

The TBT Agreement

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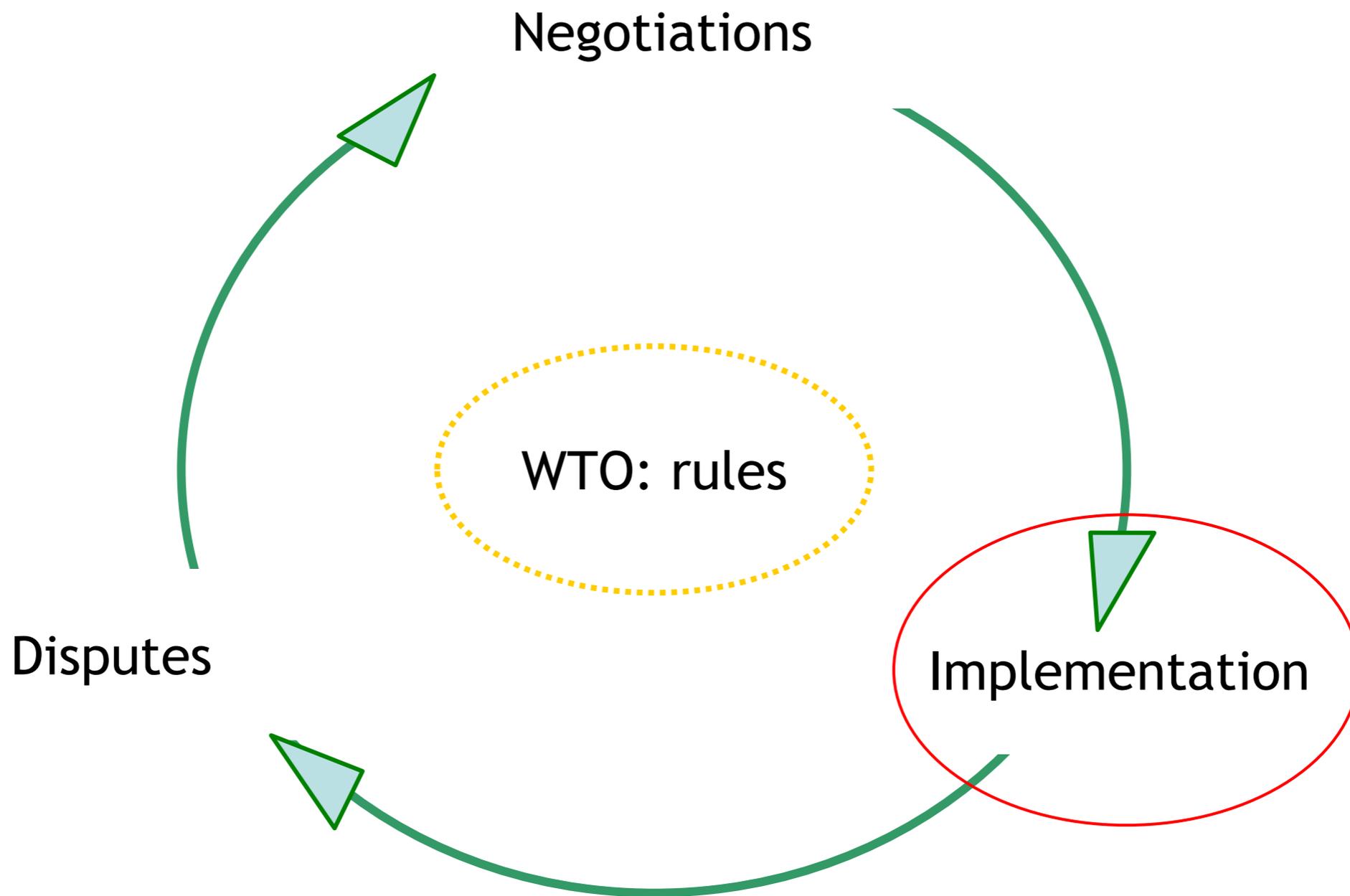
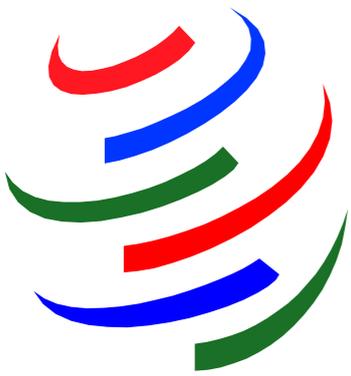
World Trade Organization (WTO)

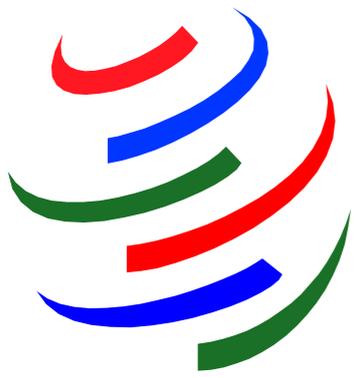
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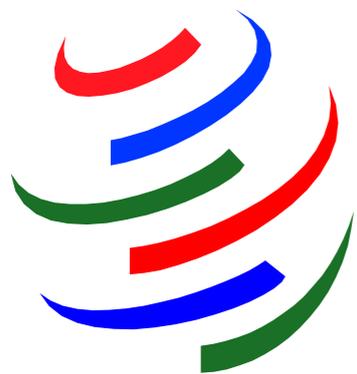




The WTO Agreement on Technical Barriers to Trade

the "TBT Agreement"



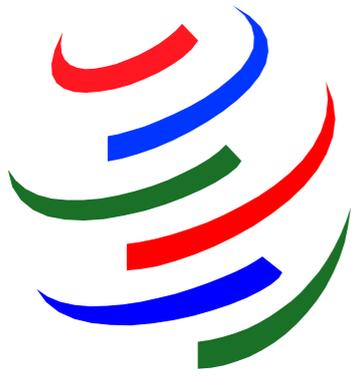


avoiding
unnecessary
obstacles to
international trade

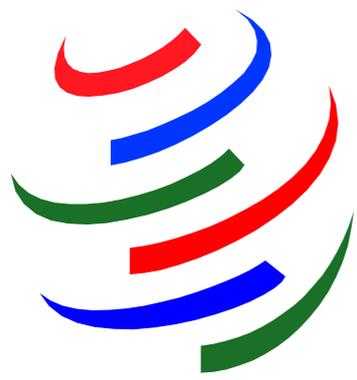
allowing for regulatory
autonomy to protect
legitimate interests



use of international standards

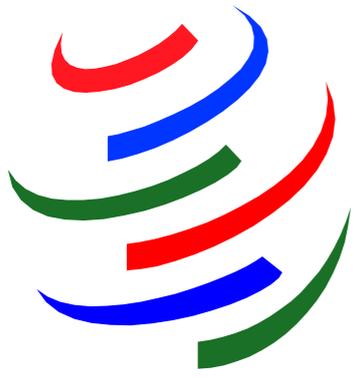


Scope of TBT Agreement?

