



**Asia-Pacific  
Economic Cooperation**

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2019/SOM3/CTI/WKSP1/002

## **The Transparency Framework Under the WTO Sanitary and Phytosanitary Agreement**

Submitted by: WTO



**Public-Private Dialogue on Promoting  
Transparency Through the Improvement of  
Information Submitted in the Sanitary and  
Phytosanitary Notifications  
Puerto Varas, Chile  
22-23 August 2019**



**The transparency framework under the WTO SPS Agreement  
Serra Ayrál, Counsellor, Trade and Environment Division, WTO**

**APEC CTI Public-Private Dialogue on Promoting Transparency through the  
Improvement of information submitted in SPS notifications  
Puerto Varas, Chile – 22-23 August 2019**



# Outline

- The context: why transparency?
- SPS transparency provisions/procedures
- Level of implementation
- Recent work of the SPS/TBT Committees
- Sources of information



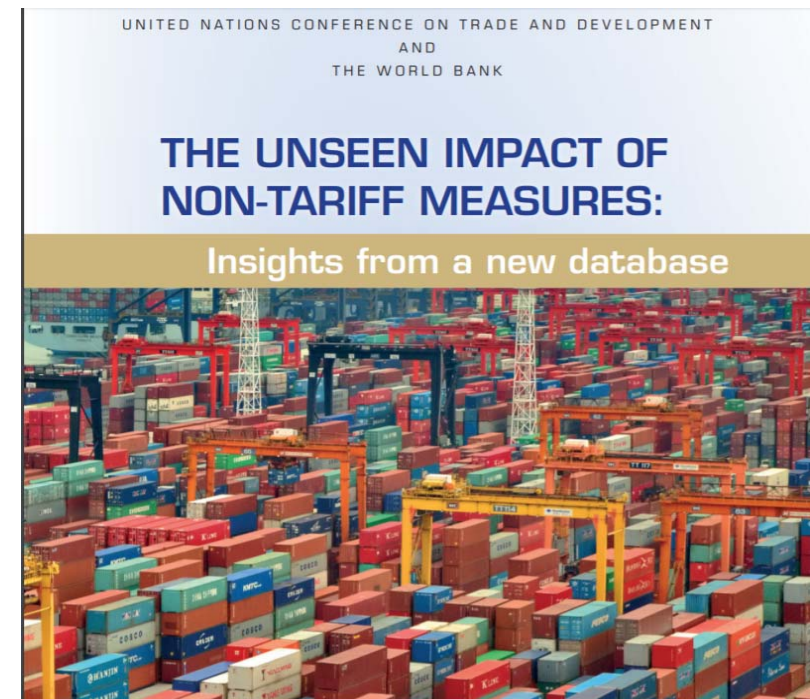
# The context: why transparency?





# Non-tariff measures

- SPS measures: the most frequent form of non-tariff measures affecting agri-food products with a global average ad valorem impact of 14.3 per cent
- Possible to reduce trade costs without compromising on policy objectives





# Objective of the SPS Agreement

Recognizing  
right to  
**regulate** to  
protect  
human,  
animal, plant  
life/health

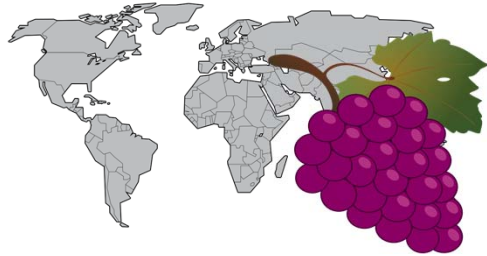


Avoiding  
**discrimination**  
and **unnecessary**  
**obstacles** to  
international  
trade

**Transparency**  
Science/risk assessment  
Use of international standards

# WHAT IS THE CHALLENGE?

Stay informed about **product requirements** in export markets



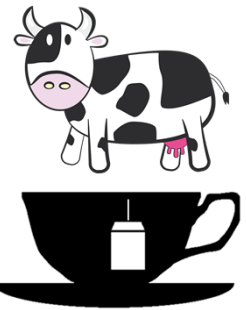
1. Adjust production process
2. Address potential issues

