

# NIST

Standards Coordination Office



## WTO Agreement on Technical Barriers To Trade (TBT)

**Importance to Federal  
Agencies**

# Today's Discussion

- A general understanding of the WTO Agreement on Technical Barriers to Trade (TBT), and related chapters of regional and bilateral Free Trade Agreements, and their importance to Federal Agencies
- An understanding of when you must consider these agreements in your work life.
- Who you can consult during these times for advice.

# Office of the U.S. Trade Representative

- USTR is an agency in the Executive Office of the President.
- USTR has principal responsibility for administering U.S. trade agreements.
  - Monitoring our trading partners' implementation of trade agreements with the United States,
  - Enforcing America's rights under those agreements
  - Negotiating and signing trade agreements that advance the President's trade policy.
- Responsible for coordinating trade policy and negotiations via the Trade Policy Staff Committee Subcommittee on Technical Barriers to Trade
- Co-lead the Industry Trade Advisory Committee on Standards and Technical Barriers to Trade (ITAC 16) with DOC
- Publish an annual report on Technical Barriers to Trade  
<http://www.ustr.gov/sites/default/files/2013%20TBT.pdf>

# The World Trade Organization



- The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations.
- At its heart are the WTO agreements, negotiated and signed by 159 nations and ratified in their parliaments.
- The goal is to help producers of goods and services, exporters, and importers conduct their business.
- The Agreement on Technical Barriers to Trade is accepted by all 159 members.
- Other WTO Agreements this audience might be interested in are WTO Agreements on Sanitary and Phytosanitary Measures (SPS) and Government Procurement (plurilateral).

# Free Trade Agreements: TBT Chapters

- The United States has free trade agreements (FTAs) in effect with 17 countries.
  - Build on the foundation of the WTO Agreement, with more comprehensive and stronger disciplines than the WTO Agreement.
- Many of our FTAs are bilateral agreements between two governments. (U.S. – Australia FTA, U.S. Chile FTA)
- But some, like the North American Free Trade Agreement and the Dominican Republic-Central America-United States Free Trade Agreement are multilateral.
- Most have chapters on Technical Barriers to Trade (TBT+)
- A current FTA negotiation is the Trans Pacific Partnership (12 parties)
- An upcoming FTA negotiation is the Transatlantic Trade and Investment Partnership (US- EU)

# The Purpose of the WTO TBT Agreement

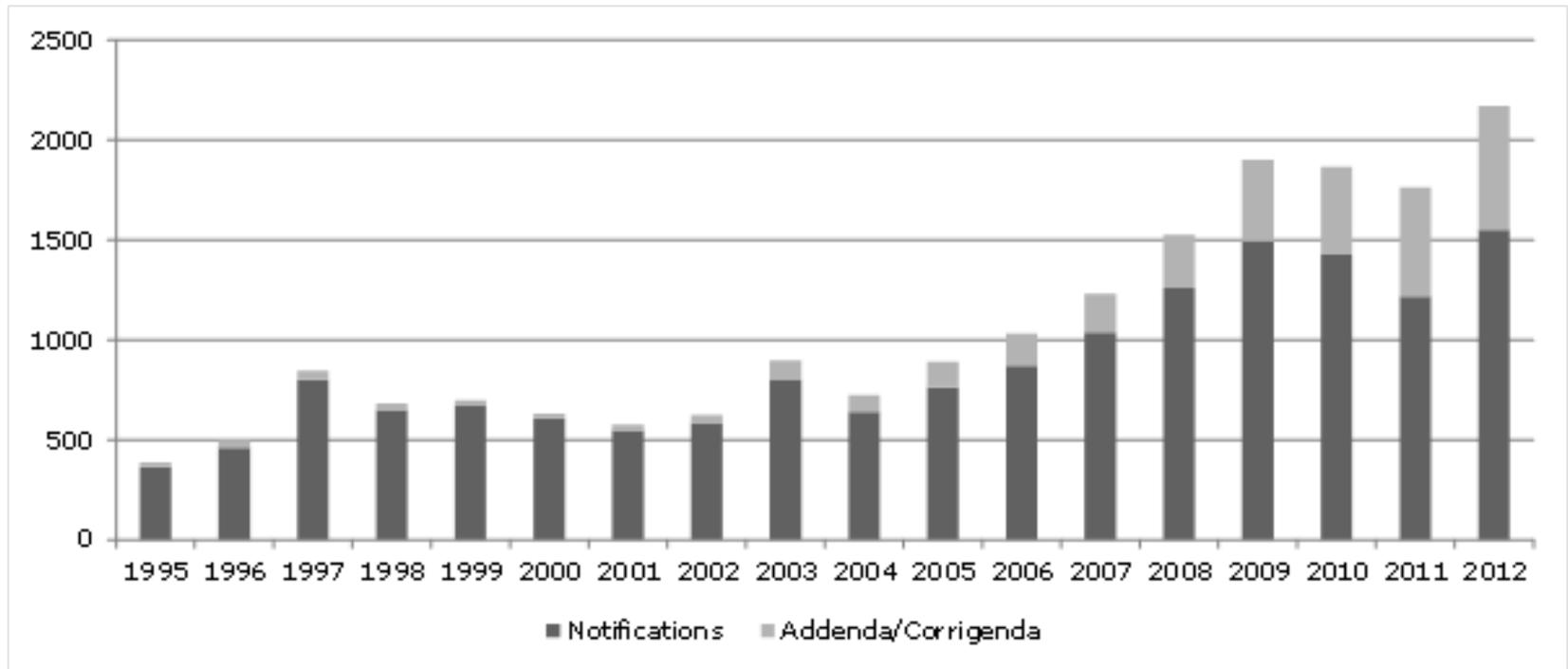
- To prevent unnecessary obstacles to trade.
- To provide transparency in the development and implementation of WTO Member technical regulations.
- Considered to be a “procedural agreement.”
- To use international standards and conformity assessment procedures in technical regulations when possible to fulfill the legitimate objective of regulation.
- Enforces the concepts of National Treatment and Most Favored Nation (MFN).
- Applies to both Federal and Sub-federal technical regulations.

