

Transparency in the SPS and TBT Agreements



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Why Transparency?

- Regulatory requirements
 - changes may affect market access
- Enhance clarity, predictability
 - facilitate trade & reduce trade disruptions
- Advance warnings
 - more time to adapt
- Improve accountability & responsiveness of regulatory system
 - seek info, consult, comment



MAIN OBLIGATIONS

- | | |
|---|-----------|
| 1. Designation of <i>notification authority</i> : | SPS & TBT |
| 2. Establishment of <i>enquiry point</i> | SPS & TBT |
| 3. <i>Notification</i> of draft regulations | SPS & TBT |
| 4. <i>Publication</i> of regulations: | SPS & TBT |
| 5. Statement of Implementation | TBT |
| 6. Notifications from Standardizing Bodies | TBT |

BEYOND OBLIGATIONS

- Taking advantage of transparency.





Transparency in the SPS Agreement

Reference documents

SPS Agreement: Article 7 & Annex B

SPS Committee Decision: G/SPS/7/Rev.3

« Major Decisions and Documents »

➤ Procedural step-by-step manual



Transparency in the TBT Agreement

Reference documents

TBT Agreement: 2.9.2, 2.9.3 (technical regulations); 5.6.2, 5.6.3 (CAP); 10 (EP, NNA); 15.2 (statement of implementation); Annex 3 (Code of Good Practice)

TBT Committee Recommendations
G/TBT/1/Rev.12, Section 4 and Annexes



Transparency in SPS measures

Card Exercise





Card 1 - Language of Notification?

1a SPS Notifications shall be submitted to the WTO in English, French and/or Spanish.

OR ?

1b Developing Country Members may submit SPS notifications in their **own national languages**.



Card 1 - Language of Notification?

SPS Annex B, para.7

1A

**“Notifications to the Secretariat shall be in
English, French or Spanish.”**



The three official languages of the WTO.



Card 2 - When to notify?

2a *Regular* notifications shall be made soon **after** the SPS regulation **has entered into force**.

OR ?

2b *Regular* notifications shall be made at an early stage **when amendments can still be introduced** and comments taken into account before an SPS regulation is finalized.



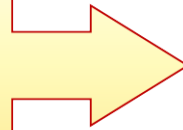


Card 2 - When to notify?

SPS Annex B, para. 5b

2B

Regular measures



Draft text

**When modifications are
still possible !**

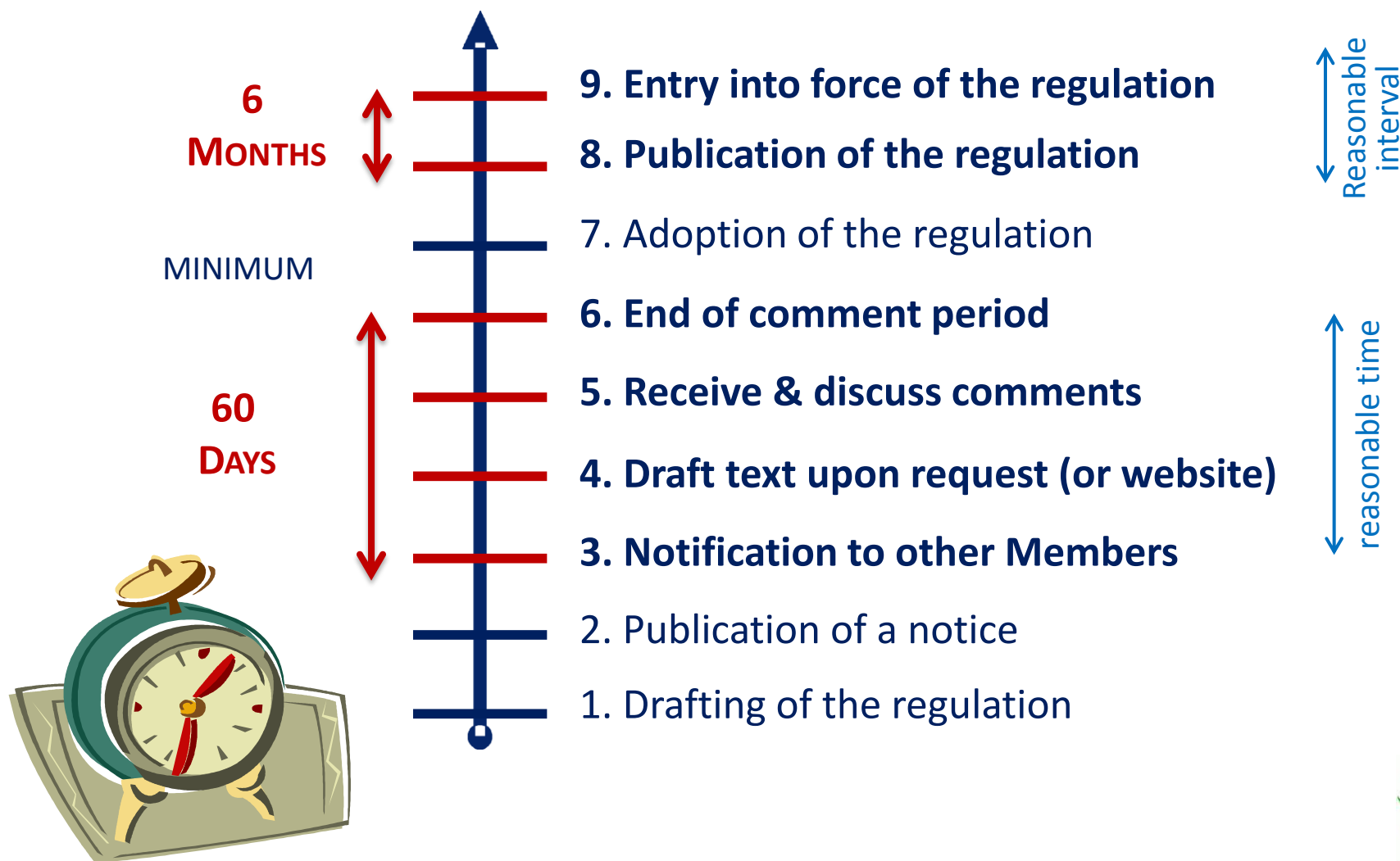
“...notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account.”

Same for TBT Notifications (Articles 2.9 & 5.6)



Regulatory Timeline

Except in URGENT Situations





What if measure contains both **SPS** and **TBT** elements?

