Coordinating inter-agency review of measures on agricultural products

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Transparency in TBT and U.S. Agricultural Sector

- USDA active involvement in notification-comment process under the TBT Agreement
- Core principle and obligation
- Fundamental market access component
- Domestic Coordination mechanisms administered by USDA ensure compliance with and benefit from transparency provisions of the TBT Agreement
Sharing USDA experience with Domestic Coordination

- Inter-agency coordination for commenting on foreign TBT measures:
  - Evaluation of newly emerging foreign TBT measures for adverse market impact
  - Drafting of comments
  - Follow up engagement

- Key ingredients for effectiveness:
  - Institutional structure
  - Timelines
  - Procedural terms of reference - criteria, document management, weekly and ad-hoc meetings
  - Guidance for drafting comments
  - Leadership
Institutional framework

Coordinator: USDA FAS Multilateral Affairs Office

Reviewers:
- USDA FAS Commodity Divisions - Industry
- Regulators
- Other USDA offices and trade agencies
- U.S. Embassies - Agricultural Affairs Officers

Communication Exchange Channels: National Enquiry Point and U.S. Embassies - Agricultural Affairs Officers
USG Review of TBT Measures related to agriculture – institutional interactions
Inter-agency coordination for commenting on foreign TBT measures related to agriculture

1. USDA/FAS/TPGA/Multilateral Affairs (MA) manages interagency process. Maintains a Comment Status Report on USG commenting actions.

2. USG regulators + TPGA commodity divisions provide MA information for the comment status report (CSR). TPGA/MA distributes CSR weekly.

3. Comments are drafted, with input from regulators, industry, Post, regional offices, and other stakeholders, and sent by the relevant TPGA commodity divisions to TPGA/MA.

4. TPGA/MA reviews and circulates notification comments for interagency clearance. Set list of clearers led by USTR.

5. TPGA/MA transmits to FAS Post or US TBT Enquiry Point for submission to foreign government.

Alert function https://epingalert.org/
## USG notification and comment activity

<table>
<thead>
<tr>
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<th>FY 2019</th>
<th>FY 2020</th>
<th>FY 2021</th>
<th>FY 2022</th>
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<tbody>
<tr>
<td><strong>TBT</strong></td>
<td>32</td>
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<td><strong>SPS</strong></td>
<td>98</td>
<td>116</td>
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<td><strong>U.S. Notifications to the WTO</strong></td>
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<td><strong>Foreign WTO Notifications Reviewed</strong></td>
<td>725</td>
<td>1,498</td>
<td>921</td>
<td>1,887</td>
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<td><strong>USG Comments Submitted on Notified Foreign Measures</strong></td>
<td>72</td>
<td>110</td>
<td>90</td>
<td>38</td>
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<td><strong>USG Comments as a Share of Total Foreign WTO Measures</strong></td>
<td>10%</td>
<td>11%</td>
<td>8%</td>
<td>4%</td>
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Main areas covered in TBT comments in recent years: labeling, fortification, nutrient limits, chemicals registration, certification, inspection, halal, technical requirements, packaging, among others.

Examples of positive feedback and productive engagement in recent years based on replies received:

- Clarifications were provided, interpretation of terms, exclusions.
- Trade facilitating options were made available.
- Delay in regulatory process to proceed with further evaluations after comments received.
- Comments taken into account by confirming changes to the text.
- Greater alignment with International Standards through modifications to the text.
- U.S. comments to be taken into account in future revisions of regulation.
- Direct quotes to “comments partially taken into account”.
- Withdrawal of notification after receiving comments from Members.
Case Study
G/TBT/N/SAU/1108
Added Sugars
Upper Limits in Some Food Products

Timeline and outcomes

- April 16, 2019: Country notifies the measure in draft form providing a 60-day comment period.
- May 1, 2019: Country notifies additional specifications to the draft technical requirements.
- June 12, 2019: Country notifies decision to postpone entry into force of the measure and further evaluation of regulatory approach after receiving WTO Members comments.
- June 14, 2019: United States submits comments.
- December 4, 2019: Country notifies decision to withdraw the proposed regulation after reviewing WTO Members comments.
USDA experience with TBT transparency

**Highlights**

- Domestic coordination enables an effective implementation of transparency provisions.
- Importance of setting mechanisms for communication exchange internally, designation of points of contact, and following timelines.
- Active involvement in comment process helps identify unnecessary and significant potential barriers to trade.
- Members take advantage of the official opportunity for influencing foreign measures, before they become final.
- Proposed regulations are improved through transparency mechanism avoiding potential trade irritants.
- Key component in trade policy development.
Digital Tools and Domestic Coordination

**STAR:** Internal organization, repository of USG comment activity, outreach.  
**FAS/SPS/TBT System** ([usda.gov](https://usda.gov))

**NotifyUS:** Enquiry Point engagement, outreach, delivery of USG comments.  
[https://tsapps.nist.gov/notifyus/data/index/index.cfm](https://tsapps.nist.gov/notifyus/data/index/index.cfm)