

The WTO/TBT Agreement and international standards

ESCAP/ISO/UNCTAD Workshop on Non-Tariff Measures
and International Standards for Sustainable
Development

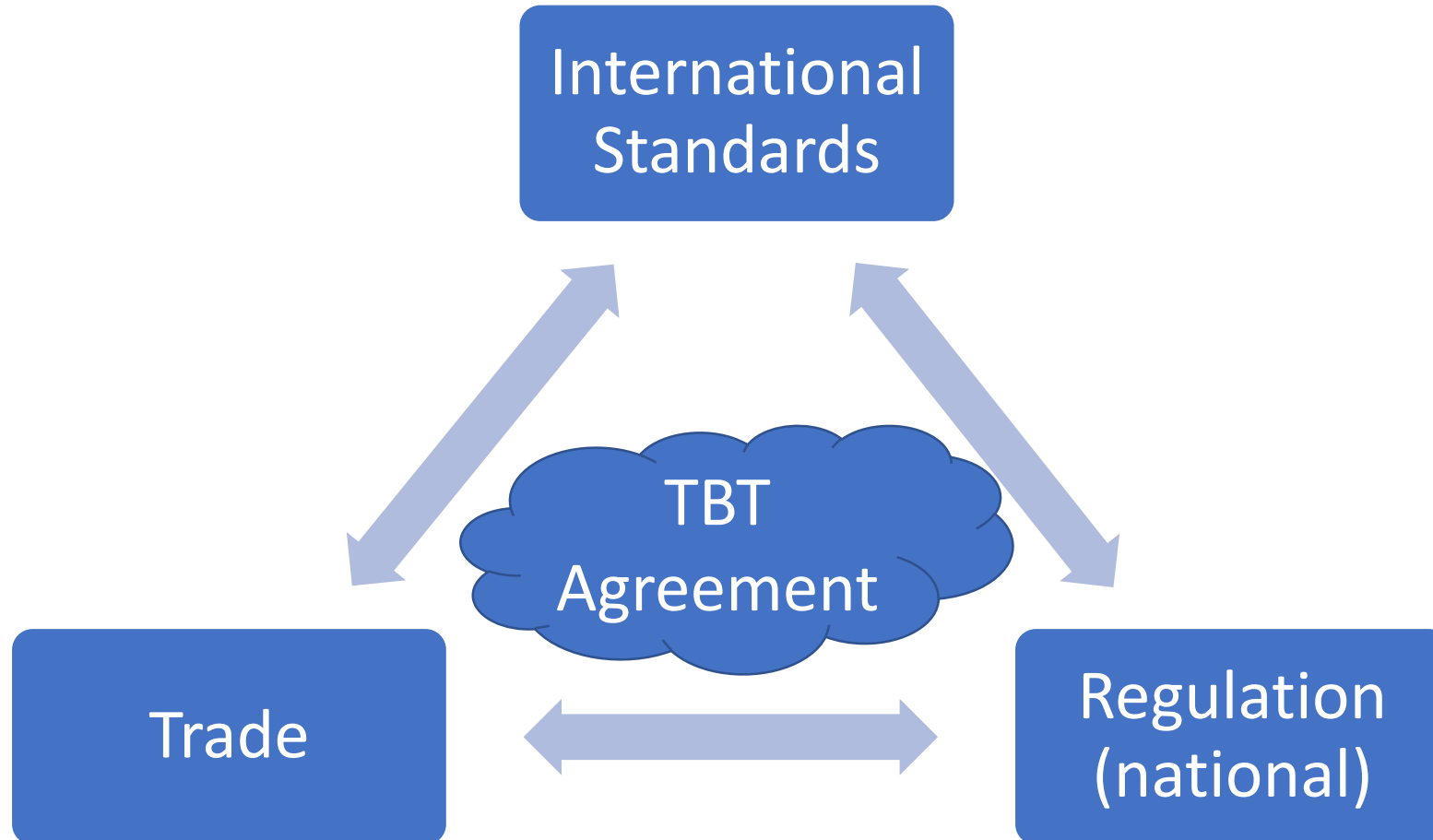
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What does the WTO do?