- Notify according to both Agreements
- Indicate which parts fall under:
 - SPS (e.g., a food safety measure)
 - TBT (e.g., quality or compositional requirements)





Card 3: When to publish?

3a A reasonable period of time (normally 6 months) shall be allowed between the adoption of an SPS regulation and its publication, but its **entry into force** should occur **immediately after publication**.

OR ?

3b Any adopted SPS regulation shall be promptly published and a reasonable period of time (normally **6 months**) shall be allowed **between its publication and its entry into force**.



Card 3: When to publish?

Annex B, para. 1 & 2

3B

- Members to publish all adopted regulations promptly...
- ...Except in urgent circumstances, allow reasonable interval between publication and entry into force



Normally, the date of **entry into force** is

6 months after date of publication

(Doha Ministerial Decision;

G/SPS/7/Rev.3, para. 60; G/TBT/1/Rev.12, para.4.3.1.8)



Card 4: Who notifies?

Annex B, para. 10 & G/SPS/7/Rev.3 para.4

4a The submission of notifications, provision of answers to all reasonable questions and the provision of relevant documents is the responsibility of the **Enquiry Point**.

OR ?

4b The implementation of the provisions concerning notification procedures falls under the responsibility of a single central government authority: **the National Notification Authority**.



Card 4: Who notifies?

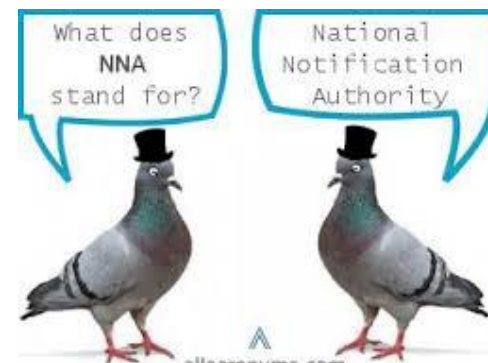
SPS Annex B, para. 10 & G/SPS/7/Rev.3 para.4

4B

❖ National Notification Authority (NNA)

Single central government authority responsible for the implementation of notification procedures e.g., agency responsible for food safety, animal and plant health

→ Only 1 NNA



❖ “Notification Authority” - TBT (Art. 10.10).

Designation of a single central government authority responsible at the national level for TBT notification obligations .



❖ National Notification Authority (NNA)

- Notifies other Members through WTO at an early stage (or immediately for emergency measures) to allow for comments/amendments
- Provides copies of proposed regulations upon request
- Ensures that comments are handled correctly





National Enquiry Point

SPS Annex B, para. 3

Enquiry Point – SPS & TBT (*TBT Arts. 10.1, 10.3*)



- Provides answers and documentation to all reasonable questions from other interested Members, including on SPS/TBT regulations adopted or proposed within its territory.
 - Can have more than one but clearly define responsibilities.
 - Can be same as NNA.



Making it work

NNA & NEP





Beyond Obligations

NNA & NEP

Enquiry Point or National Notification Authority **could:**

- **Collect/disseminate**
 - SPS & TBT documents
 - SPS & TBT notifications
- **Alert** relevant government agencies, private sector of SPS & TBT notifications that could affect exports
- **Coordinate** comments on other countries' notifications
- **Follow-up** on comments submitted



Card 5: When to notify?

5a An emergency SPS measure shall be notified to the WTO **immediately** after its implementation.

OR ?

5b An emergency SPS measure is **exempted from being notified** to the WTO.





Card 5: When to notify?

SPS Annex B, para 6(a)

5A

Emergency measures

IMMEDIATELY !

Immediately notify other Members through the WTO Secretariat of the regulation and products covered:

- Brief indication of the objective
- Rationale of the regulation
- Nature of the urgent problem(s)

TBT Agreement Articles 2.10 and 5.7



Card 6: Which format ?

6a A revision to a notification **replaces** the original notification.



OR ?

6b Addenda, revisions and corrigenda should be **read in conjunction** with the original notifications.



Card 6: Which format ?

G/SPS/7/Rev. 3, para. 35 & 39

6A

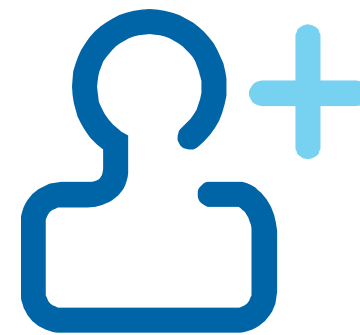
In addition to original notifications

Members can provide additional information or changes to an original notification:

- **Corrigendum** – correct an **error**
 - **Addendum** – changes/**updates**
 - **Revision** – **replacement** of original notification
- Read in conjunction with original notification

Possible for
Regular **and** Emergency Notifications

TBT reference: G/TBT/1/Rev.12, Annex 3





Card 7: Translations of regulations

which are not in WTO working languages

7a **Developed country Members** shall provide, upon request, copies of documents related to a specific notification in English, French or Spanish.

OR ?

7b **All Members** shall provide, upon request, copies of documents related to a specific notification in English, French or Spanish.





Card 7: Translations of regulations

which are not in WTO working languages

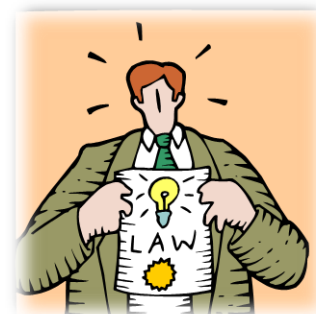
7A

Upon request, developed countries to provide translation of regulation or its summary in English, French, or Spanish.



SPS Annex B, para. 8

TBT Article 10.5



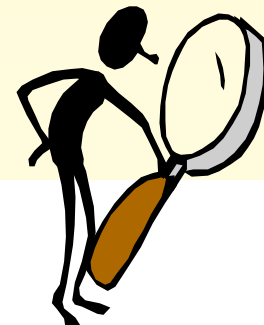


Card 8: Comment Period?

8a In the case of regular notifications, Members are only obliged to consider any comments received within **10 days** of the circulation of the notification.

OR ?

8b In the case of regular notifications, Members should allow at least **60 days** for interested trading partners to make comments.



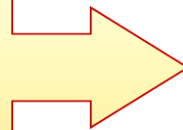


Card 8: Comment Period?

