

Strategic Trade and protectionism – Theories and Empirics
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Lecture – 34
Technical Barriers to Trade (TBTs)

Welcome friends, once again to the MOOC courses of NPTEL on Strategic Trade and protectionism – Theories and Empirics. We are here on the you know week 7, lecture number 34 and where we are sticking to the analysis of non-tariff barriers. The most important content of non-tariff barrier is you know is technical barriers to trade.

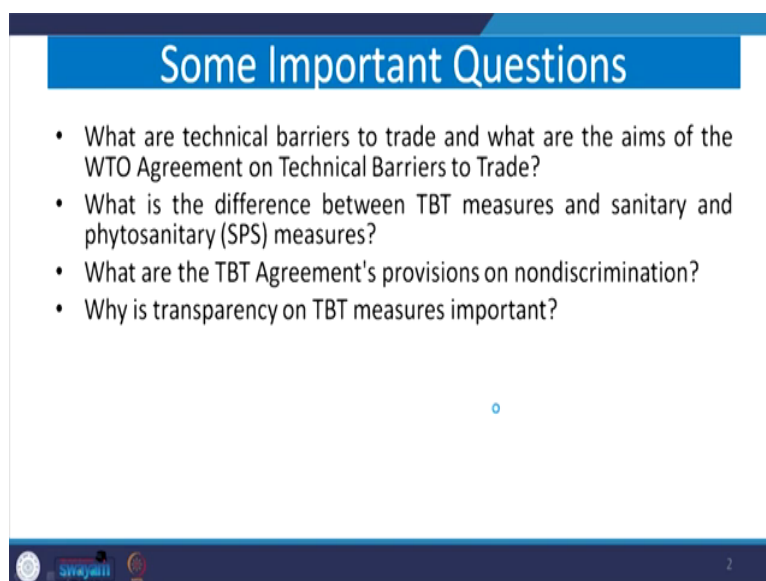
And, this forms the emerging strategies in the international market or international trade transaction in the present days trade. So, therefore, this topic has huge relevance and since the word technical is attached different negotiations from the day of its inception have been made.

But, hardly a very you know minimum number of restrictions are actually traced though are traced, but not yet regulated in large number. So, we will discuss these things in this lecture.

So, here it goes like with the topic called technical barriers to trade on this particular segment. So, let us understand some primitive you know the certain premise relating to the you know TBTs, but before understanding the details of these premises we need to ask ourselves certain important questions.

Some questions are like here I mean if we can understand these questions will be really good to understand technical barriers to trade in detail.

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Some Important Questions

- What are technical barriers to trade and what are the aims of the WTO Agreement on Technical Barriers to Trade?
- What is the difference between TBT measures and sanitary and phytosanitary (SPS) measures?
- What are the TBT Agreement's provisions on nondiscrimination?
- Why is transparency on TBT measures important?

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So, first question is what are the technical barriers to trade? What type what are the aims of WTO agreements on those technical barriers to trade? Then the second one is on you know the difference between technical barriers to trade or SPS sanitary and phytosanitary measures. Is there any difference between these two? So, we will also identify from our slides.

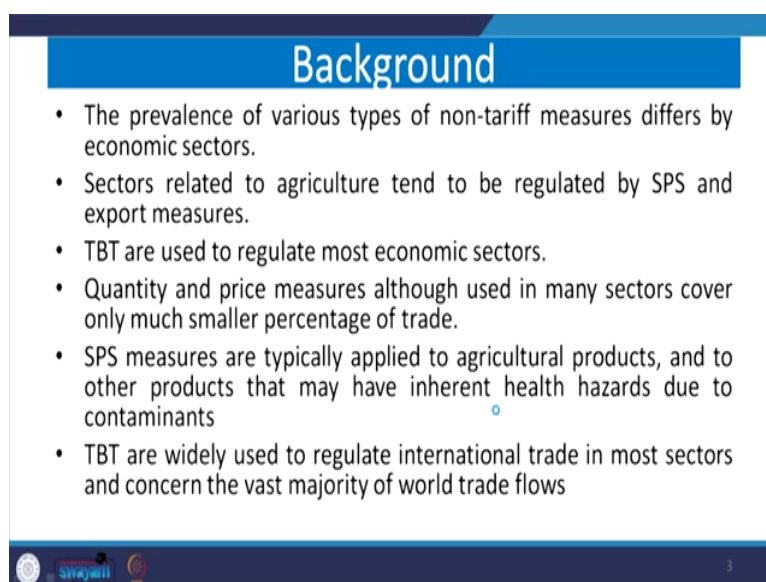
Then, what are the TBT agreements on nondiscrimination on its provisions? So, it is basically how what are the agreements on nondiscrimination and how the transparency is actually made in it is different you know different agreements and how the transparency is important as well.

Is it good to have you know I mean issues related to TBTs committees? Do you have TBTs committee you know on the WTO and who sits on it, who are the members on the TBT committee? What are the issues it considers? How it is different than others?.

How it is actually a relevant to the developing countries? Is it facilitating or what are the particular constraints faced by developing countries in the TBT area? So far as WTO secretariat is considered what kind of assistance does it provide?

