

Introduction to the TBT and SPS Agreements

Subregional workshop on non-tariff measures in Armenia
and North and Central Asia

Organized by ESCAP and Food Safety Inspection Body by the Government
of Republic of Armenia

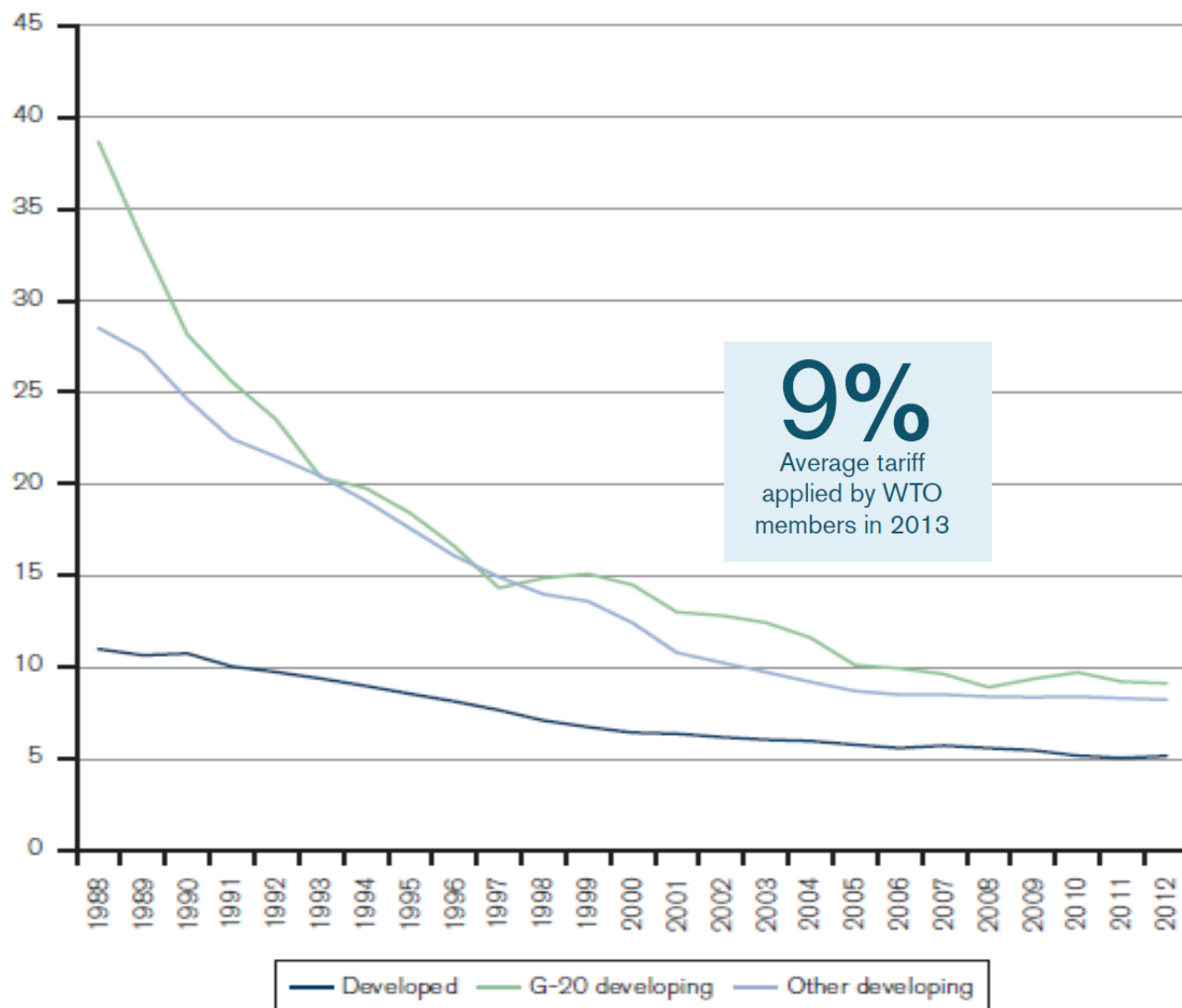
10 June 2019

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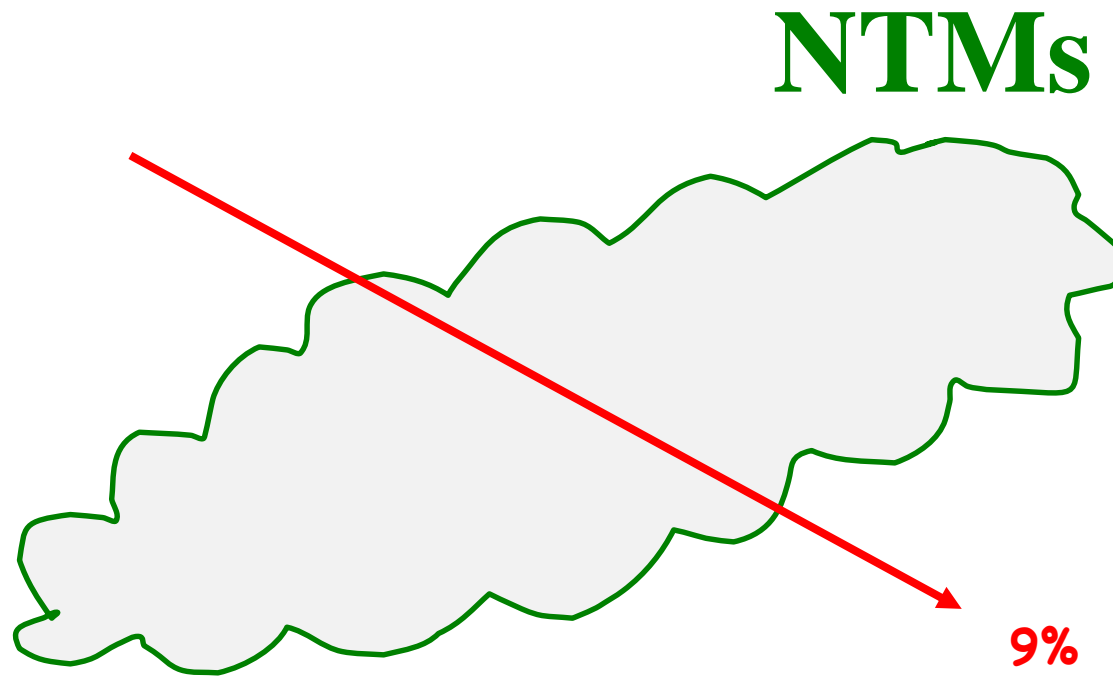
Figure C.26: **Most-favoured nation (MFN) tariffs on parts and components by country group**
(per cent)



Note: Underlying data are simple averages of ad valorem rates.

