WORLD TRADE ORGANIZATION

SPS Workshop on Transparency and Coordination 15-16 July 2019

WORLD TRADE ORGANIZATION

Session 1: Introduction

Overview of SPS/TBT Notifications

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Main transparency elements in the SPS & TBT Agreements

OBLIGATIONS

- Notification of draft regulations
- Publication of regulations
- Establishment of enquiry point
- Designation of notification authority
- Statement of implementation – TBT only
- Notifications from standardizing bodies – TBT only

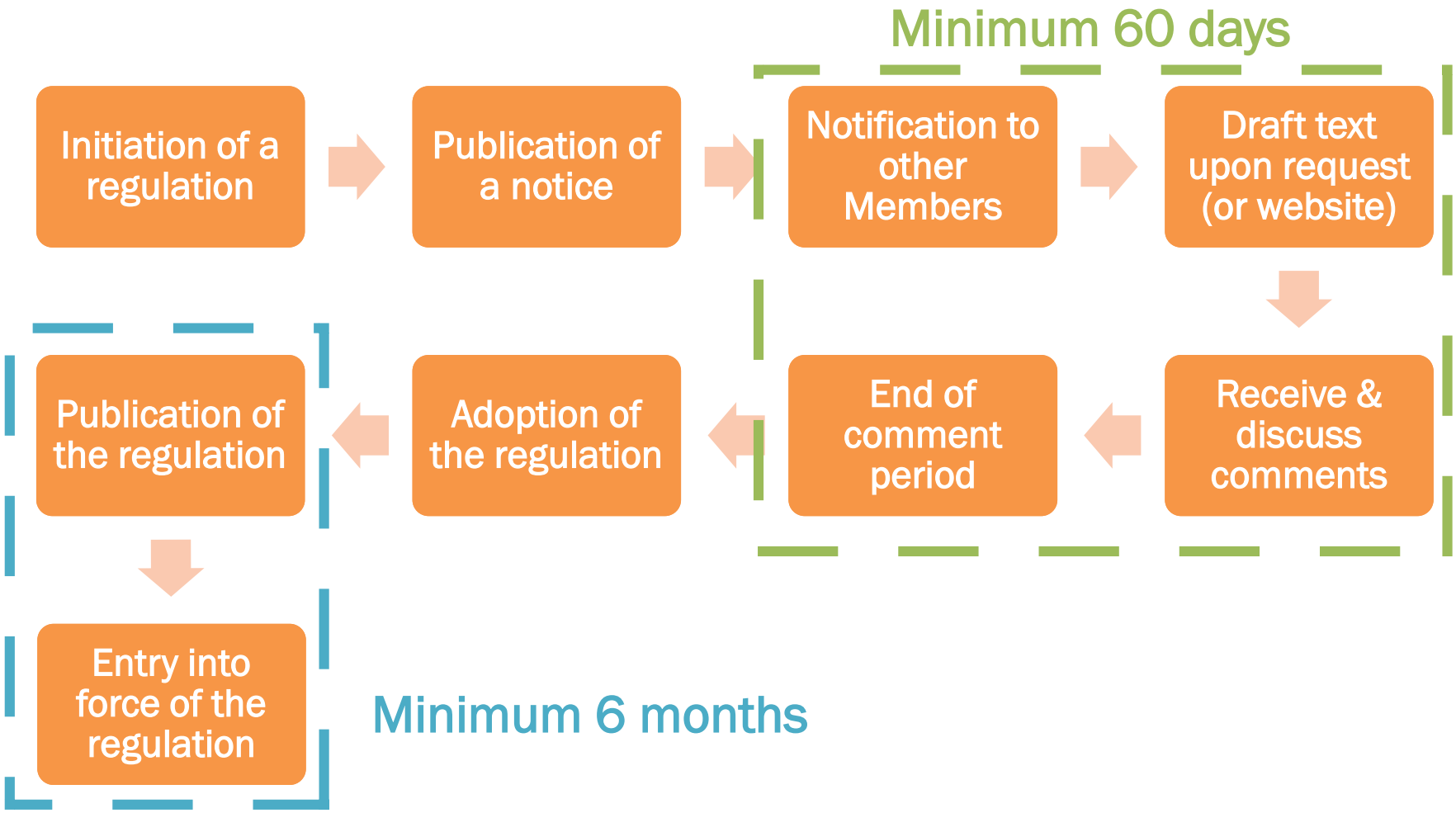
SPS Article 7, Annex B
- *G/SPS/7/Rev.4*