So, with these seven eight questions we are supposed to go into the depth of TBTs and we will try to you know capture various facts figures you know arguments on TBTs in detail. So, though we have discussed some of these backgrounds in our you know previous lecture, but since this is again relevant I have you know again you know emphasizing it.

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Background

- The prevalence of various types of non-tariff measures differs by economic sectors.
- Sectors related to agriculture tend to be regulated by SPS and export measures.
- TBT are used to regulate most economic sectors.
- Quantity and price measures although used in many sectors cover only much smaller percentage of trade.
- SPS measures are typically applied to agricultural products, and to other products that may have inherent health hazards due to contaminants
- TBT are widely used to regulate international trade in most sectors and concern the vast majority of world trade flows

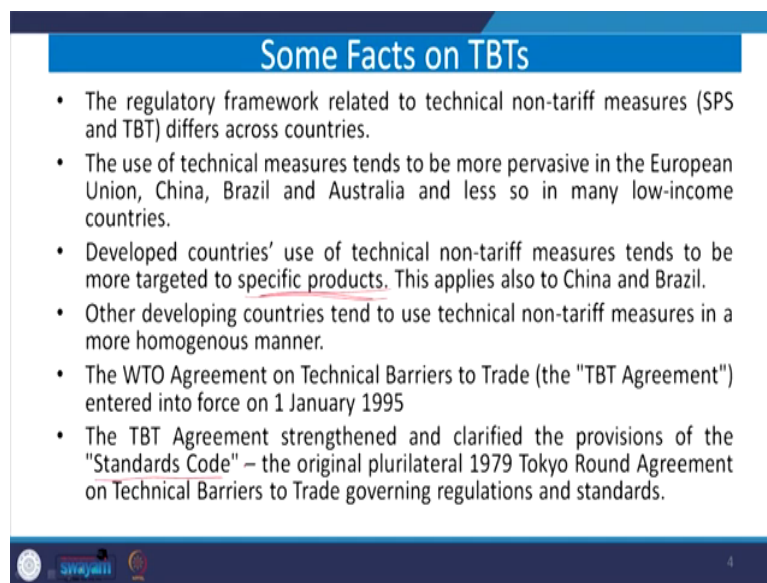
So, the various the prevalence of various types of non you know tariff measures as we already discussed actually vary by degree by sectors and sectors literally agriculture tend to be more

regulated by SPS and export measures specially agriculture sector and the TBTs are used to regulate most economic sectors.

And, quantity and price measures although used in many sectors cover only much smaller percentage in the present days restrictions. SPS sanitary and phytosanitary measures are typically applied to agriculture product as I said and also other products that have you know inherent health hazards due to contaminations.

So, TBTs are greatly use to regulate international trade in most of the sectors and concern the vast majority of the present days world trade.

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Some Facts on TBTs

- The regulatory framework related to technical non-tariff measures (SPS and TBT) differs across countries.
- The use of technical measures tends to be more pervasive in the European Union, China, Brazil and Australia and less so in many low-income countries.
- Developed countries' use of technical non-tariff measures tends to be more targeted to specific products. This applies also to China and Brazil.
- Other developing countries tend to use technical non-tariff measures in a more homogenous manner.
- The WTO Agreement on Technical Barriers to Trade (the "TBT Agreement") entered into force on 1 January 1995
- The TBT Agreement strengthened and clarified the provisions of the "Standards Code" – the original plurilateral 1979 Tokyo Round Agreement on Technical Barriers to Trade governing regulations and standards.

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So, I mean regarding some of the latest facts and figures the regulatory framework related to technical non-tariff measures actually as a differs by countries also. And, those technical

measures tend to be more pervasive in the specially in the European zone or European area China, Brazil, Australia and less so, in many low income countries, though those are emerging so, developed countries are already get the hold of those restrictions.

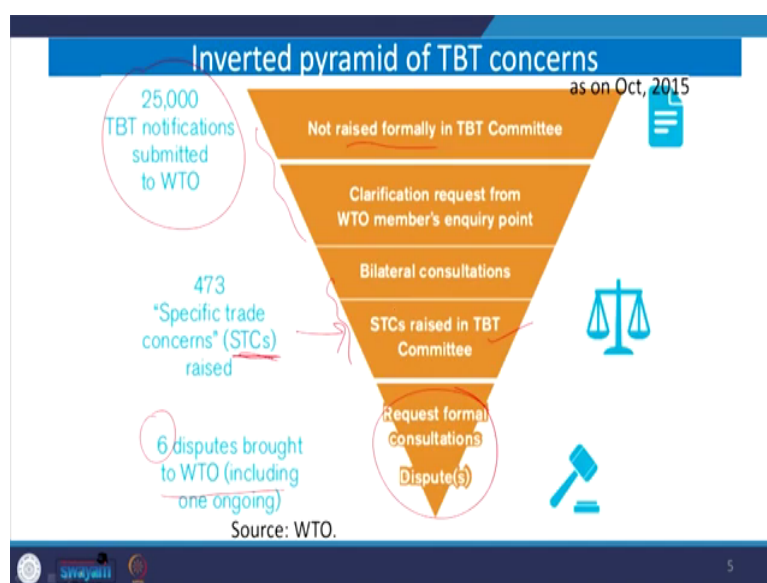
So, now counting the developed countries use of these TBTs or measures related to TBTs these tends to be more targeted to specific product. We need to count which are those specific product, is it health related or it is environmental related this applies also to you know China and Brazil.