Annex B, para 5 (d) & G/SPS/7/Rev.3, para.13

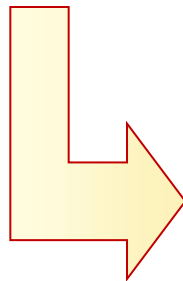
8B

Regular measures



Draft text

**When modifications are
still possible !**



**Allow 60 days
comment period !**



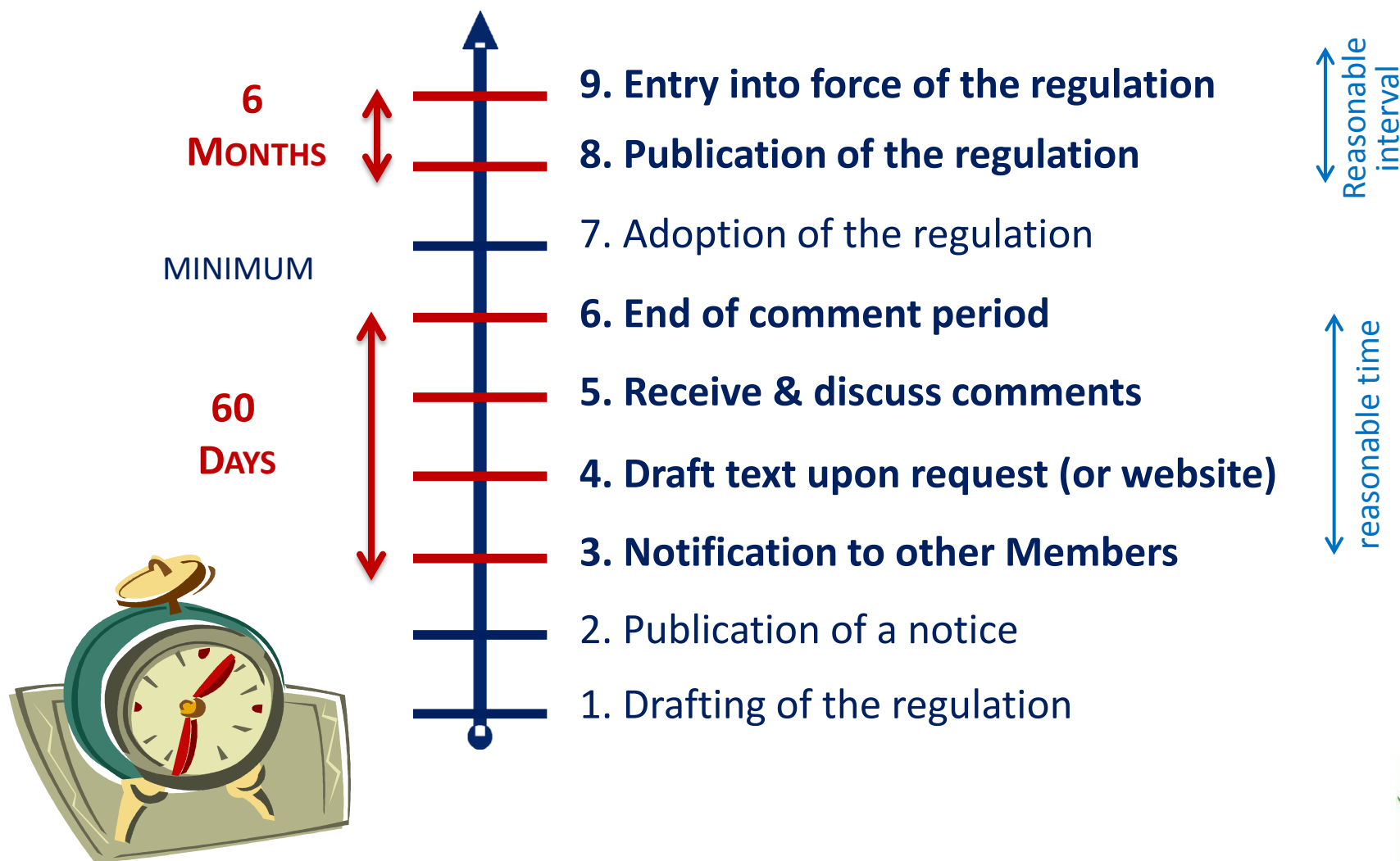
TBT Recommendation:

G/TBT/1/Rev.12, para 4.3.1.6



Regulatory Timeline

Except in URGENT Situations





Card 9: What to submit along with the notification?

9a **Members** should, whenever possible, provide a hyperlink or electronic version of the **proposed regulation** with the notification, and shall in any case provide a copy upon request.

OR ?



9b **Only developed country Members** are obliged to attach a copy of the **proposed regulation** to the notification.



Card 9: What to submit along with the notification?

9A

- Provide **copies of the proposed regulation** to other Members - *upon request*
- Provide the **website address** or a specific hyperlink to these documents - *if the relevant documents are available from a website*



SPS Agreement: Annex B, para 5 (c) & para. 6(b)

G/SPS/7/Rev.3, para 18

TBT Agreement: Article 2.10.2

G/TBT/1/Rev.12, para. 4.4.2



Card 10: What to notify?

10a An SPS regulation shall be notified to the WTO when (i) it is new or modified; (ii) when an international standard does not exist or it does not conform to it; and (iii) if the regulation may have **a significant effect on trade**.

OR ?

10b An SPS regulation shall be notified to the WTO when (i) it is new or modified; (ii) when an international standard does not exist or it does not conform to it; and (iii) if the regulation may have **a negative impact on trade**.



Card 10: What to notify? SPS

Annex B, para. 5

10A

New or modified regulation



Significant impact on trade
(restricting or facilitating)



No existing international standard
or
Different than the international standard

CODEX (food) * IPPC (plants) * OIE (animals)



Notify also
measures **based**
on International
Standard !

**2008 Transparency
Procedures (para. 8)**

NOTIFY !



Card 10: What to notify? TBT

New or modified TR/CAP



Significant impact on trade
(restricting or facilitating)



No existing relevant international standard
or
Not in accordance with relevant international standard



Encouraged to
notify also
measures in
accordance with
int'l standards!

NOTIFY !

G/TBT/1/Rev.12,
para.4.3.1.3



Significant effect on trade?