To avoid **trade disruption**



# PRODUCT REQUIREMENTS IN EXPORT MARKETS

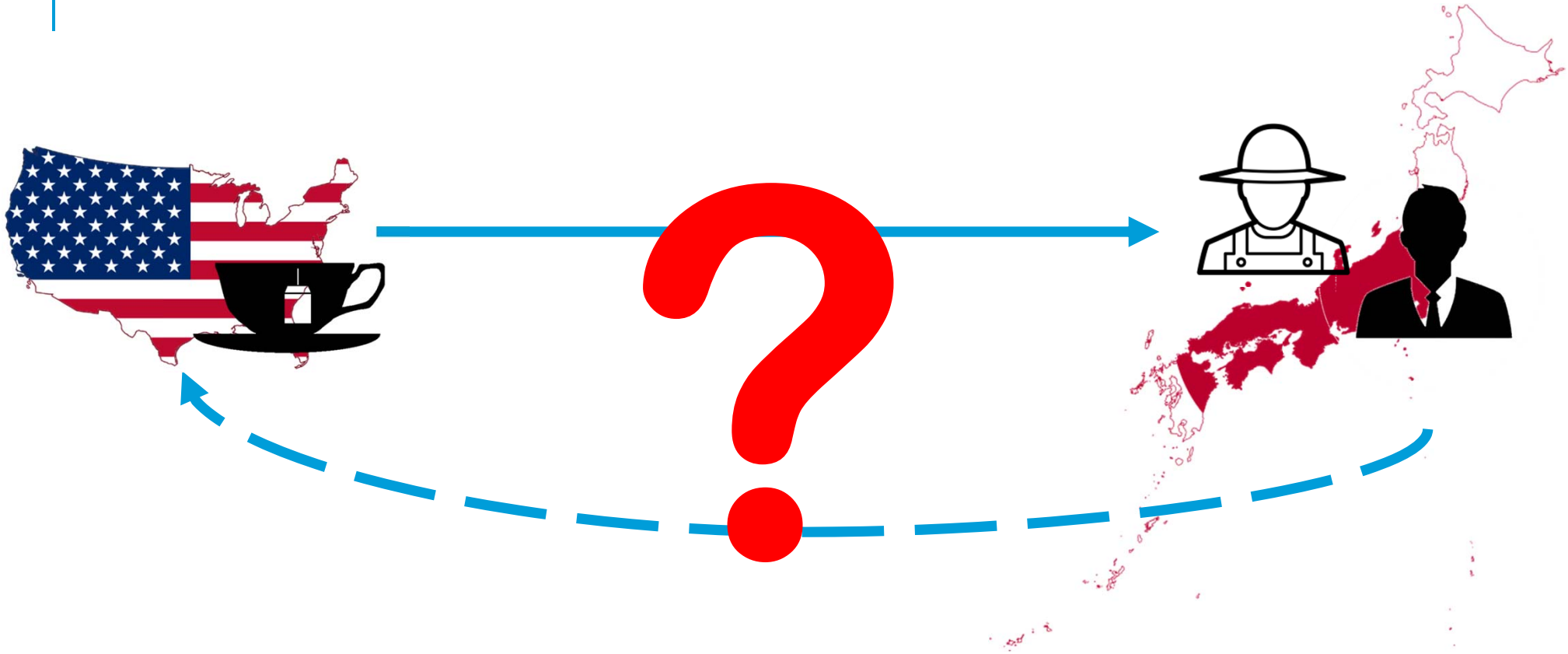
- Japan plans on changing maximum levels for contaminants in composite feeds for food safety and animal health reasons (G/SPS/N/JPN/639)
- The US plans on establishing tolerance for residues of an insecticide (cyflumetofen) in or on dried tea for food safety reasons (G/SPS/N/USA/3078)



Domestic and **imported products** need to comply:

- Exporting feeds to Japan? Comply with maximum levels
- Exporting tea to the US? Comply with tolerance level for insecticide

# INFORMATION AND COMMUNICATION KEY



# Why an SPS transparency mechanism?



Evolving product requirements affect market access

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

*Facilitate trade without compromising on policy objectives*



# Transparency provisions and procedures





# SPS Transparency: reference documents

- SPS Agreement: Article 7 & Annex B
- SPS Committee Decision: G/SPS/7/Rev.4
- Major Decisions and Documents
- Practical manual for NNAs/NEPs – new 2018 revision

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ANNEX B  
TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

Publication of regulations

1. Members shall ensure that all sanitary and phytosanitary regulations<sup>1</sup> which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them.

2. Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing countries Members, to adjust their production methods to the requirements of the importing Member.

3. Each Member shall ensure that an enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:

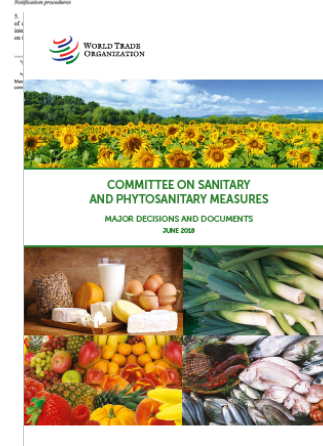
(a) any sanitary or phytosanitary regulations adopted or proposed within its territory;

(b) any control and inspection procedures, production and quarantine measures, pesticide residues and food additive approval procedures, which are operated within its territory;

(c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;

(d) the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.

4. Members shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price of sale, apart from the cost of delivery, as in the national<sup>2</sup> of the Member concerned.



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8. When a Member has reason to believe that a specific sanitary or phytosanitary measure is arbitrary or unjustified by scientific evidence, or is inconsistent, or has the potential to constitute, in exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, or explanation of the reasons for such sanitary or phytosanitary measures may be requested and shall be provided by the Member maintaining the measure.

Article 6  
Adaptation to Regional Conditions, Including Pest or Disease-Free Areas and Areas of Low Pest or Disease Prevalence

1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area, whether all of a country, part of a country, or all or parts of several countries, from which the product originates and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of an area, Members shall take into account, inter alia, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate control or quarantine measures developed by the relevant international organizations.

2. Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geographic, oceanographic, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.

3. Exporting Members claiming that areas within their territories are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to obtain recognition from the importing Member that such areas are, and are likely to remain, free of diseases that are areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

Article 7  
Transparency

Members shall notify changes in their sanitary or phytosanitary measures and shall provide information on their sanitary or phytosanitary measures in accordance with the provisions of Annex B.