All the developing countries tend to use technical non-tariff measures in a more homogeneous manner than I mean develop countries specifically target these to some of the sectors area specifically where as and developing countries uniformly target in different sectors.

So far as WTO agreements on technical barriers to trade is concerned this has since this has I mean the TBT agreement has came into being or came into the force on 1st January, 1995. The TBT agreement and also strengthen and clarify the provisions of the standard codes. This has actually refer to standard codes we will discuss in our next slides.

This standard codes actually derived from 1979 you know Tokyo Round Agreement on technical barriers to trade which govern certain regulations and standards. So, these are followed from the Tokyo and revised largely, but followed from 1979 Tokyo Round Agreement.

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Now, coming to the understanding of TBT and various concerns over time this is the original document of WTO World Trade Organization. Till the latest report of 2015 October, 2015 from it is inception from 1995 all those documents have been collated in their report.

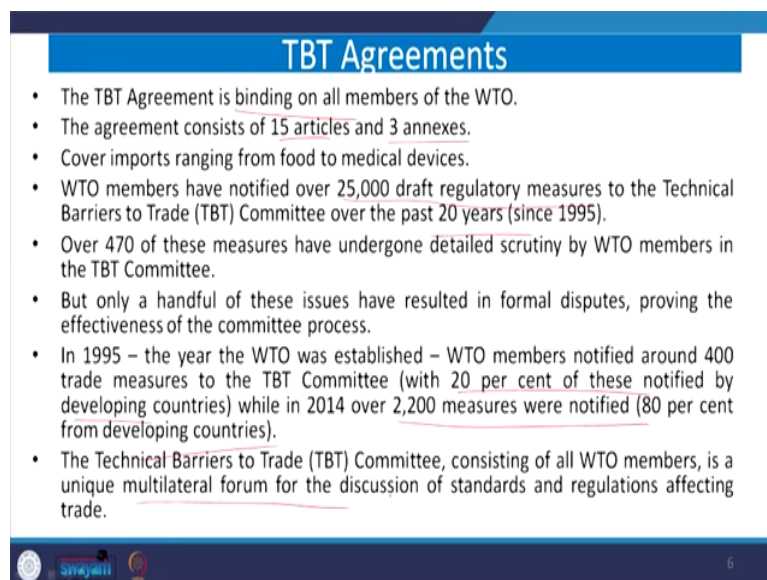
So, the report counts some of the facts like you know out of the total notifications 25,000 in total if you just count on 25,000 notifications submitted 25,000 TBT notifications submitted to WTO by different member countries. So, now starting with not raised formally in TBT committee not formally raised you can you can understand here. So, or related to clarification requires from WTO members and enquiry point. So, these are all related to 25,000.

Out of that 473 around 500 you know specific trade concerns these are related to very specific concern called STC in these are the famous you know phrase used in most is famous you know famous acronym used in the TBT discussion. So, there are only a out of 25,000 different

kinds of notifications or complaints made by a member countries to WTO only 473 have been scrutinized.


So, STC raised in TBT committee of this much. These are of you know with the bilateral consultations. Now, only out of 473, only 6 disputes brought to the WTO negotiations or discussion, only 6 so far. So, request formal consultation disputes finally, is only 6. So, therefore, there is in you know pyramid inverse I mean inverted pyramid reluctant to relating to the TBT concerns.

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TBT Agreements

- The TBT Agreement is binding on all members of the WTO.
- The agreement consists of 15 articles and 3 annexes.
- Cover imports ranging from food to medical devices.
- WTO members have notified over 25,000 draft regulatory measures to the Technical Barriers to Trade (TBT) Committee over the past 20 years (since 1995).
- Over 470 of these measures have undergone detailed scrutiny by WTO members in the TBT Committee.
- But only a handful of these issues have resulted in formal disputes, proving the effectiveness of the committee process.
- In 1995 – the year the WTO was established – WTO members notified around 400 trade measures to the TBT Committee (with 20 per cent of these notified by developing countries) while in 2014 over 2,200 measures were notified (80 per cent from developing countries).
- The Technical Barriers to Trade (TBT) Committee, consisting of all WTO members, is a unique multilateral forum for the discussion of standards and regulations affecting trade.

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What about TBT agreements over time? TBT related agreement is binding to all the members of WTO, no member you can plot can go beyond the you know binding you know agreements. Then the you know agreement actually consist of in total 15 articles and 3

