

A REGULATOR'S GUIDE to New Zealand's Technical Barriers to Trade (TBT) Obligations

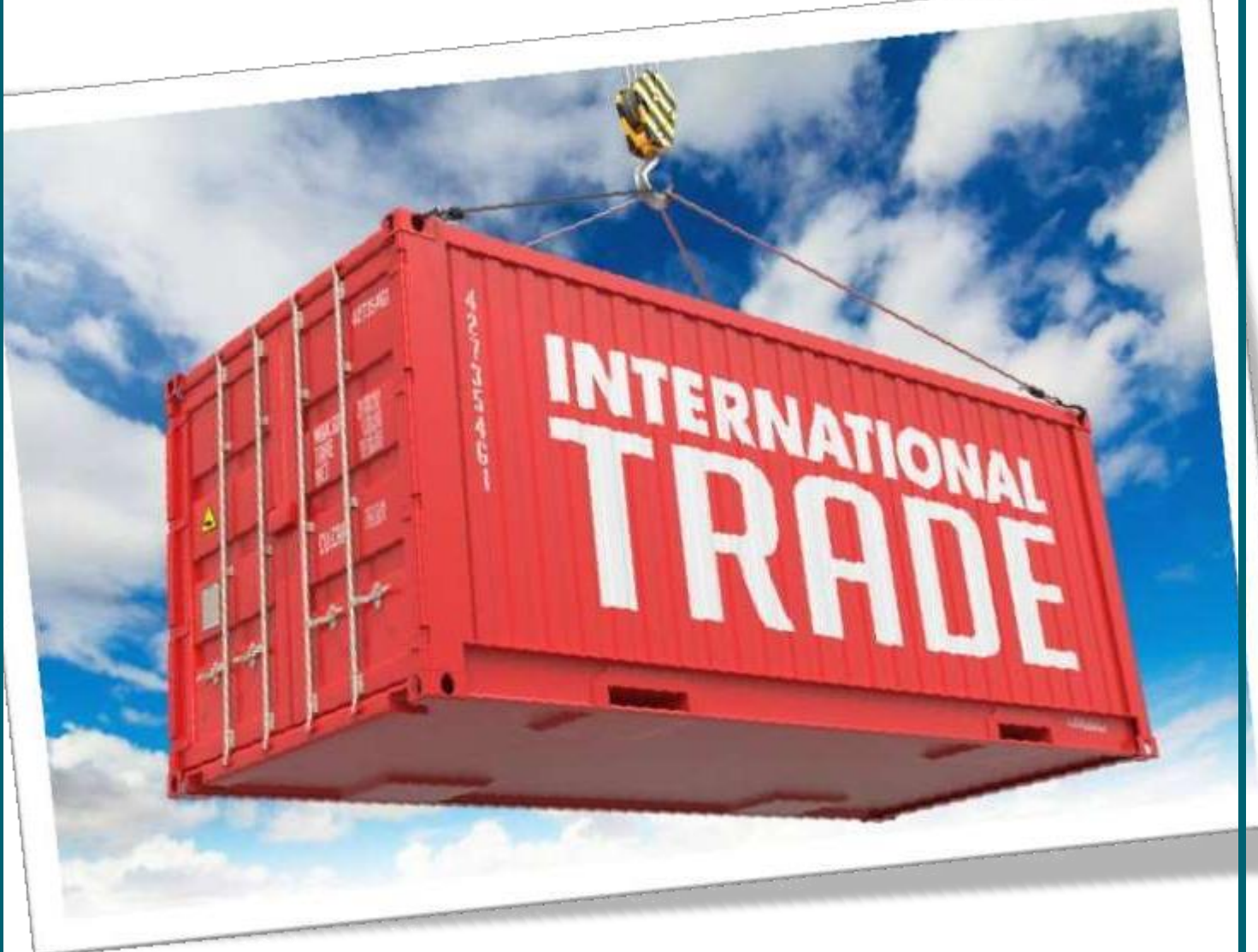


Table of Contents

Introduction	3
Summary of obligations	5
Background: Technical barriers to trade	6
Background: Standards and conformance	7
Technical regulations	7
Standards	7
Conformity assessment procedures	8
How do these measures fit together in the regulatory system?	10
Obligations under the TBT Agreement	11
What is the TBT Agreement?	11
The obligations of regulators under the TBT Agreement	11
TBTs in New Zealand's free trade agreements	18
How do TBTs feature in New Zealand's FTAs?	18
Obligations under New Zealand's FTAs	19
A step-by-step guide to incorporating TBT notifications into the regulatory process	20
Appendix 1: Free Trade Agreements	21
Appendix 2: TBT Notification Example	22

Introduction

About this Guide

This Guide has been prepared by the Ministry of Business, Innovation and Employment (MBIE), and is designed to assist regulatory agencies in New Zealand with meeting international obligations related to technical barriers to trade. These obligations arise through New Zealand's membership of the World Trade Organisation (WTO) and commitments in our free trade agreements (FTAs).

Adherence with our WTO obligations contributes to the reduction and minimisation of trade barriers globally, and enables foreign companies to understand and comply with New Zealand's requirements. Failure to comply with our WTO obligations could lead to a dispute process and could eventually result in New Zealand being required to remedy the breach through compensation or other means. Failure to comply could also risk New Zealand's reputation in the multilateral trade setting, and reduce our ability to make meaningful progress on key policy issues in the WTO.

This Guide includes:

- a general explanation of technical barriers to trade
- background information on the WTO Agreement on Technical Barriers to Trade
- an explanation of technical barriers to trade obligations in New Zealand's free trade agreements
- a step-by-step guide for incorporating the WTO obligations into a regulatory development process.