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WORLD TRADE ORGANIZATION  
SPS AGREEMENT  
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TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

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(c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;

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Available at: [www.wto.org/spstransparency](http://www.wto.org/spstransparency)



# Transparency obligations

1. Notification of draft regulations
2. Publication of regulations
3. Establishment of enquiry point
4. Designation of notification authority



# 1. Notification of draft regulations What to notify?

- New or modified regulation  
+
- No existing international standard or different than the international standard  
+
- Significant impact on trade (restricting or facilitating)
  
- *Same as international standard (G/SPS/7/Rev.4)*



Notify



# 1. Notification of draft regulations When to notify?

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.”

60-day comment period

Emergency  
measures

**IMMEDIATELY!**



# 1. Notification of draft regulations: What formats?

- In addition to original Regular or Emergency notifications, Members can provide additional information or changes through:
  - *Revision* – replacement of original notification
  - *Addendum\** – changes/updates, e.g. entry into force
  - *Corrigendum\** – correct an error
  - *Supplement\** – availability of translation

*\*Read in conjunction with original notification.*



# 1. Notification of draft regulations: How to share text of draft regulations?

- Full texts of draft regulations
  - *Submit in PDF format to WTO*
  - *Provide specific website address in notification*



# 1. Notification of draft regulations: How to access translations of regulations?

- Upon request, **developed** countries to provide regulation or its summary in **English, French, or Spanish**
- Members **encouraged** to share unofficial translations with each other  
– supplement format, ePing?

**NOTIFICATION**

1.	<b>Notifying Member:</b> JAPAN <b>If applicable, name of local government involved:</b>
2.	<b>Agency responsible:</b> Ministry of Health, Labour and Welfare (MHLW)
3.	<b>Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable):</b> → Meat and edible meat offal (HS Codes: 02.01, 02.02, 02.03, 02.06, 02.07 and 02.09); → Dairy produce (HS Code: 04.01); → Animal-originated products (HS Code: 05.04); → Animal fats and oils (HS Codes: 15.01 and 15.02).
4.	<b>Regions or countries likely to be affected, to the extent relevant or practicable:</b> <input checked="" type="checkbox"/> → All trading partners <input type="checkbox"/> → Specific regions or countries:
5.	<b>Title of the notified document:</b> Revision of the Standards and Specifications for Foods and Food Additives under the Food Sanitation Act (revision of agricultural-chemical-residue standards). <b>Language(s):</b> English. <b>Number of pages:</b> 1 page. <a href="https://members.wto.org/cnattachments/2019/SPS/JPN/19_4401_00_e.pdf">https://members.wto.org/cnattachments/2019/SPS/JPN/19_4401_00_e.pdf</a>
6.	<b>Description of content:</b> Proposed maximum residue limits (MRLs) for the following agricultural-chemical: Veterinary drug: Gentamicin
7.	<b>Objective and rationale:</b> <input checked="" type="checkbox"/> food safety, <input type="checkbox"/> animal health, <input type="checkbox"/> plant protection, <input type="checkbox"/> protect humans from animal/plant pest or disease, <input type="checkbox"/> protect territory from other damage from pests.
8.	<b>Is there a relevant international standard? If so, identify the standard:</b> <input checked="" type="checkbox"/> → Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text): Veterinary Drug Residues in food – Gentamicin <input type="checkbox"/> → World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number): <input type="checkbox"/> → International Plant Protection Convention (e.g. ISPM number): <input type="checkbox"/> → None <b>Does this proposed regulation conform to the relevant international standard?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, describe, whenever possible, how and why it deviates from the international standard:

9.	<b>Other relevant documents and language(s) in which these are available:</b> Food Sanitation Act (available in English). When adopted, these MRLs are to be published in Kampo (Official Government Gazette) (available in Japanese).
10.	<b>Proposed date of adoption (dd/mm/yy):</b> As soon as possible after the final date for the comment period. <b>Proposed date of publication (dd/mm/yy):</b> As soon as possible after the final date for the comment period.
11.	<b>Proposed date of entry into force:</b> <input type="checkbox"/> Six months from date of publication, and/or (dd/mm/yy); These proposed standards will take effect after a certain period of grace. <input checked="" type="checkbox"/> → Trade facilitating measure
12.	<b>Final date for comments:</b> <input checked="" type="checkbox"/> Sixty days from the date of circulation of the notification and/or (dd/mm/yy): 7 October 2019. Comments only to updated MRLs (marked with black circles and white circles in attached annexes). <b>Agency or authority designated to handle comments:</b> <input type="checkbox"/> National Notification Authority, <input checked="" type="checkbox"/> National Enquiry Point. Address, fax number and e-mail address (if available) of other body: Japan Enquiry Point International Trade Division Economic Affairs Bureau Ministry of Foreign Affairs Fax: +(81-3)-5501-8343 E-mail: enquiry@mofa.go.jp
13.	<b>Text(s) available from:</b> <input type="checkbox"/> National Notification Authority, <input checked="" type="checkbox"/> National Enquiry Point. Address, fax number and e-mail address (if available) of other body: Japan Enquiry Point International Trade Division Economic Affairs Bureau Ministry of Foreign Affairs Fax: +(81-3)-5501-8343 E-mail: enquiry@mofa.go.jp