TBT Articles 2.9 – 2.11, 5.6 – 5.8, 10, Annex C, para. J-O (Code of Good Practice)
G/TBT/1/Rev.12

BEYOND OBLIGATIONS

- Taking advantage of transparency

Transparency timelines for SPS & TBT notifications



SPS & TBT Agreements - Objective

Pursuit of trade liberalization…

avoiding discrimination and unnecessary barriers to international trade

Members' right to regulate…

to protect human, animal, plant life or health / to fulfill legitimate objectives at levels they consider appropriate

use of international standards

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

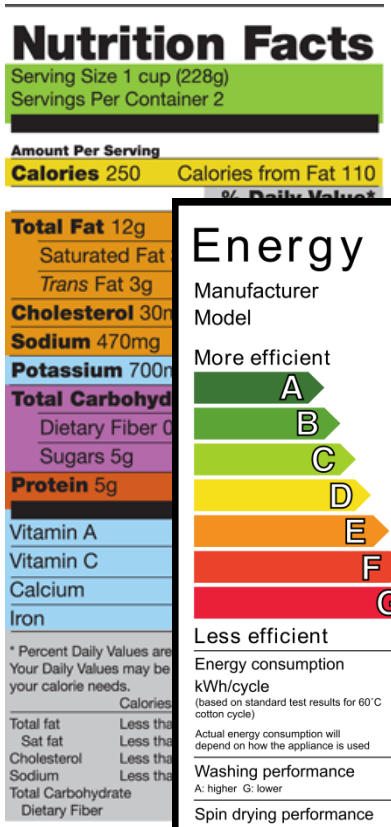
It applies to all:

- 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



SPS vs. TBT – Coverage

- Article 1.4. of the SPS Agreement:

  Nothing in this Agreement shall affect the rights of Members under the TBT Agreement with respect to measures not within the scope of this Agreement.

- Article 1.5. of the TBT Agreement:

  The provisions of this Agreement do not apply to sanitary and phytosanitary measures as defined in Annex A of the SPS Agreement.

SPS vs. TBT – Coverage – Committee discussions

- Issue discussed in both the SPS & TBT Committees since 1995
- Background notes G/SPS/W/17 and G/SPS/W/32 still relevant
- G/SPS/W/33: Joint SPS/TBT Meeting on Transparency Procedures - Report by the Chairman

SPS vs. TBT – Coverage G/SPS/W/33

- "[…] Members could ***submit a single notification to the Secretariat*** (either for SPS or TBT), to be distributed as both an SPS and TBT notification, which clearly indicated which elements of the proposed regulation were sanitary or phytosanitary measures, and which elements were subject to the TBT Agreement. Alternatively, Members could ***submit two separate notifications***, one under the SPS Agreement and another under the TBT Agreement, each of which would contain only those elements of the proposed regulation covered by the respective Agreement."

