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TAJIKISTAN

RECOMMENDATIONS FOR IMPROVING THE NATIONAL QUALITY INFRASTRUCTURE IN TAJIKISTAN

Report by

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ABBREVIATIONS

ABTR	-	Authorized Body for Technical Regulation
BIPM	-	Bureau International des Poids et Mesures
BSI	-	British Standards Institution
CIS	-	Commonwealth of Independent States (Organization of the former States of the Soviet Union)
CMC	-	Current Measurement Capability
EASC	-	Euro-Asian Interstate Council for Standardization, Metrology and Certification
EU	-	European Union
GTZ	-	Gesellschaft für Technische Zusammenarbeit
IAF	-	International Accreditation Forum
IAS	-	Intra-Regional Organization on Standardization
IEC	-	International Electrotechnical Commission
ILAC	-	International Laboratory Accreditation Cooperation
ISO	-	International Organization for Standardization
ITC	-	International Trade Centre (Geneva)
MEDT	-	Ministry of Economic Development and Trade
MSTQ	-	Metrology, Standards, Testing and Quality
NAFTA	-	North Atlantic Free Trade Agreement
NMI	-	National Metrology Institute
NQI	-	National Quality Infrastructure
OIML	-	Organisation Internationale de Métrologie Légale
SECO	-	State Secretariat of Economic Affairs (Switzerland)
SME	-	Small and Medium Enterprise
SPS	-	Sanitary and Phyto-sanitary (measures)
SQAM	-	Standards, Quality Assurance, Accreditation and Metrology
TBT	-	Technical Barriers to Trade
WTO	-	World Trade Organization

Contents

ABBREVIATIONS.....	iii
CONTENTS	v
1. INTRODUCTION	1
1.1 Background	1
1.2 Project Terms of Reference.....	1
1.3 Realization of the Project Terms of Reference	2
2. CHALLENGE AT THE MACRO LEVEL.....	2
2.1 Prior studies.....	2
2.2 Macro level recommendation.....	3
3. TECHNICAL REGULATION	4
3.1 General	4
3.2 Tajikistan situation	6
4. NATIONAL QUALITY INFRASTRUCTURE.....	10
4.1 General	10
4.2 Standards	11
4.3 Metrology	13
4.4 Accreditation	14
4.5 Possible Tajikstandart organizational structure.....	16
5. MARKET SURVEILLANCE	19
5.1 Shift in responsibility	20
5.2 Activities of the State Surveillance Bodies	20
5.3 Number of State Surveillance Bodies	23
6. FEED BACK MEETINGS	25
7. ACKNOWLEDGEMENTS.....	26

Annexes

ANNEX A: A.1 Schedule of activities	27
A.2 Persons contacted.....	27

1. INTRODUCTION

1.1 Background

The State Secretariat of Economic Affairs (SECO) of the Government of Switzerland mandated ITC to develop and implement a trade-related technical assistance programme for Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. The first phase of the programme was conducted in the four countries from 2004 to 2006. The programme was extended for a second phase for Kyrgyzstan and Tajikistan for the period from 2006 to 2008.

In Tajikistan the objective of the project is to strengthen the sustainable expansion and diversification of SME exports in Tajikistan. It aims to develop national capacity for trade development by focusing on business services providers while also addressing institutional issues. It provides a comprehensive and holistic technical cooperation response to priority needs identified in cooperation with the Government of Tajikistan during the preparatory phase of the project RER/61/85 (2002-2003). The conclusive phase of the project has been designed based on the results of the implementation of the project TAJ/61/92 (2004-2005) and the recommendations provided by an independent evaluator appointed by SECO.

One immediate objective is to strengthen Business Support Services Organisations through increasing the quality and range of their services that can assist potential and actual exporters in becoming more export competitive. Under this objective, the project will also contribute to improving the Standards, Quality Assurance, Accreditation and Metrology (SQAM) infrastructure as well as the regulatory infrastructure.

Currently Tajikstandart, the national standards body, is responsible for standardization, metrology, certification, accreditation, and trade inspection. It is also responsible for State control for compliance with standards. A draft Law on Technical Regulation has been prepared and needs to be reviewed. An analysis of the current structure of the SQAM system and the regulatory infrastructure is required, leading to proposals to restructure the system for its compatibility with international standards and practice.

1.2 Project Terms of Reference

Under the overall guidance of the Chief, Office for Arab States, Europe and the CIS (OASEC) and the direct supervision of the ITC Trade Promotion Officer and under the technical guidance of the ITC Senior Adviser on Standards and Quality Management, the following project objectives were formulated, namely:

- Review of the draft Law on Technical Regulation to ensure its compatibility with the WTO Agreement on Technical Barriers to Trade and international requirements;
- Review of the National Quality Infrastructure¹ and Regulatory Infrastructure leading to recommendations to align it with the requirements of the WTO Agreement on Technical Barriers to Trade and international best practices;

¹ The terminology "National Quality Infrastructure" is used in this report instead of the more common abbreviations such as SQAM, MSTQ or others which are considered to be limiting. The National Quality

- Consultations with stakeholders to present the findings and obtain feedback on the proposed changes to the National Quality Infrastructure and Regulatory Infrastructure; and
- Submitting reports and recommendations outlining, *inter alia*, the changes proposed to the draft Law on Technical Regulation and the National Quality Infrastructure and Regulatory Infrastructure.

1.3 Realization of the Project Terms of Reference

The project was handled in two stages due to logistical constraints. During the first stage the draft Law on Technical Regulation was reviewed in December 2006 and a report issued², whereas the fieldwork, i.e. the review of the National Quality Infrastructure and Regulatory Infrastructure was reviewed in June 2007.

This report provides information on the outcome of the field work and includes

- The review and recommendations regarding the National Quality Infrastructure and Regulatory Infrastructure;
- Some initial recommendations for the optimization of the National Quality Infrastructure and Regulatory Infrastructure; and
- Some recommendations regarding the function of market surveillance.

2. CHALLENGE AT THE MACRO LEVEL

2.1 Prior studies

The National Quality Infrastructure (NQI) of Tajikistan has been the subject of at least two reports published by the International Trade Centre, namely:

- John Gilmour, Umeda Nabieva and Shyam K. Gujadhur, *Current situation and needs assessment in the area of standardization, quality assurance, accreditation and metrology (SQAM) in Tajikistan*, ITC/DTCC/04/2729, International Trade Centre, June 2004; and
- Umeda Nabieva and Farhod Zevarov, *Republic of Tajikistan: Quality Management*, International Trade Centre, February 2003

Both these reports paint a very similar picture, namely a national standards body, i.e. Tajikstandart whose activities have changed little since the demise of the Soviet Union and independence of the Republic of Tajikistan in 1991, and the predominant focus on mandatory standards and mandatory certification, typical elements of a planned economy.

Infrastructure is seen as the totality of all the organizational structures, whether public or private, that provide Metrology, Standards, Inspection, Testing, Certification and Accreditation services either to the private industry or to the authorities.

² Martin Kellermann, *Tajikistan: Review of the draft law on technical regulation*, ITC/DTCC/07/2859, May 2007, International Trade Centre, Geneva

The information contained in these reports, as well as the additional information gleaned during the mission are utilised to describe the current state of affairs.

2.2 Macro-level recommendation

The detailed recommendations presented in this report are in many respects a radical departure from the current, well-established, well-meaning but often ineffective, inefficient and outdated practices in Tajikistan. This means that implementation will bring about massive changes. Massive change does not come without intense effort, changing of the minds and frequently a lot of “pain”. It should also be understood that the changes should be seen in a holistic sense. Tinkering with one element of the system, without reference to an overall strategy is a sure recipe for disaster. In this respect the donor community and the recipient organizations share the responsibility equally to follow an overall strategy.

For a national quality infrastructure to be effective, the following challenges³ have to be dealt with to ensure the establishment of an adequate quality infrastructure:

- A holistic, strategic policy regarding the quality system has to be established at national level linking with other policies such as trade, environment, health, etc.;
- The articulated standards, inspection, testing and certification needs of industry and authorities have to be met;
- The development, implementation and maintenance of technical regulations should be based on standards, and full use should be made by the regulatory authorities of the metrology, accreditation, testing and certification service providers;
- Funding by government has to be secured so that the long-term viability is assured;
- A review mechanism (i.e. accreditation) that establishes the technical competency of all the institutions to the satisfaction of the local industry, local authorities and the markets abroad; and
- Conformity assessment services for locally produced products and services for the local market and exports, as well as imported products should be provided on a “user pays” principle in an affordable and non-discriminatory manner.

Another indication of how quickly issues can develop in the wrong direction without an overall understood and agreed strategy is the current situation with the Draft Law on Technical Regulation. The Draft Law discussed in the first report⁴ was developed by a working group established by the Ministry of Economic Development and Trade (MEDT) with support from USAID/Pragma. Tajikstandart, although nominally a member of this working group, simultaneously developed their own versions of a revised Standards Law and Certification Law. A third draft of a Technical Regulation Law has been initiated by a group of Deputies of the Parliament.

