



INTERNATIONAL
TRADE
ADMINISTRATION

WTO Agreement on Technical Barriers to Trade (TBTs) Obligations

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June 25, 2018

Overview

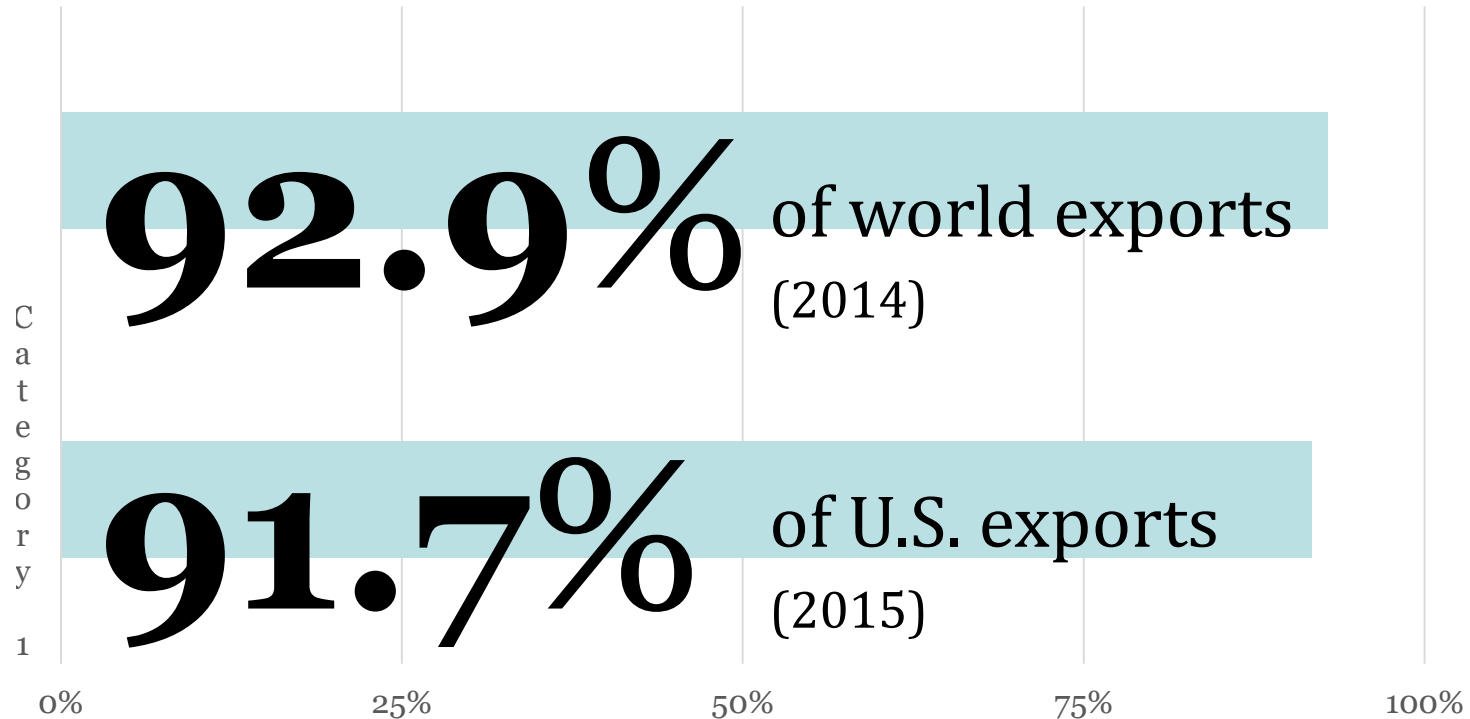
- What is a Technical Barrier to Trade (TBT)?
- What is the WTO Agreement on Technical Barriers to Trade?
- How to support the WTO TBT Agreement with Good Regulatory Practices (GRPs).
- Linkages between the WTO TBT Agreement and the WTO Trade Facilitation Agreement (TFA) Agreements reduce trade costs.
- What are some examples of TBTs?

What is a Technical Barrier to Trade (TBT)?