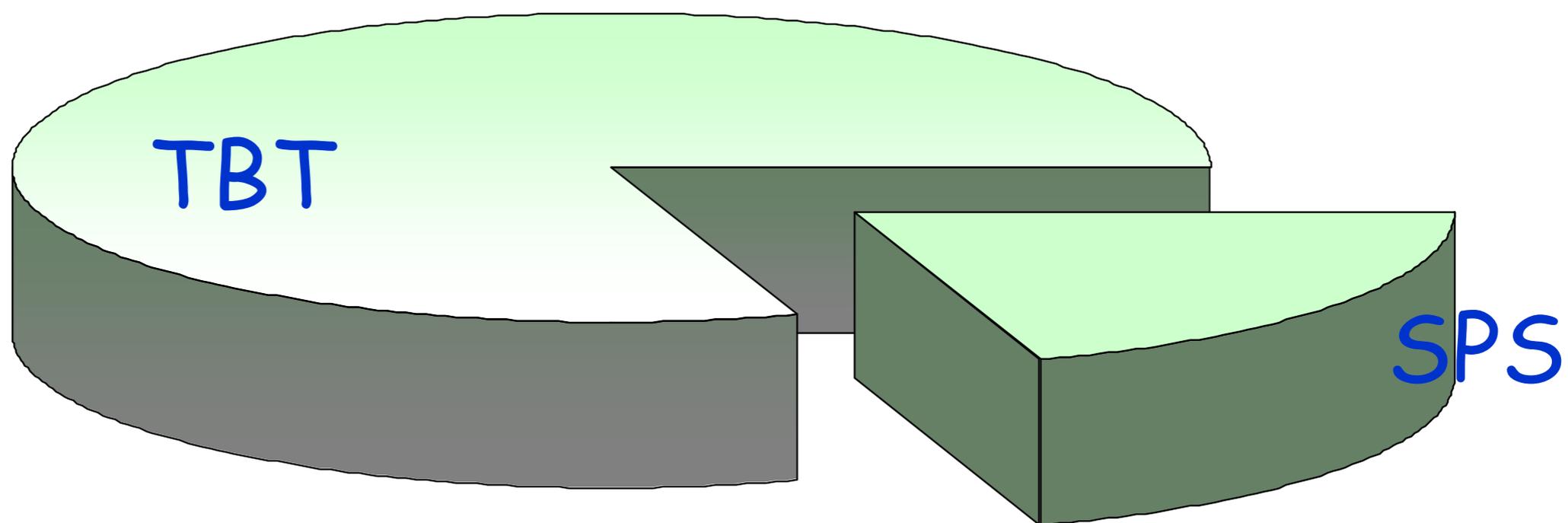
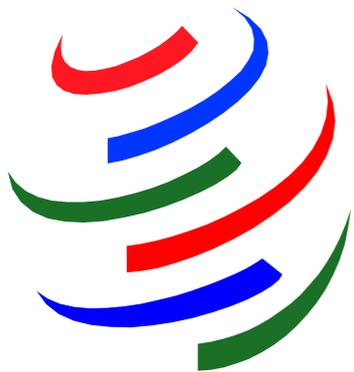


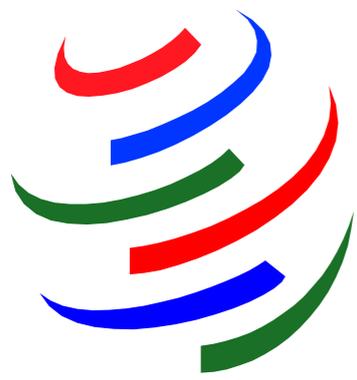
TBT Agreement is applicable to:

"1.3 All products, including industrial and agricultural products, shall be subject to the provisions of this Agreement."



What are "TBT measures" ?





to protect:

from:

human or animal life

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

human life

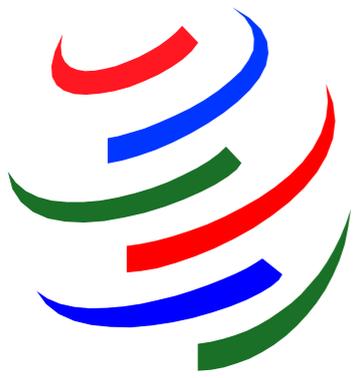
plant- or animal-carried diseases (zoonoses);

animal or plant life

pests, diseases, or disease-causing organisms;

a country

damage caused by the entry, establishment or spread of pests



Food safety

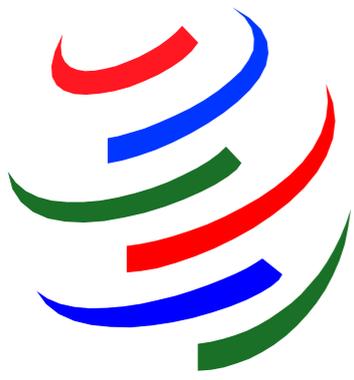
Protection of the environment

Animal welfare

Organic agriculture

Nutrition

Quality



What is a TBT measure?

Technical Regulation

document
which lays down
product characteristics
or
their related
processes and production methods
with which compliance is mandatory
...

TBT Agreement, Annex 1, para 1 (words)

Definition of a "standard" (in TBT Agreement)

recognized body

that provides, for common and repeated use

rules, guidelines or characteristics
for products or related processes and production methods