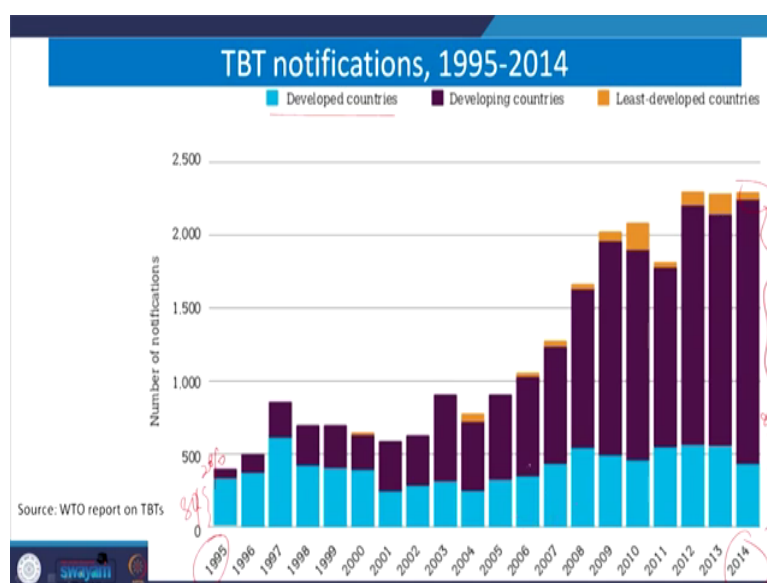
annexes. So, to be noted down 15 articles and 3 annexes. This covers imports from food to medical devices majorly.

WTO members have notified as I said 25000 draft regulatory measures to the technical barriers committee over the last 20 years since 1995. Out of that 473 or 470 measures are considered to be the you know STC category STC. As I as I told you here the this is on special I mean specific trade concerns category. So, 470 is in the STC specific you know categories, but only a handful of these issues have resulted in formal disputes proving the effectiveness of the committee that is only 6 we have already emphasized.

In 1995 – the year when this was developed I mean this was established WTO was established the members notified around 400 trade measures to TBT committee, with 20 percent of this notified by developing only 20 percent by developing. Whereas rest 80 percent by the developed countries, while in 2014 2200 measures are notified just the reverse 2200 measures are notified by the developing countries that is 80 percent from developing countries in the recent times.

Now, this can be explained with the help of diagram. A committee consist of WTO members you know. This committee which were referring to where the TBT agreements are taken place or I have been I have taken place these members I mean this is a unique multilateral forum for the discussion of standards and regulation affecting trade. So, it is very very important.

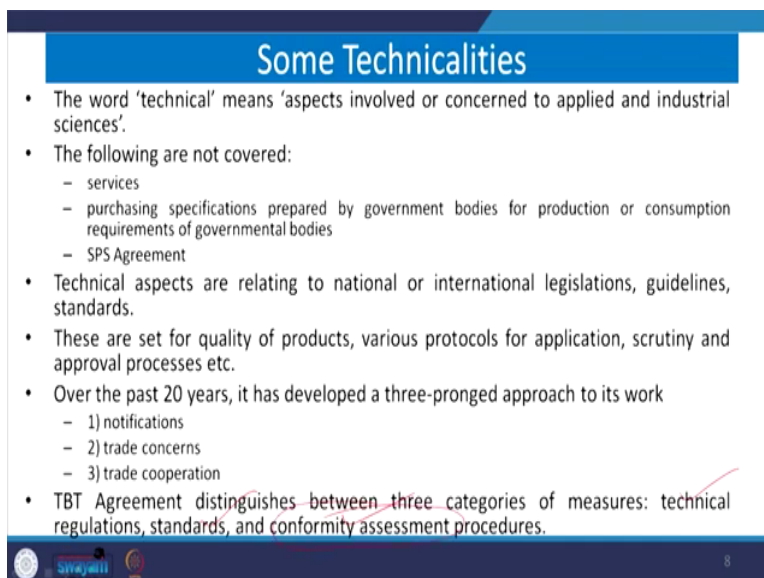
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As I told you how many 2200 from the I mean look at this. So, this is a developed countries this has been blue color developed countries is too less. Whereas the middle one is from the developing country in the recent years which is around 80 percent of the total you know complaints or the notifications. Least countries again consist of very less percentage.

Now, look at the 1995 where this is only 20 percent developing countries of 20 percent, this is 80 percent now just the reverse. Now, there has been you know exponential rise in the complaint rates from the developing countries.

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Some Technicalities

- The word 'technical' means 'aspects involved or concerned to applied and industrial sciences'.
- The following are not covered:
 - services
 - purchasing specifications prepared by government bodies for production or consumption requirements of governmental bodies
 - SPS Agreement
- Technical aspects are relating to national or international legislations, guidelines, standards.
- These are set for quality of products, various protocols for application, scrutiny and approval processes etc.
- Over the past 20 years, it has developed a three-pronged approach to its work
 - 1) notifications
 - 2) trade concerns
 - 3) trade cooperation
- TBT Agreement distinguishes between three categories of measures: technical regulations, standards, and conformity assessment procedures.

So far as some technicalities are concerned, you know I mean since we are writing the term called technical barriers to trade, what do you mean by technical?. Technical means certain aspects which are involved to apply a to apply and in an industrial sciences.

What are the technicalities then? We need to talk about the technicalities in terms of certain sectors was certainly these are not covered specific to services. Then purchasing specification prepared actually by government bodies for production or consumption a requirement of government bodies and also SPS agreement. In the next class and next lecture, we will be discussing SPS agreement and these are technical design or refer to those segment.

Now, technical aspects is are actually relating to relating to national or international legislations or specific to the international standards. So, these are actually set for quality the

standard set for quality products, various protocols for application, security scrutiny and approval processes etcetera.

Over the past 20 years it has developed a three-pronged approach to its work three-pronged specifically or in three aspects are notification related, then trade cooperation related and third one is trade concerns. So, notification, concerns and trade cooperation three aspects have been emphasized.