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Exports Covered by WTO TBT Notifications



Calculations based on WTO notifications from January 1, 2006 to August 18, 2015 by all WTO members

(Source: Okun-Kozlowicki, "Standards and Regulations: Measuring the Link to Goods Trade," June 2016)

WTO TBT Agreement: A Balance

Avoiding
unnecessary
obstacles to
international
trade



Allowing for
regulatory
autonomy to
protect
legitimate
interests

Members have the right to regulate at levels they deem appropriate to achieve legitimate objectives, provided that they do not discriminate in an arbitrary or unjustified manner.

WTO TBT Agreement Objective

Prevent the use of technical regulations, standards, or conformity assessments as unnecessary barriers to trade.

Technical Barriers to Trade (TBT) Measures		
Standards	Technical Regulations	Conformity assessment procedures
<p>Standards are approved by a recognized body which is responsible for establishing rules, guidelines, or characteristics for products or related processes and production methods.</p> <p>They may also deal with terminology, symbols, packaging, markings, and labeling requirements.</p> <p>Compliance is not mandatory.</p>	<p>Technical regulations are mandatory “standards” imposed by governments.</p> <p>Compliance is mandatory.</p>	<p>Conformity assessment procedures are used to determine that relevant requirements in technical regulations or standards are fulfilled before it is considered safe or appropriate to enter a country’s market.</p> <p>They include procedures for sampling, testing, and inspection, evaluations, verification, and assurance of conformity; and registration, accreditation and approval.</p>

Key WTO TBT Agreement Obligations

- **National Treatment**
- **Most Favored Nation**
- **Transparency**
- **Not Trade Restrictive**
- **Acceptance of International Standards**

Key TBT Agreement Obligation - Transparency

- Was the measure developed in a transparent manner?
- WTO Members must maintain an **Inquiry Point** for Members to ask questions on proposed regulations.
- Obligates WTO Members to notify technical regulations and conformity assessment procedures to other Members for **notice and comment**, with a **reasonable interval for implementation (6 months)**.

Public Consultation on Regulations

- International – Notifications from TBT



Preventing TBTs through Monitoring of Proposed Regulations

The best chance to influence the regulation is during the comment period or prior to release of the final draft.

- **WTO TBT Notifications:**

- **WTO TBT IMS:**

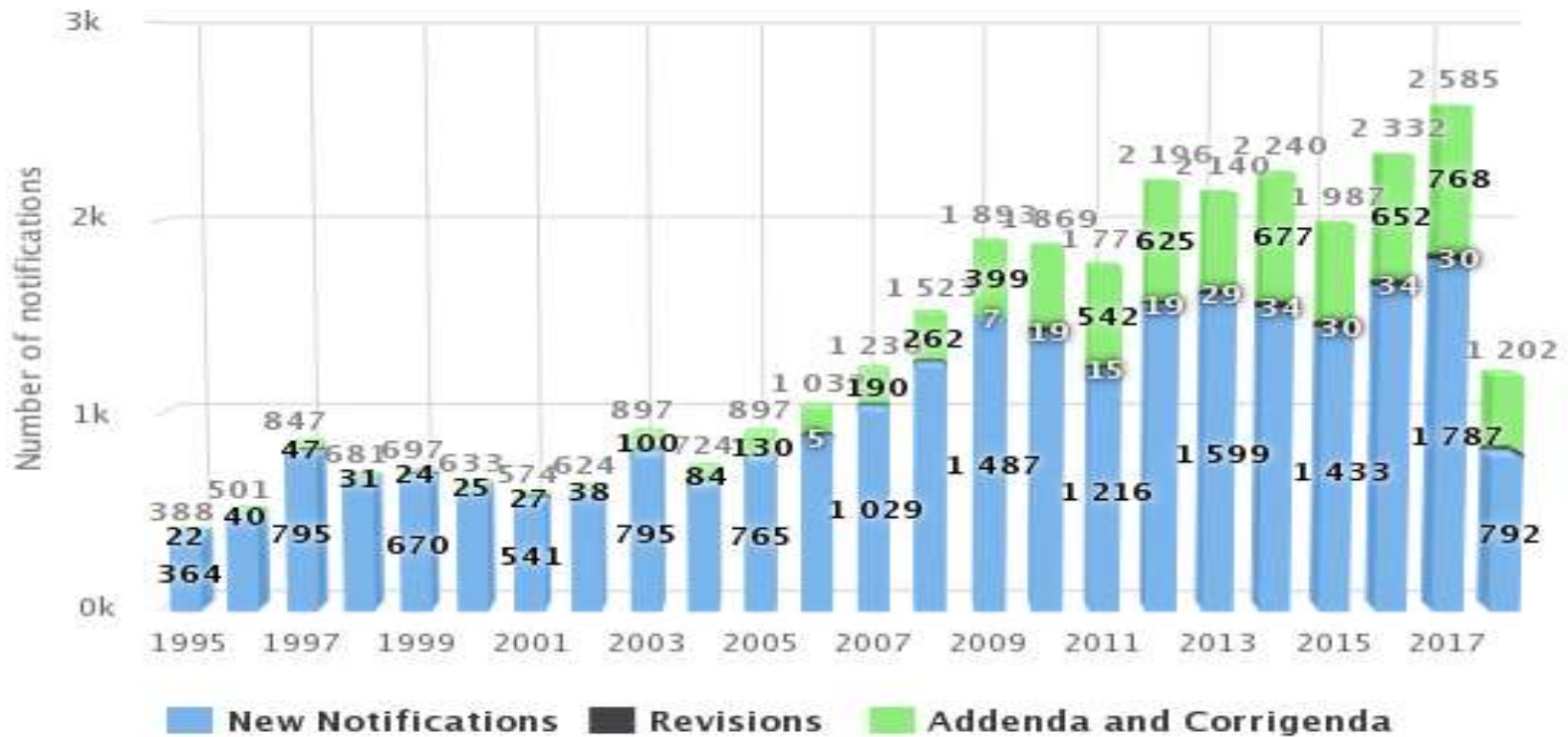
- <http://tbtime.wto.org/en/Notifications/Search>