# How about measures with both SPS and TBT components



*notify according to both the SPS and TBT Agreements, preferably with an indication of which parts of the regulation fall under the SPS Agreement (e.g., a food safety measure) and which parts fall under the TBT Agreement (e.g., quality or compositional requirements)*

*Recommended procedures in G/SPS/7/Rev.4*



# SPS Agreement - Coverage Definition - Annex A

- A measure taken to protect:

Human or  
animal health

from risks arising from additives, contaminants, toxins or disease-causing organisms in food, drink, feedstuff

Human life

from plant- or animal-carried disease

Animal or  
plant life

from pest, diseases, disease-causing organisms

Territory of  
Member

from other damage caused by entry, establishment or spread of pests

# TBT Agreement -- Coverage



It applies to all:

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

For all  
products,  
industrial  
and  
agricultural

# TBT objectives



- “inter alia”
- National security requirements
- Prevent deceptive practices
- Protect human health and safety
- Protect animal and plant health
- Protect the environment

**Nutrition Facts**  
 Serving Size 1 cup (228g)  
 Servings Per Container 2

Amount Per Serving  
**Calories 250**    **Calories from Fat 110**  
% Daily Values\*

<b>Total Fat</b> 12g	
Saturated Fat	
Trans Fat 3g	
<b>Cholesterol</b> 30mg	
<b>Sodium</b> 470mg	
<b>Potassium</b> 700mg	
<b>Total Carbohydrate</b> 45g	
Dietary Fiber 0g	
Sugars 5g	
<b>Protein</b> 5g	
Vitamin A	
Vitamin C	
Calcium	
Iron	

\* Percent Daily Values are based on a diet of other people's misdeeds.  
 Your Daily Values may be higher or lower depending on your calorie needs.

Calories  
 Total fat Less than  
 Sat fat Less than  
 Cholesterol Less than  
 Sodium Less than  
 Total Carbohydrate  
 Dietary Fiber

**Energy** Washing machine

Manufacturer  
 Model

More efficient

A  
 B  
 C  
 D  
 E  
 F  
 G

Less efficient

Energy consumption kWh/cycle (based on standard test results for 60°C cotton cycle)	0.95
Washing performance A: higher G: lower	A B C D E F G
Spin drying performance A: higher G: lower	A B C D E F G
Spin speed (rpm)	1400
Capacity (cotton) kg	5.0
Water consumption l	55
Noise (dB(A) re 1 pW)	Washing 5.2 Spinning 7.0

Further information is continued in product brochures



## SPS Measures?

- Human or animal health from food-borne risks
- Human health from animal- or plant-carried diseases
- Animals, plants and territory of member from pests or diseases
- Examples:
  - *pesticide residues*
  - *food additives*

## TBT Measures?

- Nutritional claims
- Food packaging
- Food grading and quality
- Examples:
  - *pesticide handling*
  - *labelling (unless related to food safety)*