- ...one regulation and/or conformity assessment procedure or a combination
- ...one product, groups of products or products in general
- ...between two or more Members
- ...the value or importance to either importing and/or exporting Members concerned, individually or collectively
- ...potential growth of such imports
- ...difficulties for producers in other Members to comply with the proposed regulations



What else to notify? **TBT** Statement of Implementation

- ☞ On existing measures or their changes, to ensure implementation of TBT Agreement (Art. 15.2):
 - Relevant laws and regulations
 - Time allowed for comments;
 - Name and address of enquiry point(s), other national authorities and agencies;
 - Measures ensuring national and sub-national authorities provide early information on their proposals
 - Names of publications that announce draft technical regulations or standards and conformity assessment procedures



What else to notify? **TBT** **Code of Good Practice Notifications**

- ☞ **Notification obligations for standardization bodies:**
Parallel notification to both ISO/IEC Information Center and WTO
 - Acceptance of, or withdrawal from Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3.C);
 - Name and address of body, scope of current and expected standardization activities
 - Publish work programme at least every 6 months (Annex 3.J)



What else to notify? **TBT**

Bilateral or plurilateral Agreements

- ☞ Notification of bilateral or plurilateral agreements on issues related to technical regulations, standards or conformity assessment procedures (Art. 10.7), which should include the following information:
 - Title of Agreement, Parties, Date of Entry into force
 - Subject matter
 - Covered products
 - Brief description



Card 11: How to access translations of regulations?

11a Any Member possessing an unofficial translation of a document relating to a notification is encouraged to inform the notifying Member and should **submit the translation** to the WTO.

OR ?



11b Members should **refrain from** making available unofficial translations of documents relating to a notification by another Member.



Card 11: How to access translations of regulations?

11A

Members are encouraged to share unofficial translations of documents relating to a notification with each other and the Secretariat (supplement format)

G/SPS/7/Rev.3, para. 28
G/TBT/1/Rev.12, para. 4.4.3





Card 12: Special & Diff. Treatment

12a Special and Differential treatment can only be requested **before** the notified measure is adopted and before it enters into force.

OR ?



12b Special and Differential treatment can be requested **even after** the entry into force of a new regulation (including an emergency measure).



Card 12: Special & Diff. Treatment

G/SPS/33/Rev.1, Par. 5

12B

“If following the adoption or entry into force of a new or modified measure (including an emergency measure), an exporting developing country Member identifies significant difficulties which its exports face in complying with the measure, it may request an opportunity to discuss its difficulties with the importing Member...”



Card 13: Equivalence

13a A Member who **recognizes** another Member's SPS measure as equivalent to their requirements should notify this to the WTO.

OR ?

13b Members shall notify to WTO their **intention to recognize** as equivalent other Member's sanitary and phytosanitary measures.



Card 13: Equivalence

G/SPS/7/Rev. 3, para. 44

13A

Members which have made a determination **recognizing the equivalence of SPS measures** of another Member or Members **shall notify** other Members through the Secretariat of:

- the measure recognized to be equivalent; and
- the products affected by this recognition.





Card 14: Notifying... pest outbreaks & disease outbreaks?

14a WTO Members must notify **to the WTO** any disease/pest outbreaks within 24 hours after they have occurred.

OR ?



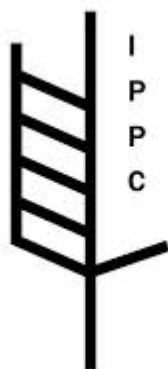
14b Pest outbreaks and disease outbreaks should be notified **to the IPPC and OIE**, respectively, according to their relevant procedures.



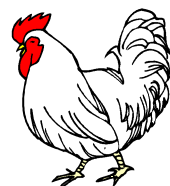
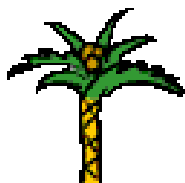
Card 14: Notifying... pest outbreaks & disease outbreaks?

14B

Pest and disease outbreaks should be notified
to the **IPPC** and **OIE** respectively,



according to their relevant procedures.





Card 15: SPS-IMS

SPS Information Management System

15a The latest Enquiry Point contact information is available from the **SPS Information Management System** (SPS IMS): www.spsims.wto.org

OR ?



15b Enquiry Point contact information is **updated on an annual basis** by the WTO Secretariat.



Card 15: SPS-IMS

SPS Information Management System

15A

WORLD TRADE ORGANIZATION

SPS Information Management System

SPS Gateway | Help

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Notification
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Other SPS documents
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Regular notifications
Emergency notifications
Addenda/Corrigenda
Translation Supplements
Recognition of equivalence
Specific trade concerns
Members involved in STCs
Other SPS documents
Enquiry Points/Notification Authorities
Report
Custom reporting
Predefined reports
Report
Notification Authority List
Enquiry Point List
Membership in WTO and ISSBs

Welcome

The SPS Information Management System (SPS IMS) provides access to documents and records relevant under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), please [click here](#).

The SPS IMS allows users to track information on SPS measures that Member governments have notified to the WTO, specific trade concerns raised in the SPS Enquiry Points and Notification Authorities, and the membership of the WTO, Codex, IPPC, and the OIE.

The system's structure for searching notifications follows very closely the actual notification types and their formats. For further information on notification types, please click on the "Notification Types" link in the menu bar on the left.

Please click on the desired function from the menu bar on the left. You may wish to undertake a "search", prepare a "custom report", or view one of the "predefined reports". For a custom report you can decide which fields you wish to see in your search results. You can enter one or more criteria to refine your search. Alternatively, you can click on the "Search" button. For free text searches, for example under the "description of content" field of notifications, use quotation marks to find exact matches. For terms. You can export all search and custom report results to Excel. Predefined reports provide reference lists regularly circulated by the WTO SPS Secretariat.

According to the Verbal Note contained in document WT/L/779, by virtue of the Treaty of Lisbon, as of 1 December 2009 the European Union replaces and is succeeded by the European Communities are available by clicking on the "European Union" option in the dropdown lists.

For further information on how to use the system, please click on [Help](#).


Enquiry Point Lists

www.spsims.wto.org



TBT Information Management System

TBT IMS → <http://tbtdims.wto.org>



TBT Information Management System


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The Technical Barriers to Trade Information Management System (TBT IMS) is a publicly available database of transparency information provided by WTO Members in relation to technical regulations, conformity assessment procedures, and standards. The objective of the TBT IMS is to enhance implementation of the transparency provisions of the Technical Barriers to Trade Agreement. It provides access to: WTO Members' notifications of technical regulations and conformity assessment procedures (including subsequent revisions, addenda, corrigenda, and supplements); notifications of bilateral or plurilateral agreements between Members on TBT measures; notifications from standardizing bodies in relation to the Code of Good Practice; contact information for Members' TBT Enquiry Points and Notification Authorities; as well as information on specific trade concerns raised in the TBT Committee. This information is available in the three official languages of the WTO: English, Spanish and French (in order to change language, please use links above).