It has been indicated that the Tajikstandart versions are not WTO TBT Agreement compatible, but this could not be verified, due to the unavailability of the document during

³ Innovations in Export Strategy: A strategic approach to the quality assurance challenge, 2005, International Trade Centre, Geneva

⁴ Martin Kellermann, *Tajikistan: Review of the draft law on technical regulation*, ITC/DTCC/07/2859, May 2007, International Trade Centre, Geneva

the mission. In addition, the EU is currently funding a project that is being executed by BSI to support Tajikstandart in modernizing itself, including the development of concomitant legislation. It would be very important for the successful development and implementation of a Law on the Fundamentals of Technical Regulation, as well as the successful re-engineering of Tajikstandart, that the energy and effort of these three groupings are channelled in the same direction, namely the development of a coherent set of draft legislation, dealing with technical regulation, standards, metrology and accreditation, that could be considered by Parliament as a set (see major recommendations in this regard in the first report⁴).

This means, however, that such a strategy should be developed as quickly as possible with the involvement of all the stakeholders from the authorities, industry and consumer groupings. The strategy needs to be agreed to at the highest political level and widely publicized. Time is of the essence, as many donors are in the process of finalising the design of major projects in the NQI and technical regulation domain, and it would be a spectacular success story if these projects are shaped by a national strategy, culminating in maximum impact. The Ministry of Economic Development and Trade is probably in the best position to initiate such a debate, suitably supported by the major donor groups.

Recommendation 1: *The Government of Tajikistan should initiate the development and adoption of an overall strategy for the reform of the National Quality System and the development and implementation of a Technical Regulation system with the participation of all stakeholders from authorities, industry and consumer groupings, with the donor community providing technical support and knowledge about international best practices. This strategy should then be utilised to inform the definition of donor projects in order to arrive ultimately at a coherent, modern, effective and efficient system for Tajikistan that would totally support the WTO accession process.*

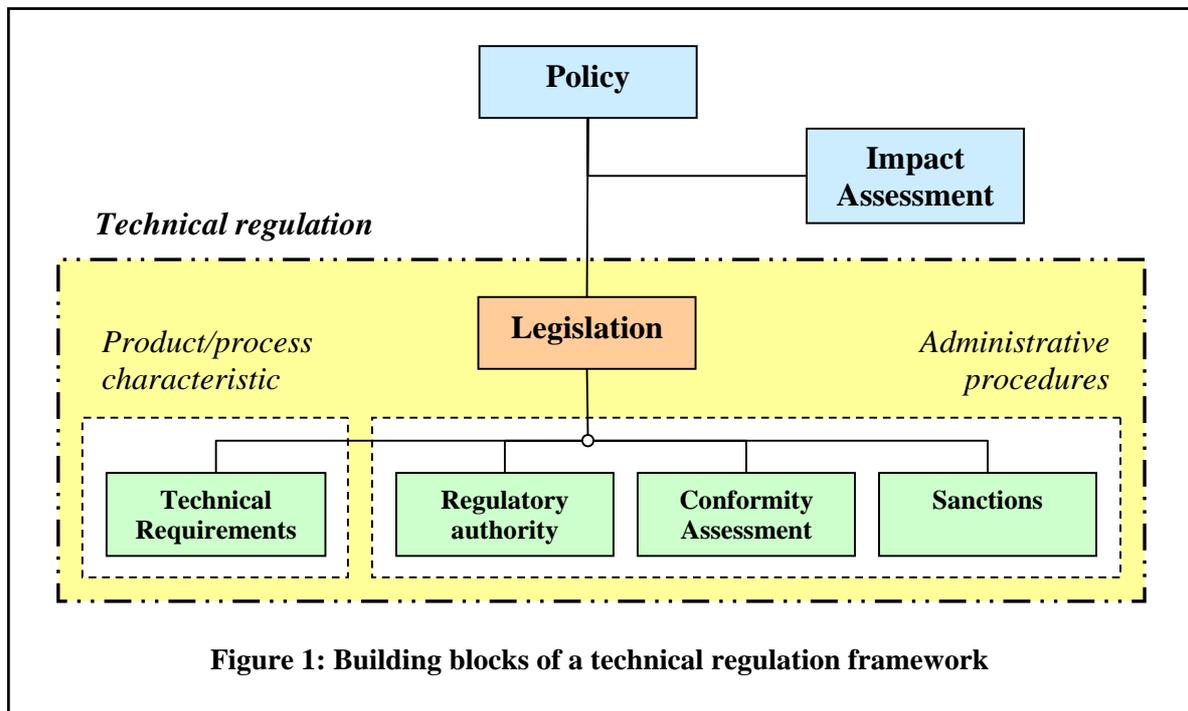
Recommendation 2: *The Ministry of Economic Development and Trade should make every effort to obtain the full participation of the Parliamentary development group and Tajikstandart in their own working group, in order to ensure that the development process of the draft Law on Technical Regulation is an all-inclusive and transparent process, that has considered the opinions of all the stakeholders. In addition, the revision of the Standards Law, and the development of appropriate Metrology and Accreditation legislation should be run in parallel, in order to develop a cohesive set of legislation.*

3. TECHNICAL REGULATION

3.1 General

Technical regulation can be considered as comprising a number of building blocks. No definitive model for a technical regulation framework has yet been agreed to at international or regional level yet, nor is one likely in the immediate future. The actual methods in which these building blocks are implemented and linked at regional or national level will depend on the legal system, the available institutional framework, custom and practice and many other factors. Anecdotal experience suggests, however, that should one of these building blocks

not be in place, then the effectiveness of the technical regulation is ultimately seriously compromised.



A full discussion on the technical regulation framework can be found in the ITC publication: *Road Map for Quality: Guidelines for the Review of the Standardization, Quality Management, Accreditation and Metrology Infrastructure at National Level*⁵ and will not be repeated in this report.

The actual technical regulation (see Figure 1 above) has two major components as indicated in the WTO TBT Agreement, namely the *product or process characteristics*, and the *administrative procedures*. The WTO TBT Agreement requires the product or process characteristics (or *technical requirements*) to be based on international standards, and there are many ways of achieving this objective. The most common are referencing standards, or incorporation of the requirements in the legislative text. Of the two, referencing standards is the more efficient option as it allows rapid revision of the technical requirements.

The administrative procedures require that a *regulatory authority* be identified, i.e. the agencies that will ensure that suppliers comply with technical regulations, and institute sanctions should it be required. This is usually a government department or a regulatory authority that has been established specifically for this purpose. The main criteria are that the regulatory authority should be appropriately empowered and that it should be shielded from unnecessary legal actions against it.

Conformity assessment provides the evidence that products meet the stated technical requirements. In a modern system, this is a service provided by independent third-party

⁵ *Road Map for Quality: Guidelines for the Review of the Standardization, Quality Management, Accreditation and Metrology Infrastructure at National Level*, Doc. No. BAS-04-19.E, Geneva, ITC

laboratories and certification bodies. These could be either public or private institutions. The main issue is that they should be technically competent, i.e. accredited, and that the supplier should pay for these services at market-related costs. It does not serve any purpose for the state to carry these costs. Obviously a sound metrology system is important to ensure the validity of all measurements.

International best practice suggests strongly that the regulatory authority should not manage laboratories or certification organizations. The same applies to the national standards body, it should not act as a regulatory authority. This is to preclude the possibility that technical regulations are promulgated and products are tested just to ensure an income for the regulatory authority's laboratories. In addition, by utilizing other laboratories (public or private) the supplier can be given a choice, and market forces can facilitate better service and more competitive pricing, provided that the technical competency is assured by accreditation.

3.2 Tajikistan situation

3.2.1 Inherited system

Tajikistan, like most Central Asian countries that emerged after the demise of the Soviet Union in 1991, inherited a mandatory standards system. In the WTO TBT Agreement however, standards are considered to be in themselves "voluntary" and only technical regulations are mandatory. Compliance with standards is therefore by choice, i.e. the supplier can unilaterally choose to comply, or the standards can be referenced in a contract where after the supplier, having chosen to enter into the contract, is obliged to comply with the standards. The same applies when standards are referenced in technical regulations, in which case suppliers have no choice but to comply.

The differences may seem trivial, but are in reality very important for Tajikistan to understand its obligations with regard to the WTO TBT Agreement. This Agreement requires that technical regulations are based on international standards, and that their implementation does not constitute unnecessary barriers to trade. This also means that the conformity assessment regimes utilised for the demonstration of compliance with technical regulations should not discriminate against products from outside the country. These requirements have to be taken seriously, and the way in which Tajikistan complies will certainly be challenged during the accession process.

3.2.2 Change of focus

The basis for the implementation of mandatory standards is totally different to that of technical regulation. Generally, mandatory standards are implemented to control the quality of products in a planned economy. Such a focus may have been appropriate in the Soviet era to protect consumers from the deteriorating quality of goods in the absence of market forces. It is definitely not appropriate in a market economy where products should be controlled only for legitimate objectives as listed in the WTO TBT Agreement. These objectives, stated in Article 2.2 of the Agreement, include:

- national security requirements,
- the prevention of deceptive practices,

- protection of human health or safety,
- protection of animal or plant life or health, and
- protection of the environment.