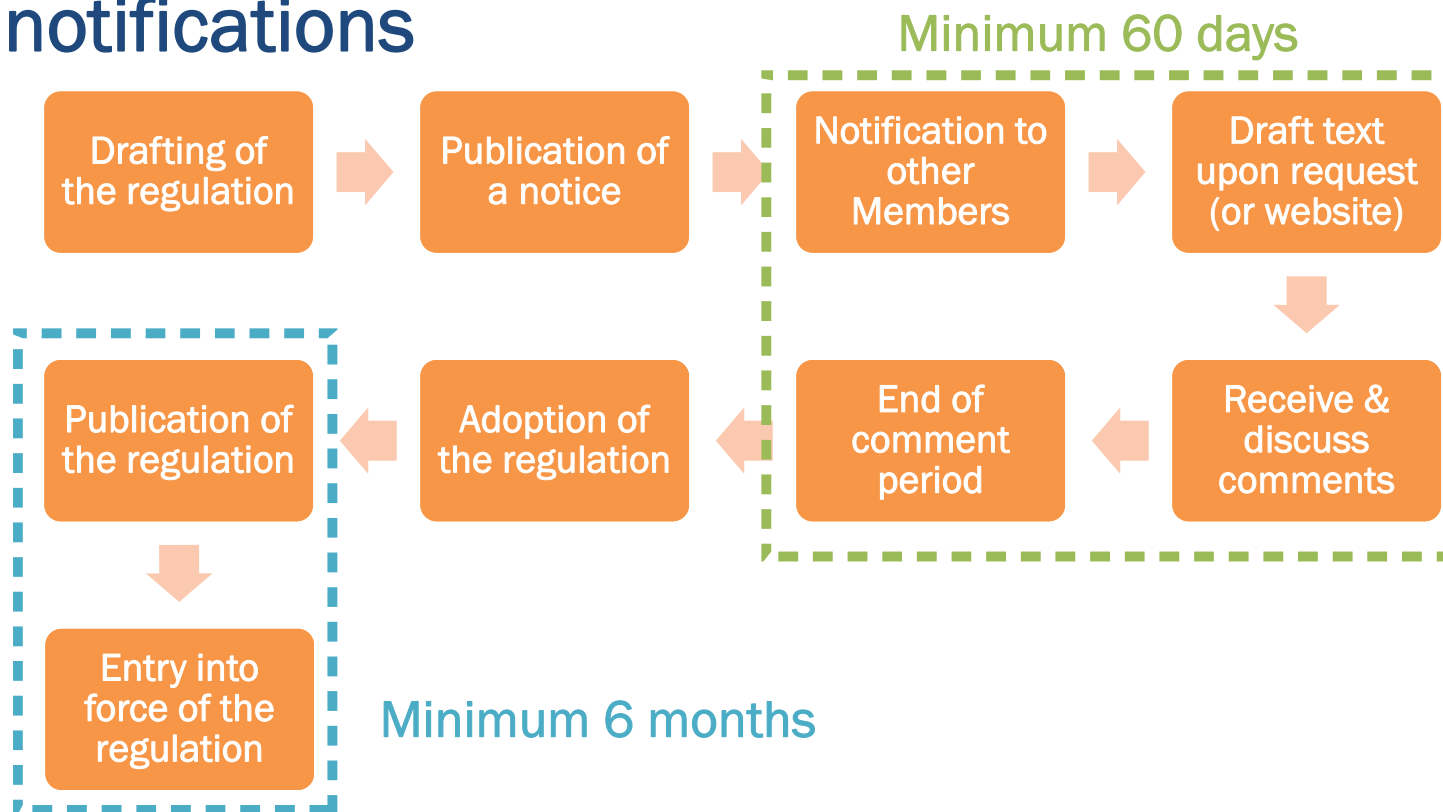


## 2. Publication of regulations

- Members to publish all adopted regulations promptly
- Except in urgent circumstances, allow **reasonable interval** between publication and entry into force
  - *Normally entry into force **6 months after date of publication***
  - *If trade facilitating, do not delay (WT/MIN(01)/17, para. 3.2)*



# Transparency timelines for SPS notifications



Upon receiving a notification, other Members can take ACTION:



- Seek more information on proposed regulation: copy of draft regulation, translation, justification for the measure
- Formulate and submit comments
- Request extension of comment period, delayed entry into force, technical assistance
- Raise a trade concern bilaterally/regionally or in the SPS/TBT Committees
- Adapt to new requirements

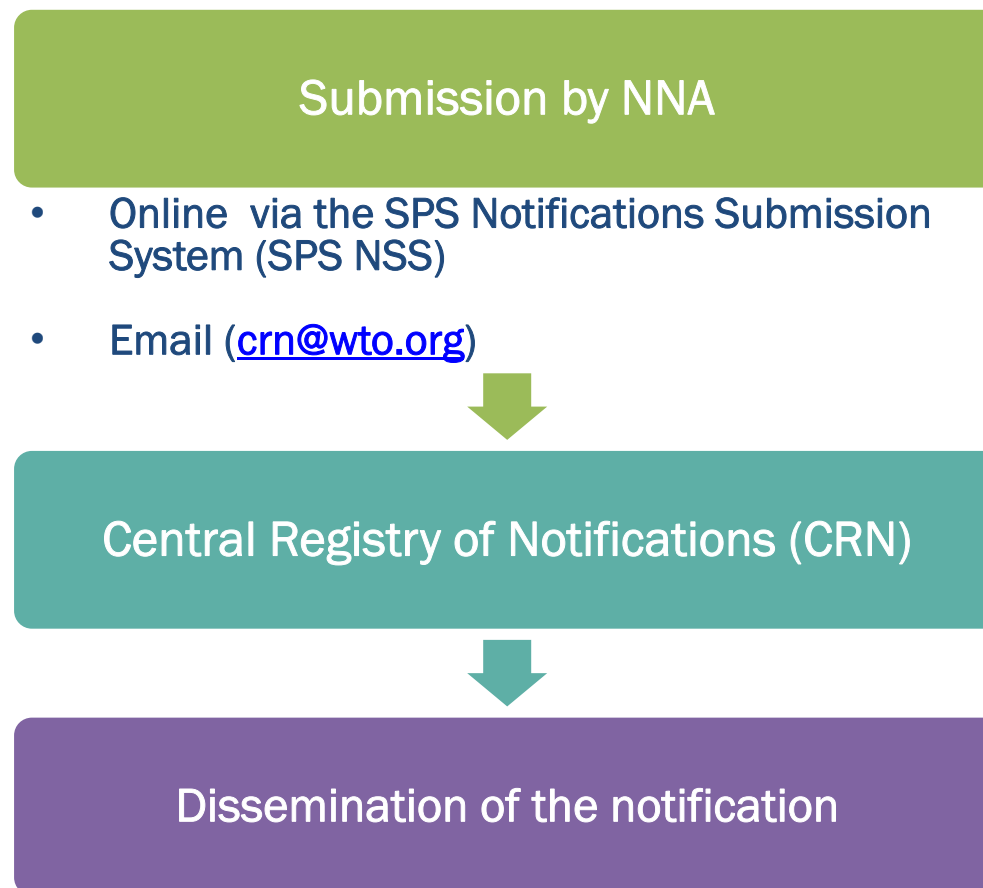


### 3. Designation of NNA : **Who notifies?**

- 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 one NNA



### 3. Designation of NNA: Where should notifications be sent?





## 4 .Establishment of Enquiry Point

- Provides answers to all **reasonable questions** from interested Members and relevant documentation
  - *Can be same as NNA*
  - *Can have more than one but clearly define responsibilities*



## 4. Establishment of Enquiry Point: **All reasonable questions?**

- Regarding:
  - *SPS regulations, draft or adopted*
  - *Inspection procedures, etc.*
  - *Risk assessment*
  