Now, it has been discussed that TBT agreement you know distinguishes three categories of measures broadly. Those are technical regulations, technical standards and conformity of assessment. We also discuss in a short while conformity assessment are actually going to be very or have been very useful for the developing countries we will discuss in another slides.

So, these agreements clearly distinguish TBT agreements clearly distinguishes technical regulations, standard related regulations or standards or complementary assessment, we will verify this.

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SPS	TBT (Technical regulation)	TBT (Standard)	TBT (Conformity assessment procedures)
<ul style="list-style-type: none"> • human or animal life from risks arising from additives, contaminants, toxins or disease-causing organisms in their food, beverages, feedstuffs? • human life from plant- or animal-carried diseases (zoonoses)? • animal or plant life from pests, diseases, or disease-causing organisms? • a country from damage caused by the entry, establishment or spread of pests? 	<p>a document that lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory?</p>	<p>a document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory?</p>	<p>any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled?</p>

Source: WTO report on TBTs

Now, so far as this chart is concerned we have simply a recent just now say technical regulations standards then conformity assessment. There are three important aspects on the right panels which documents in the area by which these are applied. We will discuss SPS in detail in the next class when we will talk about SPS sanitary and phytosanitary measures.

So, in technical regulation let me read out a document that lays down product characteristics or their related processes and production methods, including the application applicable administrative provisions which compliance is mandatory. So, I mean related to basically products, methods, procedures and the administrative provisions related to this and its compliance is mandatory.

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Technical regulations	Standards	Conformity assessment procedures
Technical regulations lay down product characteristics or their related processes and production methods. Compliance is mandatory. They may also deal with terminology, symbols, packaging, marking and labelling requirements.	Standards are approved by a recognized body which is responsible for establishing rules, guidelines or characteristics for products or related processes and production methods. Compliance is not mandatory. They may also deal with terminology, symbols, packaging, marking and labelling requirements.	Conformity assessment procedures are used to determine that relevant requirements in technical regulations or standards are fulfilled. They include procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; and registration, accreditation and approval.

Source: WTO report on TBTs

Whereas, the TBT let me you know clarify here all those three. So, what I said just now is very very important; very very important because of the fact that we need to countdown the technical lay down related to production methods processes. And, the compliance related to the administrative procedures are very very important. These complaints might be on terminology, symbols, packaging, marking, labelling requirements it is a very clearly identified.

So far as standards are concerned, you know some of these standards are set in one country may not be standard similar to another country. So, it is the WTO you know agreements which make the standards harmonized or sometimes standard say it is uniformed standards are approved by recognized body as I just say which is responsible for establishing rules related

standards, guidelines, characteristics for products and related processes and production methods.

So, here are the compliance is not mandatory compliance may not be mandatory, but in the previous one compliance is mandatory, it is very clearly written. So, they may also deal with terminology, symbols, packaging, marking, labeling requirements etcetera, but relating to the standard the member countries are not mandatorily following. So, therefore, some developing countries may take the advantage on it.

So far as conformity assessment is concerned and its procedures are concerned these are used to determine a relevant requirements in technical regulations or standards. They include procedures for sampling, testing, inspection, evaluation, verification, assurance of conformity registration, accreditation, approval.

These are largely actually lacking in developing countries. So, therefore, the conformity assessment procedures you know is specifically targeted or actually you know given certain average to the developing countries.

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The slide is titled "Objectives" and contains a bulleted list of five points. At the bottom left, there are logos for "swayam" and "MOE". At the bottom right, the number "11" is displayed.

- Protection of human, animal or plant life or health, of the environment
- Improve efficiency of production, facilitate international trade, develop and encourage international standards and conformity assessment systems
- Minimize obstacles to international trade with respect to technical regulations and standards
- Prevent discrimination between countries, respecting countries for taking measure for protection of its essential security interest
- International standardization that can make transfer of technology from developed to developing countries, assisting developing countries by developed countries in achieving technical regulations.

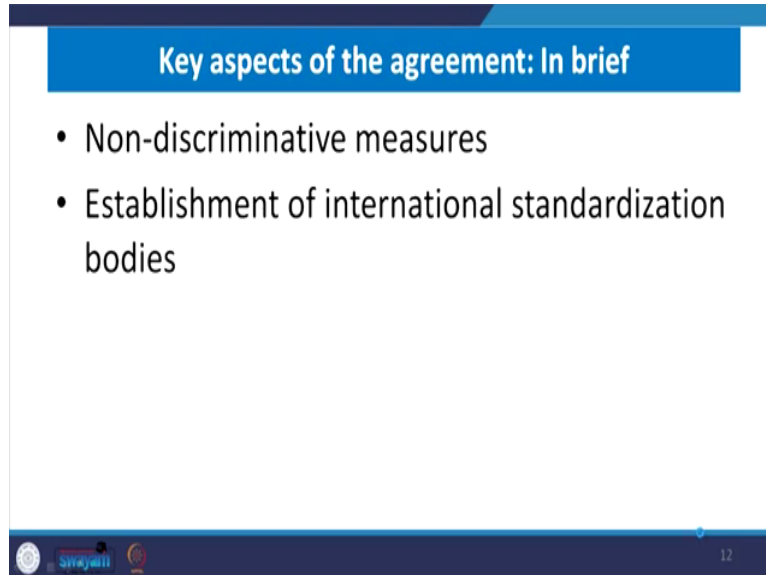
Now, let us come to the objective of the TBTs. the objectives are the following mainly it protect you know human, animal or plant life of or health or the environment. The object is to improve also inefficiency of production, facilitate international trade, encourage international standards or conformity assessment systems. So, assessment system must be you know must be confirmed with the required qualitative or infrastructure.