General quality requirements, the protection of local industry or enhancement of locally produced products are not allowed for, and hence should be dealt with in other ways if needed. The current system of mandatory standards will therefore be a major impediment in the accession process, over and above the fact that its added value in a market economy is rather doubtful⁶ and hence they are considered to be an unnecessary barrier to trade⁷ by many of the major trading countries.

All of the mandatory standards that are administered by various organizations such as Tajikstandart, the Ministry of Health, the Ministry of Agriculture and Environmental Protection and the State Committee on Architecture and Construction will therefore have to be reviewed, and transformed into proper technical regulations. Once this review is underway, mandatory standards that do not meet the WTO TBT Agreement criteria need to be totally withdrawn, thereby supporting the deregulation of trade without losing the safety net provided by proper technical regulation. It is important that this transformation must have a time limit and be properly managed. Some years ago Mexico, during the establishment of NAFTA, decided on a three-year transition period after which all mandatory standards not reviewed and transformed automatically became null and void after the transition period transpired. More recently, the Czech Republic allowed ten years to transform its mandatory standards system into one complying fully with EU requirements. Without such a limitation on the transformation time there is no incentive to change.

⁶ In Tajikistan, like in many developing economies, a large part of the population is relatively poor. They do, however, wish to enjoy the same nice things consumers in developed economies enjoy. Therefore the market provides such products, albeit at a much lower price and quality. Many argue that in this case the poor are being deceived by unscrupulous suppliers; others would argue that the suppliers are just responding to the demands of the market. Understandably, some authorities wish to protect the poor by introducing mandatory standards that will ensure a minimum quality of all such products. But, whereas any product can be manufactured somewhere in the world at a lower price and associated lower quality, it is a fundamental economic truth that you cannot get higher quality for less money. By introducing mandatory standards for higher quality, the price of such products inevitably increases appreciably, frequently beyond the purchasing power of the bulk of the population. In addition, in a country like Tajikistan, which is still struggling to develop an industrial base, mandatory quality standards will be the death knell for many small and medium enterprises. Other mechanisms need to be implemented to support the small and medium enterprises to improve the quality of Tajikistan products. It will also be virtually impossible for the authorities to monitor the general quality of all products imported into the country due to its “porous” border controls, the immense logistics such controls entail and because of the powerful political clout of economies to the south and east that are currently providing most of the low quality product on the Tajikistan market.

⁷ A 2006 study conducted by GTZ in the CIS countries revealed that the unnecessary non-tariff trade barriers are immense, in fact some of the worst in the world. Amongst the trade barriers that were identified were a multitude of forms and certificates that were required (up to 27 per country to import and export products as against 10 for Russia), unbelievable times required to obtain all the necessary approvals and signatures (average 127 days, as against 35 for Russia and 24 for China) and high “unofficial payments” (generally 3 times the official costs) to obtain approvals. The Logistics Perception Index determined by the World Bank in 2006 revealed that amongst 150 nations Tajikistan was placed 146th in terms of trade friendliness, i.e. right at the bottom, with only Myanmar, Rwanda, Timor-Leste and Afghanistan below it. It has also been clearly shown that such unnecessary trade barriers severely limit foreign investment. These factual results do not auger well for the stated policy of the Tajikistan authorities to grow trade, especially at the international and regional level, if things remain the same.

3.2.3 Conformity assessment and regulatory authorities

In order to establish a system of technical regulation that is less prone to bureaucratic manipulation, the international best practice has been to:

- Shift the total burden and responsibility of proving compliance to the suppliers.
- Totally separate the conformity assessment service providers from the regulatory authorities. This means that a conformity assessment service provider such as Tajikstandart should not act as the regulatory authority, nor should regulatory authorities such as the Ministry of Agriculture and Environmental Protection manage their own laboratories.
- Allow suppliers to choose amongst technically competent conformity assessment service providers. This means for example, that any laboratory, whether state-owned or private, may provide testing services with regard to technical regulations subject to it being appropriately accredited and retaining its accreditation. Such services are paid for in accordance with commercial rates, and not in accordance with artificial rates set by the state. Market forces are therefore brought into play, and the service provider with the best service and price regime will get the bulk of the business, thereby driving prices lower.
- Limit the state's activities to market surveillance and the imposition of sanctions should the suppliers fail to meet their obligations.

This scenario is certainly not the case currently in Tajikistan, but it is the basis on which the draft Law on Technical Regulation has been developed. If approved and implemented, this would entail a major re-organization of the current system, the magnitude of which should not be underestimated. And it is not only the authorities and conformity assessment service providers which will have to change, the suppliers will also have to change appreciably as well as they come to terms with their new responsibilities.

3.2.4 Coordination

The changes that will be brought about by the implementation of the Law on Technical Regulation will be profound and will seriously impact many Ministries, Agencies and Tajikstandart. All these changes will require coordination, to ensure that the transition does not leave major gaps in protecting society and the environment or lead to duplication of effort. Evolving international practices suggest that this process has to be guided by a permanent structure at the highest possible level within the government. The jurisdiction of such a body, the Authorized Body for Technical Regulation (ABTR), is detailed in the Draft Law on Technical Regulation. The Draft Law does not indicate, however, what the status and accountability of the ABTR should be. This will be a most important decision for the Government to make.

The functions of the ABTR can be summarized as follows:

- a) Review existing approaches for the formulation of technical regulations contained in legislation and legislative instruments, and to develop a best practice approach for technical regulation formulation in Tajikistan based on emerging international best practices;

- b) Oversee a comprehensive review of existing technical regulations contained in legislation at whatever level (e.g. Proclamations, Regulations, Directives at the national level as well as regional level), including legislation relevant to trade/legal metrology and accreditation;
- c) Exercise an audit function on all newly formulated technical regulations before they are implemented by the responsible Ministries or Agencies, including the requirement that regulatory impact assessments be compulsory for all future formulation of technical regulations; and
- d) Establish the principles for any regulatory marks used in Tajikistan and monitor any potential abuses of such regulatory marks or the inappropriate use of voluntary product certification marks in the regulatory domain.

Candidates for the ABTR in Tajikistan could be the Ministry for Economic Development and Trade, the Ministry of Justice or the Government. The Ministry of Economic Development and Trade is the designated focal point for the WTO TBT Agreement, hence the ABTR could be seen as a natural extension of their responsibilities. Because the activities of the ABTR have mostly to do with ensuring compliance with the Law on Technical Regulation, i.e. legal issues, the Ministry of Justice could also be considered. The way in which Ministries interact with one another however, and their perceived standing will have a major influence on the decision where the ABTR is to be placed.

In Tajikistan all Ministries and State Agencies are notionally of equal rank, responsible and accountable for their allocated sector, and hence they would not easily accept intervention in their activities by another Ministry. It will therefore be very difficult for a specific Ministry, i.e. the Ministry of Economic Development and Trade, to have an effective say over the activities and processes of a fellow Ministry regarding the development and implementation of technical regulations even if it has been given the authority through a Law.