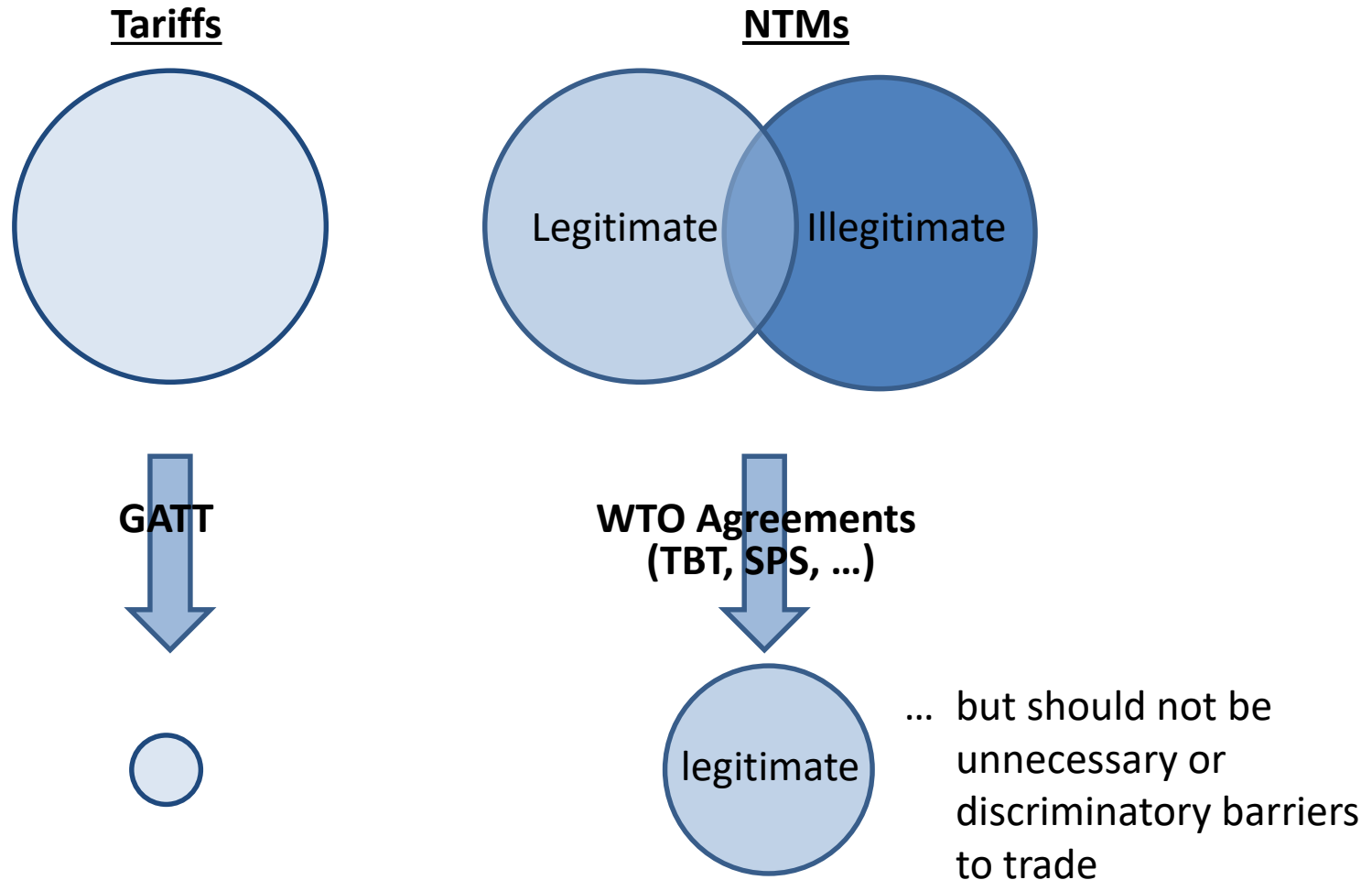
Source: Calculations based on the TRAINS (Trade Analysis and Information System) database, WITS (World Integrated Trade Solution).

Growing prominence of Non-Tariff Measures (NTMs)



NTMs can include: **Technical Barriers to Trade (TBT)**, **Sanitary and Phytosanitary Measures (SPS)**, quotas, contingency measures (antidumping, countervailing duties, safeguards), subsidies, services measures (domestic regulation)

WTO rules on NTMs



Objectives of the **SPS** and **TBT** Agreements

Pursuit of trade liberalization...

Members' right to regulate...

avoiding unnecessary
barriers to
international trade



right of Members **to**
protect human,
animal, plant life or
health / to fulfill
legitimate objectives
at levels they
consider appropriate

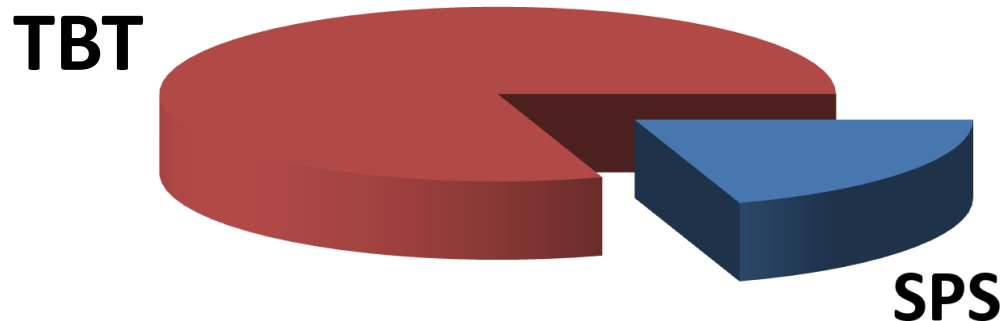
use of relevant international standards

TBT Agreement - Coverage

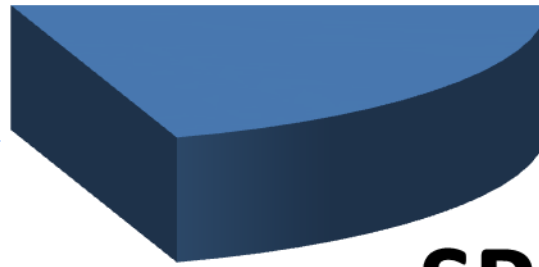
It applies to:

- technical regulations (mandatory)
- standards (voluntary)
- conformity assessment procedures

For all products,
industrial and
agricultural



But: its provisions do not apply to SPS measures



SPS

to protect:

from:

human or animal life



risks arising from additives, contaminants, toxins or disease-causing organisms in their food, beverages, feedstuffs;

human life



plant- or animal-carried diseases (zoonoses);

animal or plant life



pests, diseases, or disease-causing organisms;

a country



damage caused by the entry, establishment or spread of pests

Food standards and regulations

TBT – food quality,
information, and labelling
(not safety)

SPS – food safety (e.g.
pesticide residues,
additives, contaminants)



**TRADE
AND FOOD
STANDARDS**



SPS Agreement vs. TBT Agreement

SPS

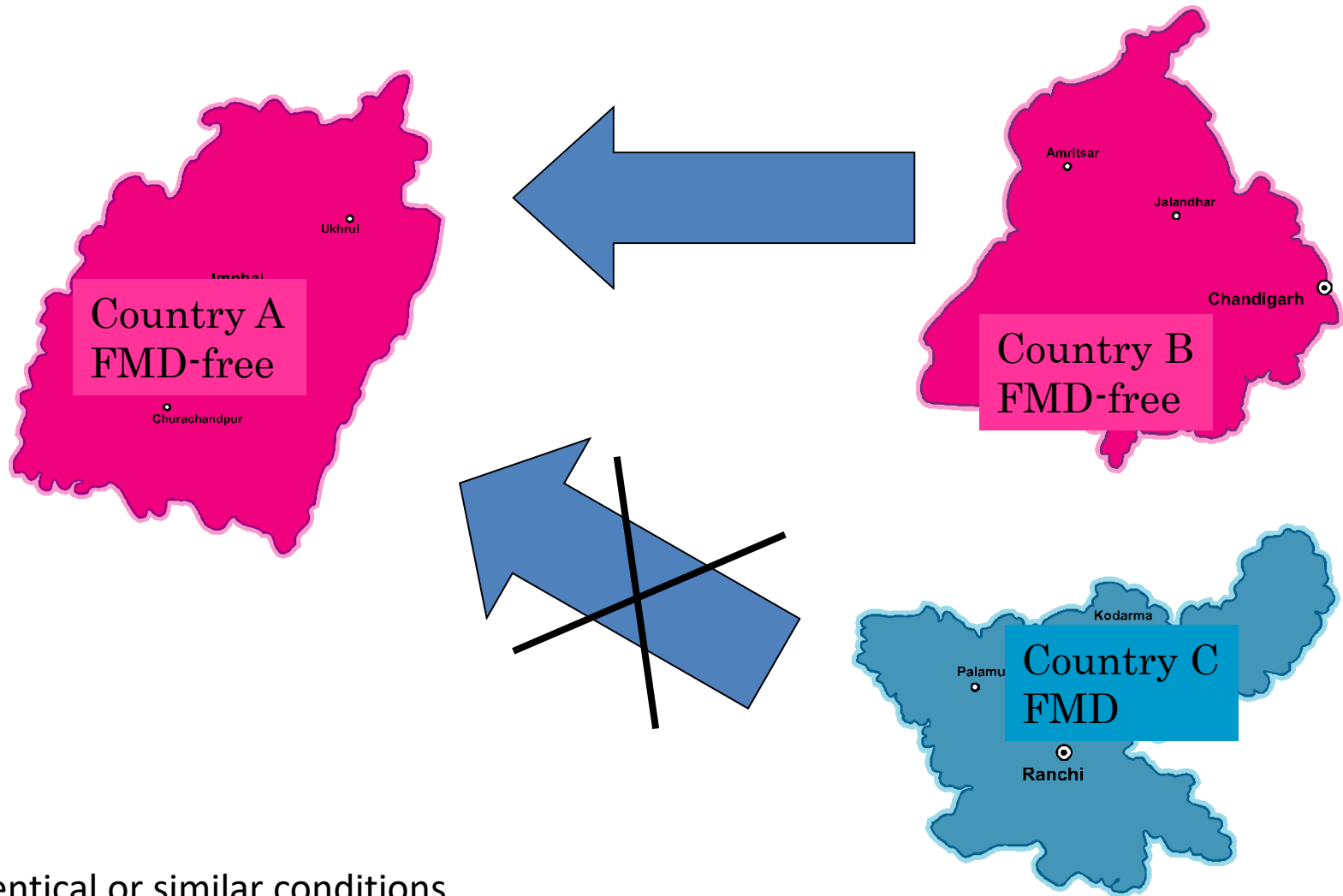
- Right to restrain trade when necessary to protect health
- Measures based on scientific principles
- Non-discriminatory
- No disguised restrictions
- Transparency
- Harmonization to international standards

TBT

- Right to restrain trade when necessary to fulfil legitimate objectives (including health)
- Technical regulations take into consideration *inter alia* available scientific and technical information
- Non-discriminatory
- No disguised restrictions
- Transparency
- Use of “relevant” international standards