*Source: **G/SPS/W/33** (1995) Committee on Sanitary and Phytosanitary Measures - Special Joint SPS/TBT Meeting on Transparency Procedures - Report by the Chairman. Page 2. Para 5.*

SPS vs. TBT – Coverage
SPS Recommended Transparency Procedures (G/SPS/7/Rev.4)

- Para. 2.39 of G/SPS/7/Rev.4:

  When a regulation contains both SPS and TBT measures, it should be notified 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

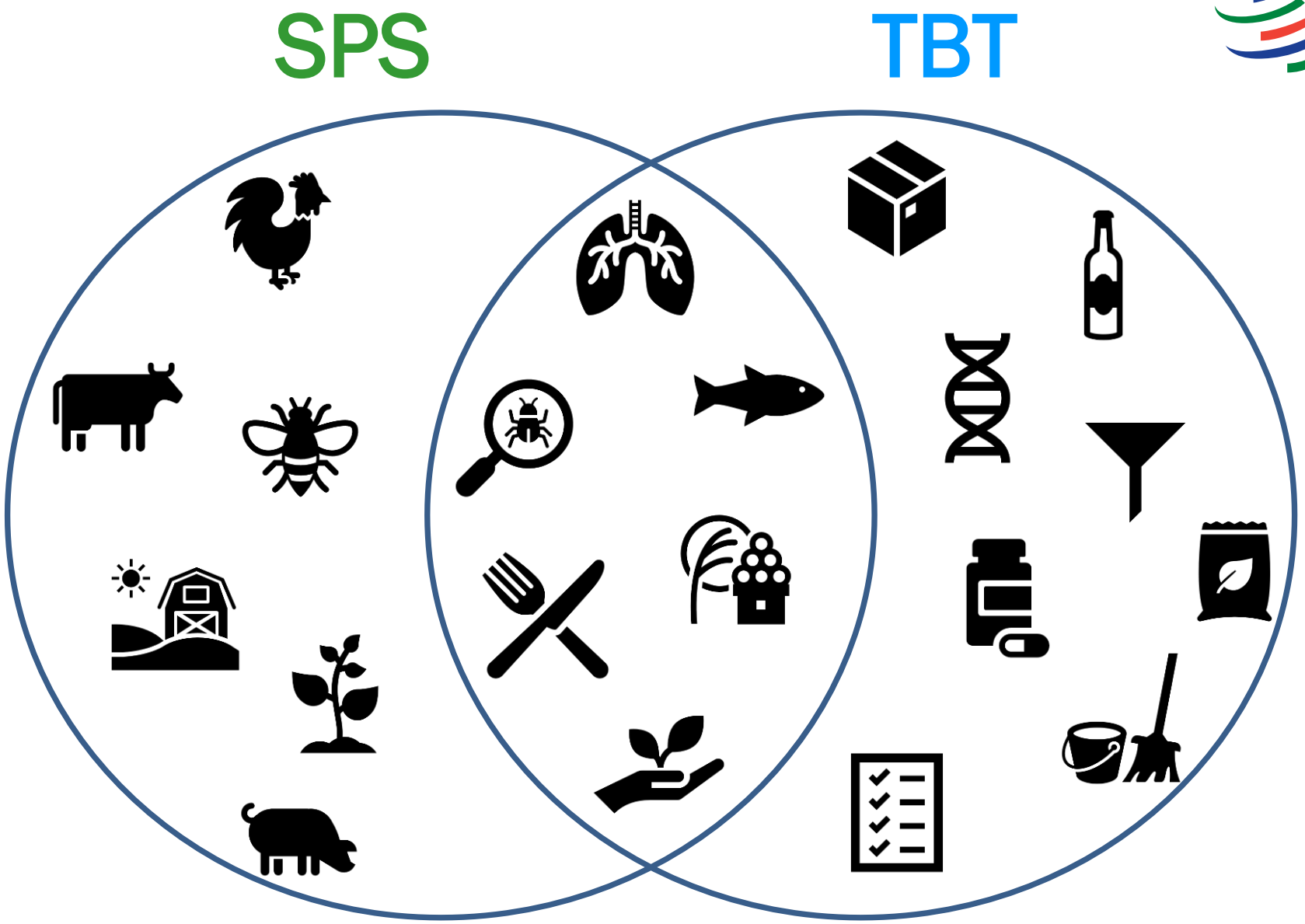
  (e.g., quality or compositional requirements)