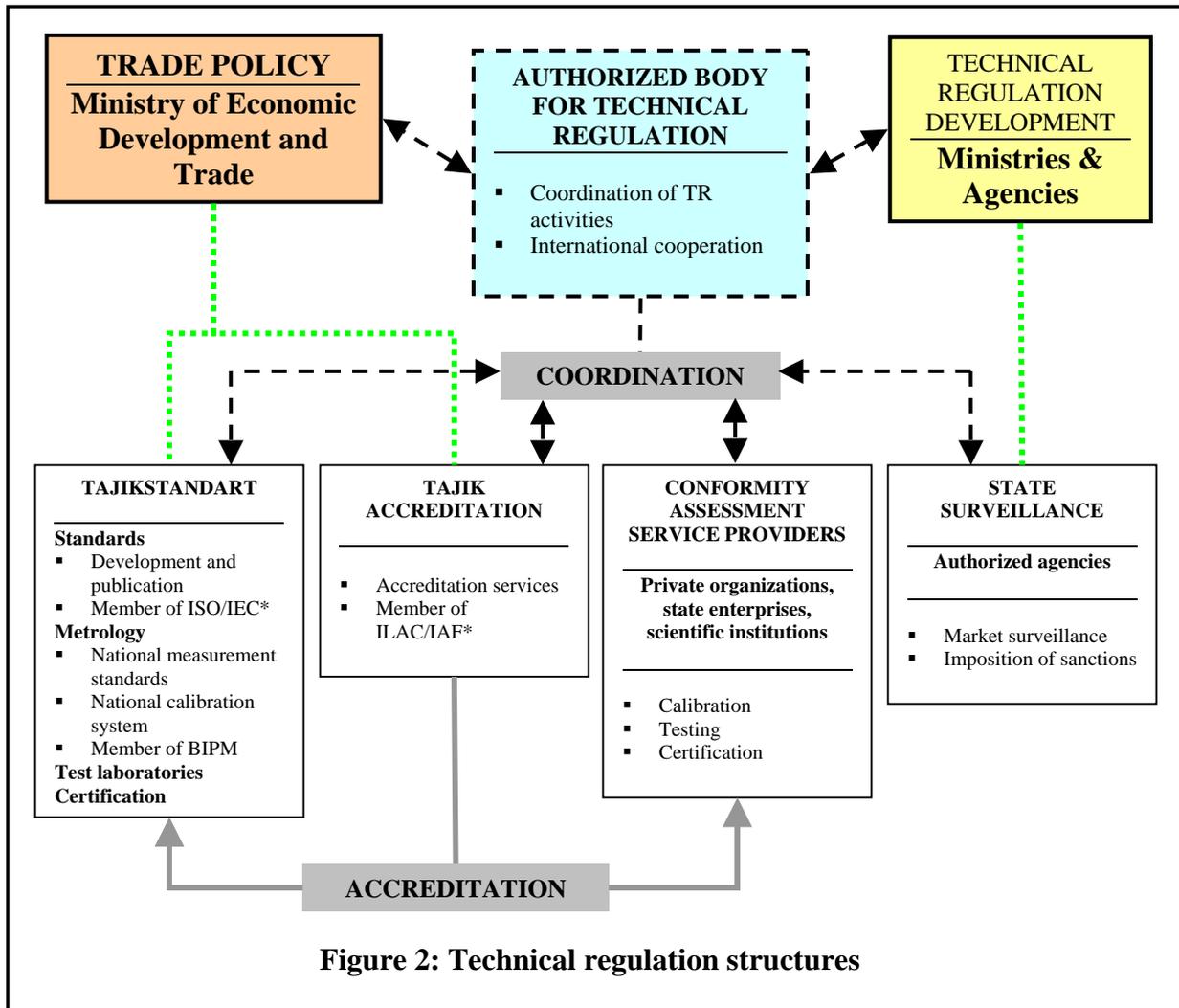
The Ministry of Economic Development and Trade or the Ministry of Justice would therefore not be the optimum choice. The only reasonable choice remaining is to make the ABTR accountable to Government to give it both the legal authority to direct Ministries through the Law on Technical Regulation, and to ensure that it has executive power over Ministries as well as the perceived authority to do so – see Figure 2 below.

An example of such an office that has been operational for quite some time is the Office of Regulatory Reform in the Prime Minister's Office of Australia. Details of its responsibilities and authorities can be found on the website of the Australian Prime Minister's Office⁸. Another good example for Tajikistan of more recent origin is the Czech Office for Standards, Metrology and Testing, which unfortunately has a totally misleading name. A similar body, the Authorized Body for Technical Regulations (ABTR) has been established by the Kyrgyz Republic⁹. The proposal to have such a body during the negotiations helped Kyrgyzstan quite appreciably in rapidly attaining accession to the WTO. Predictably, it is

⁸ Detailed information on the Australian approach can be obtained from the website of the Prime Minister's Office in Australia at <http://pc.gov.au>

⁹ Kyrgyz Republic Law No.67 of May 2004: On the Fundamentals of Technical Regulation in the Kyrgyz Republic. Details can be obtained from the Ministry of Economic Development and Trade in the Kyrgyz Republic.

now running into serious trouble because it is only a Department within the Ministry of Economic Development and Trade – its status is just too low to gain the required respect of the Ministries and State Agencies it needs to coordinate. A fourth example is the WTO Legal Compliance Unit that was established in Cambodia during their accession process.



NOTE *: Organizations in Tajikistan such as Tajikstandart and in future Tajik Accreditation are not yet a member of all of these organizations, but should become members as soon as possible.

4. NATIONAL QUALITY INFRASTRUCTURE

4.1 General

No definitive recommended model for a National Quality Infrastructure (NQI) exists at the international level. There are quite a number of models operating in various economies, developed as well as developing, that are quite effective, but not always efficient. There is no “one size fits all”. The realities of Tajikistan, its current organizational structures, human resources, financial support from government and industry, and many more will have an influence on the final NQI that will be established. An overview of the various models, their

advantages and disadvantages, is provided in the ITC Publication: *Road Map for Quality: Guidelines for the Review of the Standardization, Quality Management, Accreditation and Metrology Infrastructure at National Level*¹⁰.

4.2 Standards

4.2.1 Current situation

Although Tajikstandart is the national standards body, its major focus is not on the development of national standards. A system and process for the development of national standards that includes all the stakeholders, e.g. technical committees representative of authorities, industry and academia has not been developed, neither is a system to establish the real standardization needs of industry. The primary focus of Tajikstandart is on the implementation of mandatory standards to regulate the “quality” of products rather than limit regulation to the safety and health of society and the environment as detailed in the WTO TBT Agreement. The notion of a voluntary standards system that caters for the needs of industry is not understood, and hence basically absent.

Tajikstandart is a member of the Euro-Asian Interstate Council for Standardization, Metrology and Certification (EASC) and of the Intra-Regional Organization on Standardization for countries in the Asian region (IAS). Harmonized standards developed by these organizations, especially the CIS related ones, play an enormous role in Tajikistan, e.g. approximately 20 000 CIS standards have been developed as well as approximately 1000 RT standards. International standards on the other hand play an insignificant role due to:

- the lack of involvement of Tajikistan in international standardization;
- the lack of official Russian translations of ISO and IEC standards from those international standards bodies (translations, if available, have to be purchased at great expense from Goststandard in Russia);
- the bulk of foreign trade with CIS countries; and
- the general lack of knowledge of English as the main language of international standardization amongst officials.

Tajikstandart officials normally participate in the final discussions of CIS standards at regional level, but are standards takers, and not standards makers. Prior to regional discussions, drafts are discussed at national level in *ad hoc* working groups representative of Ministries and Agencies, but industry is generally absent by omission or due to lack of interest.

Standards are also developed by a number of authorities other than Tajikstandart, such as:

- State Committee on Architecture and Construction (construction sector);
- Ministry of Agriculture and Environmental Protection (use of natural resources and environmental protection, sanitary and phyto-sanitary sectors); and
- Ministry of Health (medical products, medical equipment and safety of life).

¹⁰ *Road Map for Quality: Guidelines for the Review of the Standardization, Quality Management, Accreditation and Metrology Infrastructure at National Level*, Doc. No. BAS-04-19.E, Geneva, ITC.

Another oddity is that Tajikstandart registers all the company-developed standards (known as “technical norms”). The reason for this activity is obscure, as it provides no demonstrable additional value. There is also no attempt or a mechanism to control the quality of the standards developed by other authorities or industry. Standards are generally supplied to the authorities and industry either free of charge or at extremely low prices, just covering duplication costs. This practice just strengthens the notion by industry and the authorities that standards are public domain documents that must be provided free of charge, and hence deprives Tajikstandart of a modest income from standards sales. It should also be borne in mind that ISO and IEC Standards are copyrighted, and Tajikstandart as the member body of ISO specifically has the responsibility to ensure that this copyright is not violated in Tajikistan. Hence, once international standards are adopted more frequently, Tajikstandart will have to comply for example with the POCOSA agreement of ISO which, amongst other issues, also regulates the minimum prices such adopted standards may be sold for.

4.2.2 Future development

A modern standards development and publication system is required to support industry, properly represent the demonstrable needs of industry and the authorities in international and regional standardization activities, and to provide evidence of compliance with the WTO TBT Agreement. The current focus is basically on the development of mandatory standards, which should in due course be transformed into technical regulations, which will be the responsibility of other organizations. This situation, where standards development is just a Division within the Department of State Control over the Observance of Standards Requirements, is therefore untenable.

Tajikstandart should develop and implement a modern standards development regime based on transparency, consensus and participation of all stakeholders. This means that technical committees need to be established for the important sectors of Tajikistan industry and the technical regulation needs of the authorities. These technical committees should in as far as is practicable “mirror” the international and regional technical committees important to Tajikistan.

Tajikstandart will have to train its staff to handle the secretariats of such technical committees, and develop the expertise to publish and market standards as an additional source of income. The mechanism for development of national standards should be designed on the basis of the relevant ISO/IEC Directives¹¹ and should from the outset be compliant with WTO TBT Agreement¹² requirements. Technical support from the donor community for this activity could make a substantial impact in a fairly short time. Now that Tajikstandart is a correspondent member of ISO, staff (even though they may not have voting rights yet) should actively participate in international standards development activities in areas relevant for the industry and authorities of Tajikistan that would expose them to best practices hitherto denied them.

The WTO TBT Agreement is very clear in that the government has the responsibility to ensure compliance of all standards developers for compliance with the requirements of the

¹¹ *ISO/IEC Directives – Parts 1, 2 and 3*. International Organization for Standardization, Geneva and International Electrotechnical Commission, Geneva.

¹² *WTO TBT Agreement, Annex 3: Code of Good Practice for the Preparation, Adoption and Application of Standards*. World Trade Organization, Geneva

WTO TBT Agreement. The WTO TBT Agreement requirements include a six-monthly notification of the standards development programme of the country to ISONET. This can be achieved in two ways, namely:

- Transfer of all development of standards at the national level to Tajikstandart, i.e. Ministries and Authorities currently developing their own standards should transfer these activities to Tajikstandart. These Ministries and Agencies may be given the right of first refusal as chairperson of the technical committee, thereby ensuring that they can still guide the development process.
- A registration mechanism should be developed for standards development organizations. Registration requirements should include an audit on the standards development mechanisms employed by these organizations for compliance with Annex 3 of the WTO TBT Agreement and ISO/IEC Directives. The standards so developed are then adopted and published as national standards by Tajikstandart.