Please select a function in the menu on the left.

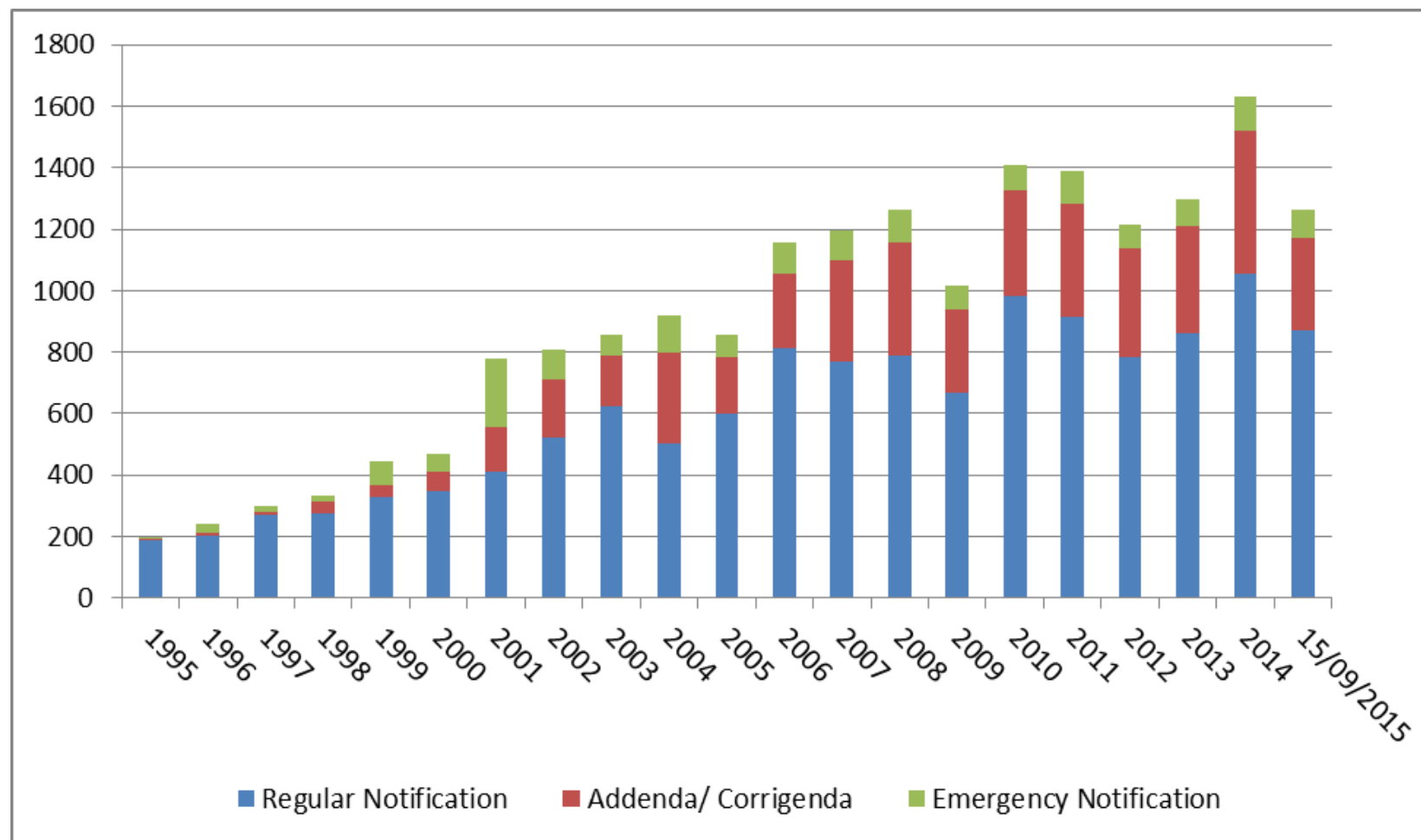
Transparency Counter	
Regular Notifications	17847
Addenda / Corrigenda	3376
Revision	222
Specific trade concerns	405



WTO OMC



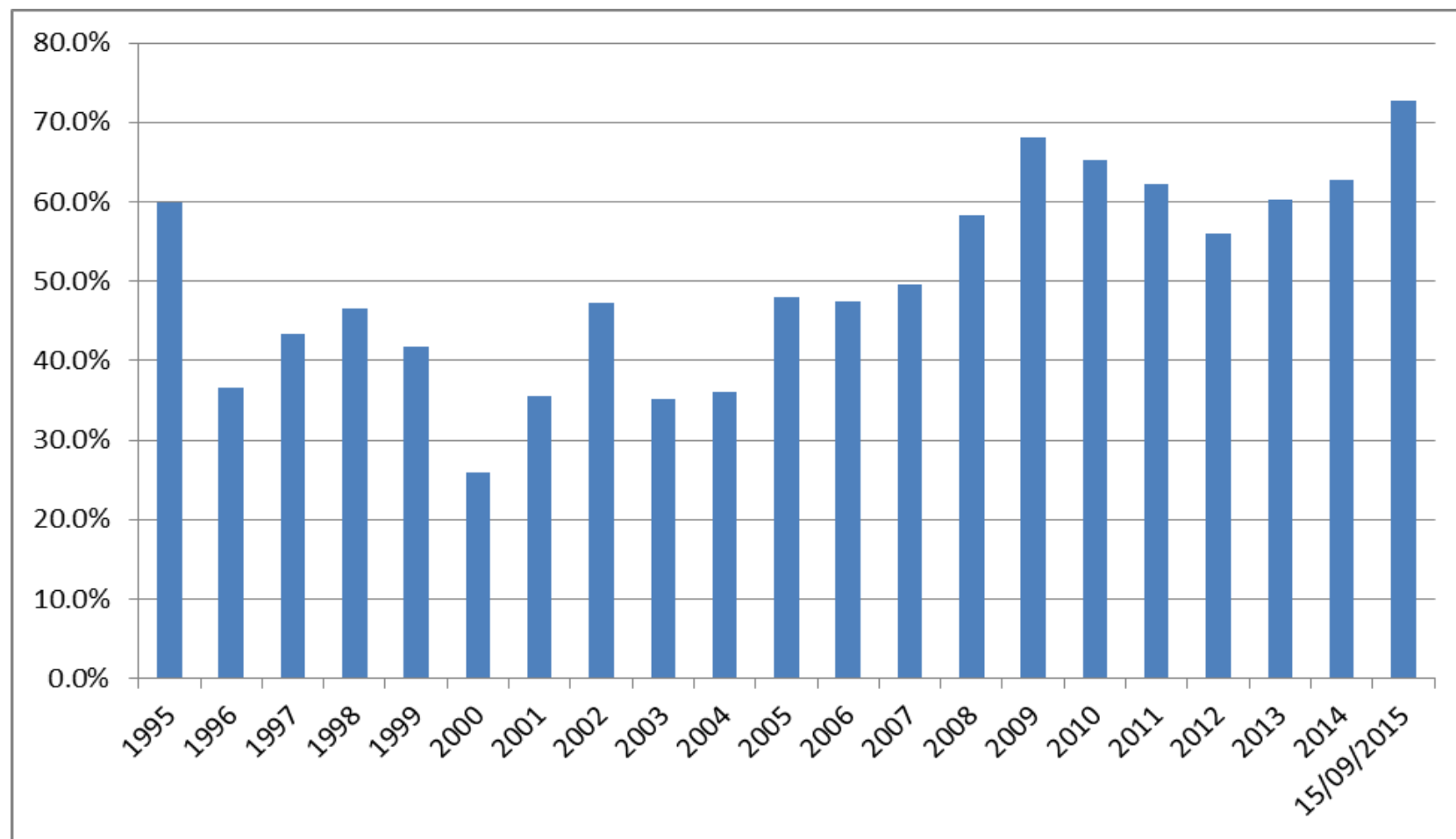
Total SPS Notifications 1995-2015 (Sept)



