

## 6 TRANSPARENCY

"The TBT Agreement contains **transparency** provisions in: Articles 2 and 3 (technical regulations); Articles 5, 7, 8 and 9 (conformity assessment procedures); Annex 3, paragraphs J, L, M, N, O & P (standards); and Articles 10 (general transparency provisions) and 15 (final provisions). A number of decisions and recommendations have been made with a view to facilitating access to information and further improving the implementation of transparency procedures under the Agreement."

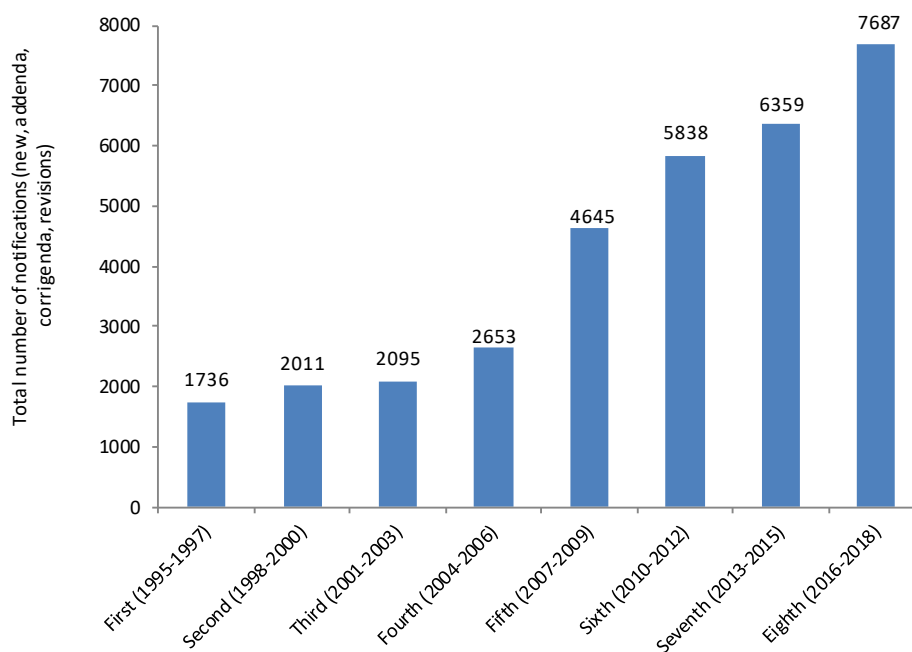
[G/TBT/1/Rev.13](#), Section 5, para. 5.1, p. 20 (emphasis added)

### 6.1 Exchange of experiences

6.1. During the review period, most of the Committee's exchange of experiences took place in the context of its Eighth Special Meeting on Procedures for Information Exchange held on 8 November 2016.<sup>191</sup> In the Committee's discussions on transparency, three areas were discussed in particular: (i) online tools; (ii) functioning of enquiry points; and, (iii) notifications of technical regulations and conformity assessment procedures. The topic of transparency was also discussed in the context of technical assistance (Section 6).

6.2. Members continued to submit an increasing number of TBT notifications during the review period (Chart 1). During the review period, 11 Members submitted their first Statement on Implementation and Administration of the TBT Agreement under Article 15.2 of the TBT Agreement (15.2 Statement) and 8 Members submitted revisions to their statements.<sup>192</sup>

**Chart 1: Total TBT notifications per Triennial Review period<sup>193</sup>**



<sup>191</sup> [G/TBT/GEN/206](#). A summary report is contained in the Annex to [G/TBT/M/70](#).

<sup>192</sup> Figures as of 15 November 2018.

<sup>193</sup> Figures as of 15 November 2018.

### 6.1.1 Online tools

6.3. The Committee launched ePing, the global alert mechanism for TBT and SPS notifications developed jointly by the WTO, UNDESA<sup>194</sup> and ITC, at the Eighth Special Meeting on Procedures for Information Exchange on 8 November 2016.<sup>195</sup>

6.4. Members discussed their experiences utilising ePing and leveraging online tools and technology to involve stakeholders in the process of gathering, disseminating, tracking and responding to TBT notifications.<sup>196</sup> Uganda shared its experience in piloting and implementing ePing at the national level, lessons learned, and steps taken to promote ePing including through meetings of the national TBT/SPS Committee.<sup>197</sup> Australia highlighted the benefits of ePing in terms of transparency, consultation and accountability, and its efforts to promote ePing using different tools and events.<sup>198</sup> Canada noted the user-friendly interface of ePing, and found the email alert and search filters particularly useful.<sup>199</sup> South Africa said ePing is an indispensable tool that facilitates public awareness and the identification of potential technical barriers in draft measures at an early stage.<sup>200</sup>