with which compliance is not mandatory

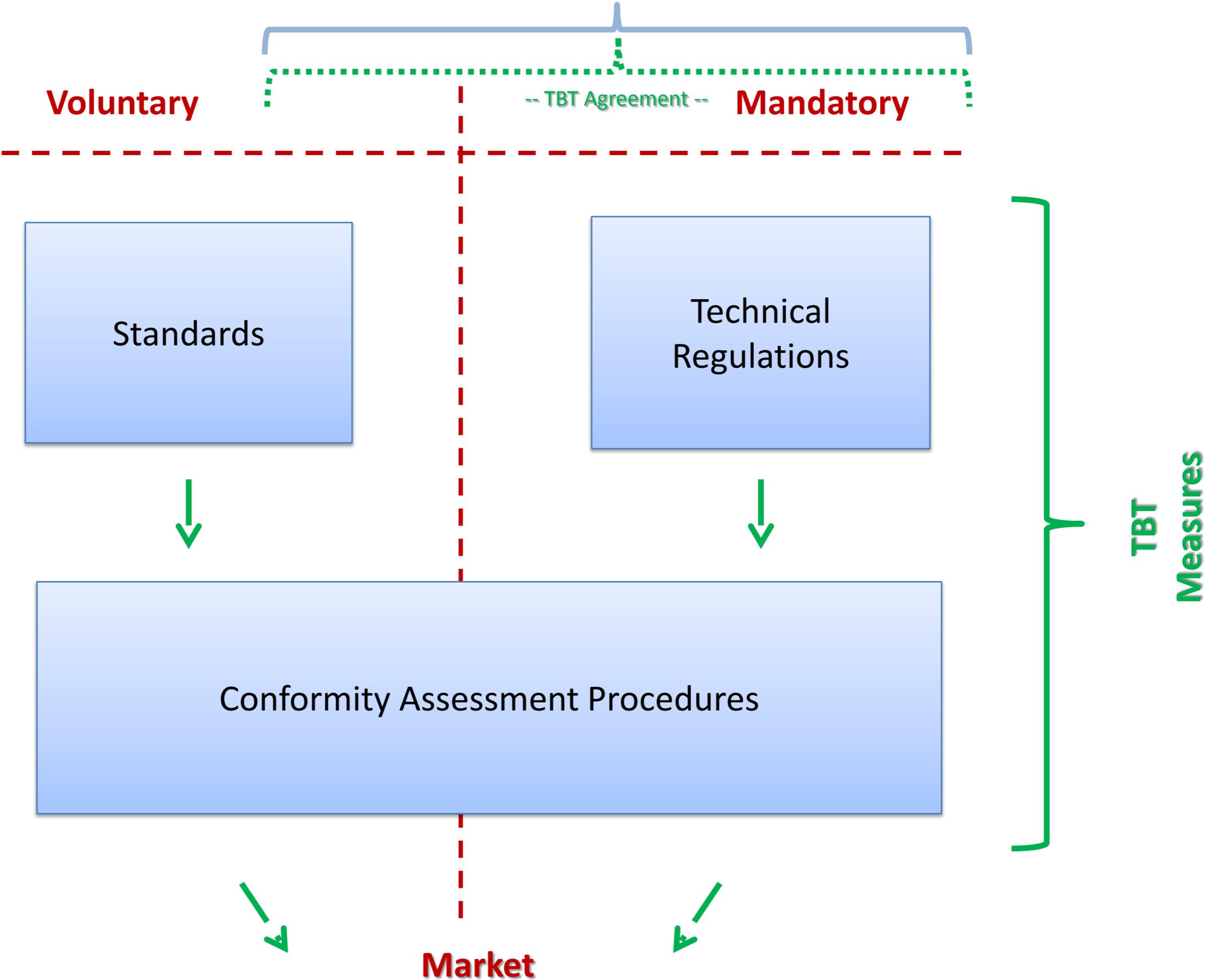
TBT Agreement, Annex 1, para 2

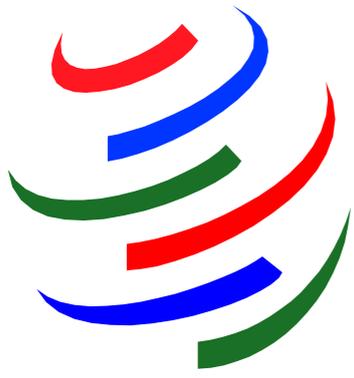
Conformity Assessment Procedure

(Annex 1 of TBT Agreement, para 3)

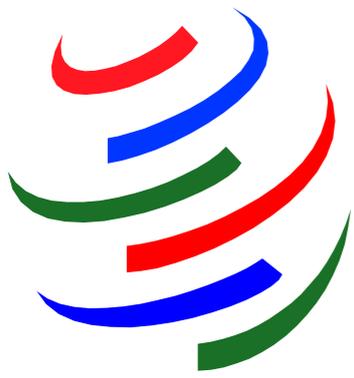
"Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled."

Government intervention ?





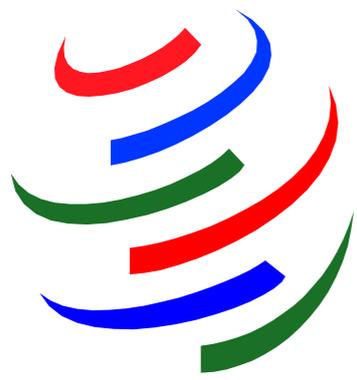
What are the key disciplines ?



Non-discrimination

Most-favoured nation (MFN) treatment and national treatment (NT)

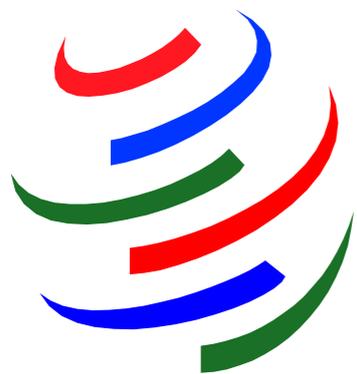




Article 2.1 (TBT)

(technical regulations)

“Members shall ensure that in respect of technical regulations, products imported from the territory of any Member shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country.”
(emphasis added)



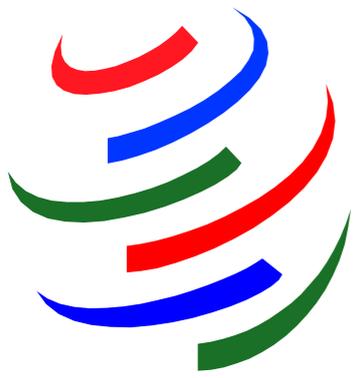
“like products”

“treatment no less favourable”



Avoidance of unnecessary obstacles to international trade

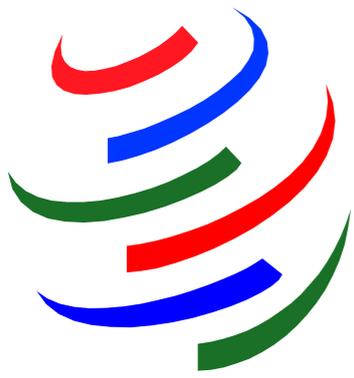




“Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade.” ...

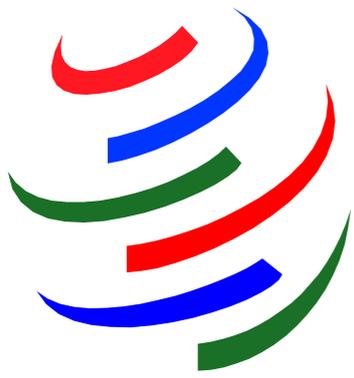
(Article 2.2, first sentence)

Article 2.5 of the TBT Agreement



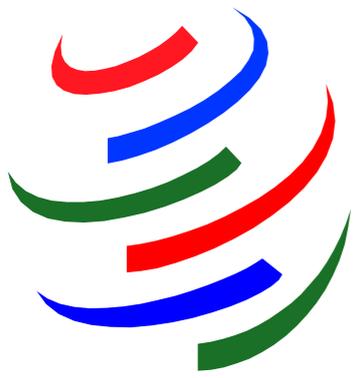
“For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create.” ...