Either way would be appropriate in Tajikistan, but the first option would be the preferred one from a logistics perspective.

Recommendation 3: Tajikstandart should develop and implement a modern standards development and publication system, based on the principles of consensus, transparency and inclusiveness, complete with national technical committees and appropriate publication and marketing mechanisms for standards. This system should be based on the relevant ISO/IEC Directives and must comply with the WTO TBT Agreement requirements. In addition, Tajikstandart should develop and implement a registration system for other standards development organizations that would ensure their compliance with the same international requirements.

Recommendation 4: Tajikstandart staff should start to participate actively in international standards development projects relevant to the industry and authorities of Tajikistan, and consider short-time attachments in modern national standards bodies, in order to gain experience in international best practices.

4.3 Metrology

Tajikstandart is responsible for the establishment and maintenance of the national measurement standards, as well as industrial and legal metrology¹³. Hence Tajikstandart can be considered the National Metrology Institute (NMI) of Tajikistan. The metrology functions are carried out by the Department of Metrology and Accreditation within Tajikstandart. The Department has a staff of about 70, of which 60 are involved in metrology.

The national measurement standards are said to be calibrated against Russian Federation, Kazakhstan and Uzbekistan standards to ensure traceability to the international standards.

¹³ The International Organization for Legal Metrology (OIML) defines Legal Metrology as “the entirety of the legislative, administrative and technical procedures established by, or by reference to public authorities, and implemented on their behalf in order to specify and to ensure, in a regulatory or contractual manner, the appropriate quality and credibility of measurements related to official controls, trade, safety and the environment”.

The report by Gilmore, Nabieva and Gujadhur¹⁴ indicates that the facilities and the Current Measurement Capability (CMC)¹⁵ of Tajikstandart leave much to be desired and a massive and urgent programme for the upgrading of the whole system is indicated.

Just as in the case of mandatory standards, much of the activities of the metrology department focus on the mandatory calibration of all measuring equipment, whether they are used in the production processes or in trade as practiced since Soviet times. The concept of a voluntary calibration service that is geared towards the real needs of industry, where the service provider is invited or contracted to calibrate production measuring equipment seems to be foreign to the current thinking within the metrology department.

Tajikstandart operates a “calibration system” for legal metrology based on CIS Standards. The effectiveness of this system to ensure proper measurement in trade could not be determined in the time available. At the same time, the notion of legal metrology as a coherent, overarching set of technical regulations for the type approval and verification¹⁶ of measuring equipment used in trade, law enforcement and health services based on OIML recommendations, does not exist. The same applies to the control of quantities of pre-packaged goods. The metrology requirements, if defined, are contained in each of the mandatory standards for each individual product.

Recommendation 5: Tajikstandart should embark on a major programme to upgrade the facilities and national metrology standards in order to support the industry and authorities with appropriate metrology services. At the same time Tajikstandart should establish its Current Measurement Capability (CMC) for inclusion in the BIPM database in order to facilitate acceptance of metrology results from Tajikistan in international markets.

Recommendation 6: Tajikstandart should develop and implement a modern legal metrology system based on OIML recommendations. Included in the system should be type approval and verification of measuring equipment in trade, law enforcement and health services as well as control of quantities of pre-packaged goods with the objective to protect the local consumers and to facilitate acceptance of pre-packed goods in international markets.

4.4 Accreditation

Tajikstandart is responsible for accreditation in the country. The Accreditation Division is one of the three Divisions of the Department of Metrology and Accreditation and consists of 10 staff members. Approximately 120 laboratories have been accredited as well as a small number of certification bodies. The accreditation fees are very low compared to international levels.

¹⁴ John Gilmore, Umeda Nabieva and Shyam K. Gujadhur, *Current situation and needs assessment in the area of standardization, quality assurance, accreditation and metrology (SQAM) in Tajikistan*, ITC/DTCC/04/2729, International Trade Centre, June 2004

¹⁵ CMC is a designation used by the BIPM to refer to the content of Annex C of the BIPM Mutual Recognition Arrangement (MRA) for national measurement standards and for calibration and measurement certificates issued by National Metrology Institutes.

¹⁶ The International Organization for Legal Metrology (OIML) defines verification as “the procedure, other than type approval, which includes the examination, marking and issuing of a verification certificate as relevant, that ascertains and confirms that the measuring instrument complies with the statutory requirements”.

Accreditation practices are based entirely on CIS standards. Although it is claimed that these are based on international standards, such claims should not be taken at face value. The report by Gilmour, Nabieva and Gujadhur¹⁷ indicates that the relevant CIS standard in use predates the current ISO/IEC Standard, ISO/IEC 17025:2005¹⁸ by at least 9 years without any indication of recent revisions.

In addition, the report by Parkany¹⁹ indicates that none of the 10 (some of which were accredited) laboratories visited would pass an assessment in accordance with the current ISO/IEC 17025 standard, and that the rather long period of the planned economy is still hindering the realization of a policy focusing on the satisfaction of consumers' demands, due handling of complaints, continual development, corrective and preventive action as envisaged by ISO/IEC 17025.

The current situation therefore leads to three main conclusions, namely

- A major conflict of interest exists in Tajikstandart between its accreditation and its testing and certification activities. Arguments that the accreditation is operated strictly in accordance with the standards, and that the business is too small to warrant an independent accreditation body might sound fine at the national level, but they will definitely not be accepted at the international level. If Tajikistan wishes to see its products accepted in other countries without re-testing and re-certification, then the accreditation function has to be totally independent of any of the conformity assessment service providers.
- The accreditation function has to be peer assessed and has to comply with all the relevant requirements of ISO/IEC 17011²⁰. It has to become a member of the mutual recognition arrangements of ILAC and IAF to gain the international recognition of test reports and certificates of the accredited conformity assessment service providers in Tajikistan. There is no other way to gain proper international recognition. It is for this reason that the current politically motivated mutual recognition agreements signed by the CIS countries, which are not based on any evidence of competence, are often ignored within the CIS countries.
- The laboratories and certification bodies in Tajikistan do not comply with international requirements in spite of being accredited by Tajikstandart. This means that they require a massive sensitization campaign, followed by relevant training and upgrading of their facilities so that they can be successfully assessed against the requirements of ISO/IEC 17025:2005 and accredited.

¹⁷ John Gilmour, Umeda Nabieva and Shyam K. Gujadhur, *Current situation and needs assessment in the area of standardization, quality assurance, accreditation and metrology (SQAM) in Tajikistan*, ITC/DTCC/04/2729, International Trade Centre, June 2004.

¹⁸ ISO/IEC 17025:2005, *General requirements for the competence of testing and calibration laboratories*, International Organization for Standardization, Geneva

¹⁹ E Parkany, *Assistance to selected laboratories in Tajikistan*, ITC/DTCC/06/2815, International Trade Centre, February 2006.

²⁰ ISO/IEC 17011:2004, *Conformity assessment – General requirements for accreditation bodies accrediting conformity assessment bodies*, International Organization for Standardization, Geneva

Recommendation 7: *The authorities in Tajikistan must seriously consider separating the accreditation function from Tajikstandart and establish an independent national accreditation body if Tajikstandart is to continue providing conformity assessment services to both the authorities and the industry. Any combination of accreditation and conformity assessment services in the same organization is considered a totally unacceptable conflict of interest at the international level.*

Recommendation 8: *The accreditation body should develop and implement procedures that are fully in compliance with the requirements of ISO/IEC 17011. It should become a member of the IAF and ILAC in order to be exposed to international trends and requirements regarding accreditation, and work towards membership of the mutual recognition agreements of ILAC and IAF in order to facilitate acceptance of the output of accredited conformity assessment service providers of Tajikistan in the international markets.*

4.5 Possible Tajikstandart organizational structure

The current organizational structure of Tajikstandart is shown in Figure 3 below. From the discussions in sections 4.3 and 4.4 it is clear that the current organizational structure will have to change appreciably if a modern technical regulation regime as envisaged by the draft Law on Technical Regulation is adopted. International best practices would indicate that the following major changes will have to be implemented, namely:

- The elevation of the status of Standards to fully fledged Department (currently a division of the *Department for state control over the observance of standard requirements*);
- The elevation of the status of accreditation and its establishment as an independent organization;
- The relocation of the regulatory functions to a relevant Ministry or Agency;
- The establishment of a National Metrology Institute; and
- The establishment of Tajikstandart as the conformity assessment service provider of choice.

As discussed in section 4.4, a major conflict of interest will remain as long as accreditation and conformity assessment services are provided by the same organization. Tajikstandart therefore has the choice of either removing accreditation or testing and certification. Both options are acceptable in the international domain. The question is what is appropriate for Tajikistan in the first place and then for Tajikstandart.