Non-discrimination: SPS

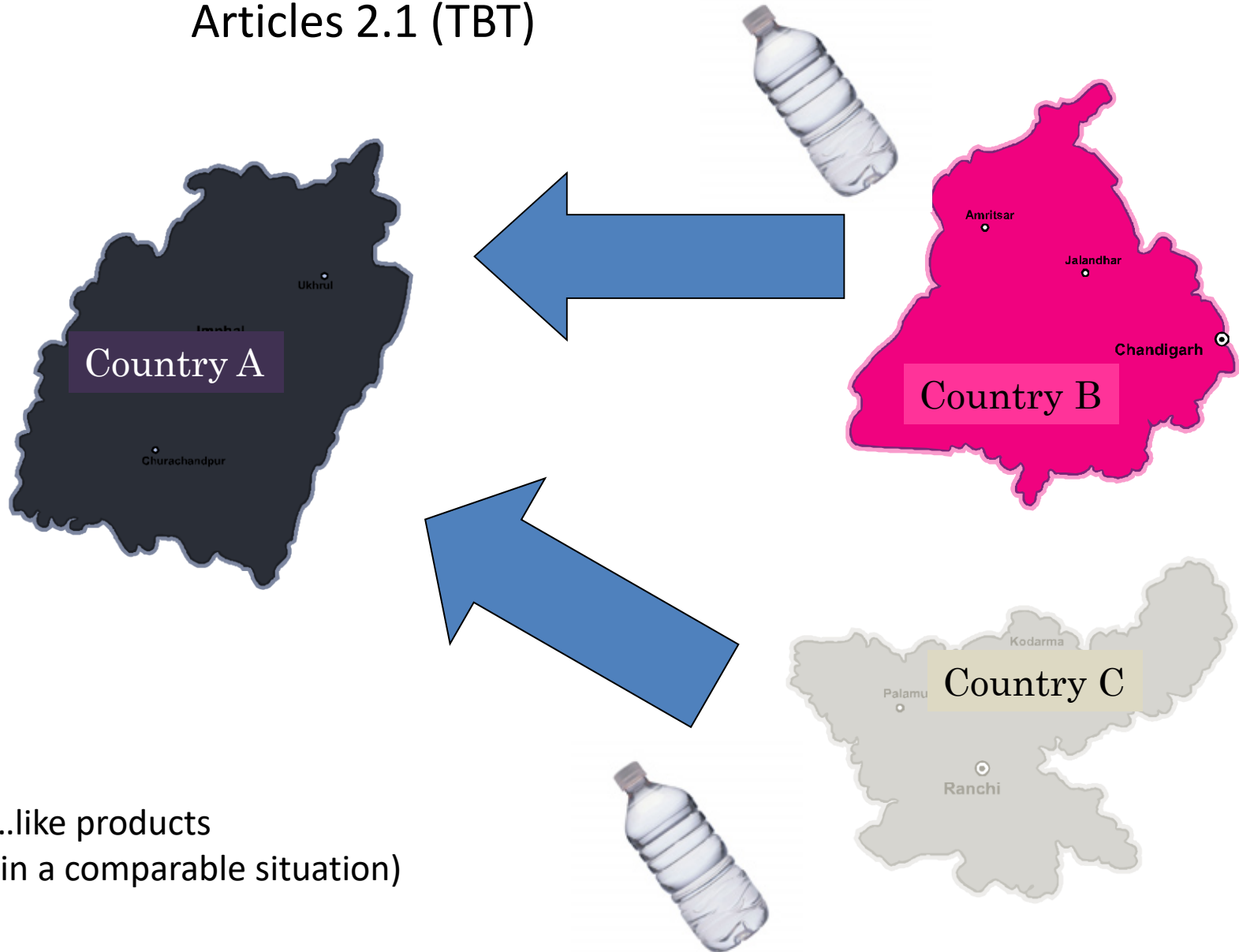
Article 2.3 (SPS)



...identical or similar conditions

Non-discrimination: TBT

Articles 2.1 (TBT)



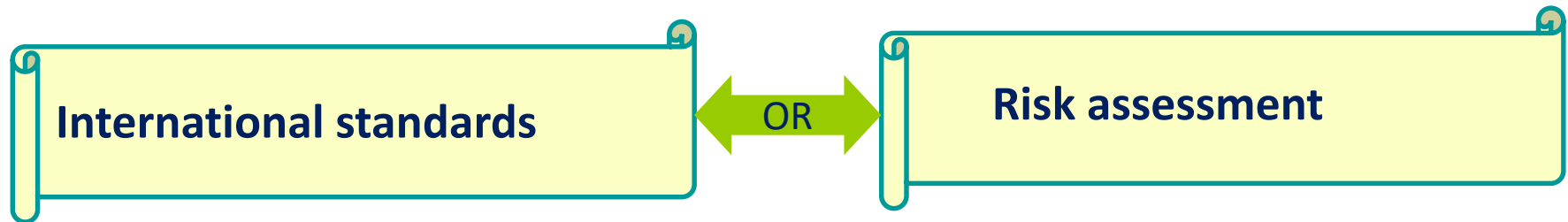
Treating “characterizing flavours” differently



SPS: Scientific justification

Articles 3 & 5

Measures must be based on:



SPS Agreement - Harmonization

Definition in Annex A:2

Harmonization – The establishment, recognition and application of common sanitary and phytosanitary measures by different Members.

SPS Agreement - Harmonization

Article 3 and Annex A:3

- Art. 3.1: Members “shall base” SPS measures on the relevant international standards
- Art. 3.2: Measures which “conform to” the international standards are “deemed necessary to protect ... health” and “presumed to be consistent” with SPS Agreement and GATT
- Art. 3.3: Members may have measures with higher ALOP than international standards – but ... in accordance with Art.5 (risk assessment)

SPS Agreement - Harmonization

Article 3 and Annex A:3

Standard-setting organizations

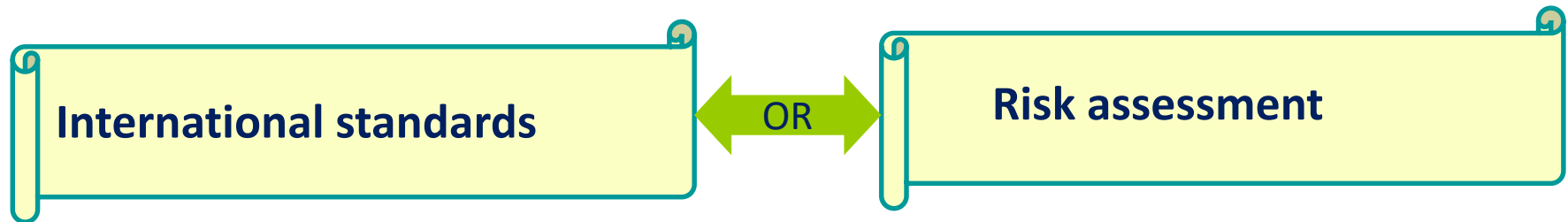


Codex = Joint FAO/WHO Codex Alimentarius Commission
OIE = World Organization for Animal Health
IPPC = International Plant Protection Convention (FAO)

SPS: Scientific justification

Articles 3 & 5

Measures must be based on:



Necessity (TBT)