International standards and the TBT Agreement

Pursuit of trade liberalization...

avoiding unnecessary
and discriminatory
barriers to international
trade

Right of Members' to regulate...

allowing Members to
pursue legitimate
objectives at levels
they consider
appropriate



use of international standards
...as a basis for regulation

...Harmonization

Using international standards (harmonization)

Members **shall** use...



relevant international standards

technical
regulations
(Art. 2.4)

*Also: national
standards*

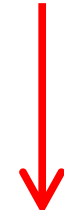
conformity
assessment
procedures
(Art. 5.4)

... as a *basis* for

when *ineffective* or *inappropriate* for
policy objectives

(e.g. fundamental climatic or geographical
factors, or technological problems)

← **except!**



Building blocks of the TBT Agreement

Technical
Regulations

Conformity
Assessment
Procedures

Standards
(National)

Government

National Standards
Body / Private sector

International standards

“Six Principles”

- **Transparency:** work programme/proposal accessibility, adequate time and opportunity for comments;
- **Openness:** all Members have right to participate at all levels of standard setting;
- **Impartiality and consensus:** no bias against any Member, region, supplier & consensus procedures;
- **Relevance and effectiveness:** respond to regulatory and market needs, as well as scientific and technological developments in various countries; no negative impact on competition or innovation; performance-based;
- **Coherence:** avoid duplication/overlap with other international standardizing bodies, through co-operation and coordination;
- **Development dimension:** promotion of developing countries' participation in international standards; take into account constraints on developing countries.

“Safe haven” of international standards

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



- SPS: measures that are in conformity with international standards are presumed to be consistent with the SPS Agreement (Art. 3.2)

Participation

- TBT (and SPS) Agreement encourage the development of international standards, to facilitate trade and improve efficiency
- Members shall play a full part, within the limits of their resources, in developing international standards

Technical and scientific basis
(reference) in line with good
regulatory practice (GRP)

Promotes regulatory alignment, facilitates
trade, reduces possibility for trade friction

How can standards (international, regional, national) support regulators?

Market place / industry
acceptance – facilitates
compliance and enforcement

Support to conformity
assessment (e.g. guidance
for bodies, test methods)

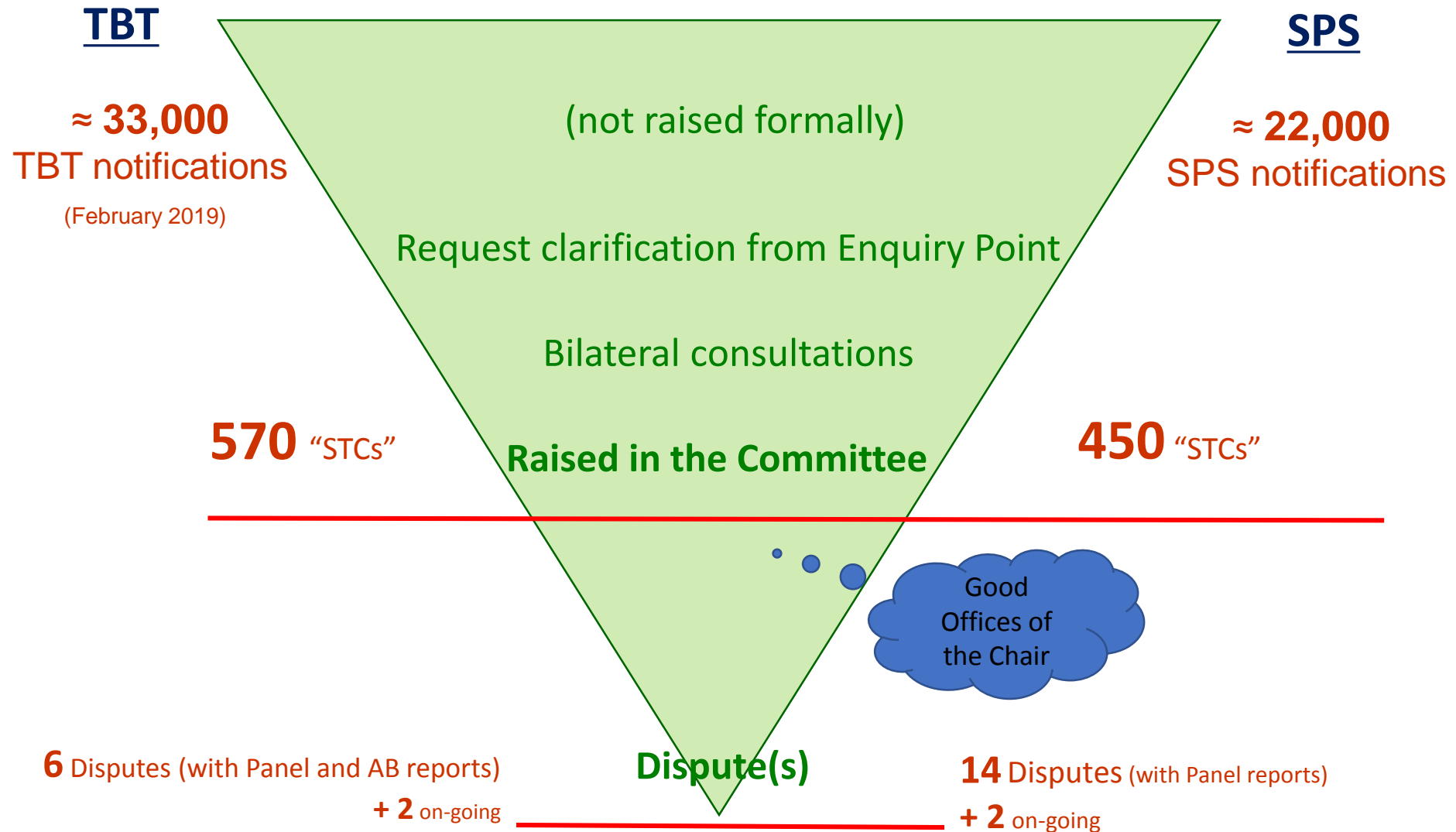
Facilitates the review
and upkeep of
regulation (GRP)