Source: G/SPS/GEN/804/Rev.8



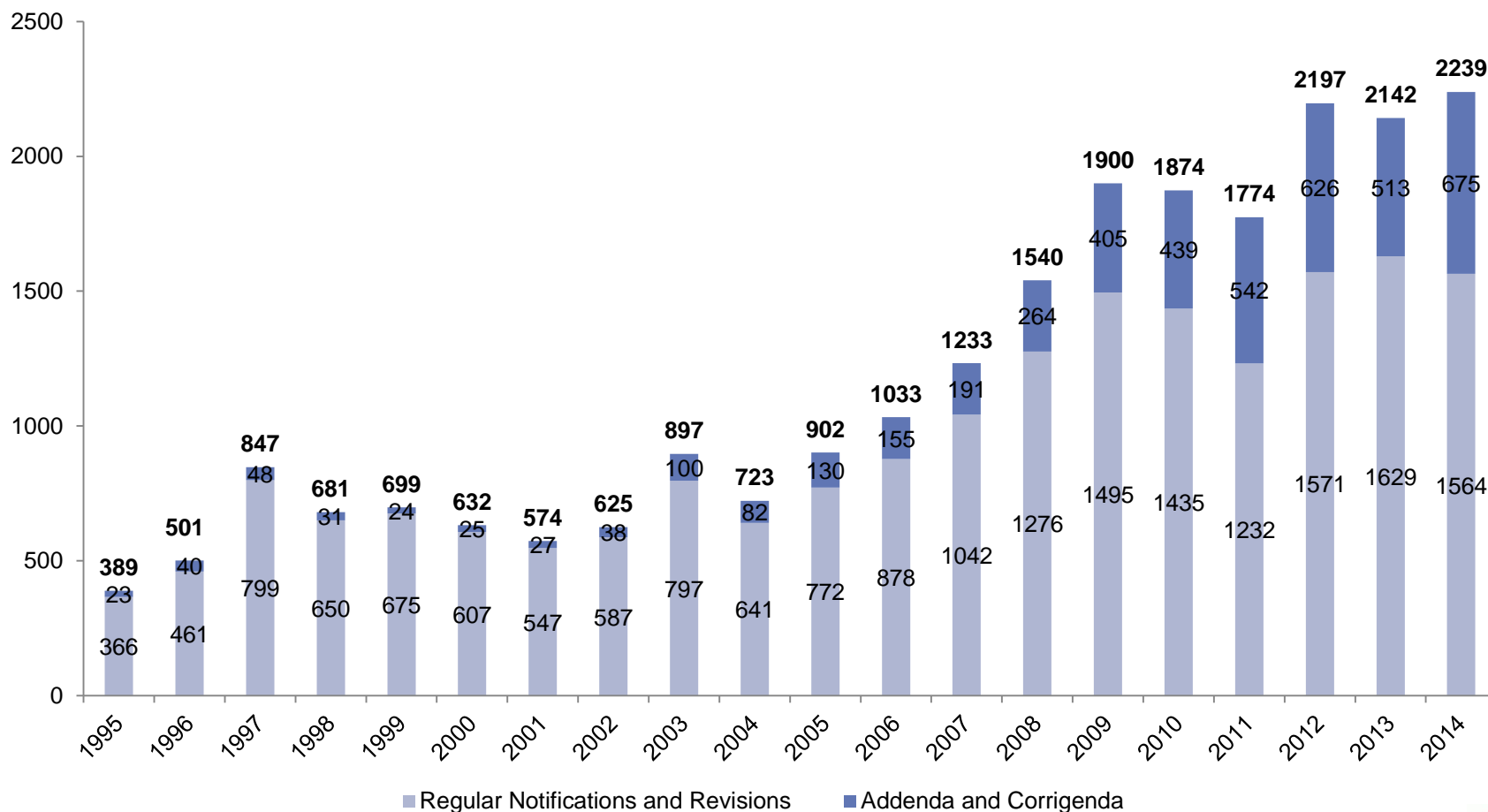
Share of SPS notifications by developing countries, 1995-2015 (Sept)