Further Information

This Guide is not intended to provide all details relevant to technical barriers to trade or New Zealand's WTO obligations. For further information, the following resources are recommended:

The WTO Agreement Series: Technical Barriers to Trade

The WTO Agreement Series on Technical Barriers to Trade provides an overview of the WTO Agreement on Technical Barriers to Trade (the TBT Agreement), full legal text of the TBT Agreement, and the decisions and recommendations adopted by the Technical Barriers to Trade Committee since 1 January 1995:

https://www.wto.org/english/res_e/publications_e/tbttotrade_e.pdf

New Zealand's WTO Technical Barriers to Trade Enquiry Point

Standards New Zealand, MBIE

wto@standards.govt.nz

New Zealand's other WTO and FTA obligations

The Ministry of Foreign Affairs and Trade's website provides information on the range of WTO Agreements and FTAs that could impact New Zealand's regulatory process:

<https://www.mfat.govt.nz/en/trade/our-work-with-the-wto/>

<https://www.mfat.govt.nz/en/trade/free-trade-agreements/>

Summary of obligations

Under the WTO Agreement on Technical Barriers to Trade, and New Zealand's free trade agreements, proposed new or amended technical regulations, standards or conformity assessment procedures should:

- A. apply equally to imported products and domestically manufactured products, or to bodies in other countries and domestic bodies.**
- B. not be more trade restrictive than necessary to fulfil a legitimate objective.**
- C. be based on international standards, programmes or guides.**
- D. be based on FTA partners' regulations if the measure is equivalent and will still achieve the policy intent.**
- E. consider whether it is appropriate to treat developing countries more favourably than developed WTO members.**
- F. be notified to the WTO, and some FTA partners, with a comment period of at least 60 days.**
- G. be published on the regulator's website.**
- H. be made available to some FTA partners as soon as practical.**

Background: Technical barriers to trade

Governments use various methods to regulate the manufacture, sale and trade of goods. These methods can vary from country to country depending on the objective of the regulation, the market, and the product. The objectives are generally related to protecting health, safety, environment or national security and the different methods of regulation can be essential to achieving these objectives.

Example: New Zealand regulates the sale of dangerous goods, such as explosives, weapons, hazardous substances and flammable materials. The primary objective of these regulations is to protect the safety of New Zealanders.

Technical barriers to trade (TBTs) are measures that regulate the manufacture, sale or trade of goods but also create a barrier to the trade of those goods. A barrier could be the imposition of additional costs of compliance for an exporter, additional time to market or restrictive measures that prevent or hinder an exporter's access to market.

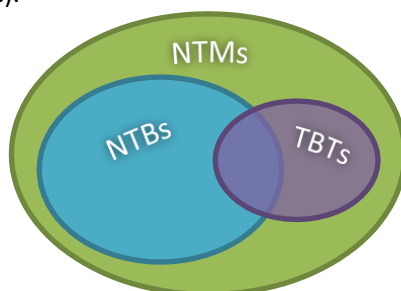
TBTs are limited to three categories of measures:

- technical regulations
- standards
- conformity assessment procedures.

Not all technical regulations, standards or conformity assessment procedures will be TBTs. Some may not have an effect on trade and/or are not associated with trade in goods (e.g. standards related to services or labour).

Other types of regulation that create barriers to trade, such as non-technical regulations, food safety and animal health-related regulations, border procedures or service agreements are also not TBTs. However, some of these measures may fall within the scope of other WTO Agreements such as the Agreement on Sanitary and Phytosanitary Measures (which is related to food safety and animal and plant health). For more information on other Agreements, see MFAT's website: <https://www.mfat.govt.nz/en/trade/our-work-with-the-wto/>.

TBTs are a subset of measures that are known as non-tariff measures (NTMs). NTMs are any measures imposed by governments that create a barrier to trade but that are not tariffs. They can be legitimate government measures or measures designed for improper purposes, such as for protectionism or alternative revenue collection in the absence of tariffs. Measures designed for improper or discriminatory purposes are commonly known as non-tariff barriers (NTBs).



Background: Standards and conformance

Technical regulations

Technical regulations are made by governments and are mandatory. Because they are mandatory, technical regulations are found in legislation (primary, secondary and tertiary). Technical regulations often set out specific characteristics that a product must have to be sold in a market, such as its size, shape, design, functions and performance, or the way it is labelled or packaged. The related processes and production methods associated with these product-specific characteristics are also often included in a technical regulation.

A “technical regulation” is defined in Annex 1 to the TBT Agreement as a:

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.

Some examples of technical regulations in New Zealand are:

- **Hazardous Substances and New Organisms Act 1996:** controls the sale and use of hazardous substances e.g. packaging, labelling and storage requirements.
- **Land Transport Rule: Seatbelts and Seatbelt Anchorages 2002:** regulates seating positions for seatbelts in vehicles and the type of seatbelt that must be fitted.
- **Product Safety Standards (Children’s Toys) Regulations 2005:** product safety requirements for children’s toys.
- **Energy Efficiency (Energy Using Products) Regulations 2002:** minimum energy performance standards for products.

Standards

Standards are similar in scope to technical regulations, but are voluntary measures. Unlike technical regulations, there is generally no legal recourse for non-compliance. That said, standards can become mandatory when cited in legislation and can also have a strong compliance incentive as a result of consumer preference and market competition.



A “standard” is defined in Annex 1 to the TBT Agreement as a:

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.

In New Zealand, most domestic non-primary industry standards are developed by Standards New Zealand, part of MBIE. Some standards in New Zealand are developed jointly with Australia to maintain consistency between our markets. As with mandatory regulations, standards can also impact trade in goods by creating specific requirements for products to be sold in New Zealand. Despite the voluntary nature of standards, they are generally adopted extensively across sectors to meet consumer demand and increase economies of scale.