Basis for deeper cooperation
between regulators in trading
partners

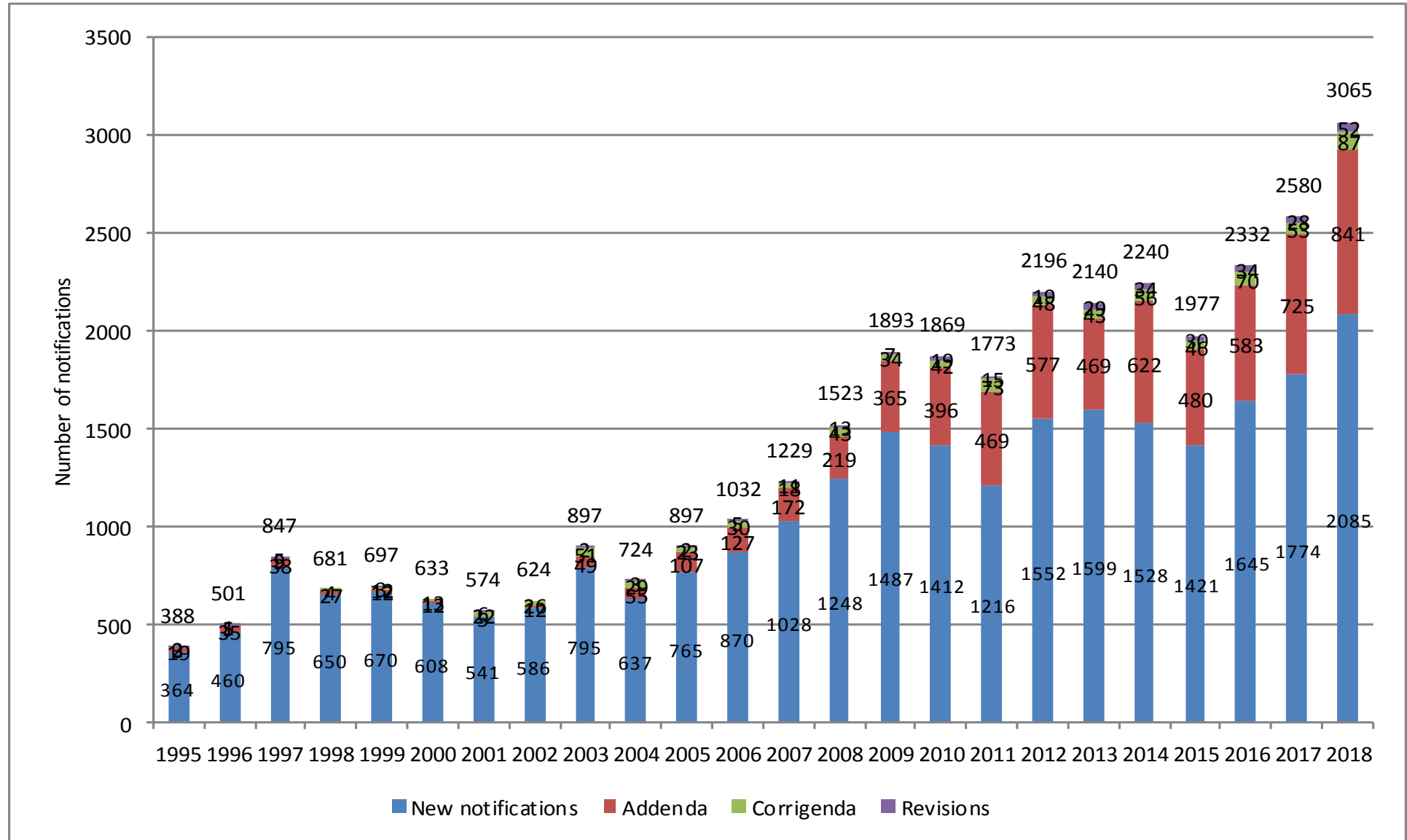
TBT Committee – transparency and guidance