(Article 2.2, second sentence)



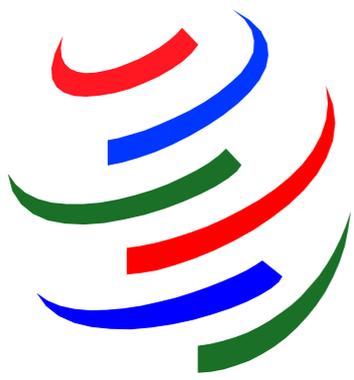
“Such legitimate objectives are, inter alia: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment..” ...

(Article 2.2, third sentence)



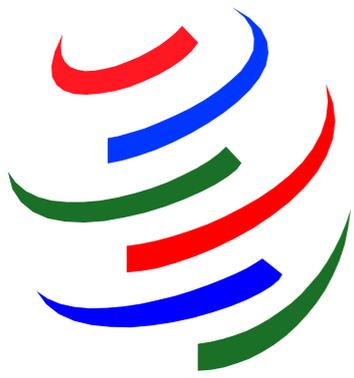
“In assessing such risks, relevant elements of consideration are, inter alia: available scientific and technical information, related processing technology or intended end-uses of products.”

(Article 2.2, fourth and last sentence)



“Whenever a technical regulation is prepared, adopted or applied for one of the legitimate objectives explicitly mentioned in paragraph 2, and is in accordance with relevant international standards, it shall be rebuttably presumed not to create an unnecessary obstacle to international trade..” ...

(Article 2.5, second sentence)



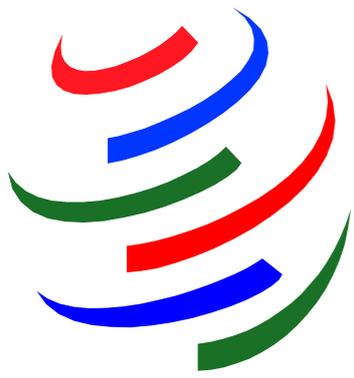
unnecessary / necessary

with a view to or with the effect of

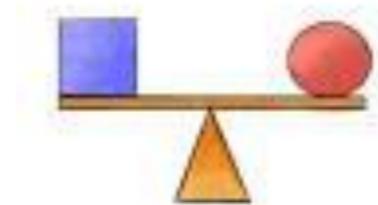
legitimate objectives

assessment or risk / available scientific information

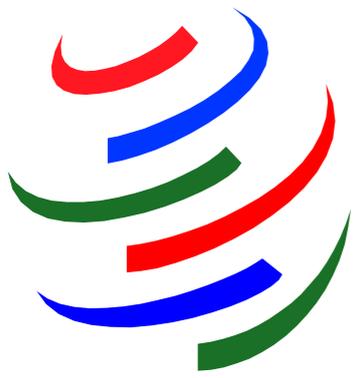
rebuttable presumption (2.5)



“unnecessary obstacle”



“legitimate objective”



Is it necessary to regulate for

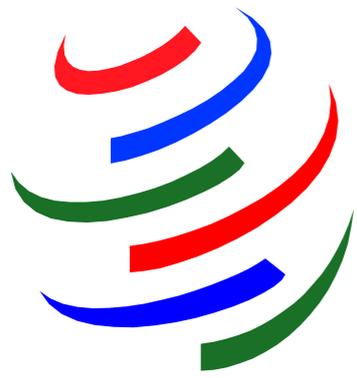
Chemical composition

Color and size

Quality

Production method

Nutrition

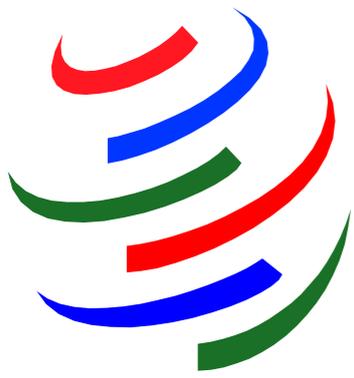


(SPS and TBT (1995) created new disciplines on necessity; focus of GATT was on non-discrimination.)



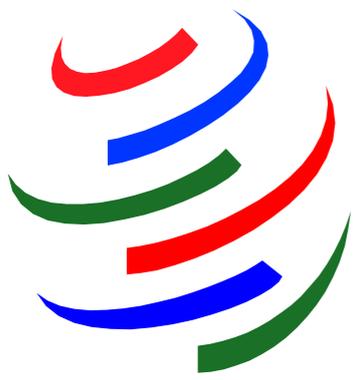
The use of international standards

“harmonization”



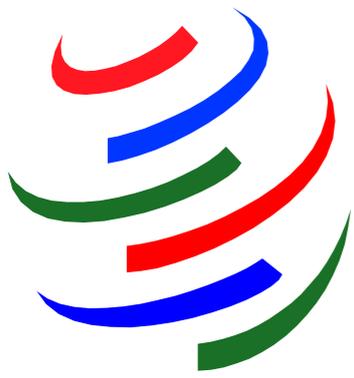
“Where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations ...”

(Article 2.4, first part)

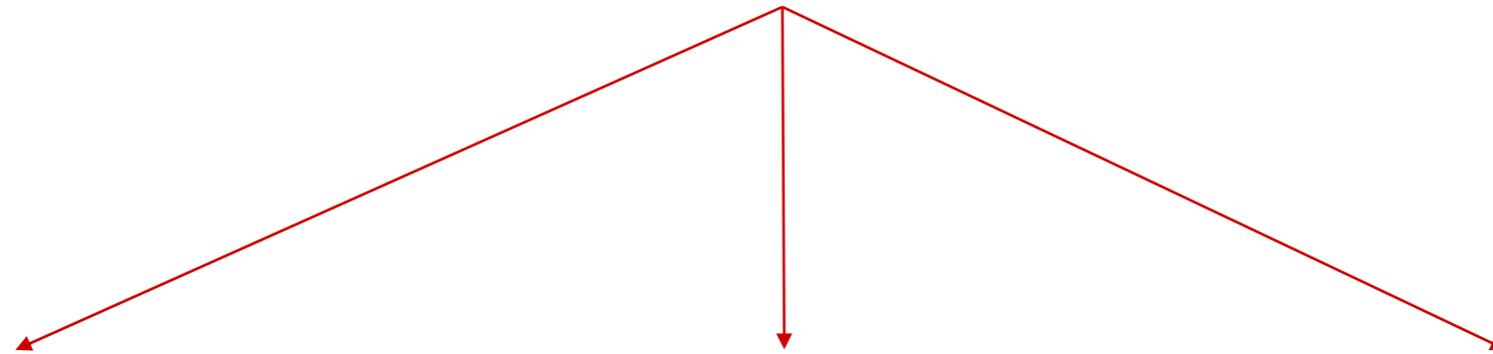


“...except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems” ...