So, it minimizes objective is to minimize of shackles to international trade with respect to technical regulation on standards. So far as prevent I mean so far as the another objective is concerned it prevents discrimination between countries or among the countries respecting countries for their measure for protecting is essential security interest.

And, last one which is very important relating to the TBTs and it is objective is to have international standardization which can make transfer of technology from developed to

developing countries assisting developing countries by developed countries in achieving technical regulations.

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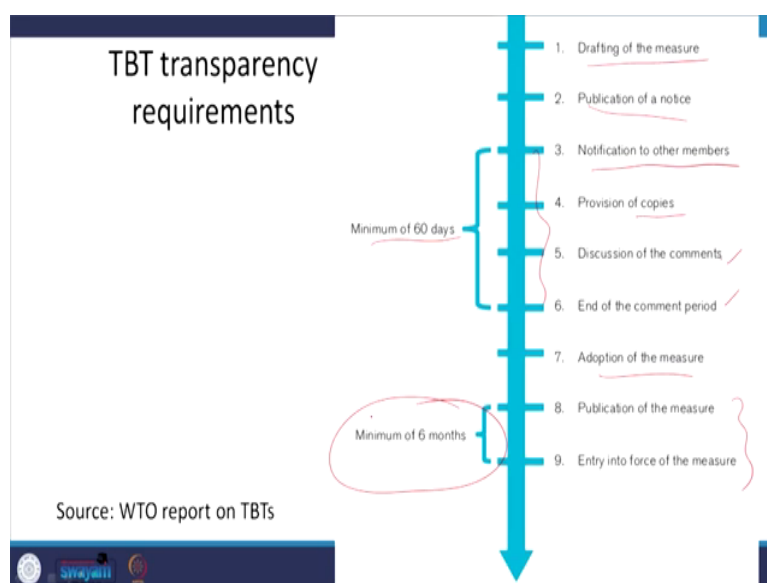


The slide features a blue header with the text "Key aspects of the agreement: In brief". Below the header, there is a bulleted list with two items: "Non-discriminative measures" and "Establishment of international standardization bodies". At the bottom of the slide, there is a dark blue footer containing logos for Swajathi and a small globe icon, along with the number "12" on the right side.

So, there are certain key aspects of the agreements. These are discussed here in brief some key aspects like non discriminative measures you know it has an international standard bodies through I mean standard bodies are the usually the member countries are the member countries and it avoidance of unnecessary trade barriers therefore, this is very important.

And, setting international standards for the standard of the labels or maybe procedures, some standard codings are very important for international transaction. Last, but not the least aspect of agreement is on transparency whatever the standard we set it must be transparent enough in WTO discussions.

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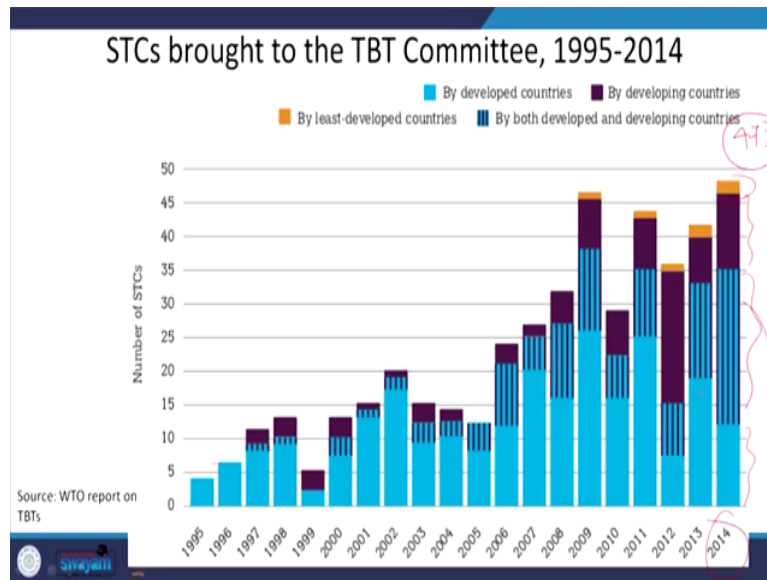
So, relating to the transparency a requirement we refer to the WTO report and TBTs. So, there are here it is a it follows like this there are nine procedures to be followed. First one is drafting of the measure, the measure which is in taking that has to be properly drafted. Publication of a notice should be given; notification to other member countries other member countries should also be given if we are have any you know measure to be taken.

Provision of copies to be given; discussion of the comments; end of the comment period these three these four requires minimum of 60 days time. So, now, we can understand how much what the how the procedure consumes time.

Adoption of those measures; then publication of the measures and entry into the entry into the force of the or effectiveness of this project again requires minimum of 6 months. So, 6 plus 2

months 8 months minimum mandatory requirement is required to make it more transparent. So, these are the procedures followed in WTO agreement specially on TBTs.