Peer review of NTMs in the SPS and TBT Committees



Notifications: 1995-2018





<http://www.epingalert.org>

Keep track of product requirements in foreign markets

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.

Committee on Technical Barriers to Trade

40 ← recommendations
agreed by
consensus of
Members through
the Triennial
Review process

**EIGHTH TRIENNIAL REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE
AGREEMENT ON TECHNICAL BARRIERS TO TRADE UNDER ARTICLE 15.4**

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Principles for Developing ISO and IEC Standards Related to or Supporting Public Policy Initiatives (2007)

It should be noted that, as private, voluntary organizations, ISO and IEC themselves are not directly representative of government interests. ISO and IEC consensus on ISO and IEC standards reflects agreement across a range of stakeholders at the standard drafting level, AND it reflects a consensus across national standards bodies at the approval level. National positions on ISO or IEC standards are not necessarily government positions, although government experts may participate in developing these positions with their counterparts from the private sector.

Tools to address NTMs: Regulatory cooperation

Dialogue and mutual understanding between regulators from different countries (councils, committees)

Following good regulatory practices: **referencing international standards**, transparency

RTAs (bilateral or regional free trade agreements)

Equivalence

Mutual recognition agreements

Full harmonization (e.g. Australia-New Zealand)

A range of approaches

informal

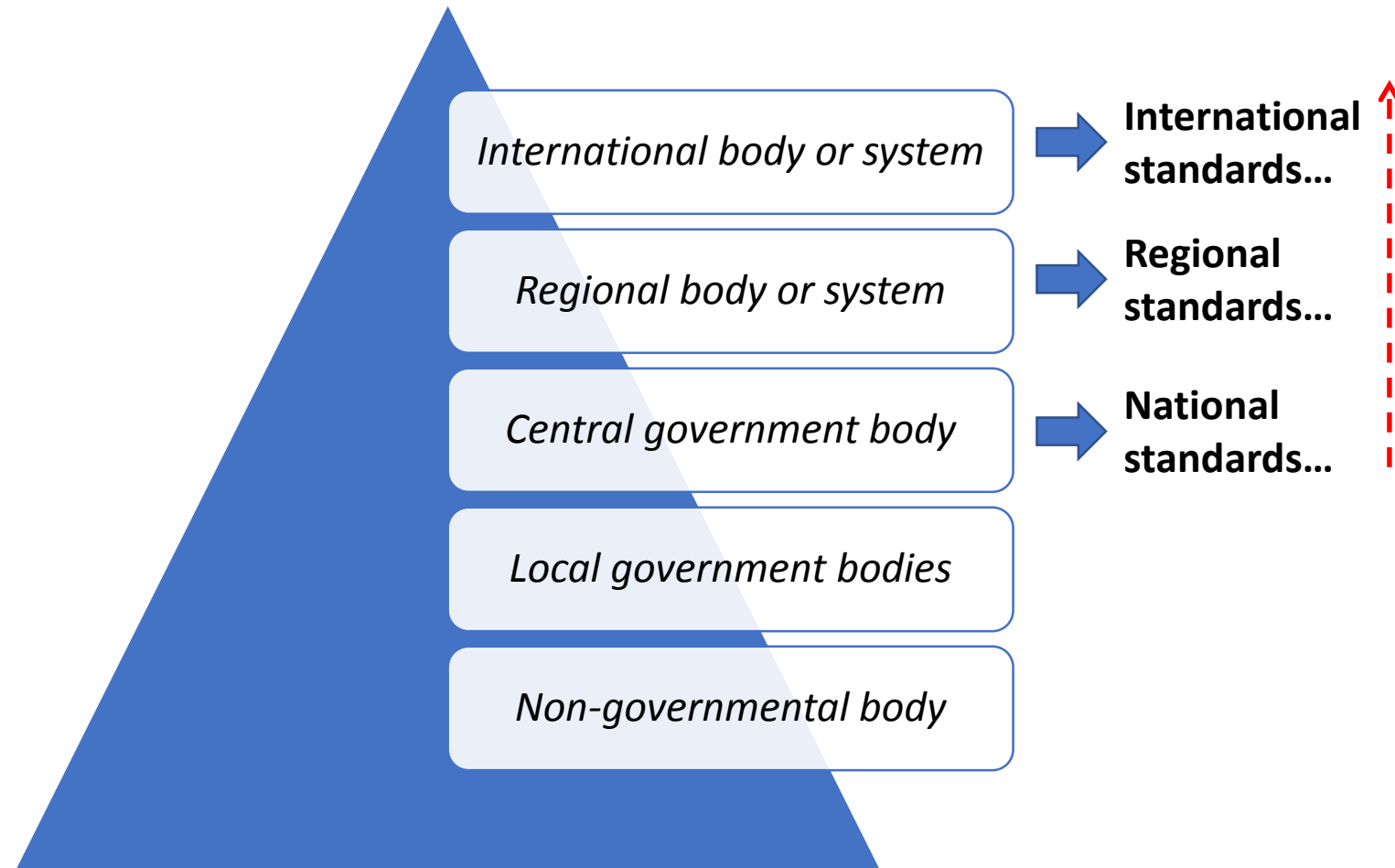
formal

bilateral

regional

multilateral

Upward harmonization of standards