Some examples of standards in New Zealand are:

- **AS/NZS 1596:2014 The storage and handling of LP Gas:** requirements for the location, design, construction, commissioning and operation of installations for the storage and handling of LP Gas.
- **AS/NZS 2063:2008 Bicycle helmets:** construction and performance requirements for bicycle helmets.
- **NZS 3602:2003 Timber and wood-based products for use in building:** requirements for timber and wood-based products for particular uses in building so that they can be expected to give acceptable performance during the life of the building.

International standards are often adopted in multiple countries and can, therefore, have a persuasive impact on domestic regulation where facilitation of trade is a considering factor. They are developed by recognised international bodies, such as the International Organisation for Standardisation (ISO) and the International Electrotechnical Commission (IEC), and they create global standardised outcomes, rather than country-specific standardised outcomes. International standards are assumed not to be unjustified TBTs due to their ability to be applied globally.

Conformity assessment procedures

Conformity assessment procedures are technical procedures, such as testing, verification, inspection and certification to determine that products meet the requirements set by regulations and standards. Non-transparent and discriminatory conformity assessment procedures can effectively become protectionist tools as exporters generally bear the costs and delays associated with the procedures.



“Conformity assessment procedures” are defined in Annex 1 to the TBT Agreement as:

Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

The Explanatory note to this definition is also useful:

Conformity assessment procedures include, *inter alia*, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; registration, accreditation and approval as well as their combinations.

Some examples of New Zealand conformity assessment procedures are:

- **Procedure for testing drinking water:** certain laboratories are recognised by the Ministry of Health as the conformity assessment bodies for testing and analysing drinking water for compliance with national water standards.
- **Automatic fire sprinkler systems:** building consent authorities are authorised by MBIE to test automatic fire sprinkler systems for compliance with the New Zealand standard where it is chosen as a method of compliance under the Building Code.
- **Information technology equipment:** Laboratories are accredited by International Accreditation New Zealand to perform the relevant tests and verify the energy efficiency levels of computers and laptops.

Conformity assessment bodies certify compliance

Where a technical regulation or standard creates a product-specific requirement, someone needs to certify that the requirement is met. Conformity assessment bodies verify that products, systems or people meet the specification of a relevant standard or regulation. ISO defines certification as:

A third-party attestation related to products, processes, systems or persons.

Some examples of conformity assessment bodies in New Zealand are:

- **City Councils** issue building consents under the Building Act 2004 and associated regulations.
- **BSI Group (Australia and New Zealand) Pty Ltd** certify compliance with a range of Australia and New Zealand standards, such as AS/NZS 1754 regarding child restraints for use in motor vehicles.

Accreditation bodies endorse the competence of conformity assessment bodies

Organisations that certify compliance are accredited to do so by accreditation bodies. ISO defines accreditation as:

A third-party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessment tasks.

New Zealand has two accreditation bodies:

- **International Accreditation New Zealand (IANZ)** – the national accreditation body for testing and calibration laboratories, radiology services and inspection bodies.
- **Joint Accreditation System of Australia and New Zealand (JAS-ANZ)** – the trans-Tasman accreditation body that accredits certification bodies that audit management systems, product and personnel certification, and inspection bodies.

These two accreditation bodies are authorised by the government to accredit bodies to certify and test for compliance with regulations and standards.

How do these measures fit together in the regulatory system?

Even though technical regulations, standards and conformity assessment procedures are distinct measures for the purposes of the TBT Agreement, they are all part of the wider regulatory system for the trade and sale of goods in New Zealand. The following diagrams are examples of how these measures are connected.

Example 1: Electrical safety of room heaters

Room heaters sold in New Zealand must comply with the relevant electrical safety standard (**AS/NZS 60335.2.30:2009**) *Household and similar electrical appliances – Safety – Particular requirements for room heaters*.



This standard is cited in Schedule 4 to the **Electricity (Safety) Regulations 2010** as the applicable standard for room heaters in New Zealand.



Three laboratories: **Spectrum Laboratories Limited, PowerLab Ltd and UL International New Zealand Ltd** are accredited to test room heaters for compliance with AS/NZS 60335.2.30:2009.



IANZ has accredited the three laboratories as competent to test and certify compliance to AS/NZS 60335.2.30:2009.

Example 2: Safety requirements of pedal bicycles

Pedal bicycles sold in New Zealand must comply with the relevant safety standard (**AS/NZS 1927:2010**) *Pedal bicycles – Safety requirements*.



An earlier version of this standard (AS/NZS 1927:1998) is referenced in section 5 of the **Product Safety Standards (Pedal Bicycles) Regulations 2000** as the applicable standard for pedal bicycles for the purposes of section 29 of the **Fair Trading Act 1986**.



A global certification body: **SAI Global** tests pedal bicycles for compliance with AS/NZS 1927:2010.



JAS-ANZ has accredited SAI Global as competent to test and certify compliance to AS/NZS 1927:2010.

Obligations under the TBT Agreement

What is the TBT Agreement?

The WTO Agreement on Technical Barriers to Trade (the TBT Agreement) is binding on all members of the WTO, which includes New Zealand.

The TBT Agreement sets out obligations for preparing and applying regulatory measures that affect trade in goods. In particular, it encourages the use of international standards and the avoidance of unnecessary barriers to trade.

The TBT Agreement covers trade in goods, but does not cover services, Government Procurement or measures covered by the Agreement on the Application of Sanitary and Phytosanitary Measures (food safety and animal and plant health).