(Article 2.4)



Three issues



use !
(2.4)

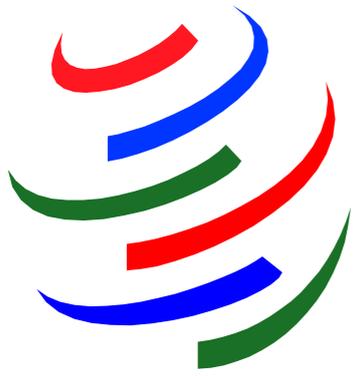


explain /
presumption
(2.5)

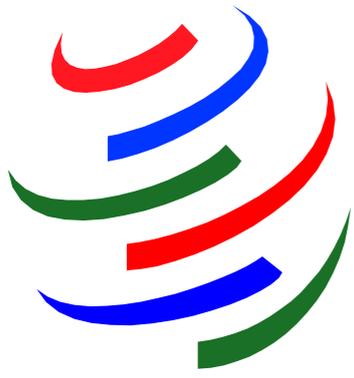


participation
(2.6)



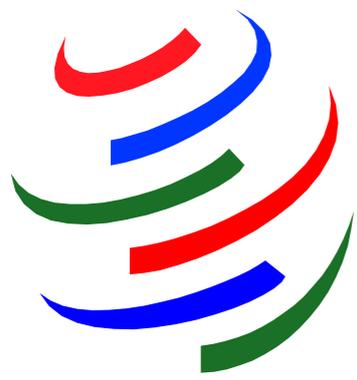


... Members shall use ...

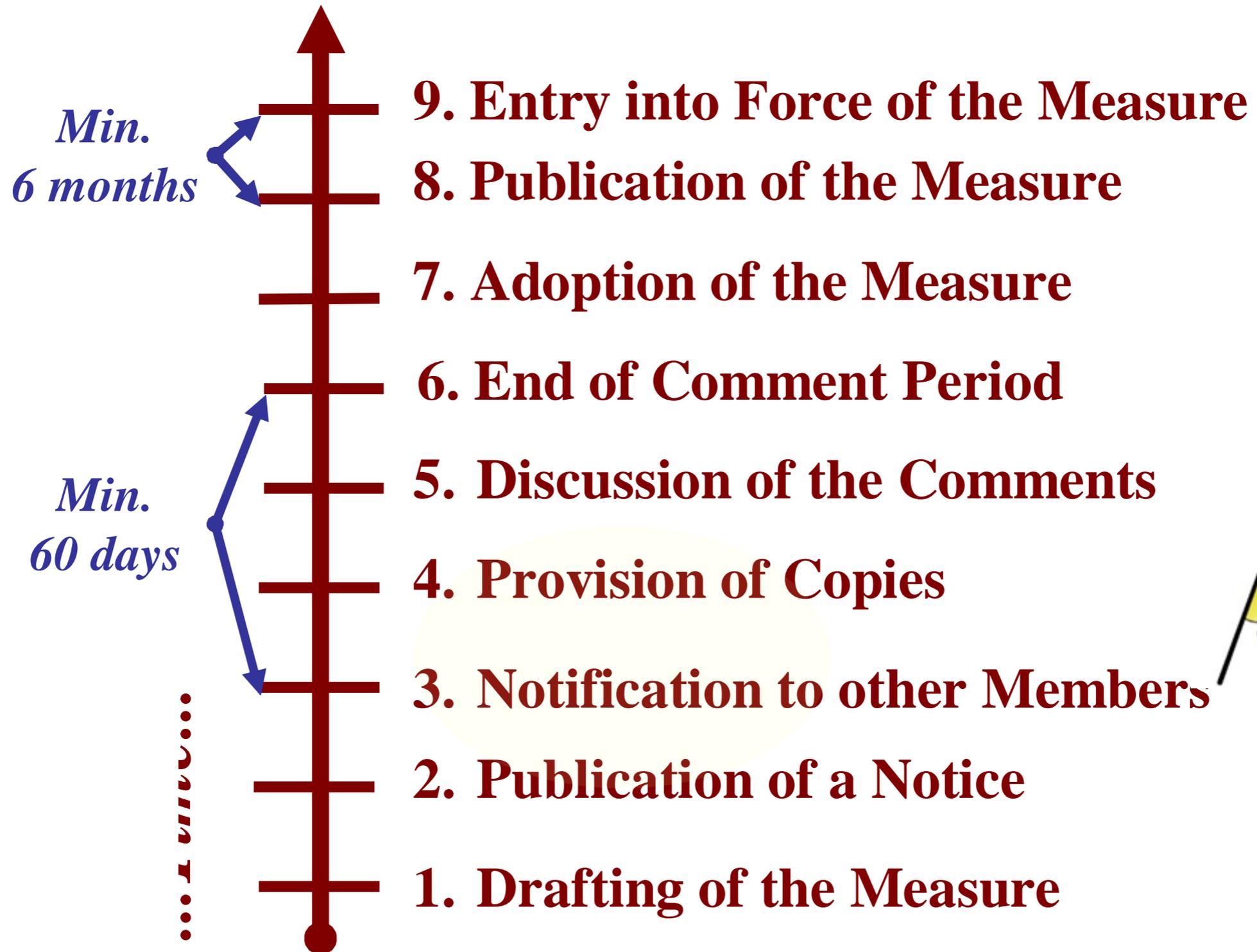


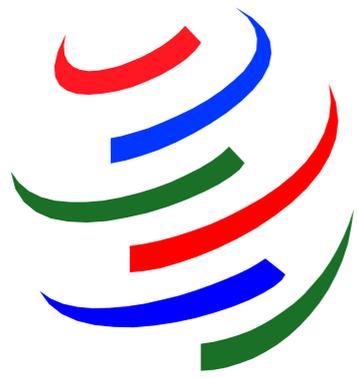
Transparency

Notifications / enquiry point / Committee 3 x Year

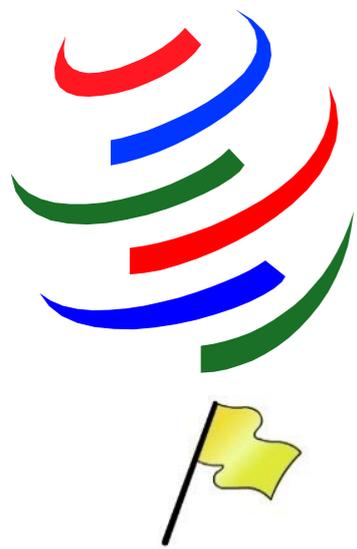


"Regulatory life-cycle"





How does it all work?



Where does the Committee work fit in?