- **NotifyUS:**

- https://tsapps.nist.gov/notifyus/data/customer_update/add_customer_profile.cfm

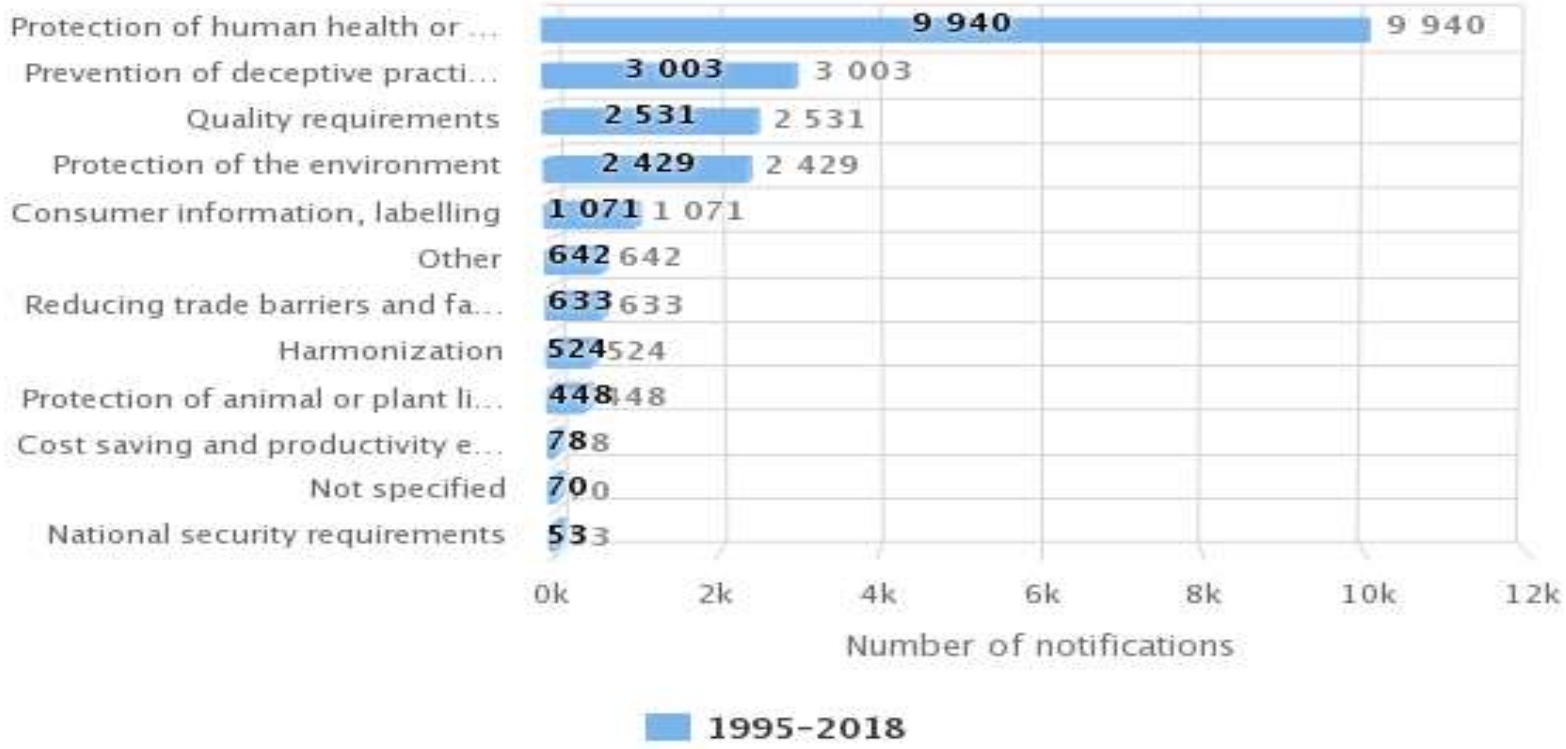
WTO TBT Notifications have more than doubled since 2006

