, by Chinese NTBs.⁵

4.2. Chinese NTBs

In the Report of the WTO Working Party on the Accession of China⁶ discussed a variety of NTBs. The Report indicated⁷ that China prohibited or restricted the importation of certain commodities which were inconsistent with China's technical regulations on food, medicines, animals and plants. China confirmed that it would not introduce, re-introduce or apply NTBs other than listed exclusively in Annex 3 of the Draft Protocol⁸ unless justified under the WTO Agreement.⁹ China established that NTBs are only imposed by the central government or by sub-national authorities with clear authorization from the central government. Import licensing will be practised in China on the basis of informations updated and republished in the official journal, the MOFTEC Gazette, within one month of any change thereto.¹⁰ On the amendments of China's laws and regulations see the list established by the WTO Trade and Industry Department and Trade Development Council (TDC) on "China's Accession to WTO".¹¹

The lack of international standardisation of formerly planned economies is considered as a major impediment for integration. In particular, not harmonised assessment and certification rules and procedures may create a substantial barrier leading to an 'assessment centre tourism'.¹² In order to create legal security about the relevant procedures and their results, international cooperation is required beyond the mere harmonisation of standards and certificates. Thus it has been suggested that China might consider certification procedures within the scope of trade-facilitating measures.¹³

4.3. NTBs and the EU

For the EU the issue of NTBs poses itself in two different manners. First, the establishment of the EU's Internal Market required the harmonisation of NTBs, in particular with regard to standards, technical regulations and conformity assessment. Second, the globalisation of trade means that NTBs should be regulated at the WTO level.

⁴ Chinese Minister of Foreign Trade and Economic Cooperation, Mr. Shi Guangsheng, speech of 28/03/02, press release.

⁵ German Minister of Economy and Technology, Mr. Werner Müller, press release of 21/09/01.

⁶ WTO document WT/MIN(01)/3 of 10/11/01 (01-5314), Ministerial Conference, Session Doha, 9-13/11/01 Report of the Working Party on the Accession of China, distributed as WT/ACC/CHN/49 on 01/10/01 and WT/ACC/CHN/49/Corr.1 in English only on 05/10/01.

⁷ At § 121.

⁸ See ANNEX 3 (Non-Tariff Measures Subject to Phased Elimination) which mentions products subject to import licence, import quota and import tendering serial such as certain raw cane sugar, flue-cured tobacco, not stemmed/stripped and motor gasoline & aviation gasoline.

⁹ At § 122.

¹⁰ At § 132.

¹¹ The chart covers current and expected future market access conditions, NTBs on export, tariff barriers on imports, conditions on investment, trading rights, distribution, transport/distribution-related services, telecommunications and Internet, banking, insurance, securities/asset management, professional services, business services, construction & related engineering services, audiovisual, tourism and travel and other services.

¹² Bundesverband des Deutschen Groß- und Außenhandels e.V., Bundesverband des Deutschen Exporthandels e.V. BGA/BDEEx: "Memorandum Certification Procedures as a Non-Tariff Trade Barrier", 2001, Part IV.

¹³ Bundesverband des Deutschen Groß- und Außenhandels e.V., Bundesverband des Deutschen Exporthandels e.V. BGA/BDEEx: "Memorandum Certification Procedures as a Non-Tariff Trade Barrier", 2001, Part V.1.

4.3.1. NTBs at the Internal Level

Even though the EU has achieved a considerable degree of harmonisation with regard to NTBs of its Member States, there remain considerable problems. Thus numerous barriers continue to impede the trade in goods and services within the Internal Market. Typical regulatory barriers relate to:¹⁴

- differences in national technical standards, in particular concerning contract R&D and technical testing;
- the lack of mutual recognition of qualifications, in particular concerning accountancy, audit and tax, engineering related to consultancy;
- the inability to practice without a licence, in particular concerning accountancy, audit and tax, engineering related to consultancy;
- restrictions on multidisciplinary practices, in particular concerning accountancy, audit and tax, engineering related to consultancy;
- administrative procedures on the establishment and setting up of a company;
- differing and restrictive employment regulations;
- differences in the accounting, tax and legal systems;
- different levels of market surveillance in Member States.¹⁵

Additionally, there are administrative and/or socio-cultural barriers which affect business services, namely:¹⁶

- linguistic and related socio-cultural barriers;
- distance related factors affecting service delivery;
- market related barriers including obtaining information about contracts and the issue of unfair competition.