**avoiding unnecessary
barriers to
international trade**



**Members' right to
regulate for
legitimate
objectives
(including for
human health)**

product safety

consumer
information

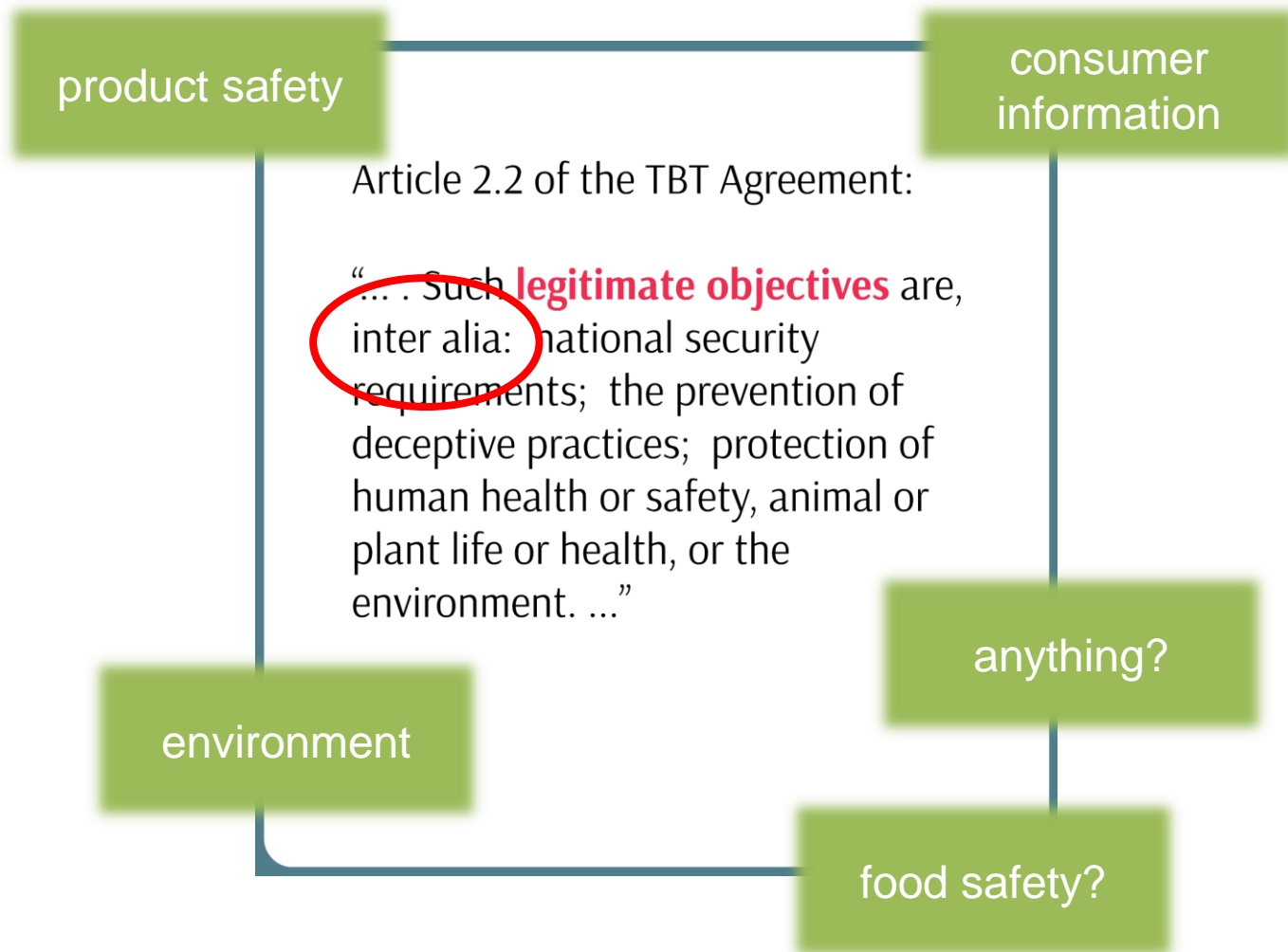
Article 2.2 of the TBT Agreement:

“... . Such **legitimate objectives** are,
inter alia: national security
requirements; the prevention of
deceptive practices; protection of
human health or safety, animal or
plant life or health, or the
environment. ...”

environment

anything?

food safety?



NOTE:

The warning statement, graphic and explanatory message must:

- cover at least 90% of the back surface
- join without space between them

PACK FORMAT:

- made of rigid cardboard
- no embellishments
- flip top lid

INFORMATION MESSAGE:

- background extends to edges of surface
- text fills background
- in Helvetica font
- in specified size, capitalisation and weighting
- black text on yellow background

PACK SURFACE:

- colour is Pantone 448C (a drab dark brown)
- matt finish

BRAND AND VARIANT NAME:

- horizontal and centred
- no larger than maximum sizes
- in Lucida Sans font
- in Pantone Cool Gray 2C colour
- in specified capitalisation

**WARNING STATEMENT:**

- background fills area above fold line of lid – extends to edges of surface
- text fills background
- in bold upper case Helvetica font
- white text on red background

GRAPHIC:

- not distorted
- extends to edges of surface
- includes Quitline logo

EXPLANATORY MESSAGE:

- background extends to edges of surface
- text fills background
- in Helvetica font
- in specified capitalisation and weighting
- white text on black background

FIRE RISK STATEMENT:

- below health warning
- no larger than 10 points in size
- in upper case Lucida Sans font
- in Pantone Cool Gray 2C colour



Type 1 "Drinking alcohol causes the hypertension liver cirrhosis"



Type 2 "Drunk driving causes disability or death"



Type 3 "Drinking alcohol leads to unconsciousness and even death"



Type 4 "Drinking alcohol leads to sexual impotency"

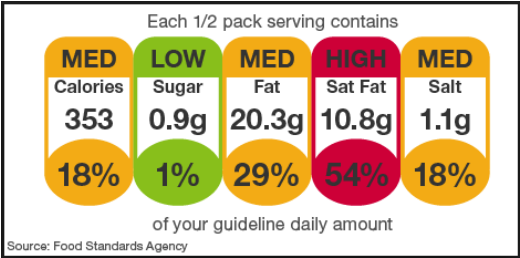


Type 5 "Drinking alcohol leads to adverse health effect and family problems"



Type 6 "Drinking alcohol is a bad role model for children and young people"

Nutrition Facts	
8 servings per container	
Serving size	2/3 cup (55g)
Amount per 2/3 cup	
Calories	230
% DV*	
12%	Total Fat 8g
5%	Saturated Fat 1g
	<i>Trans Fat</i> 0g
0%	Cholesterol 0mg
7%	Sodium 160mg
12%	Total Carbs 37g
14%	Dietary Fiber 4g
	Sugars 1g
	Added Sugars 0g
	Protein 3g
10%	Vitamin D 2mcg
20%	Calcium 260mg
45%	Iron 8mg
5%	Potassium 235mg
* Footnote on Daily Values (DV) and calories reference to be inserted here.	



