

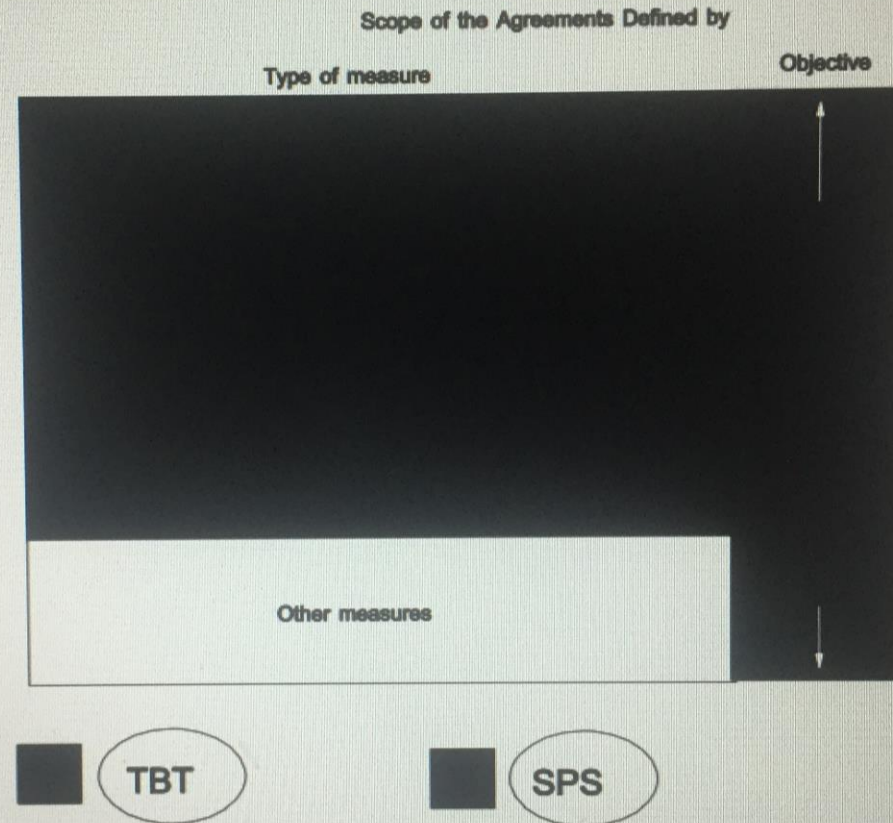
Brazil's experience with incoming notifications of measures that contain elements covered under both the SPS and TBT Agreements

Ministry of Agriculture, Livestock and Food Supply
Brazil

G/SPS/W/32
November 1995

Coverage of
SPS and TBT
Agreements

Graph 1



Background

- Transparency is one of the cornerstones of TBT and SPS agreements
- It allows commenting, reacting and adapting to regulations on TBT issues and sanitary and phytosanitary measures
- The necessity to observe the reasonable period of time between notification and entry into force of the measure, to ensure full benefits.

Difficulties faced by Members

- It is not always clear whether a new regulation falls under SPS or TBT scope
- What's the matter if a notification is notified to one Committee when it is expected to be notified to another?
 - Time to communicated to interested stakeholders is lost
 - Disciplines governing the regulation are different
 - Resources are waisted when it is necessary to open a Specific Trade Concern to discuss if the measure has been presented to the appropriate Committees

What do the agreements state? SPS Definitions

Measure^s 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 and animal carried diseases
- Animal or plant life from pests, diseases, disease-causing organisms
- A country from other damage caused by entry, establishment or spread of pests

What do the agreements state? TBT Definitions

- It applies to all goods:
 - Technical regulations (mandatory)
 - Standards (not mandatory)
 - Conformity assessment procedures for the legitimate objectives.

What do the Agreements state? SPS

- Article 7 and Annex B: Transparency
 - Designation of notification authority
 - Establishment of enquiry point
 - **Notification** of draft regulations
 - Publication of regulations

What do the Agreements state? TBT

- notify other Members of the products to be covered by the **proposed technical regulation or conformity assessment procedure**, together with a brief indication of its objective and rationale. Such notifications shall take place when amendments can still be introduced and comments taken into account;
- In case of urgent problems: ...notify immediately other Members;

What defines in which agreement the regulation falls?

- The TBT Agreement covers all technical regulations and conformity assessment procedures, except when these are sanitary or phytosanitary measures (art. 1.5 TBT)
- It is the type of measure which determines whether it is covered by the TBT Agreement. However... its purpose is one of the relevant factors in determining whether the measure is subject to the SPS Agreement (EC-Biotech Products)
- **A single measure can have more than one purpose**

I'm sure it is a
TBT issue...



Wow... It's not quite so...



Further reflection

Brazil proposes that the Committee encourages Members to reflect on the benefits of notifying simultaneously to both Committees

Thank you!

Luís Henrique Barbosa da Silva

Agricultural Attaché

Ministry of Agriculture, Livestock and Food Supply

Permanent Mission of Brazil to the WTO