4.3.2. NTBs such as Standards and Technical Regulations on a Global Level

The EU Council's Resolution of 28/10/99 on the role of standardisation in Europe¹⁷ indicates that the use of full international standards should be further promoted through the WTO TBT, calling in para. 34 upon Europe's trading partners to promote the coherence of standards by withdrawing national standards which conflict with international standards, except where such international standards would be ineffective or inappropriate. Apart from the international harmonisation of relevant rules at the WTO level, the conclusion of bilateral mutual recognition agreements (MRAs) on certification assessment seem to be a second-best solution.

5. THE DEVELOPMENT OF THE EU'S POLICY CONCERNING STANDARDS AND TECHNICAL REGULATIONS

The establishment of the EU's Internal Market necessitated the harmonisation of standards and technical regulations. An essential element of this policy consisted in the elimination of barriers to trade resulting from differences in national legislations.

5.1. Basic Rules on Standardisation

According to EU law:¹⁸

- European standard organisations:¹⁹

¹⁴ Centre for Strategy and Evaluation, Final Report of the EU Commission: "Barriers to Trade in Business Services", January 2001, at 79, 81; see:

http://europa.eu.int/comm/enterprise/services/businesses_services/documents/studies/barriers_to_trade_bs.pdf

¹⁵ Consultation Document, prepared by the Directorate General for Enterprise on the review of the New Approach of 13/12/01, see also <http://europa.eu.int/comm/enterprise/consultations/index.htm>

¹⁶ Centre for Strategy and Evaluation, Final Report of the EU Commission: "Barriers to Trade in Business Services", January 2001, at 81; see:

http://europa.eu.int/comm/enterprise/services/businesses_services/documents/studies/barriers_to_trade_bs.pdf

¹⁷ EU Council Resolution of 28/10/99 on the role of standardisation in Europe, EU O.J. C 141/1 of 19/05/00.

¹⁸ Council Resolution (92/C 173/01) of 18 June 1992 on the role of European standardisation in the European economy, EU O.J. C 173/1 of 09/07/1992; EU Commission Report on Efficiency and Accountability in European Standardisation under the New Approach (document COM(98)291 final of 13/05/98 and the European Parliament's Resolution on the EU Commission's Report, EU O.J. C 150 of 28/05/99; Council Resolution (99/C 141/05) of 28/10/99 on mutual recognition, EU O.J. C 141/5 of 19/05/00; Council Resolution (99/C 141/1) of 28/10/99 on the role of standardisation in Europe, EU O.J. C 141/1 of 19/05/00.

¹⁹ On European standard organisations see below, no. 5.3.1.

- should strengthen their coordination in order to optimise the organization of work in view of the limited resources available;
- shall increase their consultations on a regular basis with all the parties concerned, including small and medium-sized undertakings;
- shall ensure a harmonised expression of conformity with European standards;
- the EU Commission shall apply, where appropriate, the principle of referring to European standards in future draft Community legislation;
- the EU Commission shall define appropriate conformity assessment procedures, taking into account of, inter alia, the risk related to the particular products;
- all interested economic circles are invited to organise at European level and coordinate their efforts in European standardisation activities;
- CE conformity marking symbolises the fact that the manufacturer has verified and declares that the product conforms to applicable provisions;
- Member States should take appropriate measures to encourage their national standards organisations to comply with the common rules of European standards organisations of which they are members and take effective part in European standardisation discussions;
- Member States shall ensure that non-conforming products are withdrawn from the market.

5.2. Admissible Scope of Differences in National Legislations

Differences in national legislations leading to NTBs should only be accepted if national measures:²⁰

- are necessary to satisfy mandatory requirements such as health, safety, consumer protection and environmental protection;
- serve a legitimate purpose justifying the breach of the principle of free movement of goods;
- can be justified with regard to the legitimate purpose and are proportionate with the aims.

5.3. EU System of Information in the Field of Standards and Technical Regulations

The EU system of information in the field of standards and technical regulations is essentially based on the EU Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations.²¹ The Directive provides for the following basic rules:

5.3.1. European Standard Bodies

There are three European standard bodies:

- CEN, European Committee for Standardisation,²²
- CENELEC, European Committee for Electrotechnical Standardisation,²³
- ETSI, European Telecommunications Standards Institute.²⁴

There are guidelines for cooperation concluded between the EU Commission and these bodies since 1984.²⁵

5.3.2. Duty of Information on Standards

The EU Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations²⁶ establishes the following rules on the duty of information:

- Member States' standard bodies shall inform the EU Commission and European standard bodies on any standards which they prepare or amend, and publish draft standards, Art. 2 and 4;
- Member States shall ensure that other Member States' national standardisation bodies can be involved in planned activities, Article 4;

²⁰ See the Guide to the Implementation of directives based on the New Approach and the Global Approach, 2000, <http://europa.eu.int/comm/enterprise/newapproach/newapproach.htm>

²¹ EU Directive 98/34/EC of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, EU O.J. L 204/37 of 21/07/98.