# WTO TBT Committee Notification Process (Articles 2 and 5)

When a relevant international standard does not exist or a technical regulation or conformity assessment procedures is not in accordance with an international standard and it has a significant effect on trade, WTO members shall –

- Publish a notification of the proposed measure and notify the measure through the WTO Secretariat.
- Provide an opportunity for other members to comment
- Provide a copy of the proposed measure upon request and identify parts that deviate from international standards.
- Allow reasonable time for members to comment in writing, discuss comments upon request and take the comments into account.

# Number of WTO TBT Notifications since 1995 (G/TBT/33)



# Notify U.S.

- Website: [www.nist/notifyus](http://www.nist/notifyus)
- Sign up to receive WTO TBT notifications which are relevant to the area you cover. Can select by product or country.
- Notifications will tell you the general information about the proposed regulation, where to obtain a full copy of the draft measure, comment period, implementation period and point of contact in the country.
- You can also transmit your comments via the Inquiry Point.
- The Inquiry Point provides a monthly report to USTR on all inquiries and correspondence.

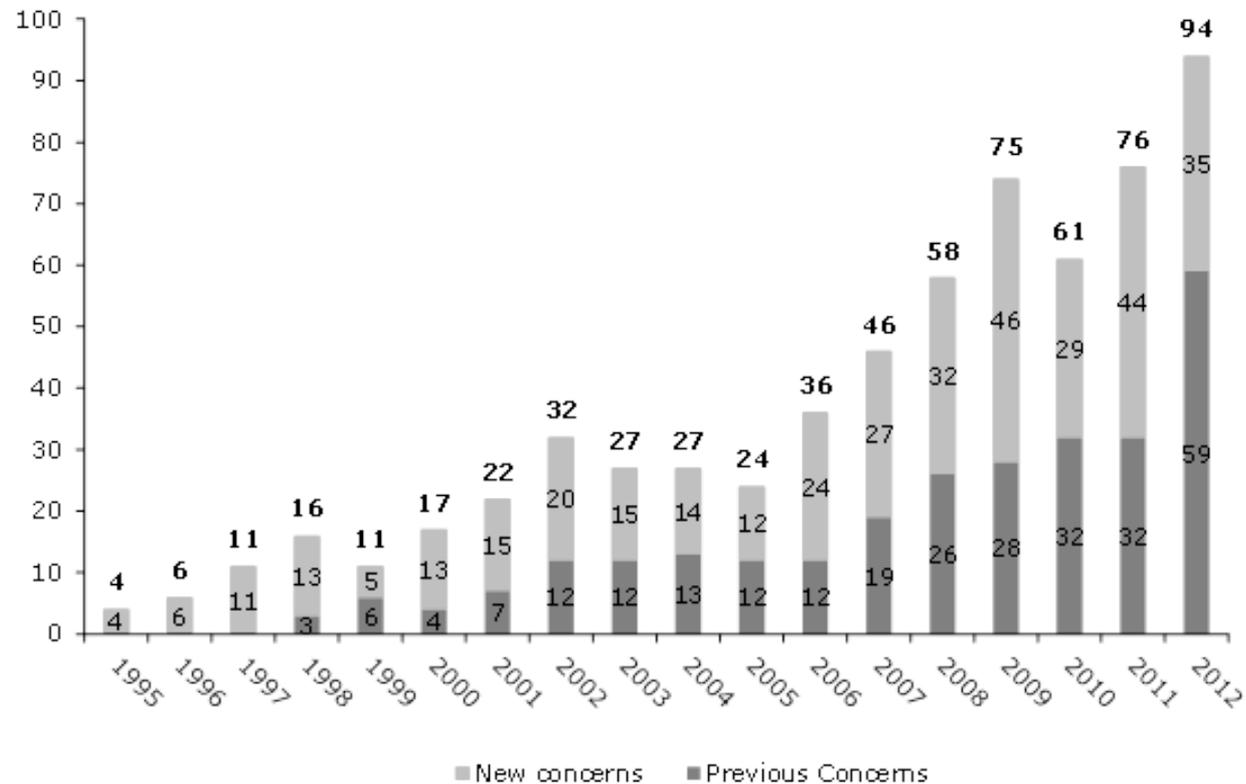
# How does the United States determine what to Notify?

- Staff at the Inquiry Point review the Federal Register and working with the regulators and USTR, decide what U.S. proposed regulations should be notified to the WTO.
- Staff at the Inquiry Point also review U.S. State notifications and discuss what State-level notifications should be made every two weeks.