≈ 15,600
“TBT notifications”
(end-2012)

(not raised formally)

Request clarification from Enquiry Point

Bilateral consultations

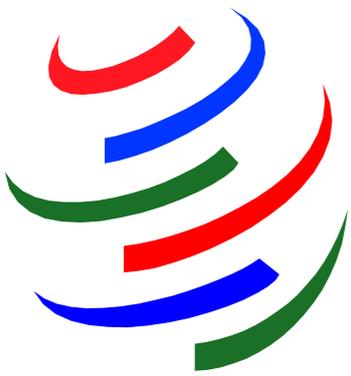
364 “STC”
(Dec12)

Raised in TBT Committee

Request formal consultations

4 (+ 2 on-going) Disputes

Dispute(s)

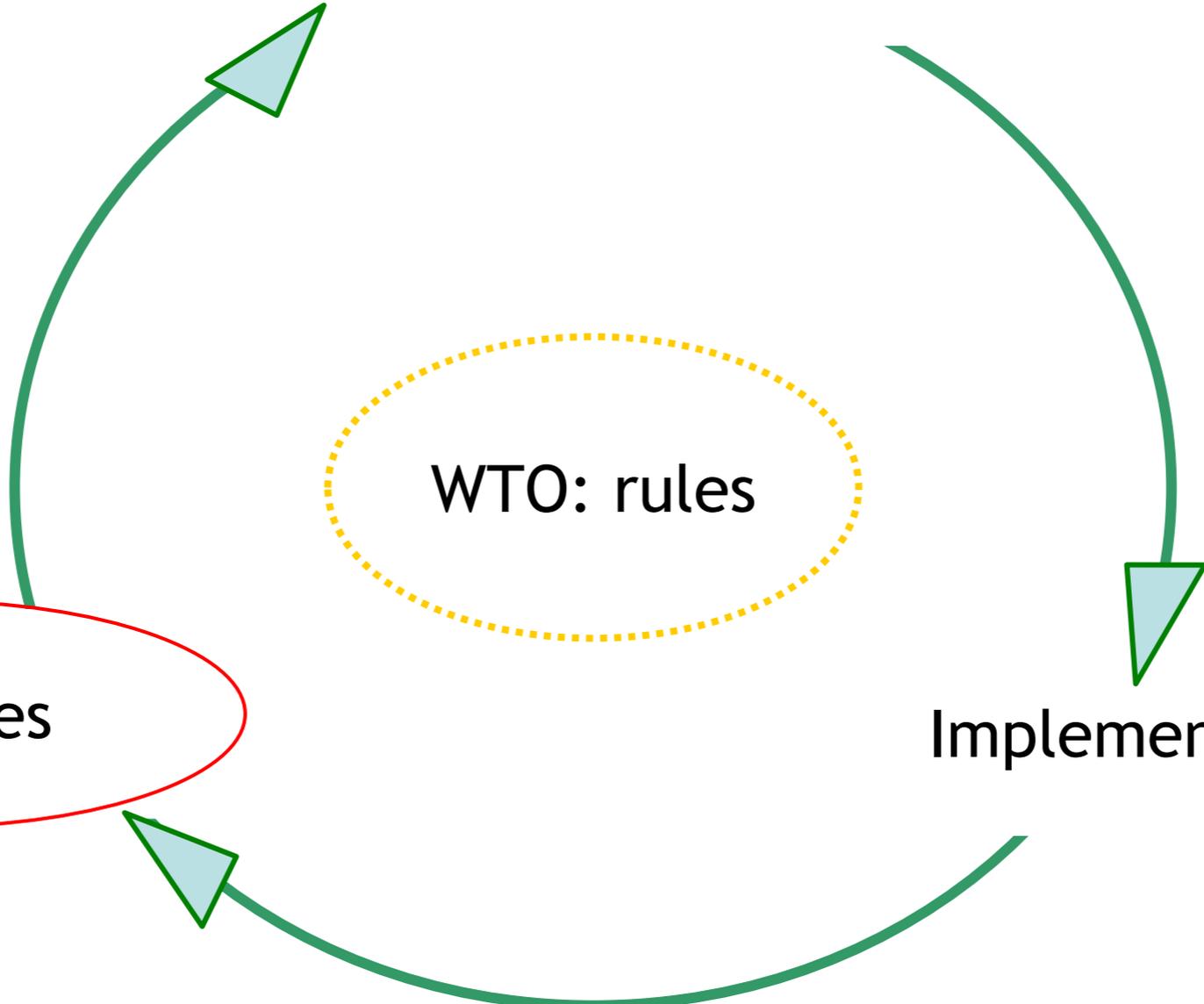


Negotiations

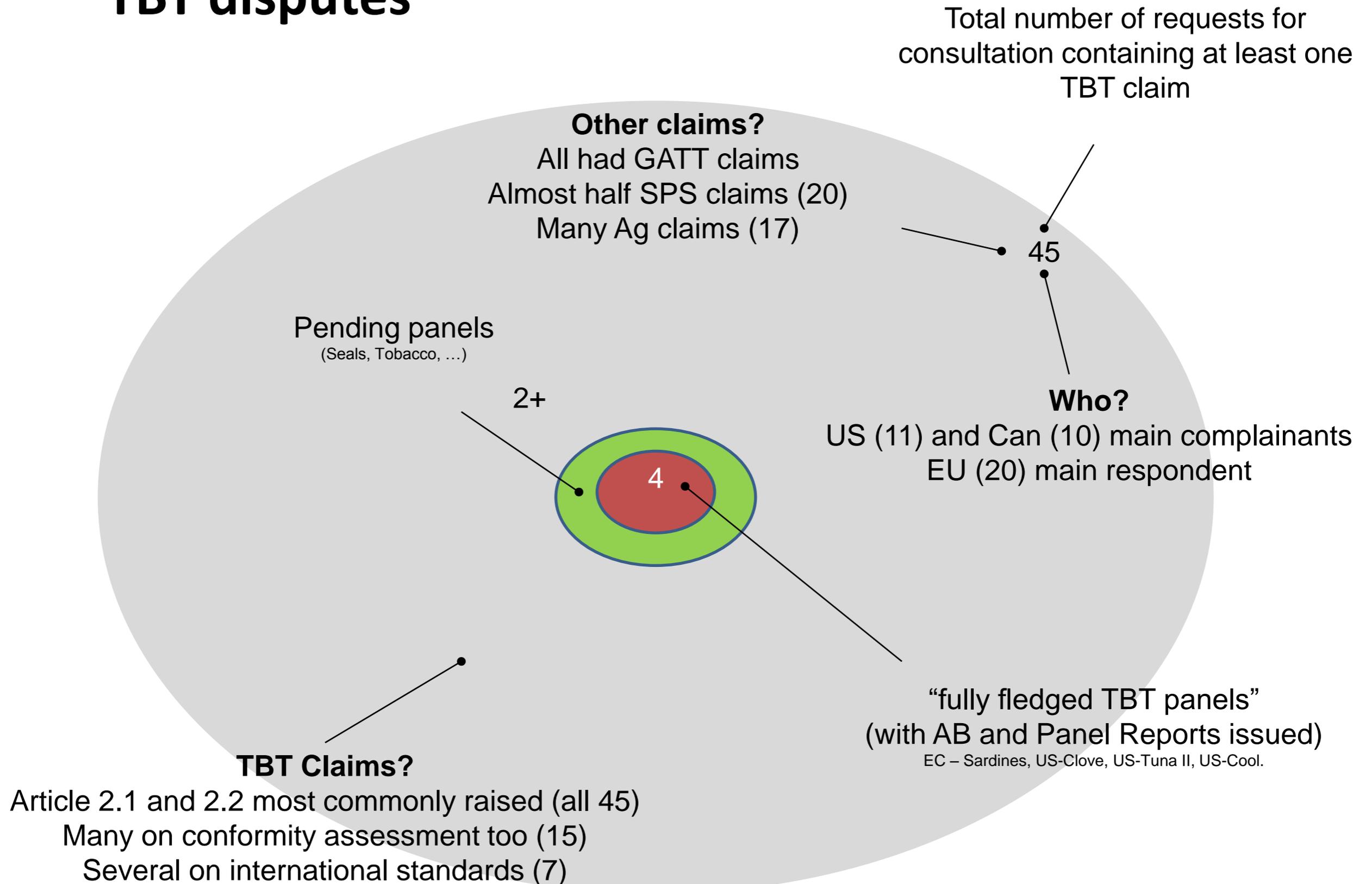
WTO: rules

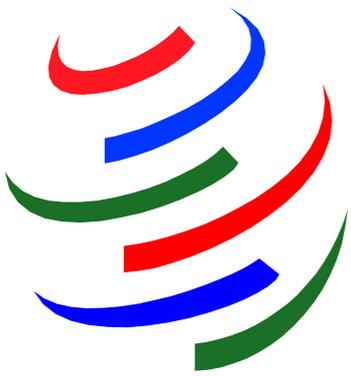
Disputes

Implementation

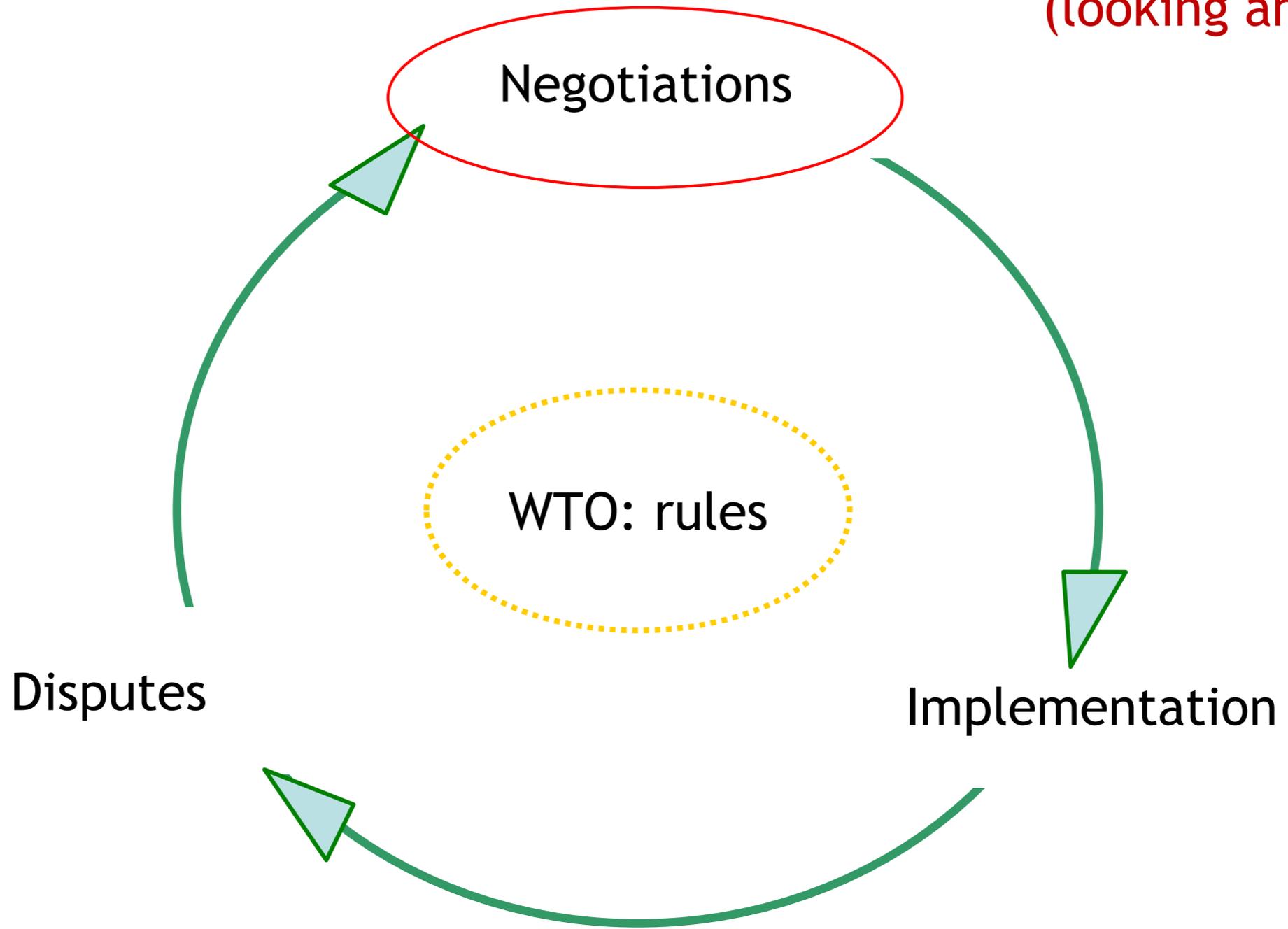


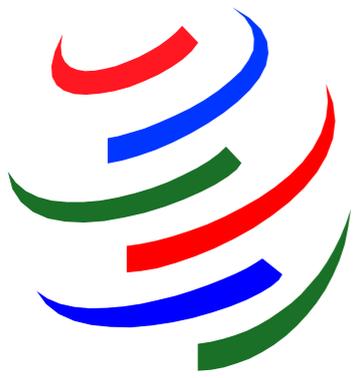
“TBT disputes”





(looking ahead ...)