6.5. Korea shared its KNOWTBT<sup>201</sup>, a comprehensive portal for supporting stakeholders to track and respond to TBT notifications.<sup>202</sup> The European Union presented its TBT web platform (EC-TBT website), its functioning and how it is promoted to stakeholders.<sup>203</sup> The Philippines introduced the web-based portal, the "Philippine National Trade Repository" that enables access to information and facilitates compliance with regulations; using examples it was shown how technology facilitates transparency in the area of regulation.<sup>204</sup> The United States presented its web-based platform "Notify US", and underlined the extensive use of the alert service by US stakeholders.<sup>205</sup>

6.6. Members discussed their experiences using the TBT Notification Submission System (TBT NSS), the online platform for Members to prepare and submit TBT notifications to the WTO.<sup>206</sup> Canada emphasized the value and reliability of the TBT NSS, and its benefits for faster processing of notifications by the Secretariat which in turn gives Members more time to become informed and for interested parties to submit comments.<sup>207</sup> The United States highlighted the benefits of the TBT NSS, and noted that the system facilitates coordination between agencies before notifying.<sup>208</sup> The European Union said that while the NSS works well, there are challenges such as with respect to submission of texts that are too long or contain many images, and during periods of closure of the WTO.<sup>209</sup> Kenya welcomed the faster and reliable TBT NSS, and said that its use eases coordination and reduces delays in the submission of notifications.<sup>210</sup> Trinidad and Tobago said the TBT NSS helps avoid delays in the submission of notifications related to coordination.<sup>211</sup>

6.7. The Committee launched the modernized TBT Information Management System (TBT IMS) in March 2017.<sup>212</sup> Brazil highlighted that the TBT search tool lacks valuable information that is included in the corresponding SPS search tool, especially with respect to the status of the specific trade

<sup>194</sup> United Nations Department of Economic and Social Affairs.

<sup>195</sup> [www.epingalert.org](http://www.epingalert.org); G/TBT/GEN/206, para. 2; G/TBT/M/70, para. 1.1; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/1\\_eping\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/1_eping_e.pdf).

<sup>196</sup> G/TBT/GEN/206, para. 3; and G/TBT/M/70, Annex, para. 1.1.

<sup>197</sup> G/TBT/M/70, Annex, para. 1.3; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/2-Uganda\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/2-Uganda_e.pdf).

<sup>198</sup> G/TBT/M/70, Annex, para. 1.5; [https://www.wto.org/english/tratop\\_e/tbt\\_e/4\\_Australia\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/4_Australia_e.pdf); and G/TBT/W/537.

<sup>199</sup> G/TBT/M/70, Annex, para. 1.23.

<sup>200</sup> G/TBT/W/452.

<sup>201</sup> Korean Network on World TBT.

<sup>202</sup> G/TBT/M/70, Annex, para. 1.4; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/3\\_Korea\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/3_Korea_e.pdf).

<sup>203</sup> G/TBT/M/70, Annex, para. 1.6; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/5\\_EU\\_Stakeholders\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/5_EU_Stakeholders_e.pdf).

<sup>204</sup> G/TBT/M/70, Annex, para. 1.7; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/6\\_Philippines\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/6_Philippines_e.pdf).

<sup>205</sup> G/TBT/M/70, Annex, para. 1.8; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/7\\_US\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/7_US_e.pdf).

<sup>206</sup> [www.nss.wto.org/tbtmembers](http://www.nss.wto.org/tbtmembers); for more information and access please contact [tbtntss@wto.org](mailto:tbtntss@wto.org); and G/TBT/M/70, Annex, para. 1.27.

<sup>207</sup> G/TBT/M/70, Annex, para. 1.28.

<sup>208</sup> G/TBT/M/70, Annex, para. 1.29.

<sup>209</sup> G/TBT/M/70, Annex, para. 1.30.

<sup>210</sup> G/TBT/M/70, Annex, para. 1.31.

<sup>211</sup> G/TBT/M/70, Annex, para. 1.26.