TBT Agreement: using international standards

Members **shall** use...



“relevant” international standards



... as a *basis* for

(mandatory)

technical regulations
(Art. 2.4)

conformity assessment procedures
(Art. 5.4)



Presumption of not creating an unnecessary barrier to trade when requirements are in accordance with “relevant” international standards
(Art. 2.5)



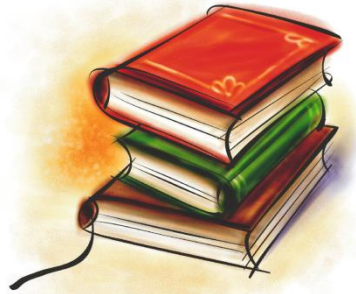
except!

when *ineffective* or *inappropriate* for policy objectives
(e.g. fundamental climatic or geographical factors, or technological problems)



The Use of International Standards...

... as a basis for regulation



Obligation



Flexibility



“shall use”

(international standards)

“shall play a full part ... in preparation”

(within resource limitations)



“relevant”, “as a basis”, “appropriate”,
“effective”, special and differential
treatment...

Which international standards to use/reference?



FAO/WHO Food Standards

CODEX alimentarius

SPS



International
Organization for
Standardization



IEEE



Bureau
International des
Poids et
Mesures

TBT Committee Decision on *Principles for the Development of International Standards, Guides and Recommendations*

(November 2000, G/TBT/9)

“Six Principles”

- **Transparency**
- **Openness**
- **Impartiality and consensus**
- **Relevance and effectiveness**
- **Coherence**
- **Development dimension**

Work of the SPS and TBT Committees



Two main themes of Committee work

1

review of measures
“specific trade concerns”
(mostly based on notifications)

2

Information exchange on cross-cutting issues (harmonization, transparency, ...): leading to decisions and recommendations



THE IMPORTANCE OF TRANSPARENCY AND NOTIFICATION

- Regulatory developments affect market access
- Reduce trade disruptions/problems through advance warning/consultations
- Enhance clarity, predictability; facilitate trade
- Promote regulatory cooperation among members
- Signal for a functioning system; builds trust

WHAT TO NOTIFY?

New or modified technical regulation or
conformity assessment procedure or SPS measure

+

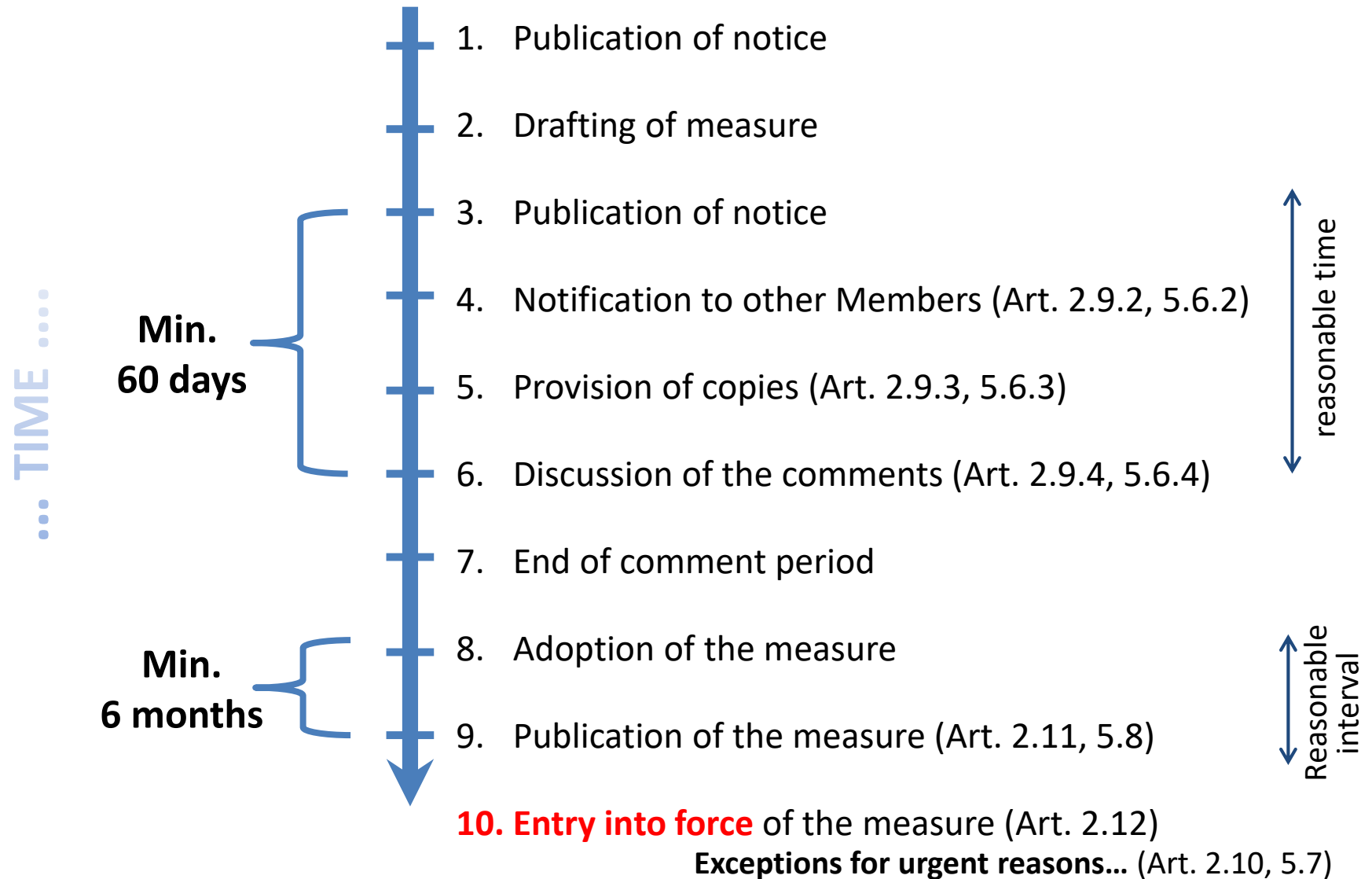
No existing international standard or
Different than the international standard