Total TBT Notifications



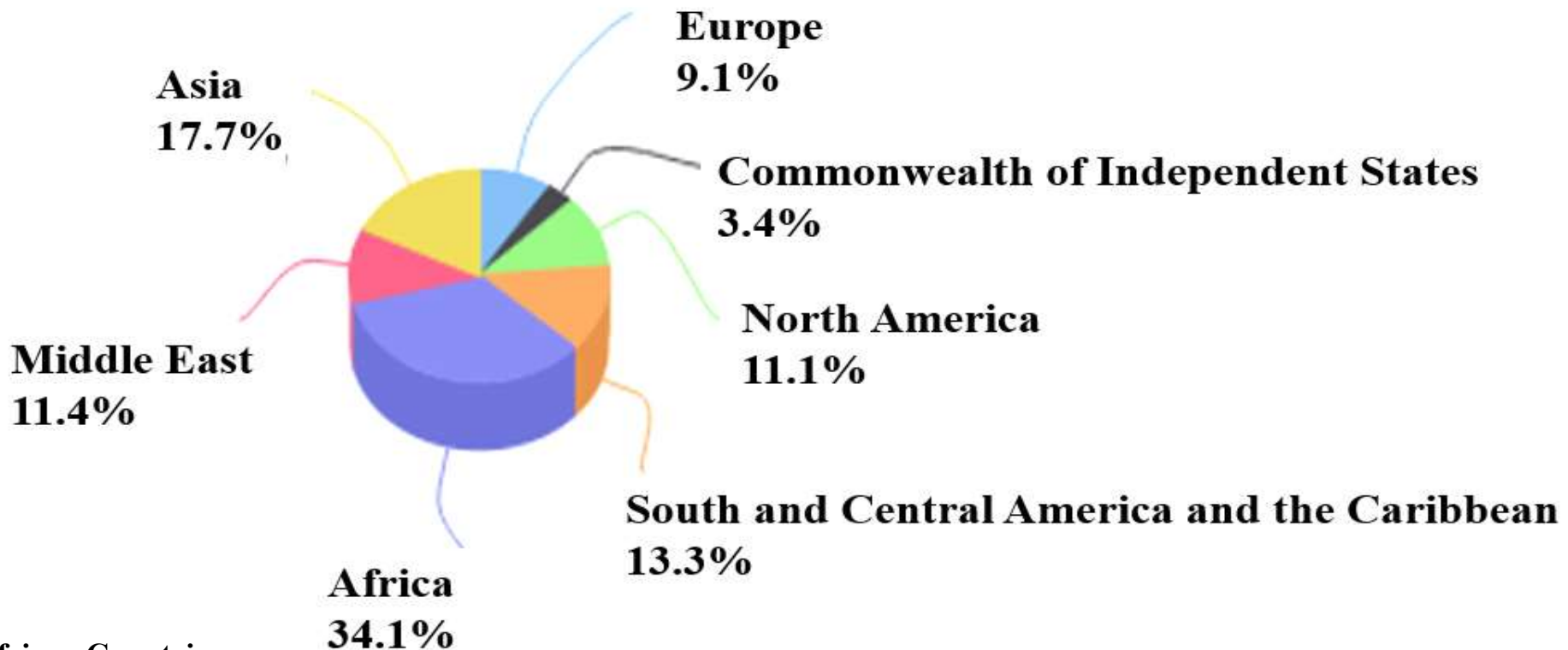
WTO TBT Notifications (continued)