What does WTO say about national
(and regional) standards bodies?

Code of Good Practice for the preparation, adoption and application of standards

(Annex 3 to TBT Agreement)

- Open to acceptance by standardizing bodies (national, regional, non-governmental, local)
 - Members must ensure that central government standardizing bodies adhere to the Code (Art. 4.1)
- Standards should be:
 - **non-discriminatory** and **not create unnecessary obstacles to trade**
 - **based on international standards** (where they exist)
 - performance rather than design or descriptive characteristics

Alignment of national standards to international standards

Code of Good Practice requires national alignment to international standards, although possibility for deviation:

- F. Where international standards exist or their completion is imminent, the standardizing body shall use them, or the relevant parts of them, as a basis for the standards it develops, except where such international standards or relevant parts would be ineffective or inappropriate, for instance, because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems.

Code of Good Practice for the preparation, adoption and application of standards

(Annex 3 to TBT Agreement)

- Standardizing bodies should:
 - **participate** in setting international standards
 - **avoid duplication** with other standards bodies (national and international)
 - **transparency** in standard setting:
 - work programme published every 6 months
 - opportunity for comments on draft standards (60 days)
 - take comments into account, provide copies, and promptly publish adopted standards
 - Notifications (acceptance, withdrawal, work programmes) under Code of Good Practice available at: <https://tbtcode.iso.org/sites/wto-tbt/home.html>