Kahoot Game

EXERCISE:
SPS VS. TBT

Go to the website:
www.kahoot.it

NOTIFICATION UNDER SPS AND TBT IN PRACTICE



~90 measures identified as SPS and TBT notifications

Example of notifications under the SPS and TBT Agreements

- Description (E): Improvement of **sanitary** regulations for utensils, containers and **packaging** for food and food additives considering international consistency.
- Teneur (F): Renforcement des règles **sanitaires** relatives aux ustensiles, aux contenants et aux **emballages** pour aliments et additifs alimentaires, aux fins de la mise en conformité avec les normes internationales.
- Descripción (S): En el documento notificado se establecen disposiciones destinadas a mejorar la reglamentación **sanitaria** relativa a los utensilios, los recipientes y los **envases** para alimentos y aditivos alimentarios, a efectos de armonización con la normativa internacional.

Example of notifications under the SPS and TBT Agreements

- Description (E): A draft order sets **hygienic requirements** for primary and infant formula feeding and required **composition**, for children foods based on cereals and other children food, as well as requirements for **labelling and advertising** of these products.
- Teneur (F): Le projet de décret notifié définit des **exigences en matière d'hygiène** pour les préparations alimentaires primaires et pour jeunes enfants ainsi que la **composition** requise des aliments pour enfants à base de céréales et d'autres aliments pour enfants; il énonce aussi des prescriptions concernant **l'étiquetage et la publicité** de ces produits.
- Descripción (S): El proyecto de Orden notificado establece **requisitos de higiene** aplicables a: preparados para la primera edad o para lactantes y su **composición**; y alimentos infantiles a base de cereales y otros alimentos infantiles; se establecen también los requisitos de **etiquetado y publicidad** de estos productos.

Example of notifications under the SPS and TBT Agreements

- “For greater transparency, this amendment is also notified through SPS notification”
- “This measure will also be notified under the TBT Agreement.”
- “This measure is as notified to the Committee on Sanitary and Phytosanitary Measures as G/SPS/N/…”

Example of notifications under the SPS and TBT Agreements

- TBT notification on pesticides and other Agri-chemicals
- Description: This draft Regulation provides that the approval of the active substance chlorothalonil is not renewed. Existing authorised plant protection products containing chlorothalonil will be withdrawn from the market.

  This decision only concerns the placing on the market of this substance and does not affect the MRLs for residues of the concerned pesticide. However, following non-approval, separate action may be taken on MRLs. Any subsequent action on MRLs will be subject to notification under SPS.

Notification under SPS or TBT?

- Genetically Modified Organisms (GMOs)
- Organic products
- Chewing gum
- Other?

GMOs - SPS or TBT?

- Notifications*:
  - *SPS: 43 (264 using GMOs keyword)*
  - *TBT: 74*

- STCs:
  - *SPS: 6*
  - *TBT: 4*

*SPS/TBT IMSs: Document wide search for “genetically modified organisms”

Organic products - SPS or TBT?

- Notifications*:
  - *SPS: 11*
  - *TBT: 31*

- STCs:
  - *SPS: 1*
  - *TBT: 4*

* SPS/TBT IMSs: Document wide search for “organic products”, and for SPS, elimination of 18 animal health related notifications.

Organic products - SPS or TBT?

- STC discussions about where to notify
- Secretariat's note on organic product notification (G/SPS/GEN/1354/Rev.1)