<sup>212</sup> [www.tbttims.wto.org](http://www.tbttims.wto.org); and G/TBT/M/70, Annex, para. 1.2.

concerns (STCs) raised in the Committee. Therefore, Brazil suggested adding four columns to the TBT STCs search tool in the TBT IMS.<sup>213</sup>

### 6.1.2 Functioning of enquiry points

6.8. Members shared experiences on the role of enquiry points in facilitating internal coordination and the handling, accepting, and transmitting of comments, and exploring ways to improve their functioning.<sup>214</sup> The Secretariat presented the WTO TBT Enquiry Point Guide at the 14-15 November 2018 Committee meeting.<sup>215</sup>

6.9. The European Union presented the TBT notification procedure within the EU and recalled EU member States' obligations when notifying new national technical regulations.<sup>216</sup> Chinese Taipei explained how its TBT enquiry point enhances coordination with and amongst regulators, through preparatory work before TBT Committee meetings and the delivery of seminars on transparency.<sup>217</sup> In order to overcome resistance to notify from regulators, Chinese Taipei provided its regulators with examples of similar notifications made by other Members to help persuade them of the necessity to notify.<sup>218</sup>

6.10. Switzerland established a unit within its administration to assess TBT and trade relevance of all legislative projects and to ensure notifications take place.<sup>219</sup> South Africa explained that it coordinates through a domestic TBT committee that brings regulators and quality infrastructure bodies together to discuss the annotated draft agenda in advance of TBT Committee meetings; this was also an opportunity to emphasize to regulators the importance of notifying.<sup>220</sup> A list of contact persons in different regulatory departments, including at the divisional level within each department, should be maintained to facilitate coordination.<sup>221</sup> TBT enquiry point officials have a wide range of backgrounds, from lawyers to librarians to administrators.<sup>222</sup>

6.11. Uganda highlighted the challenge of empowering notification authorities and enquiry points to be able to identify draft regulations that meet notification requirements.<sup>223</sup> Canada underscored the importance for trading partners of the work of enquiry points in collecting and disseminating information, and in handling comments, and explained Canada's internal process for handling comments.<sup>224</sup> Senegal mentioned the difficulty of coordination between enquiry points and notification authorities.<sup>225</sup>

6.12. The United States explained that its enquiry point and notification authority are the same entity, which avoids coordination problems. The US enquiry point is essentially a facilitator of communications, making information available to both industry and government, ensuring notifications are submitted, and handling comments. USTR coordinates with industry to develop positions for WTO TBT Committee or for bilateral engagements based on information received from the US enquiry point.<sup>226</sup> Trinidad and Tobago explained that its enquiry point is housed at the Bureau of Standards. The enquiry point is tasked with preparing notifications, which are sent to the WTO through its notification authority, the Ministry of Trade and Industry.<sup>227</sup>

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<sup>213</sup> [G/TBT/W/461](#), paras. 3.1-3.4.

<sup>214</sup> [G/TBT/M/70](#), Annex, Section 2.

<sup>215</sup> [G/TBT/37](#), para. 5.12.a.ii.

<sup>216</sup> [G/TBT/M/70](#), Annex, para. 2.2; and [https://www.wto.org/english/tratop\\_e/tbt\\_e/8\\_EU\\_EP\\_e.pdf](https://www.wto.org/english/tratop_e/tbt_e/8_EU_EP_e.pdf).

<sup>217</sup> [G/TBT/M/70](#), Annex, para. 2.3.

<sup>218</sup> [G/TBT/M/70](#), Annex, para. 2.12.

<sup>219</sup> [G/TBT/M/70](#), Annex, para. 2.4.

<sup>220</sup> [G/TBT/M/70](#), Annex, para. 2.10. See related discussion in para. 1.3.

<sup>221</sup> [G/TBT/M/70](#), Annex, para. 2.5.

<sup>222</sup> [G/TBT/M/70](#), Annex, para. 2.18.

<sup>223</sup> [G/TBT/M/70](#), Annex, para. 2.7.

<sup>224</sup> [G/TBT/M/70](#), Annex, para. 2.11.

<sup>225</sup> [G/TBT/M/70](#), Annex, para. 1.24.

<sup>226</sup> [G/TBT/M/70](#), Annex, paras. 1.15 and 1.25.

<sup>227</sup> [G/TBT/M/70](#), Annex, para. 1.26.