Standards, metrology and accreditation are considered the fundamental building blocks of the NQI and are the responsibility of the state. These activities will have to be funded nearly 100% by the state for many years, as is the case in nearly 80% of the world's economies. If it were possible to group these in one organization it would limit the overall cost to the state somewhat due to economies of scale and a single administration. But, there are some problems with such a grouping. The question of metrology and accreditation grouped in one organization in the past has led to questions regarding a possible conflict of interest. In addition the organization is then totally dependent on the vagaries of state funding which is notoriously fickle. Hence, such a structure is extremely rare in developed or developing

economies. One example is Canada where the Standards Council of Canada is responsible for national standardization and accreditation.

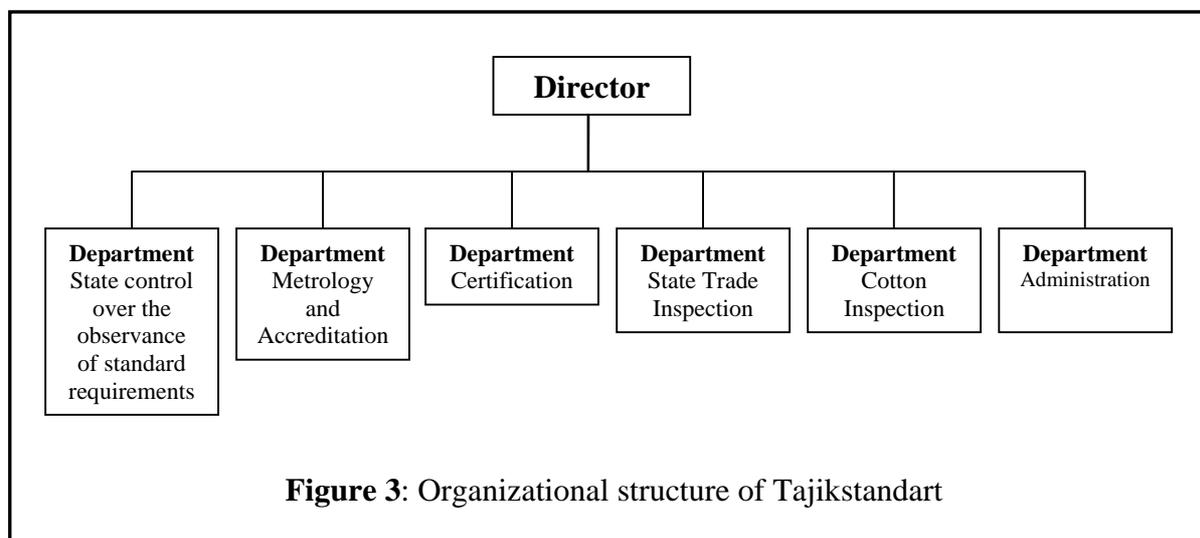


Figure 3: Organizational structure of Tajikstandart

Source: Gilmour, Nabieva and Gujadhur, June 2004²¹

It is more common to find standards and conformity assessment in one organization, with metrology and accreditation set up as independent organizations. This allows the standards organizations, especially in the developing economies to fund some of their standards development out of commercial testing and certification activities, thereby becoming less dependent on state funds. Accreditation has to be supported by state funds anyway in developing economies²². The same applies to metrology that requires state funding for maintaining the national measurement standards and traceability to the international metrology system. The national calibration system, on the other hand, can become self-sustaining quite rapidly.

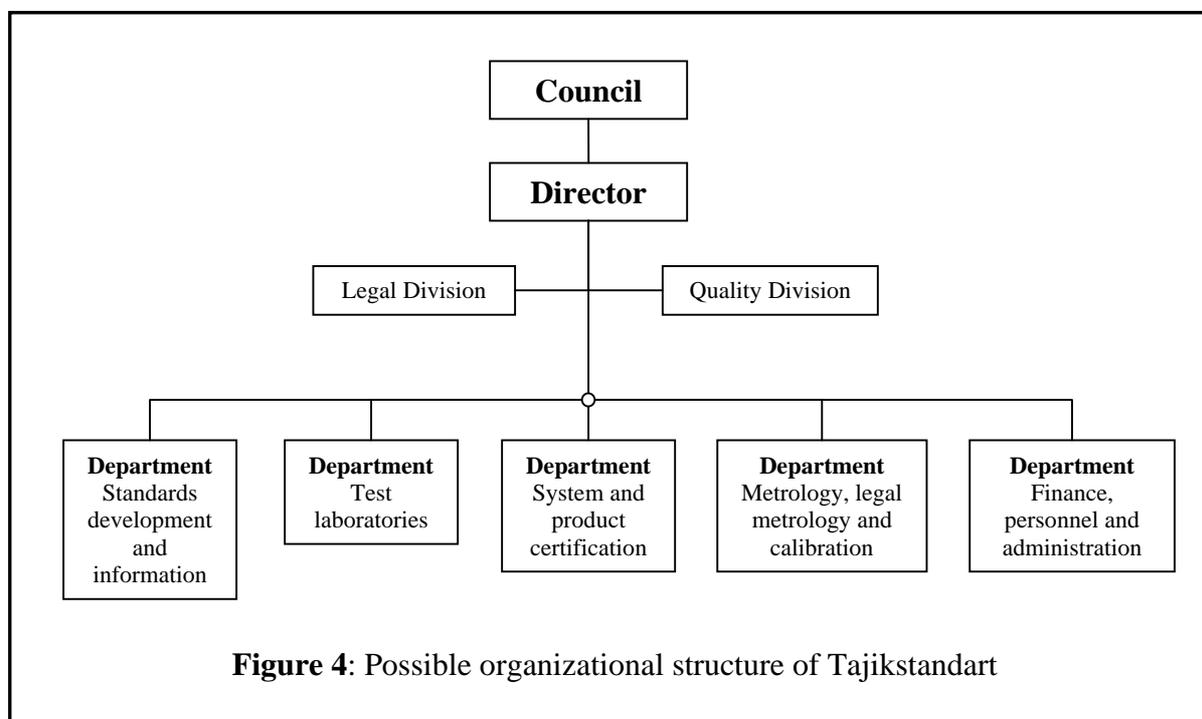
This constellation is the situation in developed economies such as Britain or Australia, and in many smaller economies such as South Africa and New Zealand. Standards bodies in continental Europe generally only deal with standardization, but they obtain the bulk of their income from the sales of standards as well as powerful industry organizations funding standards development. This is not the situation in developing countries. The Czech Republic, on the other hand, has established three independent organizations for standards, metrology and accreditation respectively in their major restructuring exercise, which by all accounts seems to function well.

For private industry in a developing economy it is extremely difficult to establish testing laboratories and certification bodies as the business is initially just too small. Hence the state has to help by establishing and maintaining testing laboratories and certification bodies until

²¹ John Gilmour, Umeda Nabieva and Shyam K. Gujadhur, *Current situation and needs assessment in the area of standardization, quality assurance, accreditation and metrology (SQAM) in Tajikistan*, ITC/DTCC/04/2729, International Trade Centre, June 2004

²² Anecdotal evidence suggests that accreditation bodies with more than 200 accredited companies on their books can be financially stable, as long as the state pays the membership fees for international organizations such as ILAC and IAF, which are considerable.

such time that the business has grown to the extent that they can be commercialised. This is another good reason for Tajikstandart to retain its testing and certification activities for the foreseeable future.



Considering all the options and the realities of the current situation in Tajikistan, it is recommended that

1. Tajikstandart should retain its testing and certification activities, to augment its standards development responsibilities. The regulatory functions that currently provide the bulk of its revenues should slowly be phased out to be replaced by testing and certification on demand in parallel with the introduction of the relevant transformed technical regulations. The state surveillance function should be transferred to the relevant state surveillance bodies at the same time.
2. Accreditation should be established initially as a focal point in the Ministry of Economic Development and Trade, later to be developed into a fully-fledged independent national accreditation body. The current accreditation activities should be appreciably enhanced to provide accreditation in full compliance with the current international standards, i.e. ISO/IEC 17025 for laboratories, ISO/IEC 17021 for system certification bodies and ISO/IEC Guide 65 for product certification bodies. Any and all accreditation functions conducted by various other Ministries and Agencies must be transferred, as Tajikistan just cannot afford the luxury of more than one national accreditation body. The sensitivities of these Ministries and Agencies will be taken care of in the relevant sector committees that have to be set up to support the national accreditation body. The national accreditation body has to ensure its compliance with ISO/IEC 17011 and should pursue international recognition as soon as possible.

3. Tajikstandart could remain responsible for metrology in the short term. Metrology should, however, be organized as a full Department with three major Divisions, namely fundamental metrology, calibration and legal metrology. This will allow the greatest flexibility, will provide each Division with a singular focus and function, and will provide proper career path planning for the technical staff. Once Metrology has grown in staff and turnover to the point where it warrants an independent National Metrology Institute for the country, it can then be moved out of Tajikstandart without upsetting the rest of the organization.
4. It is also very important to allow all the major stakeholders of Tajikstandart a say in the governance of the organization. Hence it is very important that a Council be reinstated, and that its members should come from both the state and private industry.