A code of good practice has also been agreed amongst WTO members. The code can be applied by governments and non-governmental or industry bodies that prepare, adopt and apply voluntary standards. Over 200 standards-setting bodies apply the code, including Standards New Zealand.

The obligations of regulators under the TBT Agreement

The TBT Agreement is based on five key principles:

- non-discrimination
- avoidance of unnecessary barriers to trade
- the use of international standards
- technical assistance and special and differential treatment
- transparency.

As New Zealand is a WTO member, all New Zealand government regulators are obliged to observe the principles of the TBT Agreement when developing or amending measures that could have an impact on trade in goods.

Measures must not discriminate against foreign products or bodies

Under the TBT Agreement, New Zealand regulators must ensure that technical regulations, standards or conformity assessment procedures do not discriminate against foreign producers (in favour of domestic producers), or between different foreign producers. Products imported from another WTO member must be accorded the same treatment as New Zealand-made products.

In relation to conformity assessment procedures, the TBT Agreement requires that access to conformity assessment be granted to suppliers in other WTO countries under conditions no

less favourable than those accorded to New Zealand suppliers when the situation is “comparable”.



Example: A particular regulation requires labels to be affixed to clothing sold in New Zealand. That regulation must apply to all clothing sold in New Zealand, and cannot discriminate based on country of origin. If the regulation is applied to clothing imported from some WTO countries, it must apply to clothing imported from all WTO countries equally. If the regulation applies to imported clothing, it must also apply equally to domestically manufactured clothing.

Unnecessary barriers to trade must be avoided

Under the TBT Agreement, New Zealand regulators must ensure that technical regulations, standards and conformity assessment procedures are no more trade restrictive than necessary to fulfil a legitimate objective.

WTO members have the right to impose measures that meet legitimate objectives, such as the protection of health, safety, environment or security. It is accepted that many of these measures are likely to affect trade in goods. However, regulators have a responsibility to ensure that these measures are no more trade restrictive than necessary to meet the relevant objective/s.

Example: In 2014, the New Zealand Government indefinitely prohibited the supply and trade of multipurpose ladders that do not meet the New Zealand standard (AS/NZS 1892.1:1996). Prohibiting certain goods from supply has a significant effect on the trade of those goods. The regulator (then the Ministry of Consumer Affairs), was required to consider the least trade restrictive option that still achieved the objective of public safety. The indefinite prohibition was considered the minimum necessary to achieve this objective, despite the trade implications.

An exception to this obligation is if the technical regulation is in accordance with an international standard. Consistency with an international standard presumes that the restriction on trade is justified.

How to assess whether a regulation, standard or conformity assessment procedure is “more trade restrictive than necessary”:

It is important to first identify the related problem, including its magnitude and the legitimate objective; and then consider all options available consistent with the TBT Agreement. Following good regulatory practice, including undertaking an adequate regulatory impact assessment, will likely result in policy solutions that are no more trade restrictive than necessary.

For additional guidance, the TBT Agreement provides some examples of objectives considered legitimate for the making of technical regulations:

- national security requirements
- the prevention of deceptive practices
- protection of human health or safety
- protection of animal or plant life or health

- protection of the environment.

The TBT Agreement also sets out some of the relevant factors to consider when assessing these risks:

- available scientific and technical information
- related processing technology
- intended end-uses of products.

If a technical regulation, standard or conformity assessment procedure is based on good regulatory practice and meets a legitimate objective, it is unlikely that the regulator is imposing an unnecessary barrier to trade. If in doubt, consult the regulatory management materials on the Treasury website: <http://www.treasury.govt.nz/regulation>.

New measures should be based on international standards, programmes, guides or recommendations

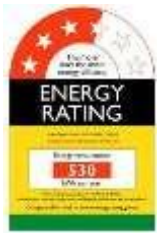
New Zealand regulators are strongly encouraged to use relevant international standards, guides or recommendations as the basis for developing technical regulations, standards or conformity assessment procedures. International comparisons could be drawn from a wide range of internationally recognised bodies or documents, including industry specific organisations.

Some examples of internationally recognised bodies include:

- **International Organisation for Standardization (ISO)** – international standards
- **International Electrotechnical Commission (IEC)** – standards and conformity assessment procedures for electrical, electronic and related technologies
- **International Laboratory Accreditation Cooperation (ILAC)** – accreditation of conformity assessment bodies
- **International Accreditation Forum (IAF)** – conformity assessment programmes.

The adoption of international standards reduces the trade restrictive effects of regulation. Businesses have also pointed to the benefits of international standards because their common use tends to reduce compliance costs. Manufacturers benefit through the removal of unnecessary differences in standards between markets. Instead of having to produce numerous small batches for different markets, manufacturers can produce a single version of the product that is acceptable in many markets. This can lead to significant cost savings through economies of scale.

The TBT Agreement does, however, recognise the potential for variation between markets on legitimate measures of protection. New Zealand regulators should endeavour to align new regulations with international equivalent regulations where possible, but can decide not to do so if it would be an ineffective or inappropriate way of fulfilling the policy intent.



Example: a regulation specifying the minimum energy performance of a household appliance might be designed to protect the environment. New Zealand's environmental policies can be significantly different from the minimum international standards given our progressive efforts to reduce global warming. Therefore, to achieve the policy rationale for the regulation, it may be necessary to impose measures more stringent than international equivalents.

Technical assistance and special and differential treatment

Under the TBT Agreement, developing WTO members are given special rights. Developed members are allowed to treat developing members more favourably than other WTO members. If relevant, New Zealand regulators should consider this when developing new measures that could be considered to be trade-restrictive. For more information, see the Articles 11 and 12 of the TBT Agreement.