- Reply within 5 working days, or
- Provide an estimate of time for the reply

# Beyond obligations - EP or NNA could...



Track/ filter/disseminate  
SPS documents and  
notifications to interested  
parties

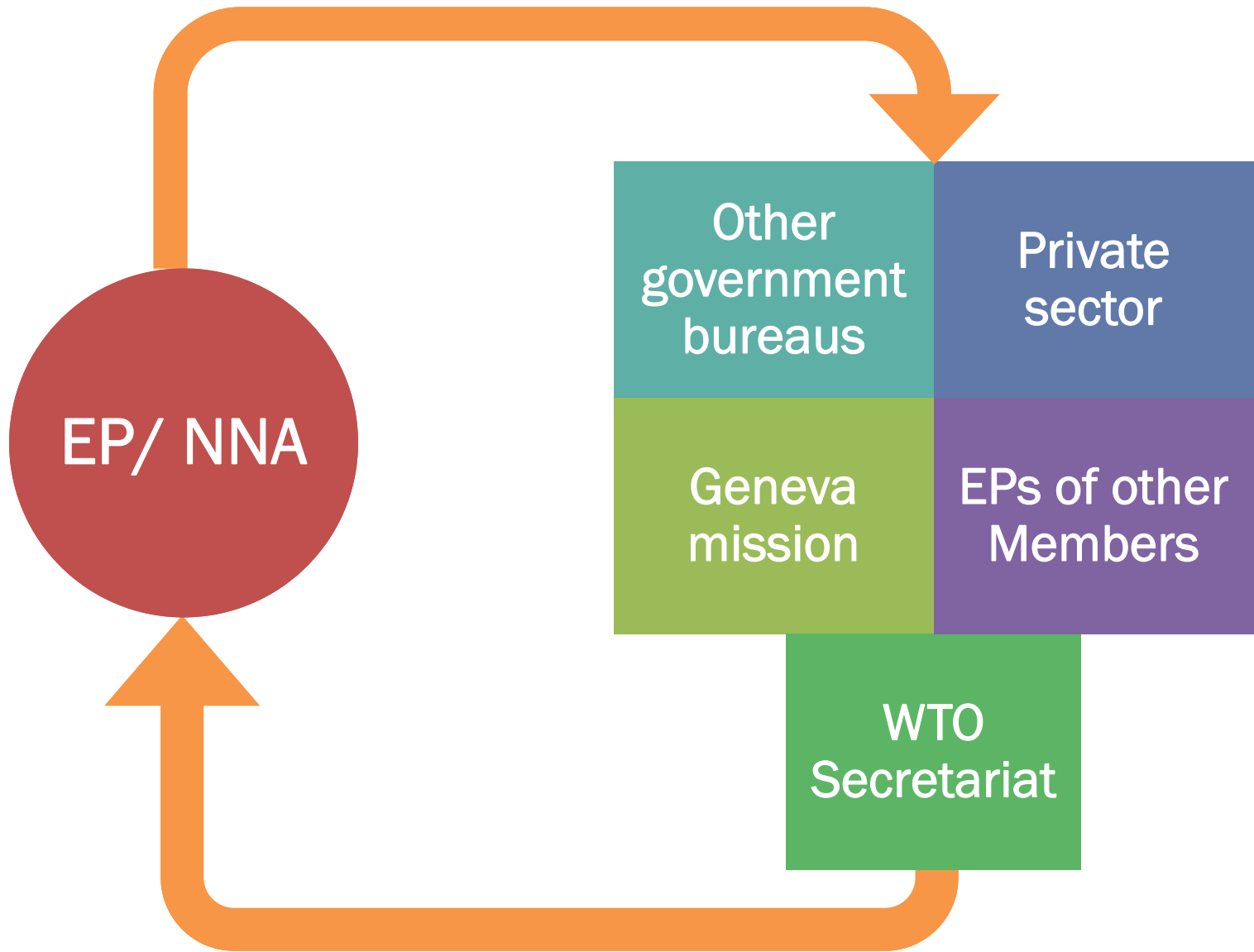
Alert other government  
agencies, private sector,  
other stakeholders of  
important changes

Coordinate/submit  
comments on notifications  
of concern to trading  
partners; follow up

Lead/facilitate/participate  
in national SPS  
coordination body

Participate in SPS  
Committee work  
(information exchange,  
specific trade concerns)

Raise awareness at the  
national level; facilitate  
capacity building; seek  
assistance





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# Level of implementation: facts and figures