6.13. The United States stressed the importance of Members regularly updating their enquiry point contact information, including email addresses, fax numbers and website URLs. It was suggested that Members validate the accuracy and availability of their enquiry point contact information.<sup>228</sup>

6.14. New Zealand encouraged the sharing of information amongst Members about the effective operation of enquiry points to reduce the burden of establishing and operating enquiry points in developing Members. This could also be useful for Members which submit a limited number of notifications. New Zealand suggested discussion of good practices for domestic coordination and engagement with regulators to reinforce the transparency obligations in the TBT Agreement and ensure all relevant measures are notified in accordance with the Agreement.<sup>229</sup>

### 6.1.3 Submission of notifications

6.15. Brazil identified challenges related to situations where a Member considers it difficult to establish – or foresee – whether a draft technical regulation falls under the TBT and/or the SPS Agreement.<sup>230</sup> The United States presented a paper analysing WTO Members' TBT notifications and their links to trade in goods, and highlighted that over 92% of global goods exports can be linked to TBT notifications.<sup>231</sup> The paper reviewed notification patterns by Members, and highlighted certain information that is routinely missing from Members' notifications but that is particularly important to traders: products affected; date of entry into force; and whether the measure is in accordance with international standards, guides or recommendations.<sup>232</sup> Japan underscored the significance of information provided in Box 8 of the notification format ("relevant documents"), and the need to improve access to the relevant documents through information technology (websites).<sup>233</sup> Australia emphasized that including keywords in TBT notifications could help further identify the goods and/or types of measures covered by a notification.<sup>234</sup>

### 6.1.4 Texts of notified technical regulations and conformity assessment procedures

6.16. With respect to **access to full texts** of notified measures, Trinidad and Tobago, Uganda and the United States said that although they include a link to the full text of draft measures (or provide the full text to the Secretariat for posting on the WTO website) when submitting notifications, their enquiry points are nevertheless frequently asked to send the full text separately.<sup>235</sup> The United States noted that Members sometimes cite international standards which are copyright protected and suggested that in such cases Members could add a note to that effect, provide the name of the standard, and, where possible, provide a link to where it can be purchased.<sup>236</sup>

6.17. With respect to the **adopted final text**, the United States highlighted the importance of providing information on whether proposed technical regulations and/or conformity assessment procedures have entered into force.<sup>237</sup> Australia suggested changes to the addendum notification template to enhance transparency for the private sector and assist Members in notifying the adoption of measures.<sup>238</sup> The United States emphasized the benefits for traders and Members of sharing information on Members' websites where final technical regulations, as well as applicable conformity assessment procedures, can be freely accessed.<sup>239</sup>

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<sup>228</sup> [G/TBT/W/451](#).

<sup>229</sup> [G/TBT/W/463](#). See related discussion in para. 1.3.

<sup>230</sup> [G/TBT/W/460/Rev.1](#).

<sup>231</sup> [G/TBT/GEN/215](#) and [G/TBT/M/71](#), para. 2.332.

<sup>232</sup> [G/TBT/W/464](#).

<sup>233</sup> [G/TBT/W/528](#).

<sup>234</sup> [G/TBT/W/537](#).

<sup>235</sup> [G/TBT/M/70](#), Annex, paras. 1.11, 1.12, and 1.16.

<sup>236</sup> [G/TBT/M/70](#), Annex, para. 1.12.

<sup>237</sup> [G/TBT/W/464](#).

<sup>238</sup> [G/TBT/W/537](#).

<sup>239</sup> [G/TBT/W/535](#).

### 6.1.5 Handling of comments

6.18. Switzerland highlighted the benefits of disseminating comments received on notified measures and replies thereto, on a voluntary basis, such as improving transparency and efficiency, and facilitating the preparation of Committee meetings and coordination between Members.<sup>240</sup>

## 6.2 Recommendations

6.19. Building on this exchange as well as on previous decisions and recommendations of the Committee, and with a view to furthering its work in the area of transparency, the Committee agrees:

- a. with respect to functioning of **enquiry points**:
  - i. to *encourage* Members to validate the contact information of their enquiry points as contained in the TBT IMS<sup>241</sup> to improve the accuracy and availability of this information. Members are encouraged to either inform the Secretariat that the current information is correct, or to provide the Secretariat with updated information, by the March 2019 Committee meeting;
  - ii. to *discuss* in the context of the Ninth Special Meeting on Procedures for Information Exchange: how ePing can facilitate the work of enquiry points; linkages between ePing and domestic registers of central regulatory planning or action, or other "early warning systems"; and the private sector's use of ePing.
- b. with respect to **domestic coordination**:
  - i. to *discuss* good practices for domestic coordination and engagement with regulators, including sharing information about how Members effectively communicate with regulatory agencies to ensure that all relevant notifications are made.
- c. with respect to use of **online tools**:
  - i. to *discuss* how to improve the TBT IMS in order to best reflect the status of STCs raised in the TBT Committee with a view to modify its format accordingly before the next Triennial Review.
- d. with respect to the **submission of notifications**:
  - i. to *exchange information*, for the purposes of enhancing predictability and transparency, on practices used in situations where a Member considers it is difficult to establish whether a draft technical regulation or conformity assessment procedure may fall under the TBT and/or the SPS Agreement. This exchange may be organized as an information session in cooperation with the SPS Committee;
  - ii. to *encourage* Members to provide maximum specific information on the products potentially impacted by notified measures (in Box 4 of the notification format). In this connection, to hold an *initial discussion* on how to improve – and what challenges exist for – the identification of products including with respect to the use of ICS and/or HS codes and/or product names where precise codes do not apply;
  - iii. to *discuss* challenges in identifying deviations from relevant international standards, guides or recommendations;
  - iv. to *encourage* Members, where possible, to provide a website address giving access to the text of the "relevant documents" in Box 8 of the notification format; and

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<sup>240</sup> [G/TBT/W/536](#).

<sup>241</sup> <http://tbtime.wto.org/en/NationalEnquiryPoints/Search>.

- v. to *consider*, in light of the above, the need to review and update the Committee's *Format and Guidelines for New Notification*<sup>242</sup>. Consideration could also, at that point, be given to the development of a keyword list and mechanism for assigning relevant keywords for TBT notifications.
- e. with respect to **adopted final texts**:
- i. to *recommend* Members to notify the adopted final text of technical regulations and conformity assessment procedures<sup>243</sup>;
  - ii. to *modify* the existing addenda notification template<sup>244</sup> or to *develop* a new addenda template specific to adopted final texts so as to provide Members with the ability to indicate when the measure entered – or will enter – into force and provide information on where the final text can be obtained, including website address<sup>245</sup>;
  - iii. to *endeavour* to provide the Secretariat, to the extent possible before the June 2019 TBT Committee meeting, with up-to-date website information for where adopted final texts of technical regulations, as well as applicable conformity assessment procedures, can normally be accessed; and
  - iv. to *request* the Secretariat to maintain an up-to-date and readily available list of such websites, based on information from Members and within the limits of its resources, and to publish the list annually in the *Annual Review of the Implementation and Operation of the TBT Agreement*.
- f. with respect to the **handling of comments**:
- i. to *reiterate* previous recommendations<sup>246</sup> to *encourage* Members to disseminate comments received on notified draft measures and substantive replies, on a voluntary basis; and
  - ii. to *discuss*, in the context of the Ninth Special Meeting on Procedures for Information Exchange, the dissemination of comments received on notified draft measures and substantive replies on a voluntary basis, possibly via existing online tools such as ePing.

## 7 TECHNICAL ASSISTANCE

Provisions on technical assistance are contained in Article 11 of the TBT Agreement. Technical assistance has been considered an area of priority work for the Committee since its establishment; it figures on the agenda of the Committee on a permanent basis. Members have regularly, on a voluntary basis, exchanged experiences and information on technical assistance in order to enhance the implementation of Article 11 of the TBT Agreement.

[G/TBT/1/Rev.13](#), Section 6, para. 6.1, p. 43

### 7.1 Exchange of experiences

7.1. During the review period, most of the Committee's exchange of experiences took place in the context of a thematic session on technical assistance, held on 9 November 2016<sup>247</sup>, and in the context of the Eighth Special Meeting on Procedures for Information Exchange, held on 8 November 2016.<sup>248</sup>

<sup>242</sup> [G/TBT/1/Rev.13](#), Annex 3.2, pp. 58-61.

<sup>243</sup> Circulated as an addendum to the original notification in line with [G/TBT/35](#).

<sup>244</sup> [G/TBT/1/Rev.13](#), Annex 3.3, p. 62; and [G/TBT/35](#).

<sup>245</sup> [G/TBT/1/Rev.13](#), Section 5.6.2.1, p. 35; and [G/TBT/35](#).

<sup>246</sup> [G/TBT/1/Rev.13](#), Section 5.3.1.9, p. 28.

<sup>247</sup> [G/TBT/GEN/204](#).

<sup>248</sup> [G/TBT/M/70](#), Annex.