New Zealand regulators must be meet transparency obligations

Transparency is one of the most important themes of the TBT Agreement and contains three key obligations related to:

- notifying other WTO members
- enquiry points
- publication requirements.

Proposed measures must be notified to the WTO

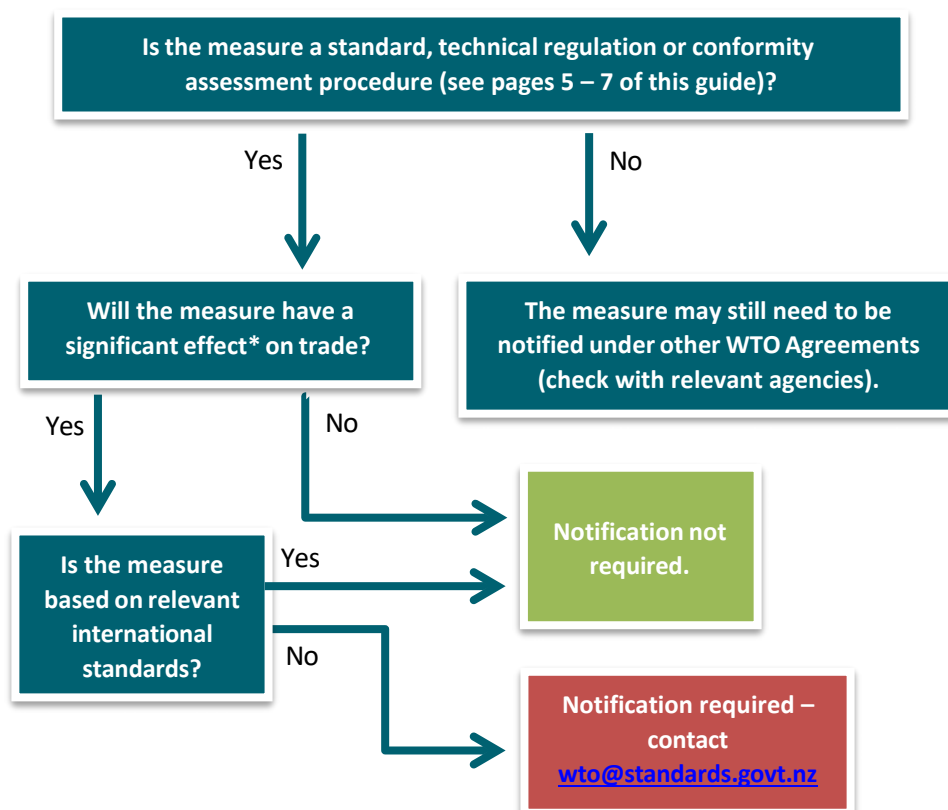
New Zealand is required to notify other WTO members of proposed measures (technical regulations, standards and conformity assessment procedures) that may have a significant effect on trade and that are not based on relevant international standards. This requirement is intended to allow other members to comment on the proposed measures while they are being drafted. Notification must be early enough in the regulatory development process to allow for input from these members. The recommended comment period is 60 days.

Worldwide, there are approx. 2,000 TBT notifications to the WTO each year

In addition, if a New Zealand regulator receives comments from another WTO member on a proposed measure, it has an obligation to take those comments into account. New Zealand regulators and businesses have the same opportunities to comment on notifications made by other WTO member countries.

New Zealand notifications are submitted by the New Zealand TBT Enquiry Point within Standards New Zealand. It is a requirement of the TBT Agreement that a single central government authority be responsible for submitting notifications. Notifications, and any questions about the notification process, can be sent to: wto@standards.govt.nz. An example of a recent New Zealand notification is provided at Appendix 2.

When does a TBT measure need to be notified to the WTO Secretariat?



* How to determine whether a measure has a “significant effect on trade”

When considering whether a draft technical regulation or conformity assessment procedure has a significant effect on trade, the regulator should consider:

- the value or other importance of imports in respect of the importing and/or exporting countries concerned, whether from other countries individually or collectively;
- the potential growth of such imports; and
- difficulties for producers in other countries to comply with the proposed technical regulations.

The effect should include ***both import-enhancing and import-reducing effects*** on trade with other countries, as long as such effects are significant. Positive trade measures, such as removal of trade barriers for particular products, or new simplified registration requirements, should be notified in addition to trade-restricting measures. This allows other Governments and companies to modify advice, systems and processes to meet new requirements.

If in doubt about whether a draft measure may have a “significant effect on trade”, it is recommended that a conservative approach be taken and the measure notified accordingly.

For further guidance, contact the TBT Enquiry Point (wto@standards.govt.nz).