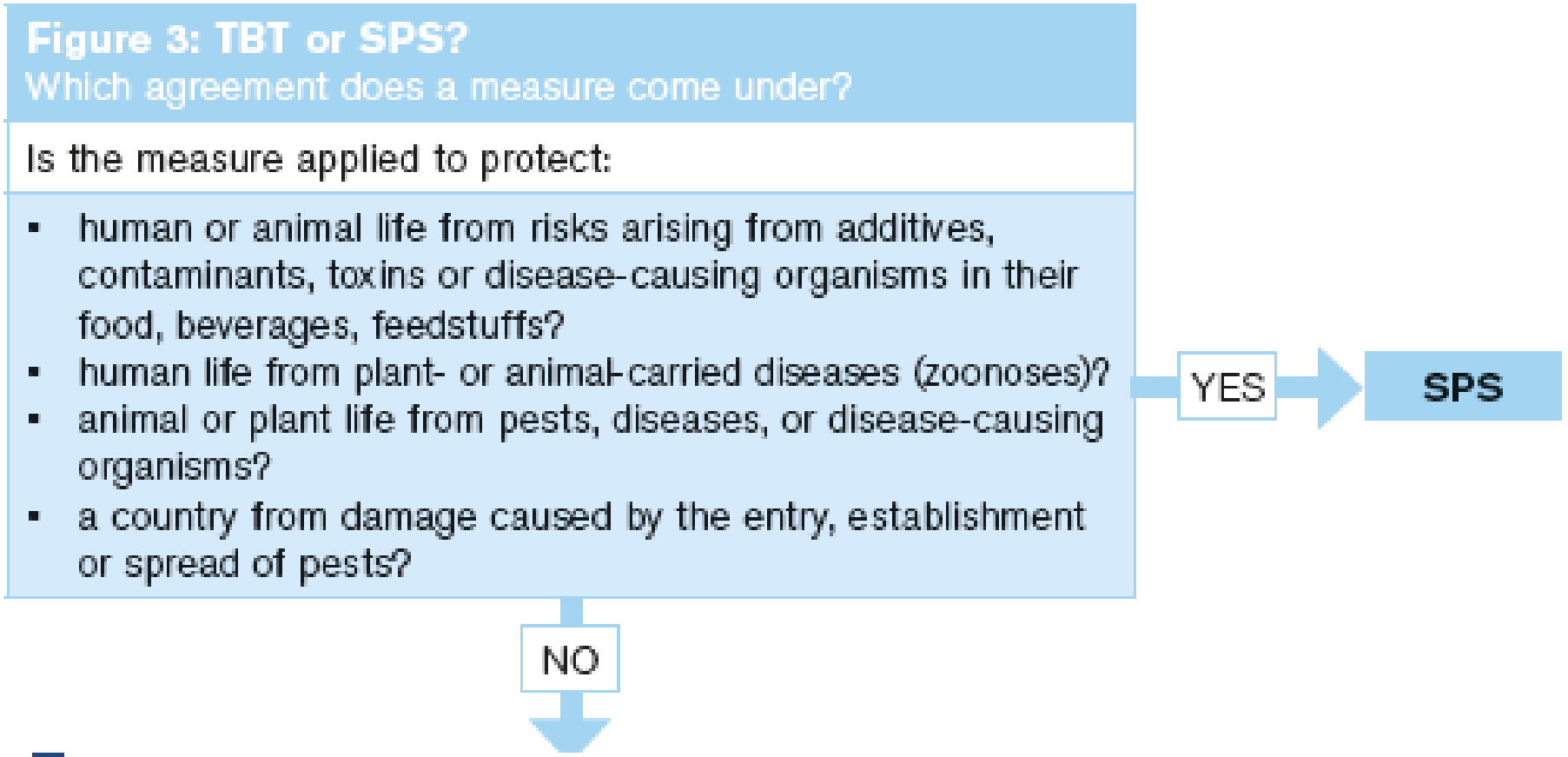
Chewing gum - SPS or TBT?