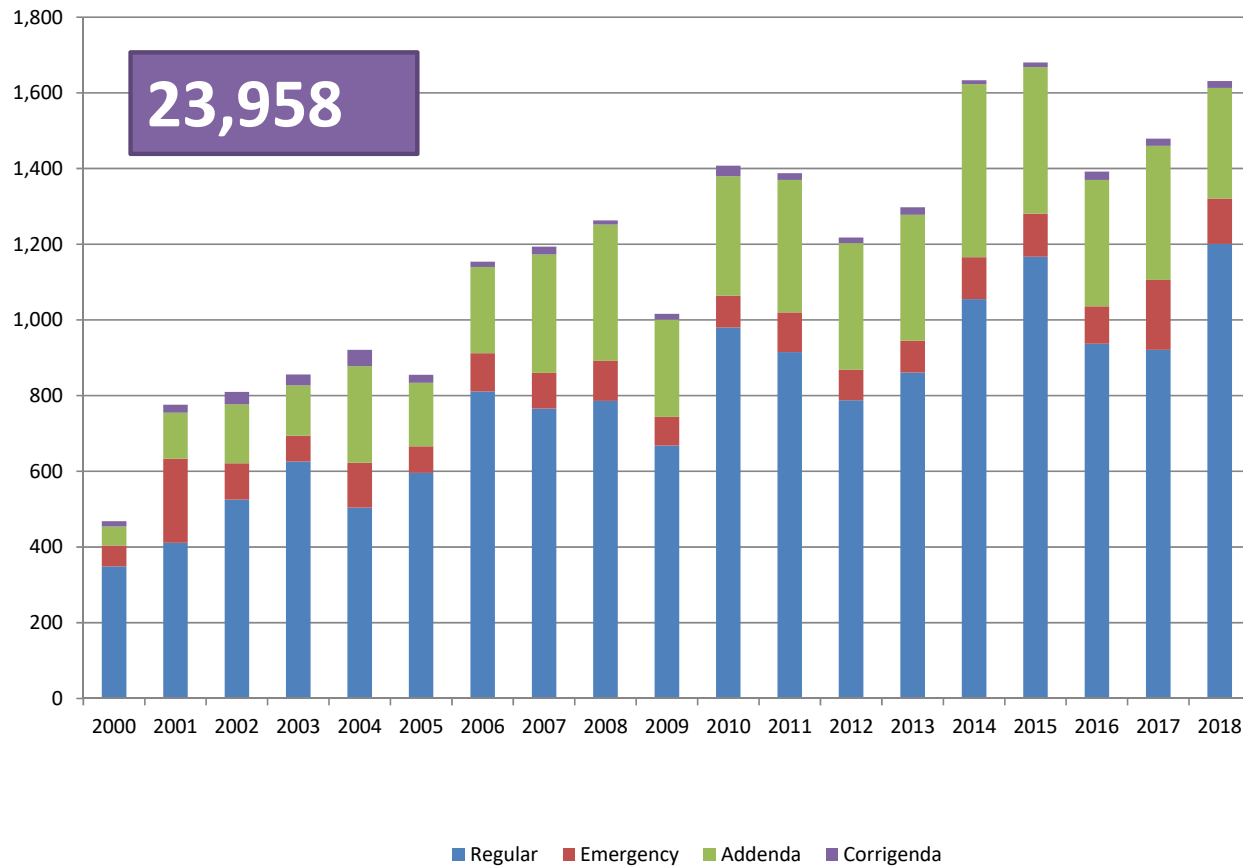
(G/SPS/GEN/804/Rev.11)

# Transparency implementation

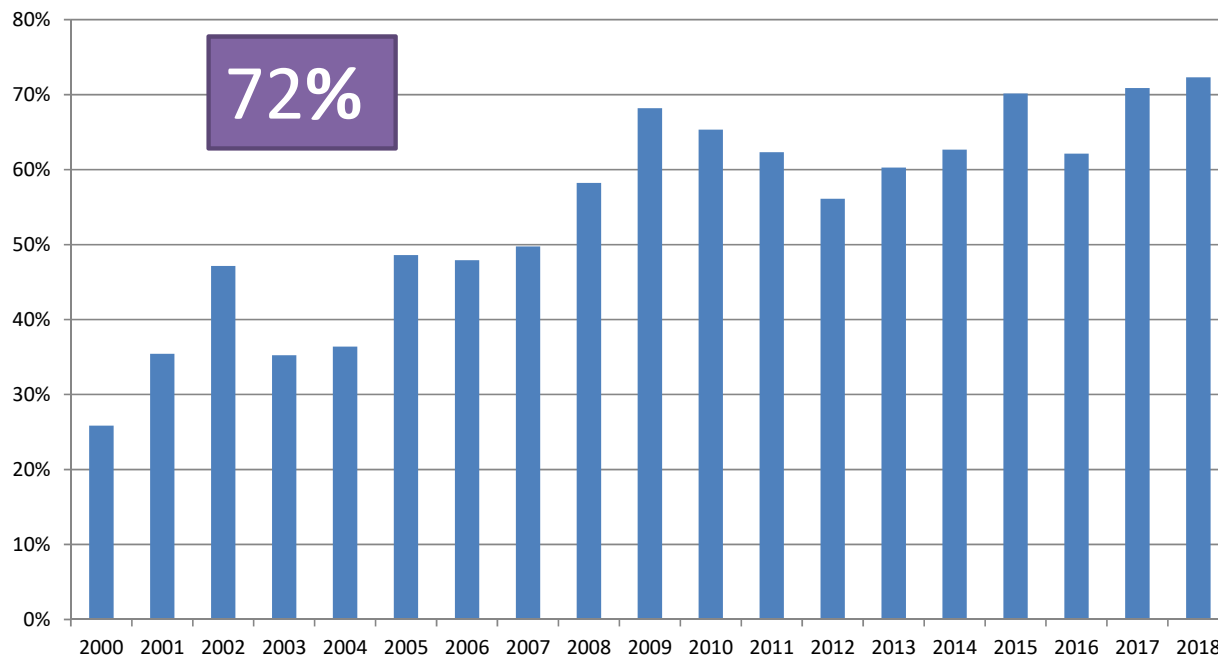


- 157 out of 164 Members have designated a Notification Authority
- 161 Members have designated an Enquiry Point (30 have more than one)
- 127 Members have submitted at least 1 notification to the WTO