Source: G/SPS/GEN/804/Rev.8



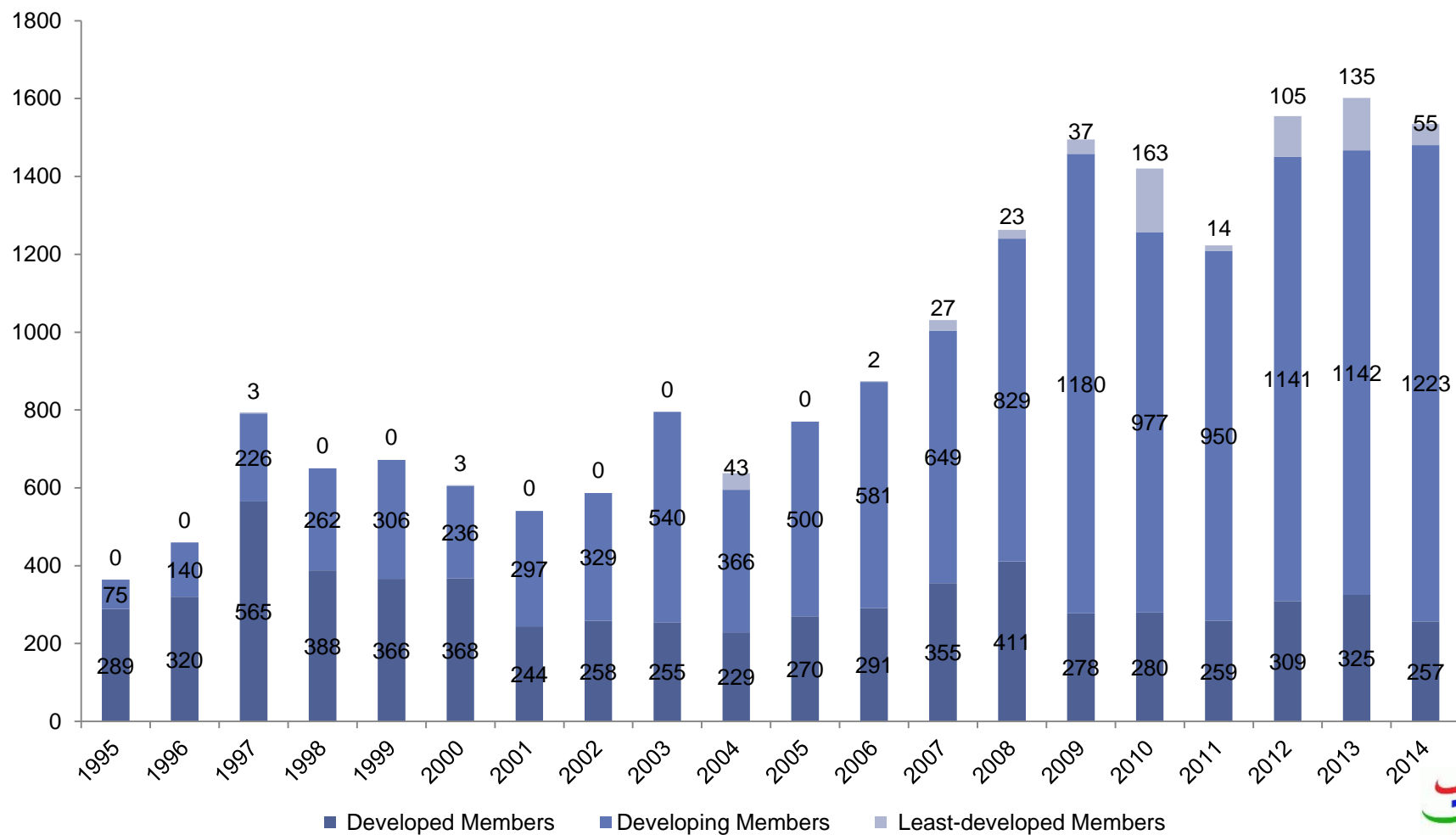
Total TBT Notifications 1995-2014



Source: G/TBT/36 Annual Review

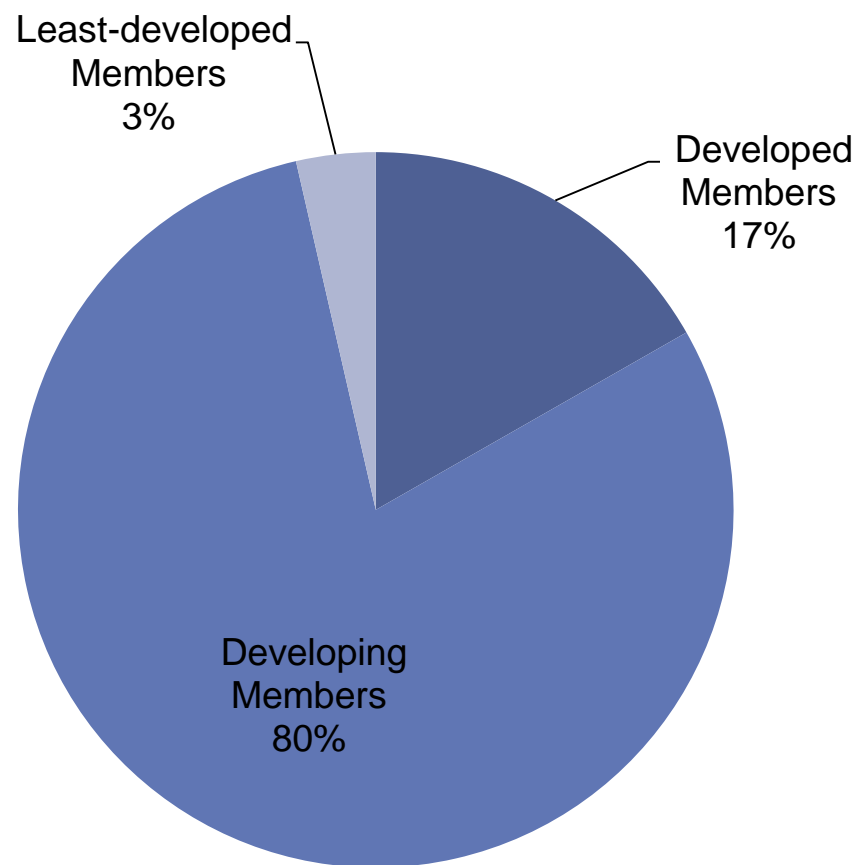


New TBT notifications by development status, 1995-2014





New notifications, by development status, 2014





SPS: EP, NNA and Notifications

Member/ Observer	SPS Enquiry Points	SPS NNA	Regular SPS Notification	Emergency SPS Notification
Bangladesh	✓	✓	0	0
Bhutan	-	-	-	-
Cambodia	X	X	0	0
Chinese Taipei	✓	✓	379	16
Hong Kong	✓	✓	27	15
India	✓	✓	111	7
Indonesia	✓	✓	93	11
Laos	✓	✓	1	0
Maldives	✓	✓	0	0