²² See <http://www.cenorm.be>

²³ See <http://www.cenelec.org>

²⁴ See <http://www.etsi.org>

²⁵ Guidelines for cooperation concluded between the EU Commission and EU standard bodies of 13/11/84.

²⁶ EU Directive 98/34/EC of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, EU O.J. L 204/37 of 21/07/98.

- Member States shall ensure that standards established in breach of these obligations shall not be recognised;

5.3.3. Standing Committee

EU Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations²⁷ provides for the establishment of a Standing Committee which is charged with the issue to make proposals to eliminate existing and foreseeable barriers to trade:

- a Standing Committee shall be established by Member States, consisting of experts or advisers, Art. 5;
- the Standing Committee shall, i.a., present proposals aimed at eliminating existing or foreseeable barriers to trade, Art. 6,
- the Standing Committee may propose that the EU Commission:
 - request the European standards institutions to draw up a European standard;
 - ensure where necessary, in order to avoid the risk of barriers to trade, that initially the Member States concerned decide amongst themselves on appropriate measures;
 - identify the areas where harmonisation appears necessary, and, should the case arise, undertake appropriate harmonisation in a given sector;
- the Standing Committee may be consulted by the Commission on any preliminary draft technical regulation, Art. 6(5);

5.3.4. Duty of Information on Technical Regulations

The EU Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations²⁸ concerns also technical regulations, i.e. non-voluntary (mandatory) technical requirements issued by the government:

- Member States shall communicate to the EU Commission draft technical regulations including its grounds, unless it transposes an international or European standard, Art. 8(1);
- the Commission and Member States may comment on the draft technical regulation and the Member State shall take such comments into account, Art. 8(2);
- Member States shall communicate the final technical regulation to the EU Commission;
- Member States shall postpone the adoption of a technical regulation in the case of comments received from the EU Commission or other Member States, Art. 9.

5.4. Conformity Assessment and CE-Marking

Conformity assessment and the CE marking in the EU are based on a Council Decision.²⁹ The 'Module' Decision establishes:

- procedures relating to the marketing of industrial products according to modules and in accordance with general guidelines,³⁰
- CE conformity marking relating to the design, manufacture, placing on the market, entry into service or use of industrial products³¹

5.4.1. General Guidelines

The general guidelines on conformity assessment procedures and modules, including CE marking, establish the following principles:

- the conformity assessment procedure shall enable public authorities to ensure that products placed on the market conform to the requirements, in particular with regard to the health and safety of users and consumers;
- as a general rule a product should be subject to both phases before being able to be placed on the market if the results are positive;

²⁷ EU Directive 98/34/EC of 22 June 1998, note above.

²⁸ EU Directive 98/34/EC of 22 June 1998, note above.

²⁹ Council Decision (93/465/EEC) of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonization directives, EU O.J. L 220/23 of 30/08/1993.

³⁰ See the Annex to the Council Decision, note above.

³¹ Article 1 of the Council Decision, note above.

- the conformity assessment can be subdivided into modules which relate to the design phase of products and to their production phase;
 - the use of a module depends i.a. on the appropriateness of the module to the type of products, the nature of the risks involved, the economic infrastructures of the sector, the types and importance of production;
 - a wide choice in setting the range of possible modules for a given product or product sector will be given to the manufacturer who shall be able to choose the most appropriate modules for his production;
- for the purposes of operating the modules, Member States shall ensure that the notified bodies permanently have the technical qualifications required by the directives and that the latter keep their competent national authorities informed of the performance of their tasks;

5.4.2. CE Marking

CE marking of products is indicative of the conformity of a product to legal requirements established by the EU:

- the CE marking symbolises conformity to all the obligations incumbent on manufacturers for the product by virtue of the Community Directives providing for its affixing;
- essential requirements relate to safety, public health, consumer protection, etc.;
- the CE marking affixed to industrial products symbolises the fact that the natural or legal person having affixed or been responsible for the affixing of the said marking has verified that the product conforms to all the Community total harmonization provisions which apply to it and has been the subject of the appropriate conformity evaluation procedures;
- the CE marking must be affixed to the product or to its data plate in a visible, legible and indelible manner;
- the CE marking must be affixed at the end of the production control phase;
- a Member State may impose the obligation on manufacturers to ensure that the marked product complies with the conditions of the CE marking and where non-compliance continues, the Member State must take all appropriate measures to restrict or prohibit the placing on the market of such products or enure their withdrawal.