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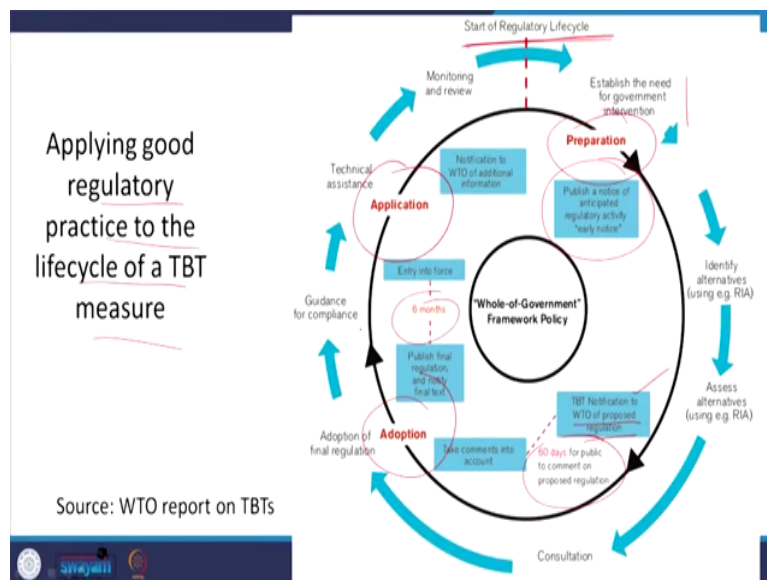
So far as you know a STC is are concerned, specific technical know concerns are concerned a specific. We have already noted down 473 STCs are identified in different agreements.

Now, look at the latest trauma in this 20 years time, 2014. Here the developing countries personal highlighted by this is by both developed and developing countries and this is purely by developed countries and this is highlighted by least developed countries.

Now, there are you know the STCs also jointly formed by developed and developing country this is captures huge percentage. So, far as number of STCs are concerned in 2014 only 45 plus nearly 50 STCs are noted.

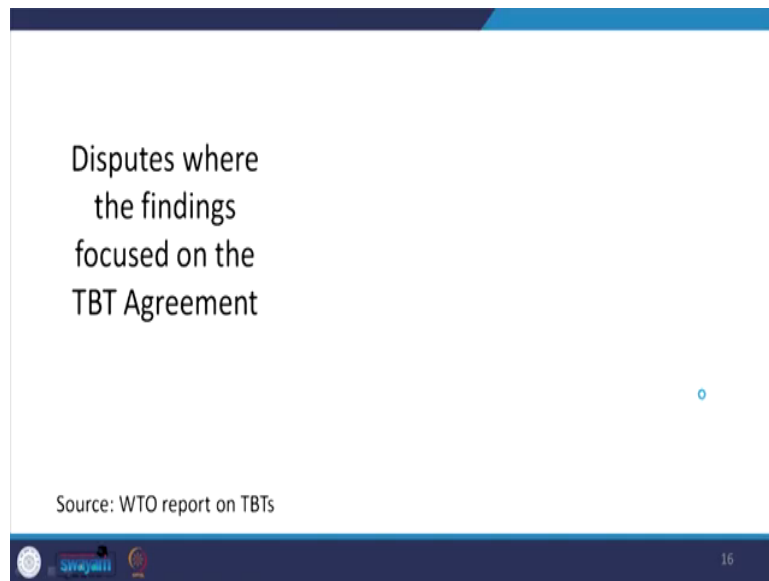
In total 473 in a 100 in the last 20 years that I already mentioned in our previous slides. So, this is around roughly around 4 this is if I add all those it is it will be around 473 all right.

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So, now understanding the regulatory practice lifecycle of TBT measure.

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We should actually stick to stick to this particular diagram. This diagram where we have been emphasizing I mean emphasizing I will simplify let me understand this ok.

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What support is available for developing countries?

- One significant challenge that many developing countries face is in the area of conformity assessment.

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We have this slide to or discuss in detail so, accordingly I will emphasize here. Now, what I have tried to you know understand the regulatory practice to the lifecycle of TBT measure we have already seen that 8 months is required to make it more transparent.

Now, I start with here start of regulatory lifecycle in that TBTs agreements. There is there are preparation to be made, then adoption, then application out of all those time period preparation adoption and life cycle.

But, in between for preparation establish the need of the government intervention, identify alternatives, then assesses the alternatives, then consultation and different you know bodies consultation with the member countries adoption, then guidance and complaints to it and

technical assistance or last, but not the least to understand this is through the monitoring and review of the implementations.

So, how it takes from preparation publish and notice anticipated regulatory activity or give the early notice, then TBT notification to WTO of proposed regulation I mean WTO notifications. These requires I mean to get comments or account 60 days for public to comment on proposed regulations.

So, 60 days is propose to get the comments. Then after that 60 days it has to be followed for another procedure to get it published or to get the you know regulation related the concerned discussion or notification at least or to get it effective through different rounds or negotiations or through or of it for it is proper complaints and it requires 6 months time, we have already discussed. So, this is all about the regulatory lifestyle life cycle which is very very important for TBTs.