- Notifications*:
  - *SPS: 31*
  - *TBT: 30*

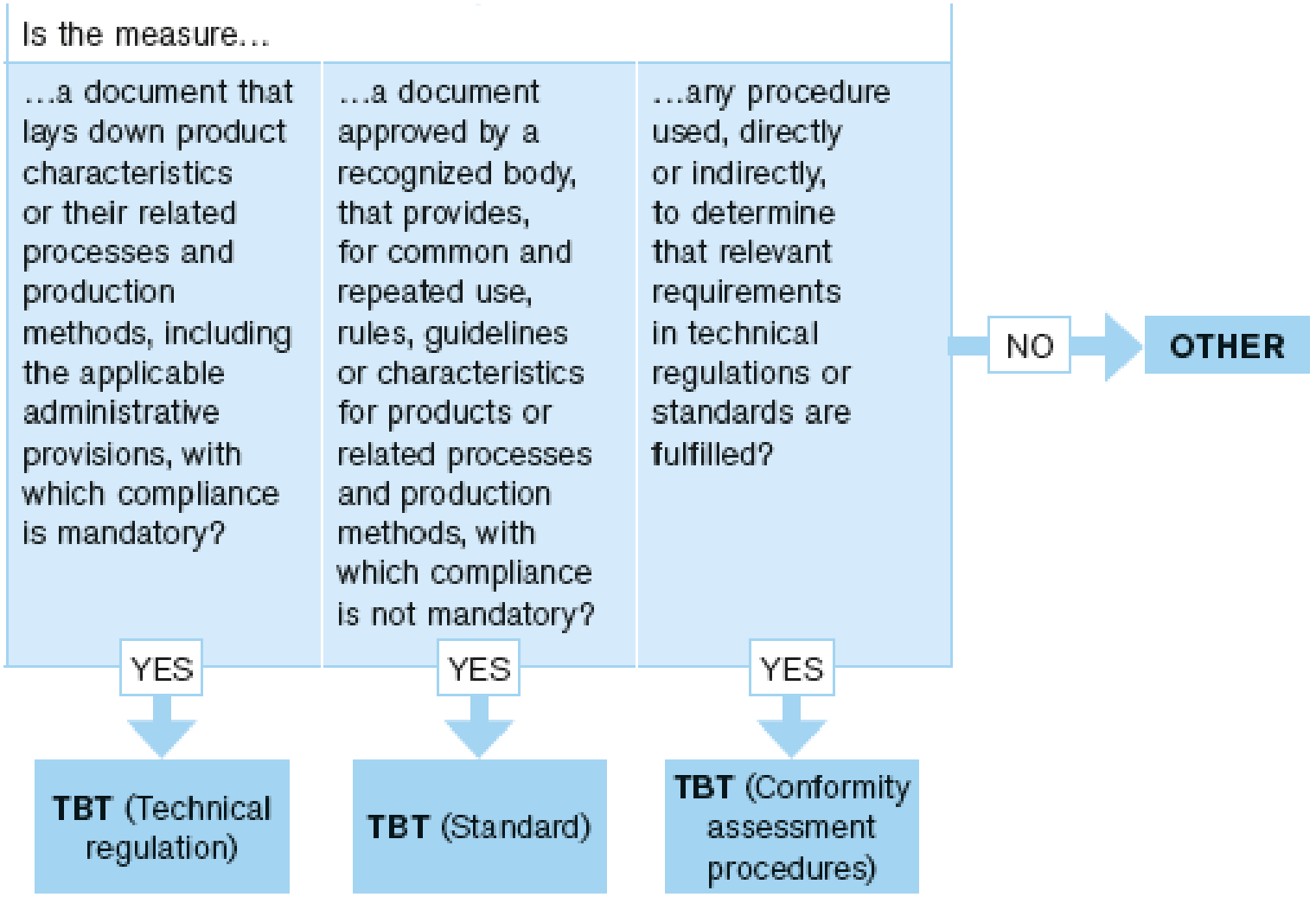
- STCs:
  - *SPS: 0*
  - *TBT: 1*

* SPS/TBT IMSs: Document wide search for “chewing gum”

SPS or TBT? - Recap



SPS or TBT? - Recap



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THANK YOU!

SPS gateway
http://www.wto.org/sps

TBT gateway
http://www.wto.org/tbt