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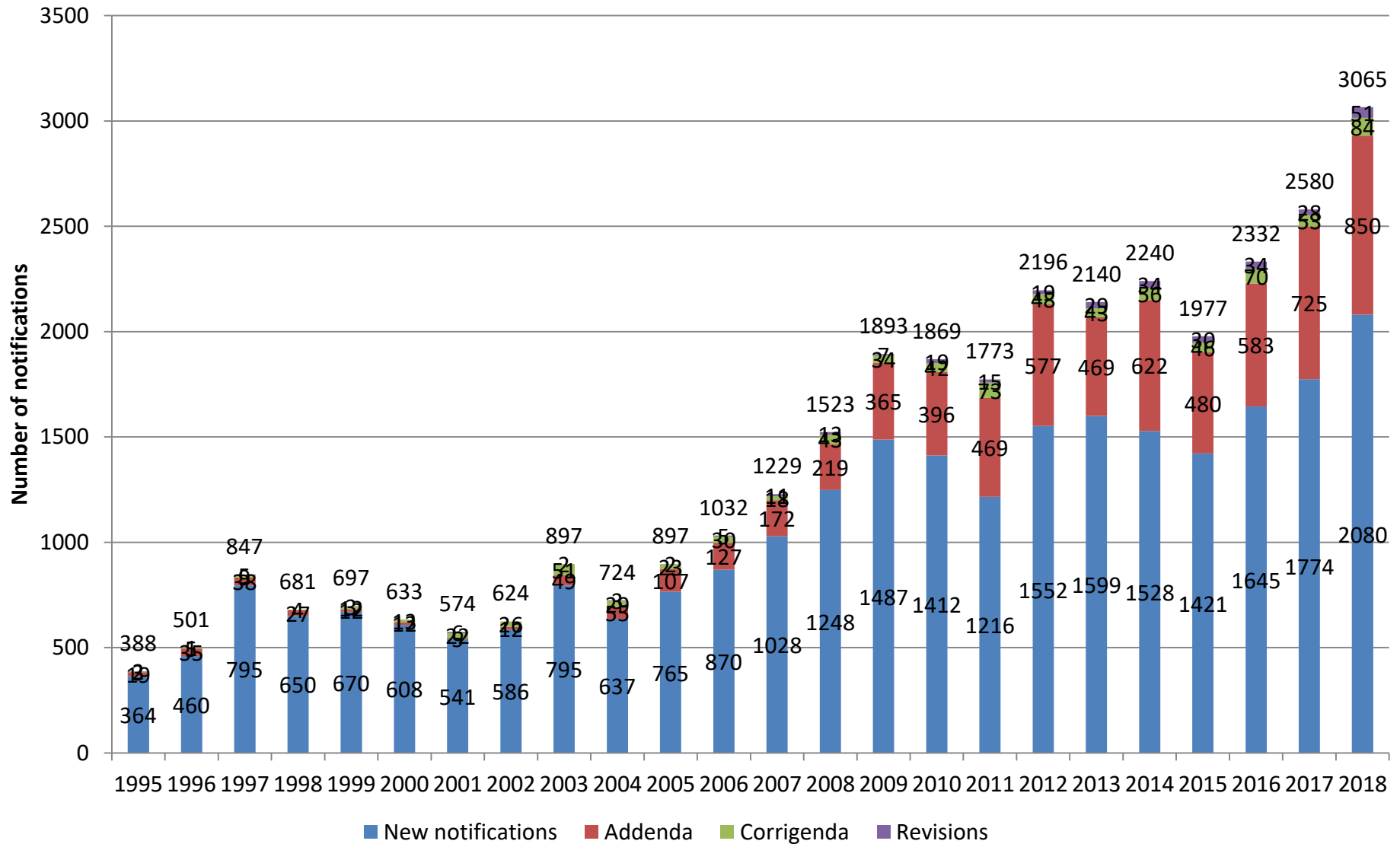
Significant impact on trade
(restricting or facilitating)



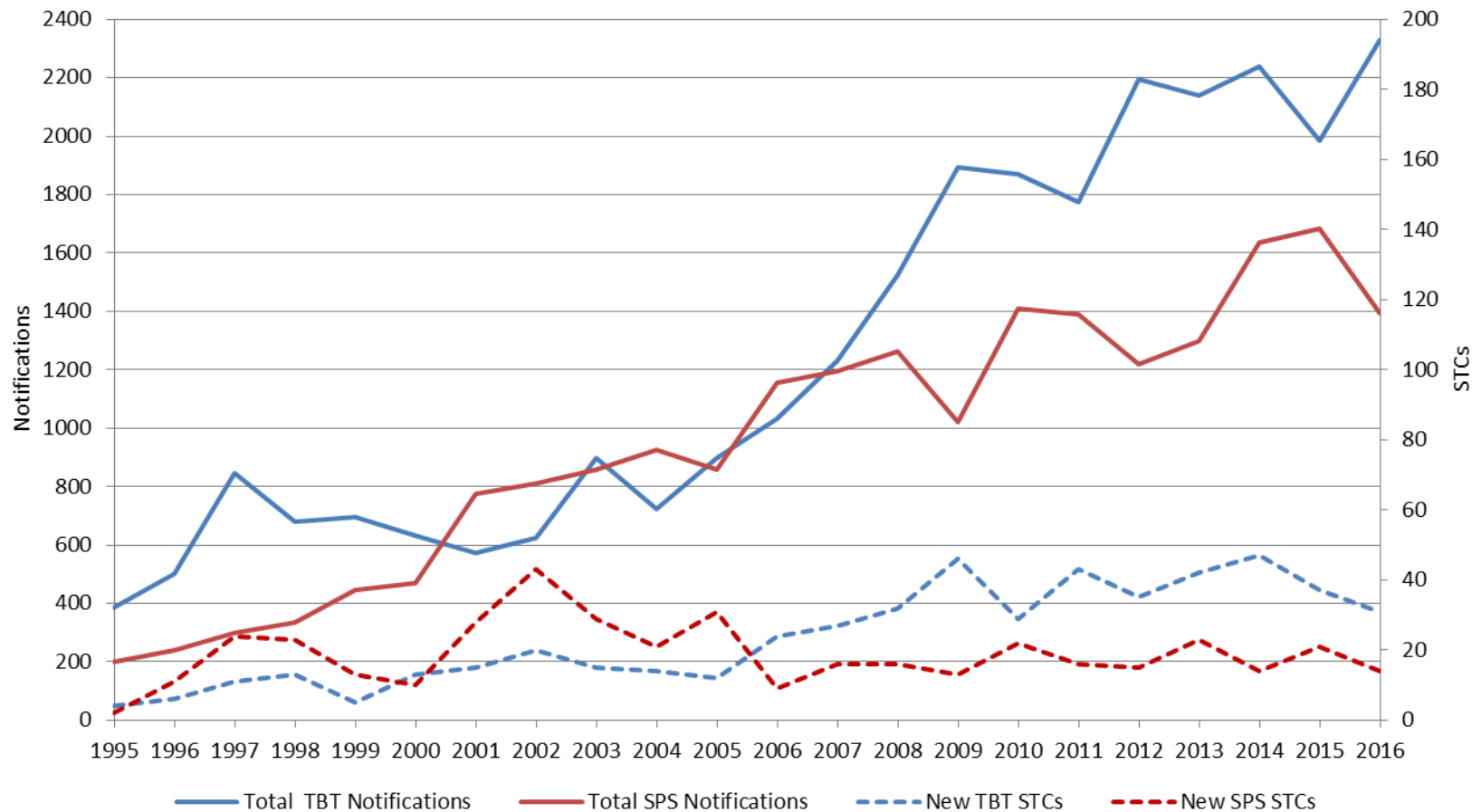
Transparency and Notification Timeline (TBT)