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Disputes where the findings focused on the TBT Agreement

Source: WTO report on TBTs

Title of dispute	Complainant	Request for consultation	Dispute number
US – Clove Cigarettes United States – Measures Affecting the Production and Sale of Clove Cigarettes	Indonesia	7 April 2010	DS406
EC – Seals Products* European Communities – Measures Prohibiting the Importation and Marketing of Seal Products <small>* Under appeal at time of writing.</small>	Canada and Norway	2 November 2009 (Canada) and 5 November 2009 (Norway)	DS400 (Canada) and DS401 (Norway)
US – COOL United States – Certain Country of Origin Labelling (Cool) Requirements	Mexico and Canada	17 December 2008 and 1 December 2008	DS386 and DS384
US – Tuna II United States – Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products	Mexico	24 October 2008	DS381
EC – Sardines European Communities – Trade Description of Sardines	Peru	20 March 2001	DS231

So far as some of the you know compliance sorry complaints and negotiation or disputes are concerned first one is related to clove cigarettes by Indonesia which used to be exported to exported to I mean you I mean basically exported to a US.

Now, United States measures affect basically this is on United States measures affecting the production and sales of clove cigarettes. Now, the complainant is here Indonesia. The Indonesia complained that complained on this matter specifically on US clove cigarettes. There are certain you know problems related to production and sales of clove cigarettes. So, requests for consultation was made on a 7th April, 2010 and so, and it has a dispute number DS406.

And similarly, Canada is another complainant on seals product European communities measures prohibiting the imp importation and marketing of seals product. So, this one 2009.

Similarly, US COOL raised by complaint by Mexico it is US clove cigarette not Indonesian one. So, Indonesia was the importer for it and raise the complaint and here US COOL raised by complaint raised by Mexico and Canada jointly.

So, and another one is on tuna fish of specially related to you know marketing sales restrictions. Another one sardines fish by you know I mean European communities trade description of sardines were attached.

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What support is available for developing countries?

- One significant challenge that many developing countries face is in the area of conformity assessment.
- Agreements helps in access to conformity assessment infrastructure (sometimes referred to as "quality infrastructure")
- This is in terms of both its regulatory and physical dimensions.
- This includes, for example, access to bodies (whether national or regional) that have competence in the area of metrology, testing, certification, and accreditation which may be recognized internationally.
- A lack of appropriate infrastructure can harm trade competitiveness as firms located in developing country members, in particular SMEs, may face substantial difficulties in demonstrating compliance with requirements in export markets, whether developed or developing.
- given capacity constraints, a country could find itself implementing a very trade-restrictive policy (compared to countries with more resources) simply because it is the only feasible way of addressing a risk.

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Now, these are some of the cases and complaints I am presenting before you and we are referring to the document of WTO on TBTs. Last you know discussion in this particular lecture is very important and how it is important for developing countries. So, we will certainly emphasize here one by one once again.

One significant challenge that developing countries have you know have been facing or in the area of actually quality infrastructure you know quality infrastructure is specifically on confirmatory assessment which we said how to assess the quality of the product do we have the sample testing procedures correctly in the developing countries.

So, let me mention it here agreements helps in assessing the conformity assessment infrastructure. Sometimes these refers to quality infrastructure as well. And, this is in fact, in terms of both is regulatory and physical dimension. So, the for developing countries it is useful because this will help in regulatory as well as you know for it is physical you know aspects.

And, so, for example, I mean looking at I mean assess to bodies that those are national or regional that have competence in the areas of metrology, testing, certification, accreditation which may be recognized internationally. So, the product in all those categories certification how which could be recognized internationally are actually getting a great help for the developing countries due to these you know agreements specifically on developing countries.

The lack of appropriate infrastructure that can harm trade competitiveness as firm located in developing countries members, specially this is essential for SMEs because largely these are these are on accounted in developing countries. And, these sector may face substantial difficulties in demonstrating compliance with requirements related to export markets whether developed or developing countries, but for specifically for SMEs it is very essential.

And, given this you know a capacity constraints a country could find itself implementing a very trade restrictive policy compared to countries with more resources so, simply because it is a only feasible way of addressing.

I mean basically what it says since the developing countries are lacking all those standards all those confirmatory or conformity assessment related aspects or quality checks aspect or quality infrastructure are missing, these developing country has are privilege of restricting a product or on these particular channels.

So, therefore, the developing countries have been you know getting benefit in rising you know restrictions through this particular channel called confirmatory assessment. So, this helped greatly to the developing countries largely.

Now, now what I wanted to say in another one minute discussion so, here we lastly talked about what is a TBT; what are the technical assess attached TBT; how much procedures is takes to get a one you know notifications accepted and compliant by another countries at least 8 months which I have already said; what are the procedures followed by discussed.

Then, broadly it accounts for three aspects standardization is there technical you know you know details must have been clarified and then standardization, then assessment confirmatory assessment must have been discussed. And, out of all those cases we have seen in you know any in the early period developing countries could not able to you know raise those concerns, but now 80 percent concerns are from developing countries so far as, the 2014 you know document is concerned.

So, with these we have discussed so, many aspects of TBTs we will you know expect or some of the questions from the session and the so, the next class will be purely on you know sanitary and phytosanitary measures. With these I think I should stop here.

Thank you.