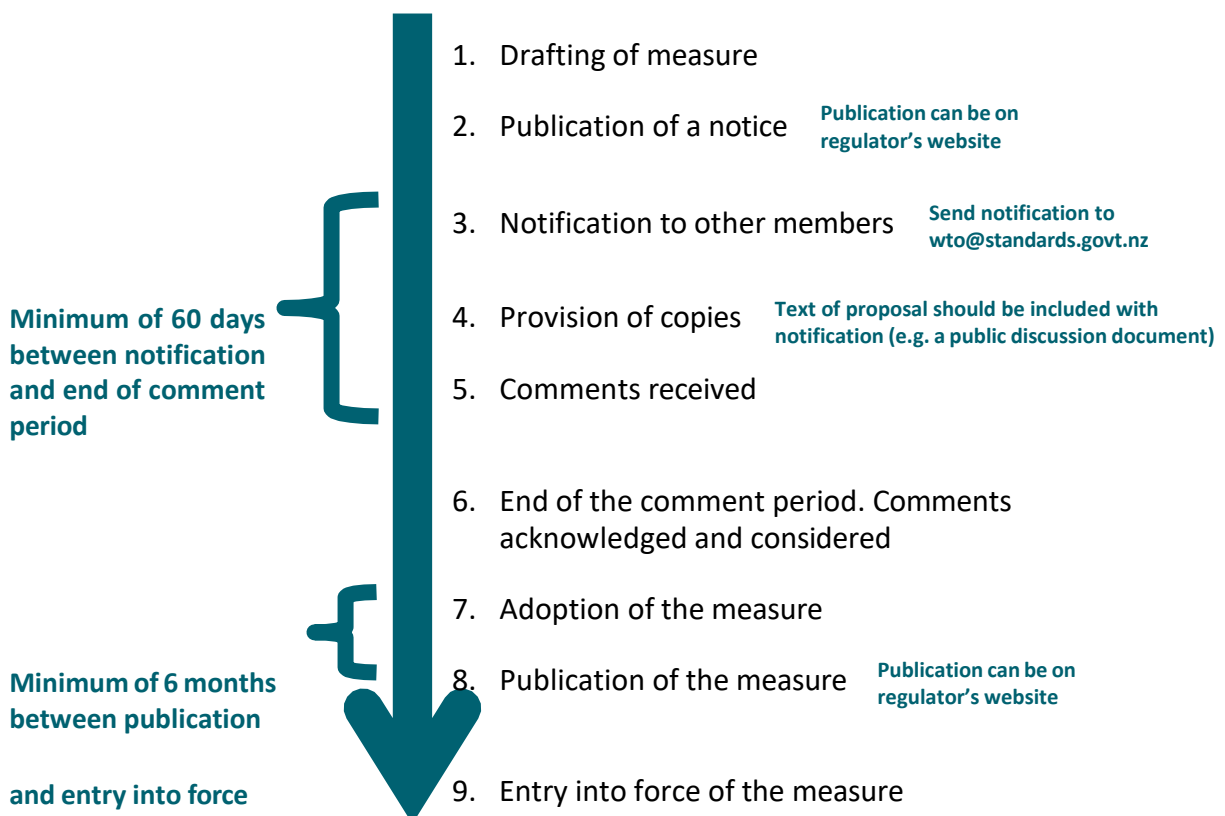
Information about proposed measures must be published

There are a number of requirements related to publishing the text of proposed technical regulations, standards or conformity assessment procedures. The requirements for technical regulations and conformity assessment procedures include:

- Regulators must publish a notice specifying their intention to introduce a particular measure (this occurs before formal WTO notification).
- Once a final measure is adopted, the regulator must promptly publish the final text.
- Regulators should provide a reasonable interval (a minimum of six months) between publication of a measure and its entry into force.

The requirements for publishing standards are set out in the TBT Agreement's Code of Good Practice, and apply to national standardising bodies (for New Zealand, that is Standards New Zealand).

Timeline of the transparency requirements in the TBT Agreement



TBT notifications made by other countries

In the same way that other countries can comment on New Zealand's draft technical regulations and conformity assessment procedures, New Zealand regulators and companies also have the opportunity to query or provide comment on draft measures of other WTO Members which may be unnecessary barriers to New Zealand exports. This occurs through the notification system, and any comments are submitted through the TBT Enquiry Point.

Regulators can keep themselves informed of notifications made by other countries by signing up to receive alerts from the WTO system. These alerts can be filtered to limit the notifications to those of interest to the individual (e.g. by subject, notifying country, product etc). For more information, or to sign up for alerts, visit www.epingalert.org/en.



E-Ping is the publicly available notification alert system for TBT and SPS notifications.

TBTs in New Zealand's free trade agreements

Free trade agreements (FTAs) can be effective instruments to reduce or eliminate unjustified restrictions on trade. New Zealand has a comprehensive free trade portfolio covering many of our top export markets. This ensures that restrictions to New Zealand's trade are limited and businesses have unqualified, or competitive, access to export markets.

FTAs have evolved over time into documents that address a wide range of trade related activities, including trade in services, regulatory cooperation, labour markets, and intellectual property regulations, to name a few. One of the common features of New Zealand's FTAs is cooperation with our trading partners on reducing TBTs.

How do TBTs feature in New Zealand's FTAs?

All of New Zealand's active FTAs have provisions dealing with TBTs and these commonly sit within a standalone TBT chapter. The objectives of the TBT chapters are generally to:

- facilitate trade
- eliminate unnecessary TBTs
- enhance transparency
- enhance mutual understanding and cooperation between the parties
- promote greater regulatory cooperation to manage risks.

TBT chapters are also consistent with the TBT Agreement. Some FTAs have additional obligations that extend beyond those agreed at the WTO and it is important that regulators are aware of the differing obligations for these markets.

TBT chapters do not generally seek to address individual TBTs that might exist between markets, but rather, set a framework for cooperating on reducing TBTs. Some parts of TBT chapters do seek to address common issues across sectors, for example through sector-specific annexes to the chapter. All of New Zealand's current FTAs, except for the New Zealand-Thailand FTA, establish a committee to oversee TBT cooperation between the parties. These committees meet regularly to discuss specific TBTs and collaborate on TBT-related activities. These committees are also particularly focused on encouraging good regulatory practice to prevent unnecessary TBTs from arising.

Obligations under New Zealand's FTAs

The obligations under our FTAs are mostly equivalent to the obligations set out in the TBT Agreement. Only those obligations that extend or add to the WTO obligations are set out below. New Zealand regulators should be aware of the differing obligations for some markets and ensure these obligations are met when technical regulations, standards or conformity assessment procedures are developed or amended.