One possible new organizational structure for Tajikstandart is shown in Figure 4 above. To arrive at the optimum structure would, however, entail a proper analysis of the future business of Tajikstandart, management practices and accepted organizational structures in Tajikistan. It should not be undertaken as an armchair exercise, but should involve in-depth discussions and even negotiations with all the major stakeholders.

It is not just the organizational structure of Tajikstandart that has to be changed, but the whole business approach of Tajikstandart will have to be totally re-engineered (see also section 6). Anecdotal evidence from other developing economies suggests that without the involvement of a “change agent”, i.e. an expert well versed in company re-engineering, it will be very difficult for Tajikstandart to effect the required changes on their own.

Recommendation 9: *A series of workshops should be held to sensitize the Management of Tajikstandart as to the fundamentals of the new approach to technical regulation and the impact it will have on the activities of Tajikstandart, and to support the development of a new business approach for the organization. The outcome of the workshops should be to develop draft strategies that Tajikstandart could consider to deal with the changes, to obtain clarity regarding a new organizational structure and to identify and explore the new business opportunities that will be created.*

Recommendation 10: *Once the draft Law on Technical Regulation has been adopted, and Tajikstandart has to implement major organizational and business process changes, it should be supported in its re-engineering process by making available an expert well versed in business re-engineering for a lengthy period, with at least four months direct involvement over a period of a year.*

5. MARKET SURVEILLANCE

One of the major uncertainties voiced by virtually all the persons contacted in Tajikistan, is the question what the responsibilities of the State Surveillance Bodies should be, and how does their work differ from inspection and testing. This uncertainty is quite understandable, because in the mandatory standards system operated until now, the testing and certification bodies were at the same time also the regulatory authorities, i.e. were consciously or unconsciously responsible for market surveillance. Now these functions have to be split.

5.1 Shift in responsibility

It is only when one appreciates that a fundamental shift in responsibilities is going to take place that the picture becomes a little clearer. In the mandatory standards system, the state basically inspects each batch, takes a sample of the product, tests the sample, and issues a certificate of compliance. Even though a start has been made to devolve some of the inspection and testing to private organizations, Tajikstandart is still conducting the bulk of the work in the general domain, whereas the State Agency for Architecture is responsible for building material, and the Ministry of Health for medical equipment. The state therefore tries to control the quality of products through a statistically indefensible system and in the eyes of many accepts responsibility for the integrity of the products that are subject to mandatory standards. The real added value of the system can therefore be challenged, and it is considered to be an impediment to trade by most trading partners, in need of serious reform²³.

In the new thinking²⁴, the situation is turned around 180 degrees. Suppliers are made fully responsible to ensure that the required testing and certification is conducted, and that they draft the Declaration of Conformity (on the basis of a positive outcome of the testing and certification) which basically states that they accept full responsibility for the integrity of the product and that all the regulatory requirements have been met. The conformity assessment service providers provide their services on demand from the suppliers, and they could be any one of the accredited laboratories or certification bodies, irrespective of whether they are public or private.

Somebody, however, has to keep an eye on the situation to ensure that both the suppliers and the conformity assessment service providers continuously live up to their responsibilities, much like the traffic police would ensure that motorists obey traffic laws. This is the function of the State Surveillance Bodies.

5.2 Activities of the State Surveillance Bodies

In ISO/IEC 17000:2004²⁵ surveillance is defined as the *systematic iteration of conformity assessment activities as a basis for maintaining the validity of the statement of conformity*. In modern economies, suppliers and independent third-party conformity assessment service providers are responsible to ensure compliance of products with the requirements of technical regulations. This is no longer a responsibility of the state. The state, however, has a responsibility to ensure that these requirements are in fact complied with. Hence, the state has to establish a surveillance function, which consistently and continually reviews the activities of the suppliers and conformity assessment service providers. The international definition for surveillance endeavours to capture this activity.

²³ See for instance the recent report by the IFC, *Business Environment in Tajikistan as seen by small and medium enterprises*, 2006

²⁴ The new thinking is embodied in the draft Law on Technical Regulation - see report: *Review of the draft law on technical regulation*, ITC/DTCC/07/2859, May 2007, International Trade Centre, Geneva

²⁵ ISO/IEC 17000:2004, *Conformity assessment -- Vocabulary and general principles*, International Organization for Standardization, Geneva.

5.2.1 Functions

Following on from the definition, surveillance can therefore be considered as a revisit of the conformity assessment activities as required by technical regulations and implemented by the suppliers. It is an audit performed by the state to ensure that all the rules, especially conformity assessment requirements, have been complied with. Just like a financial audit, surveillance has to be properly planned, the sample has to be carefully selected, and the audit has to be thorough. The most often asked question should be “Show me, don’t tell me!” The integrity of staff involved in surveillance has to be above reproach.

After an audit cycle, the State Surveillance Bodies should be in a position to state whether the implementation of the technical regulation has been successful for the period under review or not. And if the implementation has not been effective, to take suppliers that commit an offence to task in a way that will ensure the effective implementation of the technical regulation. If necessary, non-compliant products should be withdrawn from the market, and sometimes even destroyed. Uncooperative suppliers should be taken to court.

Technical regulations are not a secret, nor should the activities of suppliers be with regard to compliance with their requirements. Hence every the State Surveillance Bodies has the responsibility for informing suppliers on any technical regulations that would be applicable to their products. In addition, they should keep authorities, the public at large and suppliers informed as to the state of implementation of specific technical regulations. Information can be disseminated at given intervals through the media, or provided on request. It is, however, very important that the appropriate information be provided timeously to senior officials within relevant Ministries due to the major impact non-compliances may have on the safety and health of society and the environment or on trade, especially with major trading partners. The same holds true for the implementation of new technical regulations.

5.2.2 Planning

The State Surveillance Bodies should plan and conduct surveillance following the principles of proportionality, i.e. the actions that are taken should be in accordance with the risk of a non-conformity actually occurring and the severity of the consequential damages of such non-conformity. Likewise, the impact of any surveillance activity on the supplier should not be more than what is absolutely necessary for performing the tasks of state surveillance.

Two types of state surveillance should be planned for. In the first instance a plan should be developed that would include surveillance of all the major suppliers of the product on a continual basis. These would be the local manufacturers and the main importers. If these entities ensure that the appropriate conformity assessment requirements have been met, and have developed the relevant Declaration of Conformity, then further distribution of the products to smaller suppliers and retailers should not create any additional problems. It is therefore very important for the State Surveillance Body to know exactly who the main suppliers of a specific product to the Tajikistan markets are.

The State Surveillance Body should also allow for adequate time for off-schedule surveillance activities. These are much more difficult to quantify in advance, but are often the most effective in intercepting non-conformities and rooting out rogue suppliers.

5.2.3 Surveillance inspectors

The officials that conduct surveillance visits enjoy immense authority to enter any premises where products that may fall within the scope of technical regulations are warehoused, sold or otherwise brought into circulation. It is therefore important that they know exactly what their authority, responsibility and accountability is. Therefore they need to be certified as State Inspectors after having undergone the relevant training and passed a specific examination.

When conducting surveillance visits they would enjoy the protection of the Government, but that also means that their visit should be legitimate. They can only do so when on official duty and they have to have their Identity Documents as State Inspectors available for scrutiny by the head or representative of the enterprise they are visiting. If the inspector does not have his/her identity document available, or tries to visit any enterprise outside his/her official duty, the enterprise has every right to refuse the inspector entry to the premises.

State Inspectors should realize that they are privy to a tremendous amount of company confidential information. They have a legal and moral obligation not to divulge this information to persons or enterprises not entitled to such information, especially competitors or potential competitors. It is good practice to make information available only through the Office of the Head of the Body for State Surveillance.

Finally, every State Surveillance Body should develop a Code of Conduct for their inspection staff. Inspection staff should sign this Code of Conduct when entering employment as evidence that they acknowledge that they can be held accountable for their conduct and integrity. This signed Code of Conduct may therefore be used as evidence in the case of disciplinary action against them.

5.2.4 On-site Surveillance Visits

Any on-site inspection is always conducted in the presence of a representative of the supplier. This is to ensure a high level of transparency. It should be borne in mind that the supplier is considered to have fulfilled all the requirements unless it can be proven otherwise. Market surveillance is an audit, not a form of control.

Depending on the requirements of the technical regulation and many other factors that would differ from product to product, each State Surveillance Body should develop documented procedures that can be collated in the form of a Handbook for use by its inspection staff during surveillance visits. The Handbook should also be available to enterprises that are to be visited by the specific State Surveillance Body. By pursuing such a policy of transparency, the State Surveillance Body will soon be accepted as a valuable partner in the market place, helping to bring about a level playing field for the enterprises regarding technical regulation compliance.

The Handbook should provide guidance on the procedures for on-site inspections of manufacturers, warehousing, sellers or other entities known to bring products into circulation, including very specific procedures for the activities that would normally be conducted during every surveillance visit, such as:

- Review of the production records of the manufacturer or the documentation of importers;
- Review of the relevant test reports, certificates (system and product) that have been defined in the technical regulation; and
- Review of the Declaration of Conformity relevant for the specific products or range of products.