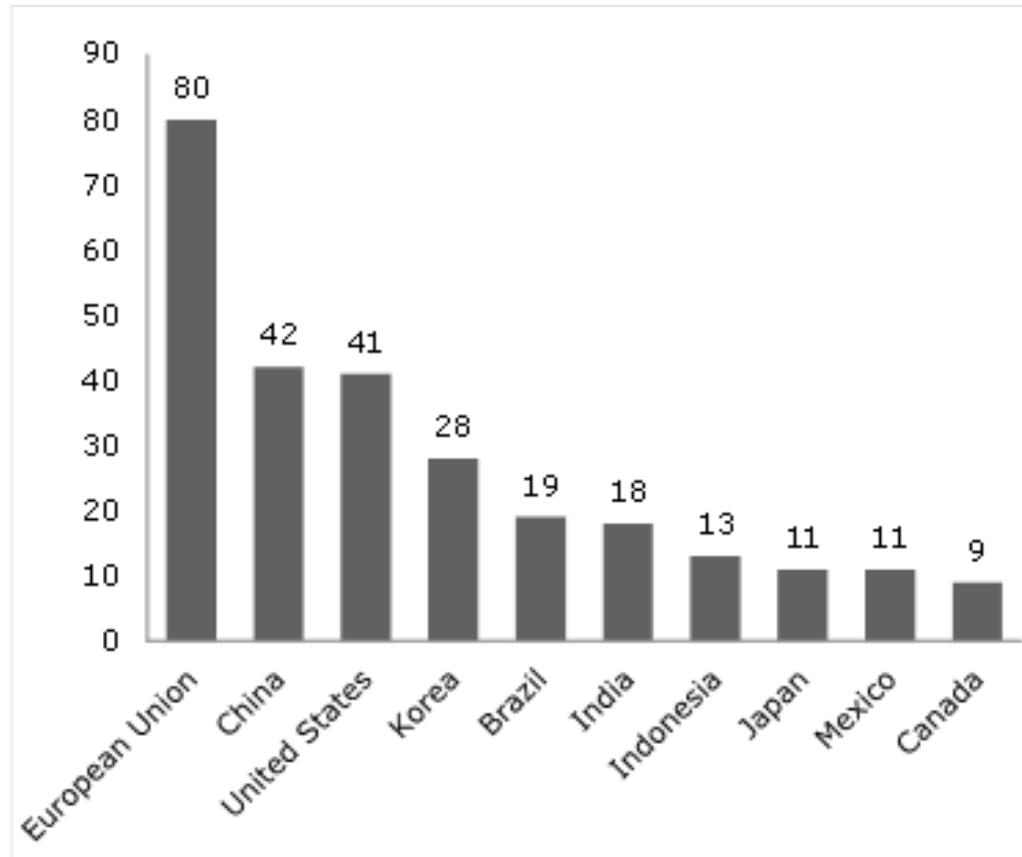
# WTO TBT Committee

- WTO Secretariat administers a TBT Committee that meets 3 times a year (March, June/July, October/November).
- At each committee meeting Members discuss Specific Trade Concerns, issues related to the Implementation of the Agreement
- Every three years the TBT Committee reviews the implementation of the Agreement (called the Triennial Review).
- In 2012, we completed the 6<sup>th</sup> Triennial Review of the Agreement.
- Decisions and recommendations adopted by TBT Committee (G/TBT/1/Rev.10)
- The Committee also conducts specially themed workshops (examples include operations of an inquiry point, or thematic discussions on Good Regulatory Practice, Standards or Conformity Assessment).

# Number of specific trade concerns raised per year (G/TBT/33)



# Members whose measures have been most frequently discussed



# TBT Agreement: International Standards

- International standards should be used in technical regulations unless they are ineffective or inappropriate to fulfill the legitimate objective.
- To the extent there are resources, Members should participate in international standardization activities.
- Positive consideration accepting equivalent technical regulations of other members.
- Performance preferred over design or descriptive standards
- Central government bodies should comply with the Standards Code of Good Practice (Annex 3 of the Agreement).

# TBT Agreement: Conformity Assessment

- Expeditious/imports and exports treated equally
- Set expectation for processing time in requirements
- Info requirements are limited to what is necessary to assess conformity and determine fees
- Confidentiality/legitimate business interests protected
- Siting of facilities is reasonable
- Procedures are reasonable to accommodate variance in product lines
- Procedures for the review of complaints
- Use of international standards for conformity assessment procedures (ISO/IEC CASCO).

# Most Commonly Discussed TBT Committee Decisions and Recommendations

- Recognition of conformity assessment results, and in particular on:
  - unilateral recognition of results of foreign conformity assessment, including on existing government designation schemes in relation to Article 6.1.2;
  - the participation of foreign conformity assessment bodies in domestic conformity assessment procedures pursuant to Article 6.4;