5.5. Examples: Modules for Conformity Assessment

The EU 'Modules' Council Decision³² provides for a variety of modules according to which manufacturers or their representatives within the EU may declare that their products satisfy the requirements of the relevant EU Directive which is applicable to the product. The modules A and E are briefly referred to:

5.5.1. Module A (internal production control)

The module describes the procedure according to which a manufacturer or his representative established within the EU ensures and declares that the products concerned satisfy the requirements of the EU Directive which is applicable to them:

- the manufacturer or his authorised representative established within the Community must affix the CE marking to each product and draw up a written declaration of conformity;
- the manufacturer must establish the technical documentation required and he or his authorized representative established with the Community must keep it for a period ending at least 10 years after the last product has been manufactured for inspection purposes;
- the technical documentation must enable the assessment of the conformity of the product with the requirements of the EU Directive and cover the design, manufacture and operation of the product;
- the manufacturer or his authorized representative must keep a copy of the declaration of conformity with the technical documentation;
- the manufacturer must take all measures necessary in order that the manufacturing process ensures compliance of the manufactured products with the technical documentation and with the requirements of the EU Directive which is applicable.

³² Council Decision (93/465/EEC) of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonization directives, EU O.J. L 220/23 of 30/08/1993.

5.5.2. Module E (product quality assurance)

The module describes the procedure according to which the manufacturer ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the EU Directive that which is applicable to them:

- the manufacturer or his authorized representative established within the Community must affix the CE mark to each product and draw up a written declaration of conformity;
- the manufacturer must operate an approved quality system for final product inspection and testing;
- the manufacturer must lodge an application for assessment of his quality system for the products concerned, with a notified body of his choice;
- under the quality system, each product must be examined and appropriate tests shall be carried out in order to ensure its conformity with the relevant requirements of the EU Directive;
- the notified body must assess the quality system to determine whether it satisfies the requirements;
- the assessment procedure must include an assessment visit to the manufacturer's premises;
- the decision must be notified to the manufacturer;
- the manufacturer must allow the notified body entrance for inspection purposes to the locations of inspection, testing and storage and shall provide it with all necessary information;
- the notified body must periodically carry out audits to ensure that the manufacturer maintains and applies the quality system and the notified body may pay unexpected visits to the manufacturer;
- the manufacturer must keep the relevant documentation and decisions and reports from the notified body for a minimum period of 10 years after the last product has been manufactured.

5.6. Examples: EU Directives on Certain Products Regulating Standards and Technical Regulations

The EU Directives which regulate the requirements of certain products with regard to standards and technical regulations may envisage that the CE marking is an essential condition for the marketing of the product within the Internal Market. The EU Directive 98/37/EC of 22/06/98 on the approximation of the laws of the Member States relating to machinery³³ states in Article 4(1) that Member States shall not prohibit, restrict or impede the placing on the market of and safety components which complies with this Directive that is to say machinery bearing the CE marking and accompanied by a declaration of conformity. The EU Directive 98/13/EC of 12/02/98 relating to telecommunications terminal equipment and satellite earth station equipment, including the mutual recognition of their conformity³⁴ obliges Member States to ensure that only this terminal equipment is put on the market which bears the CE marking.

5.7. Accreditation of Conformity Assessment Bodies

Accreditation of conformity assessment bodies can reduce technical barriers to trade, for example in the case of the coordination based on the Multi-Lateral Agreement of the European Cooperation for Accreditation (EA).³⁵

6. MEASURES TO CURTAIL NEGATIVE EFFECTS OF NTBS

Measures aiming at the reduction of negative effects which NTBs can have can be taken on the political and the business level.

6.1. Political Measures

Political measures can be taken at the national or international level, in particular:

- the increasing internationalisation of standards and regulations;
- the harmonisation in the recognition of results from certification assessment and conformity tests;
- the conclusion of MRAs (agreements on mutual recognition) on standards, regulations and certification assessment.

6.2. Exporters' Measures

On the business level a variety of measures may be taken, for example:

³³ EU Directive 98/37/EC of 22/06/98 on the approximation of the laws of the Member States relating to machinery, EU O.J. L 207/1 of 23/07/98.

³⁴ EU Directive 98/13/EC of 12/02/98 relating to telecommunications terminal equipment and satellite earth station equipment, including the mutual recognition of their conformity, EU O.J. L 74/1 of 12/03/98.

³⁵ See www.european-accreditation.org

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- exporters should adhere to quality and standards requirements of the importing countries through production and packaging methods, in particular for export markets;
 - manufacturing techniques should be chosen in order to avoid that resulting products do not cause any harm to human, animal or plant life or health;
 - exporters should:
 - study laws and regulations of the importing countries and their likely impact on exports;
 - examine notices or notification made by importing countries under the TBT or SPS;
 - maintain an interaction with their partners in importing countries;
 - inform their governments of problems arising from NTBs in importing countries;
 - cooperate with their governments, because disputes in the WTO can only be raised by governments.