In some cases a product will be tested again to audit the test results, and if problems are identified they have to be rectified.

5.2.5 Re-testing of products

If a potential problem is identified during the review of the documentation, or if the integrity of test results or certificates comes under suspicion, or if a valid complaint has been received, the inspector has to make a decision as to whether or not a test should be repeated as an additional check. This should not normally be the case if the records are found to be in good order and no complaints have been received. If, however, a test is to be repeated, then relevant test procedures or standards for doing so should be consulted.

The inspector should select a sample product as representative as possible of the batch, ensuring that the identification of the product agrees with the original product that was tested. The inspector can have the product tested in the laboratory of the supplier, if the supplier has one. Before utilizing the laboratory of the supplier, the inspector should enquire about the technical competency of the laboratory, e.g. whether the laboratory is accredited for the specific tests, whether the laboratory participates in inter-laboratory comparison schemes, whether all the laboratory equipment is properly calibrated, etc. If the supplier does not have a laboratory, or if the technical competency of the laboratory cannot be demonstrated, then it would be better to have the tests repeated at an independent laboratory that is accredited.

The inspector should witness the tests if conducted in the supplier's laboratory. If the test is conducted by an independent laboratory, this is not required, but it would be a useful practice to follow. Once the results are known, the inspector will have to decide whether the product meets the requirements of the technical regulation or not. If the product fails, then the inspector may request an additional product for testing, or the supplier may be asked to institute corrective actions. Details of the action the inspector should take, should be contained in the Handbook for the specific products or range of products.

5.3 Number of State Surveillance Bodies

One of the questions that the authorities in Tajikistan will have to discuss and agree on is the number of State Surveillance Bodies that have to be established to conduct state surveillance in an effective and efficient manner.

What are the options? The first option is to establish a single State Surveillance Body that will be responsible for the implementation of all technical regulations across all Ministries

and Agencies, as has been done in the Czech Republic²⁶. The other extreme would be for each Ministry and Agency that is responsible to develop technical regulations to establish their own State Surveillance Body, as has been attempted in the Kyrgyz Republic. The Czech system is by all accounts working well, but the Kyrgyz system is in some serious trouble. Another option would be to establish a small number of State Surveillance Bodies that would each deal with a particular area such as health, construction, etc.

In the Czech Republic there was tremendous political pressure to make the system work due to the accession to the EU. This pressure is absent in Tajikistan, as accession to the WTO will not entail the imposition of a specific system, as is the case for the EU. The Kyrgyz system is in trouble because few of the responsible Ministries have been involved in state surveillance in the past, budget constraints are hampering the establishment of proper state surveillance structures and the approach and understanding across the Ministries and Agencies varies tremendously.

Considering the situation it would seem that the multiple approach of Kyrgyzstan will run into exactly the same problems in Tajikistan. On the other hand, the State Agency for Architecture and the Ministry for Health are already involved and present in industry in a surveillance mode, even though this is somewhat different to the new approach. Tajikstandart is also involved in surveillance to a large extent. It would seem therefore that the most efficient approach for Tajikistan in terms of manpower and organizational structures would be to establish three State Surveillance Bodies, namely:

- General
- Construction
- Health

The relevant staff of Tajikstandart could be re-deployed in an independent State Surveillance body for general activities not covered by the other two, whereas the staff of the State Agency for Architecture and the Ministry of Health could be re-organized within their own organizations as proper State Surveillance Bodies. It should just be borne in mind that these latter two cannot make use only of their own laboratories for the testing and certification, but will have to accept test reports and certificates from other appropriately accredited institutions. In a few years the State Surveillance Body in the Ministry of Health could also be transformed into an independent agency, but still be accountable to the Ministry. Plans to establish a Food Agency as envisaged in the EU Project due to start in 2008 should also be factored into the debate. The Food Agency will be a typical State Surveillance Body.

Recommendation 11: Tajikistan authorities should review the situation in similar economies, take current organizational structures and responsibilities into account and determine the number and scopes of the State Surveillance Authorities to be established under the Law on Technical Regulation in the process making optimum use of available capacities. Thereafter common procedures have to be developed and training will have to be provided to these bodies once they have been established.

²⁶ Czech Trade Inspection, established in terms of the “Act on technical requirements for products (industrial) and government” and reporting to the Minister of Trade and Industry.

6. FEEDBACK MEETINGS

Two feedback meetings were held. The first one was held with approximately 15 personnel of Tajikstandart, and the second with approximately 10 personnel of the Ministry of Economic Development and Trade. The Director of Tajikstandart could unfortunately not attend the feedback meeting as he was out of Dushanbe. The MEDT feedback meeting was attended by the Head of Department of Marketing and Trade Activity Regulation and the Head of the WTO Unit. At both meetings the following issues were explained and discussed, namely:

- Fundamentals of technical regulations and the difference with standards (section 3.1);
- The shift from state control to state surveillance, and the new responsibilities of suppliers (section 5.1);
- The need for the independence of accreditation (section 4.3);
- The overall technical regulation organizational framework (section 3.2.4);
- A possible Tajikstandart organizational structure (section 4.4); and
- Market surveillance (section 5.2).

The discussions at both meetings were very lively, and provided much needed insight into the general lack of understanding of the draft Law for Technical Regulation and the changes it will bring about in the approach to technical regulation. It was very clear that the personnel of Tajikstandart are still very uncomfortable, even suspicious of the changes. This is understandable, as it will have a major impact on their activities, e.g. loss of authority, possible loss of income. It is therefore extremely important that the new system of technical regulation be carefully “work shopped” with the personnel and that the governance structures e.g. the management of Tajikstandart, be actively supported in developing strategies to cope with the changes and to bring about the necessary organizational reform.

The discussions in MEDT focussed largely on the role and activities of the state surveillance, and what the differences to the current system of mandatory inspection would be especially in the case of imported products. This is an area that will need to be integrated with the current work to create a much more efficient import/export administrative regime, such as the project implemented by GTZ in Central Asia²⁷. The final goal should be a system where Customs and Excise as the sole authority for import approval can be placed in a position to either accept the imported products or send them back also based on their compliance with technical regulations. And this does not mean that they should establish new laboratories to duplicate the testing already being conducted by Tajikstandart and others.

Recommendation 12: *The Ministry of Economic Development and Trade should make every effort to ensure that the new approach to technical regulation and the current activities to streamline import/export controls at border posts are integrated, in order to reduce the bureaucratic load on suppliers to an absolutely necessary minimum.*

²⁷ GTZ Project: Support of Regional Economic Cooperation in Central Asia.

7. ACKNOWLEDGEMENTS

In general, the members of the various institutions that were visited were very open, forthright and critical in their discussions about the national quality infrastructure and regulatory regimes of the Republic of Tajikistan – this is much appreciated. The staff of the International Trade Centre Office in Dushanbe was very helpful in organizing the logistics for this short visit to Tajikistan. The support and in-depth discussions with the National Project Manager, Saidmumin Kamolov, is gratefully acknowledged. The National Consultant, Umeda Nabieva, organized the many meetings, doubled as translator, and provided meaningful insight into the activities of the various organizations contacted, thereby appreciably enhancing the quality of this report. Overall guidance for the mission, and critical evaluation of the report and its recommendations, was provided by S. K. Gujadhur, ITC Senior Adviser on Standards and Quality Management.

ANNEX A: PROGRAMME OF VISITS

A.1 Schedule of activities

Date	Organization	Time
Monday, 25 June	Tajikstandart	Whole day
Tuesday, 26 June	EC Delegation	Morning
	Ministry of Agriculture and Environmental Protection	Morning
	Ministry of Health	Morning
	Tajikstandart	Afternoon
Wednesday, 27 June	Public Holiday	-
Thursday, 28 June	EC Delegation	Morning
	Tajikstandart - Report back meeting	Afternoon
	Ministry of Economic Development and Trade	Afternoon
Friday, 29 June	Ministry of Economic Development and Trade – Report back meeting	Afternoon

A.2 Persons contacted

Organization	Persons contacted	Position
Delegation of the European Commission to Tajikistan	Frederik COENE	Project Manager
Ministry of Agriculture and Environmental Protection	Dehkonov MIZROBKHON	Chief Specialist of the Ministry of Agriculture and Environmental Protection
Ministry of Economic Development and Trade	Kislyakova Larisa PAVLOVNA	Deputy Minister
	Anvar IBRAGIMOV	Head of WTO Unit
Ministry of Health	Shodmonov PIRNAZAR	Head of Republican Sanitary and Epidemiology Station
Tajikstandart	Davlatoli Hotamovich HOTAMOV	Director
	Ibodullo Karimovich KURBONOV	Deputy Director
	Zarina NEGMATOVA	Head of Foreign Affairs Department
	Suhrob VALIMADOV	Head of Trade Inspection Department
	Rahmonsho MIRZOEV	Head of Certification Department
	Tolibjon SHOKIRJONOV	Head of State Control on Unity Measurement