  - the operation of existing MRAs, including cases where implementation has not been deemed satisfactory; and their cost-effectiveness; and
  - voluntary mutual recognition arrangements and on the extent to which results of conformity assessment are accepted by regulators.

# Most Commonly Discussed TBT Committee Decisions and Recommendations

- In 2000, the Committee adopted a Decision on Principles for the Development of International Standards, Guides and Recommendations with Relation to Articles 2, 5 and Annex 3 of the TBT Agreement.
  - Transparency - info on standardization activities available.
  - Openness – membership of standards development organization is open
  - Impartiality - meaningful opportunities to contribute to the elaboration of an international standard
  - Consensus – consensus procedures established
  - Effectiveness and Relevance - respond to regulatory and market needs, as well as scientific and technological developments
  - Coherence – avoid duplication
  - Development Dimension – special consideration of developing country participants

# Most Commonly Discussed TBT Committee Decisions and Recommendations

## Decision – Reasonable Interval

Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

# WTO Dispute Settlement

- A dispute arises when a member government believes another member government is violating an agreement or a commitment that it has made in the WTO. The authors of these agreements are the member governments themselves — the agreements are the outcome of negotiations among members. Ultimate responsibility for settling disputes also lies with member governments, through the Dispute Settlement Body.
- Recent Dispute Settlement involving the United States
  - Measures Affecting the Production and Sale of Clove Cigarettes (Indonesia)
  - Certain Country of Origin Labelling (COOL) Requirements (Canada and Mexico)
  - Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products (Mexico)
- 39 other cases cite the TBT Agreement in their request for consultations

# Contacts

- If you need more information on this presentation, please contact my office, or I can direct you to your agency's TBT TPSC Committee representative.

Thank You

Questions?

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