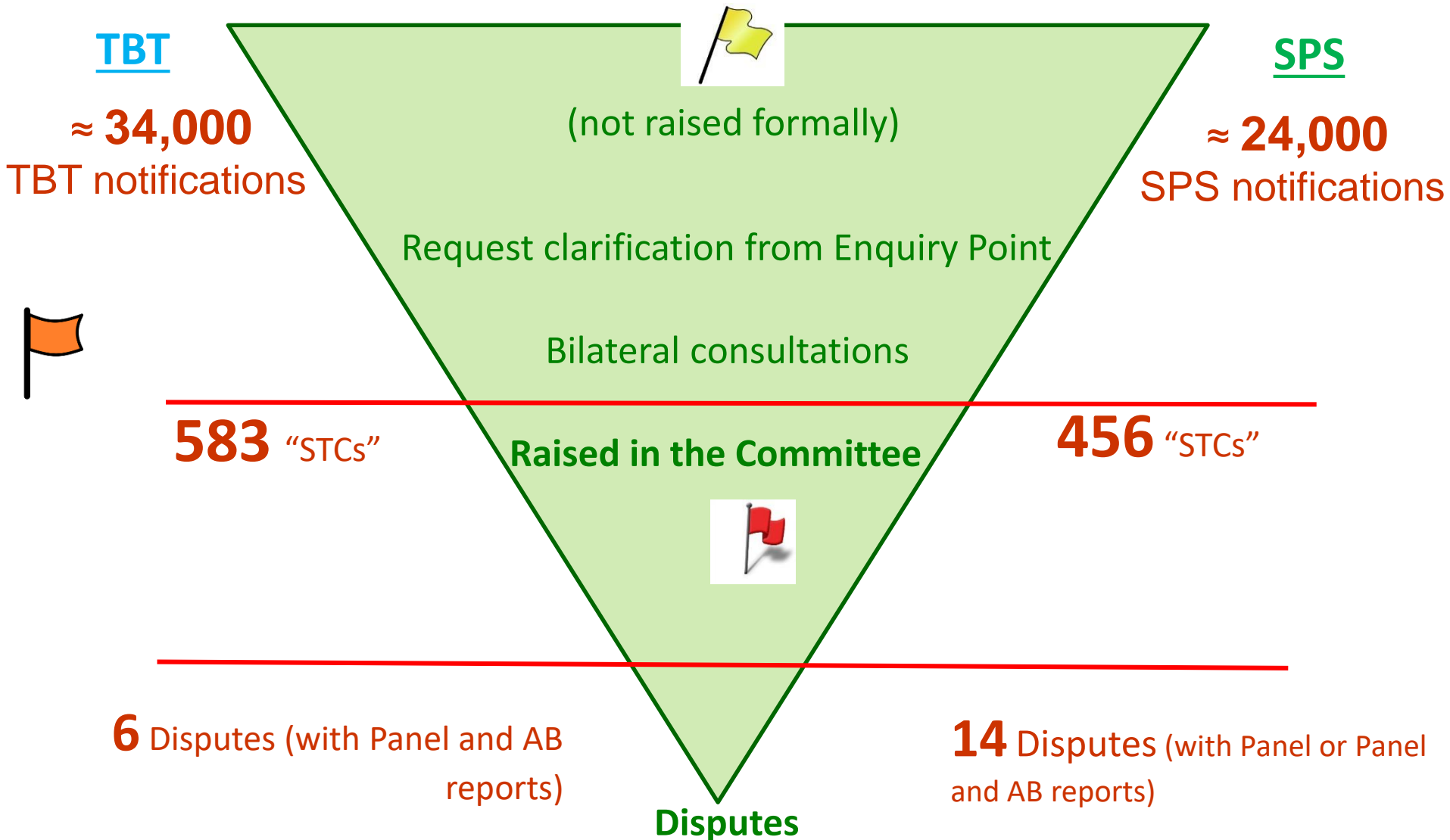
TBT NOTIFICATIONS (1995 – 2018)



STCs and Notifications – TBT and SPS



Review of specific trade concerns by the TBT and SPS Committee (figures as of March 2019)



<http://www.epingalert.org>

Accessing ePing

The screenshot shows the ePing website header with the logo "ePing SPS & TBT notification alert system" and logos for the World Trade Organization, International Trade Centre, and United Nations. A navigation bar includes links for "search notifications", "enquiry points", "news & events", "reference materials", "register", "log in", and a language dropdown "EN". The main content area features a world map with a central "WTO" hub and arrows pointing to various regions, each with an icon representing a different type of trade barrier or notification. A grey box at the bottom left of the map area contains the text "Keep track of product requirements in foreign markets".

Keep track of product requirements in foreign markets

To make sure all ePing features function properly, please use one of the following recommended browsers: Chrome (latest version), Firefox (latest version), or Internet Explorer.

About ePing

Governments establish product requirements to achieve policy objectives such as the protection of human health or the environment. The WTO SPS and TBT Agreements try to ensure that these requirements do not create unnecessary obstacles to international trade. WTO Members are required to notify other Members before adopting new measures if these are likely to affect international trade and provide an opportunity for comments. ePing enables timely access to these notifications and facilitates dialogue amongst the public and private sector in addressing potential trade problems at an early stage.

Please note that the ePing website is not touch screen compatible.