SPS: EP, NNA and Notifications

Member/ Observer	SPS Enquiry Points	SPS NNA	Regular SPS Notification	Emergency SPS Notification
Mongolia	✓	✓	1	1
Myanmar	✓	✓	0	0
Nepal	✓	✓	19	1
Pakistan	✓	✓	0	1
Philippines	✓	✓	129	181
Singapore	✓	✓	35	20
Sri Lanka	✓	✓	34	3
Thailand	✓	✓	198	46
Vietnam	✓	✓	72	0



TBT: Art. 15.2, EP, Code of Good Practice, Notifications

Member/ Observer	Article 15.2	TBT Enquiry Point	Code of Good Practice	Regular TBT Notification
Bangladesh	✓	✓	✓	0
Bhutan	-	-	-	-
Cambodia	✓	✓	X	3
Chinese Taipei	✓	✓	✓	224
Hong Kong	✓	✓	✓	79
India	✓	✓	✓	97
Indonesia	✓	✓	✓	106
Laos	✓	✓	✓	1
Maldives	X	✓	X	1



TBT: Art. 15.2, EP, Code of Good Practice, Notifications

Member/ Observer	Article 15.2	TBT Enquiry Point	Code of Good Practice	Regular TBT Notification
Mongolia	✓	✓	X	6
Myanmar	X	✓	X	2
Nepal	X	✓	X	4
Pakistan	✓	✓	✓	92
Philippines	✓	✓	✓	248
Singapore	✓	✓	✓	40
Sri Lanka	✓	✓	✓	47
Thailand	✓	✓	✓	578
Vietnam	✓	✓	✓	77



Reminder

Transparency

OBLIGATIONS

1. Designation of ***notification authority***
2. Establishment of ***enquiry point***
3. ***Notification*** of draft regulations
4. ***Publication*** of regulations
5. Statement of Implementation
6. Notifications from Standardizing Bodies

BEYOND OBLIGATIONS

- Taking advantage of transparency.



SPS Agreement:
Article 7
Annex B

G/SPS/7/Rev.3

TBT Agreement:
Article 2, 5, 10, 15
Annex 3
Code of Good Practice

G/TBT/1/Rev.13



SPS and TBT Internet Resources

- SPS Notification Submission System (SPS NSS)
- SPS Information Management System (SPS IMS)
- TBT Notification Submission System (TBT NSS)
- TBT Information Management System (TBT IMS)



SPS and TBT Notification Submission Systems

How to submit notifications? Central Registry of Notifications (CRN)

- by email (crn@wto.org); or
- by fax (+41 22 739 5638); or
- by mail

NOW – notifications can also be submitted via the SPS and TBT Notification Submission Systems

<https://nss.wto.org/spsmembers>
<https://nss.wto.org/tbtmembers>



Online Submission of SPS and TBT Notifications

- The system makes the processing of notifications easier and faster, for both Members and the Secretariat.
- The SPS National Notification Authority of each Member can request access to the SPS NSS by sending an email to spscommittee@wto.org
- The TBT National Notification Authority/Enquiry Point of each Member can request access to the TBT NSS by sending an email to tbtnss@wto.org



Login Names

- Each Member receives two logins for each NSS
- NZLSPSNSS01 → Administrative rights to submit
- NZLSPSNSS02 → Can fill out but cannot submit
- NZLTBTNSS01 → Administrative rights to submit
- NZLTBTNSS02 → Can fill out but cannot submit



Use of NNS in your region

- SPS NSS users:
Indonesia, Nepal, Philippines, Chinese Taipei, Thailand
(Singapore, Bangladesh, Pakistan, Vietnam have requested access)
- TBT NSS users:
Indonesia, Chinese Taipei, Thailand



SPS/TBT Information Management Systems

SPS IMS & TBT IMS

<http://spsims.wto.org>

<http://tbtdims.wto.org>



WTO OMC



Why SPS/TBT IMS?

Since 1995, SPS & TBT Committees have seen:

- **> 19,000 SPS & 25,000 TBT notifications**
- **> 380 SPS & 470 TBT STCs**
- **> 2,400 other SPS documents; ...**
- Enquiry Point / Notification Authority info changing



**SPS/TBT IMS – database created
to provide easy access**

to SPS/TBT-related documents and information



How can they help you ?


To undertake searches / prepare reports according to your specific needs:

- **Notifications**
Product- or region-specific searches
- **Committee Documents (only SPS)**
Theme-specific searches on, e.g. on regionalization
- **Specific Trade Concerns**
Queries related to specific Members or products
- **Enquiry Points / Notification Authorities**
Most recent contact details notified to the WTO



TBT Information Management System

TBT IMS → <http://tbtdims.wto.org>



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The Technical Barriers to Trade Information Management System (TBT IMS) is a publicly available database of transparency information provided by WTO Members in relation to technical regulations, conformity assessment procedures, and standards. The objective of the TBT IMS is to enhance implementation of the transparency provisions of the Technical Barriers to Trade Agreement. It provides access to: WTO Members' notifications of technical regulations and conformity assessment procedures (including subsequent revisions, addenda, corrigenda, and supplements); notifications of bilateral or plurilateral agreements between Members on TBT measures; notifications from standardizing bodies in relation to the Code of Good Practice; contact information for Members' TBT Enquiry Points and Notification Authorities; as well as information on specific trade concerns raised in the TBT Committee. This information is available in the three official languages of the WTO: English, Spanish and French (in order to change language, please use links above).

Please select a function in the menu on the left.

Transparency Counter	
Regular Notifications	17847
Addenda / Corrigenda	3376
Revision	222
Specific trade concerns	405



Exercise on SPS IMS

spsims.wto.org

- Find all notifications submitted by **China** with the **objective of food safety**. How many do you find? View the most recent notification **G/SPS/N/CHN/1005** in Word. When is the deadline for comments? Export all your results to Excel.
- Find all specific trade concerns raised covering **HS Code 03 on fish**. How many do you find?
- Verify your country's **Enquiry Point/Notification Authority** information. Are they correct? If not, please contact spscommittee@wto.org.



Exercise on TBT IMS

tbtdims.wto.org

1. How many notifications relating to **halal products** have been circulated? (use “basic search-products covered” & “advanced search-description of content”)
2. How many specific trade concerns have been raised against India?
3. Verify your country’s Enquiry Point/Notification Authority information. Are they correct? If not, please contact una.flanagan@wto.org.



THANK YOU !

Questions ?

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WTO OMC

SPS Gateway

<http://www.wto.org/sps>

TBT Gateway

<http://www.wto.org/tbt>