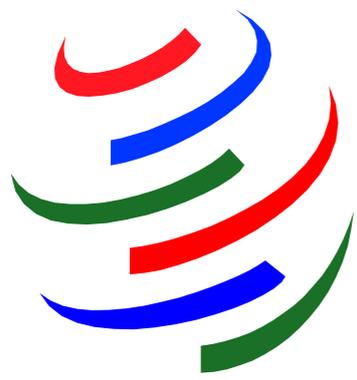




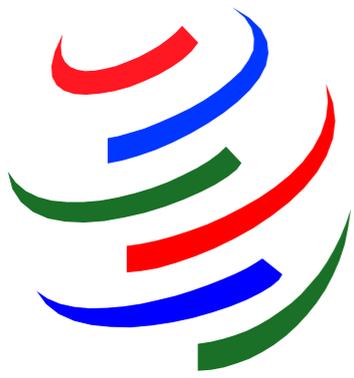
Doha Ministerial Declaration (2001)

(para 16)

negotiations

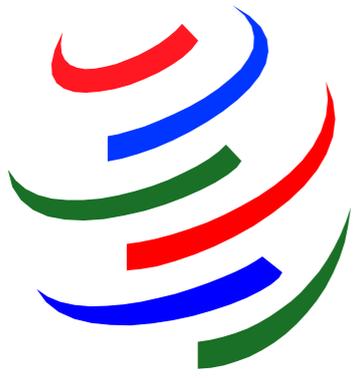


“We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. ...”

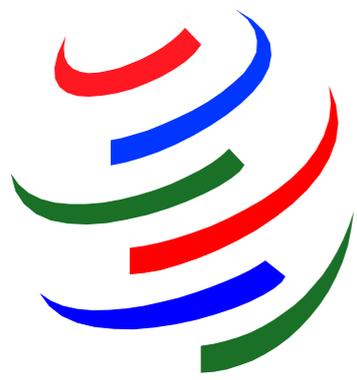


Referred to as “NAMA” negotiations

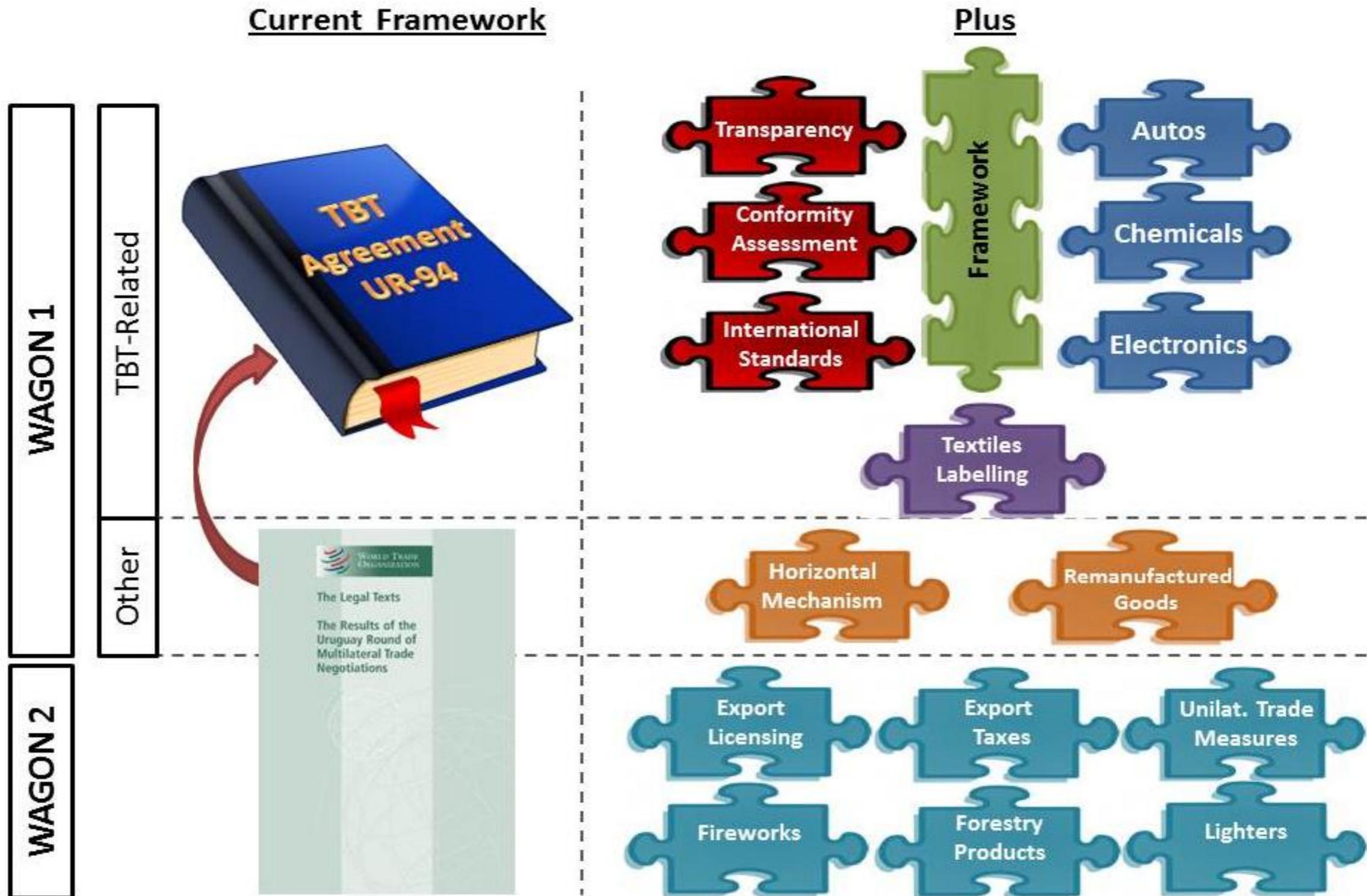
non-agricultural market access



several TBT related proposals



Structure of NAMA NTB Package





Technical barriers to trade

Technical regulations and product standards may vary from country to country. Having many different regulations and standards makes life difficult for producers and exporters. If regulations are set arbitrarily, they could be used as an excuse for protectionism.

The Agreement on Technical Barriers to Trade tries to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles, while also providing members with the right to implement measures to achieve legitimate policy objectives, such as the protection of human health and safety, or the environment.

> **TBT Information Management System**: a database of WTO information on TBT
(Notifications, specific trade concerns, other documents, enquiry points, etc)

See also:

> [Technical assistance related to Technical Barriers to Trade](#)

> [Receive TBT notifications by e-mail](#)

News [back to top](#)

- 30 November 2012: [Members aim to reduce trade obstacles by streamlining work on technical barriers](#)
- 29 June 2012: [WTO Appellate Body issues reports on US "country of origin" disputes](#)
- 13 June 2012: [Members question technical barriers on alcoholic products](#)

> [More news on technical barriers to trade](#)

TBT events

> 13-15 June 2012: TBT Committee Meeting, Geneva

> 20-21 March 2012: TBT Committee Meeting, Geneva

> [Previous events](#)

TBT toolbox

> [TBT Agreement](#)

World Trade Report 2012



Trade and public policies:
A closer look at non-tariff
measures in the 21st
century

non-discrimination



“like products”

requirements?

situations (SPS)

unnecessary
obstacle



“new”

policy objective

choice of measure

case-by-case

Standards



Qualified obligation to use

TBT open / SPS closed

exceptions

sardines

Transparency



Publication

Notifications



Enquiry Points

Summing up ...