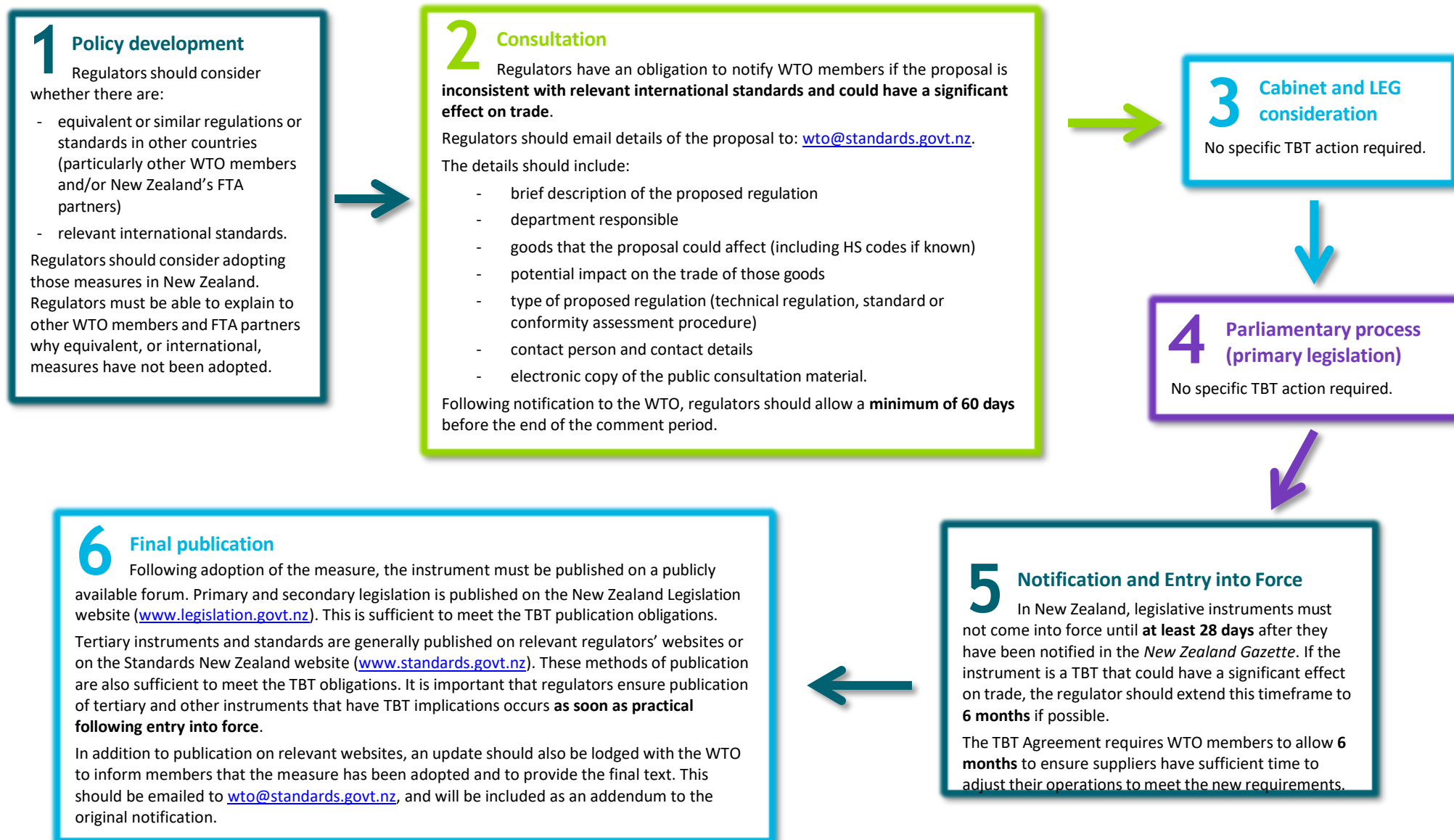
The table below is a quick reference guide of the additional obligations.

Additional TBT obligations	Partners
<p>Acceptance of equivalent technical regulations:</p> <p>New Zealand regulators are encouraged to accept another FTA Party's technical regulations as equivalent. If not, and on request, it must explain reasons why it has not accepted a technical regulation or conformity assessment procedure of another Party as equivalent.</p> <p>This is consistent with the TBT Agreement's obligation to accept international equivalent regulations where possible. However, where an international equivalent regulation is not accepted, regulators must also consider whether equivalent regulations in our FTA markets are acceptable alternatives.</p>	<p>ASEAN¹ China Chinese Taipei CPTPP² Hong Kong Korea</p>
<p>Non-discrimination of conformity assessment bodies:</p> <p>Conformity assessment bodies located in the territory of applicable FTA Parties must be accorded treatment no less favourable than those located in New Zealand. A range of mechanisms should be used to facilitate the acceptance of conformity assessment procedures.</p> <p>This is consistent with the WTO obligation on non-discrimination but also extends specifically to non-discrimination of conformity assessment bodies in some of New Zealand's FTA markets.</p>	<p>ASEAN China CPTPP Hong Kong</p>
<p>Notifying enquiry points:</p> <p>New Zealand must notify TBT measures <i>that are inconsistent</i> with international standards to some FTA partners at the same time as WTO members. The TBT Enquiry Point will undertake this on the regulator's behalf.</p>	<p>ASEAN China CPTPP Hong Kong</p>
<p>Notifying enquiry points (additional):</p> <p>In addition to the notification obligation above, New Zealand must also notify proposals for new technical regulations or conformity assessment procedures <i>that are consistent</i> with international standards, guides or recommendations to CPTPP partners.</p>	<p>CPTPP</p>
<p>Making information available as soon as practical:</p> <p>New Zealand regulators must make the text of technical regulations and conformity assessment procedures available as soon as practical.</p>	<p>China Chinese Taipei</p>
<p>Acceptance of comments:</p> <p>New Zealand regulators should be prepared to explain their reasons for not accepting the comments of a Chinese body and transmit to the Chinese enquiry point (via New Zealand's enquiry point) an electronic copy of the final proposal.</p>	<p>China</p>

¹ The Association for Southeast Asian Nations (ASEAN) members are Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei Darussalam, Cambodia, Laos, Myanmar and Vietnam.

² Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) partners are Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, Singapore and Viet Nam.

A step-by-step guide to incorporating TBT notifications into the regulatory process



Appendix 1: Free Trade Agreements

Free trade agreements in force

New Zealand-China Free Trade Agreement (China FTA)

New Zealand-Australia Closer Economic Relations Agreement (Australia CER)

Association of Southeast Asian Nations Australia New Zealand Free Trade Agreement (AANZFTA)

New Zealand-Hong Kong, China Closer Economic Partnership (Hong Kong CEP)

New Zealand-Malaysia Free Trade Agreement (Malaysia FTA)

New Zealand-Singapore Closer Economic Partnership (Singapore CEP)

New Zealand-Thailand Closer Economic Partnership (Thailand CEP)

Trans Pacific Strategic Economic Partnership (P4) – Other Parties: Chile, Singapore, Brunei Darussalam

New Zealand-Korea Free Trade Agreement (Korea FTA)

Agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu on Economic Cooperation (ANZTEC)

Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) – Other Parties: Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, Singapore and Viet Nam

Pacific Agreement on Closer Economic Relations (PACER Plus) – Parties: Members of the Pacific Islands Forum

Regional Comprehensive Economic Partnership (RCEP) – Other Parties: ASEAN members, Australia, China, India, Japan and Korea

Free trade agreements concluded but not yet in force

New Zealand-European Union Free Trade Agreement (EU FTA)

New Zealand-United Kingdom Free Trade Agreement (UK FTA)

Free trade agreements under negotiation

New Zealand-India Free Trade Agreement (India FTA)

New Zealand-Gulf Cooperation Council Free Trade Agreement (GCC FTA) – Other Parties: Saudi Arabia, United Arab Emirates, Qatar, Kuwait, Oman and Bahrain

New Zealand-Pacific Alliance Free Trade Agreement (NPA FTA) – Other Parties: Chile, Colombia, Mexico and Peru

Indo-Pacific Economic Framework for Prosperity (IPEF) – Other Parties: Australia, the United States, Japan, Singapore, Korea, India, Thailand, Viet Nam, Indonesia, Malaysia, Brunei, the Philippines, Fiji

New Zealand-Russia-Belarus Kazakhstan Customs Union Free Trade Agreement (RBK FTA)

Appendix 2: TBT Notification Example



G/TBT/N/NZL/77

8 March 2017

(17-1378)

Page: 22/23

Committee on Technical Barriers to Trade

Original: English

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6

1.	Notifying Member: <u>NEW ZEALAND</u> If applicable, name of local government involved (Article 3.2 and 7.2):
2.	Agency responsible: Ministry for the Environment 1 The Terrace, Central Wellington Wellington 6012, Wellington Tel.: +64 4 439 7400 Fax: +64 4 439 7700 E-mail: info@mfe.govt.nz Name and address (including telephone and fax numbers, email and website addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:
3.	Notified under Article 2.9.2 [X], 2.10.1 [], 5.6.2 [], 5.7.1 [], other:
4.	Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): Personal care products containing microbeads that are rinsed off, for example body scrubs, facial cleaners, and toothpastes. Pollution, pollution control and conservation (ICS 13.020.40), Cosmetics. Toiletries (ICS 71.100.70). Please refer to consultation document.
5.	Title, number of pages and language(s) of the notified document: Managing microbeads in personal care products: Consultation document (23 pages, in English).
6.	Description of content: The New Zealand Government is considering making regulations under section 23(1)(b) of the Waste Minimisation Act (WMA) 2008 to prohibit or control the manufacture and sale of personal care products containing microbeads in New Zealand. The proposal does not address controls around the importation or exportation of such products, nor does it consider regulation or controls of other products or sources of microplastics. The New Zealand Government proposes that, should the proposed new regulations under the WMA be progressed through the necessary government process, they could enter into force in 2018. For comments received in response to this notification, the closing date for

	submissions, as specified in the consultation document, is extended to 60 days from the date of this notification.
7.	Objective and rationale, including the nature of urgent problems where applicable Environmental protection, marine ecosystem; Protection of animal or plant life or health.
8.	Relevant documents: <ul style="list-style-type: none"> - Managing microbeads in personal care products: Consultation document - Waste Minimisation Act 2008
9.	Proposed date of adoption: To be determined Proposed date of entry into force: Proposed to enter into force in 2018
10.	Final date for comments: 60 days from notification
11.	Texts available from: National enquiry point [X] or address, telephone and fax numbers and email and website addresses, if available, of other body: <p>Ministry for the Environment 1 The Terrace Central Wellington Wellington 6012 Wellington Tel.: +64 4 439 7400 Fax: +64 4 439 7700 E-mail: info@mfe.govt.nz</p> <p>Managing microbeads in personal care products: Consultation document Waste Minimisation Act 2008 http://www.mfe.govt.nz/publications/waste/managing-microbeads-personal-care-products-consultation-document http://www.legislation.govt.nz/act/public/2008/0089/latest/DLM999802.html?src=qs</p>