Notifications by objective, 1995-2018



WTO TBT Notifications (continued)

Distribution of new notifications by region, 2018



African Countries:

- | | |
|---------|--------------|
| Burundi | Rwanda |
| Kenya | Senegal |
| Liberia | South Africa |
| Malawi | Tanzania |
| Namibia | Uganda |

(Source: <http://tbtims.wto.org/en/PredefinedReports/NotificationReport> (as of 6/1/18))

“Not More Trade Restrictive Than Necessary”

- What is the measure’s objective?
- Legitimate Objectives under the TBT Agreement include:
 - National security requirements
 - Prevention of deceptive practices (e.g., misleading labeling)
 - Protection of human health/safety, animal, plant life/health, environment

“Not More Trade Restrictive Than Necessary” (continued)

Key questions for determining whether a measure may be more trade restrictive than necessary:

- Does the proposed measure appear to address the stated or implied objective with requirements that are clear?
- What *available* scientific/technical information did the regulator consider? (Did they miss anything?)
- Is there potential overlap/duplication with another regulation/regulator?
- Is there a less trade restrictive alternative we can identify?

Conformity Assessment Issues:

- How long do the procedures take?
- Are the procedures clear and easy to follow?
- Information requirements: do they go beyond what is necessary to assess conformity and determine fees?
- Are fees equitable?

Using the WTO TBT Committee



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Supporting the WTO TBT Agreement with Good Regulatory Practices (GRPs)

- **Internationally recognized practices adopted unilaterally** by a government that **can** be used to **improve the quality and cost-effectiveness** of domestic regulations
 - “These include transparency/public consultation, evidence-based decision-making (e.g., impact analysis, risk assessment, retrospective reviews), and internal coordination”
- GRPs help ensure transparency and consistency of regulatory decision-making and application to preemptively avoid trade barriers
- Included in recent bilateral trade agreements, including KORUS, TPP, and NAFTA

Example of Positive Regulatory Change

- Over 40 years ago, the U.S. Environmental Protection Agency classified milk as an oil because it contains animal fat.
- As a result, dairy farmers had to prove they could contain a milk spill under the Oil Spill Prevention, Control, and Countermeasures (SPCC) program.
- The government treated spilled milk like spilled oil!



Source: Report by Administrator of OMB's Office of Information and Regulatory Affairs, August 31, 2016

WTO TBT Agreement and Trade Facilitation Agreement (TFA): Leveraging linkages to reduce trade costs

HOW DOES THE TFA CUT **RED TAPE** AT THE BORDER FOR EASIER TRADE?

- Reduces trade costs by an average of 14.3%
- Increases availability and ease of access to information
- Expediates release and clearance of goods
- Harmonizes processes and standards

WTO TBT and TFA: Leveraging linkages to reduce trade costs (continued)

HOW DOES THE TFA CUT **RED TAPE** AT THE BORDER FOR EASIER TRADE?

- Increases cooperation between customs and other authorities
- Provides assistance for implementation

Case Studies

- *Russia – Medical Devices and Pharmaceuticals (Transition Time)*
- *Chile – Cell Phones Chargers (Notification and International Standard)*
- *Ecuador – Autos (International Standard)*

Key Takeaways

- In order to develop technical regulations in the **least trade restrictive manner** possible:
 - **Principles of Transparency, Fairness, and Coherence**
 - **Industry and private sector feedback**
 - **International standards**
 - **Internal government coordination**



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Thank You! I look forward to working with you on WTO TBT related issues!

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