# SPS Notifications submitted: *1995 – 2018*



## Share of Total SPS Notifications Submitted by Developing Country Members (including LDCs)



# Most active notifiers

Regular notifications			Emergency notifications		
Member	Number of notifications	Share of Total	Member	Number of notifications	Share of Total
United States of America	2,942	19%	Philippines	225	11%
Brazil	1,457	9%	Albania	174	8%
Canada	1,223	8%	Saudi Arabia, Kingdom of	172	8%
China	1,194	8%	New Zealand	129	6%
Peru	715	5%	United Arab Emirates	98	5%
European Union	620	4%	United States of America	82	4%
Korea, Republic of	595	4%	Ukraine	81	4%
Japan	589	4%	Colombia	78	4%
Chile	533	3%	Peru	72	3%
Chinese Taipei	472	3%	Russian Federation	72	3%
New Zealand	453	3%	European Union	68	3%
Australia	421	3%	Thailand	46	2%
Mexico	319	2%	Chile	46	2%
Thailand	221	1%	Australia	37	2%
Colombia	217	1%	Mexico	37	2%

3  
N

# SPS Notifications from APEC economies

<b>Economy</b>	<b>Total no. of notifications</b>	<b>Economy</b>	<b>Total no. of notifications</b>
Australia	648	New Zealand	762
Brunei Darussalam	4	Papua New Guinea	-
Canada	2,296	Peru	1,013
Chile	797	Philippines	583
China	1,332	Russian Federation	233
Hong Kong, China	62	Singapore	83
Indonesia	139	Chinese Taipei	830
Japan	735	Thailand	387
Korea, Republic of	777	United States of America	4,351
Malaysia	59	Viet Nam	762
Mexico	554		

# Most common HS codes

Regular notifications			
HS Code	Description	Number	Share of Total
(02)	Meat and edible meat offal	1,466	9%
(06)	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	1,437	9%
(08)	Edible fruit and nuts; peel of citrus fruit or melons	1,324	8%
(04)	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included	1,261	8%
(01)	Live animals	1,206	8%
WTO Central Registry of Notifications tries to assign HS codes when these are not provided			
HS Code	Description	Number	Share of Total
(01)	Live animals	1,207	57%
(02)	Meat and edible meat offal	1,187	56%
(04)	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included	784	37%
(05)	Products of animal origin, not elsewhere specified or included	523	25%
(23)	Residues and waste from the food industries; prepared animal fodder	258	12%

# Objectives of SPS measures notified

(2017-2018)

<b>Regular notifications</b>	<b>Notifications</b>	<b>Share</b>
Food Safety	855	72%
Plant Protection	202	17%
Animal Health	144	12%
Protect humans from animal/plant pest or disease	98	8%
Protect territory from other damage from pests	98	8%
<b>Emergency notifications</b>	<b>Notifications</b>	<b>Share</b>
Animal Health	72	59%
Food Safety	65	53%
Protect humans from animal/plant pest or disease	23	19%
Plant Protection	18	15%
Protect territory from other damage from pests	11	9%

# Dates/draft texts (Sept. 2017-Sept. 2018)

- Regular notifications
  - Around 20% indicated specific date of adoption; date of publication; date of entry into force (*these dates not necessarily known at drafting stage*)
  - 80% provided comment period; average of 54 days
  - 74% provided text electronically together with notification
- Addenda
  - Reason for addenda: %50 refer to adoption/publ./entry into force



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# Recent developments in SPS/TBT Committees

# Recent work of the SPS Committee



- Ongoing work on the Fifth Review of the SPS Agreement
  - *Proposal regarding notifying measures with both SPS and TBT components*
  
- [SPS Transparency workshop held in July 2019](#)
  - *SPS/TBT notifications*
  - *Domestic coordination*
  
- Next SPS transparency workshop in July 2020



# Recent work of the TBT Committee

- TBT transparency obligations very similar to those under SPS
- TBT Committee adopted 8<sup>th</sup> Triennial Review report in 2018
  - *Many recommendations relate to transparency*
    - Improving information in notifications: eg product codes, dates of entry into force, RIA
    - Notifying to both SPS/TBT Committees when applicable
    - Discussing use of ePing by Enquiry Points and the private sector
    - Disseminating comments via ePing.
    - ...
- [TBT transparency thematic session held in June 2019](#)
- Next TBT workshop in May 2020



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## Sources of information

# Online sources/tools



- [WTO SPS gateway](#)
- [SPS Notification Submission System](#)
  - Allows for collaboration among agencies in preparing/submitting notifications online; facilitates circulation within 2 days
- [SPS Information Management System](#)
  - Search function for notifications, STCs, other docs
- [SPS/TBT notification alert system ePing](#)
  - Notifications only; alert and communication functions, more private-sector oriented

## To conclude



- Overall positive track record in SPS transparency
- Still, there is room for improvement in fulfilling obligations and benefitting from transparency framework (further discussion on this later)
- WTO Secretariat can assist (G/SPS/GEN/997/Rev.9)



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**THANK YOU!**