

increasingly circumscribed. We have designed an international institution which can regulate these issues, rather than serve more passively as a transformer that merely explains and absorbs the differences between trading partners.

As examples, let us look at two WTO agreements on non-tariff barriers: "technical barriers to trade" and "sanitary and phytosanitary measures," or SPS. In dealing with matters traditionally within the zone of domestic regulation, both agreements seek to strike a careful and appropriate balance between the right of every government to regulate in the name of safety, health, consumer protection, and the environment, on the one hand, and on the other hand the need to ensure that such regulation does not become an unnecessary obstacle to trade. The technical barriers agreement sets out specific rights and obligations regarding such government technical regulations and industry standards as labelling and packaging, terminology and symbols, and regarding testing, inspection and approval procedures. The SPS agreement deals specifically with measures to protect human, animal and plant life and health, for example, regarding pesticide residues in food, plant and animal diseases, food additives and toxins.

The agreements make clear that governments remain free to pursue legitimate regulatory objectives, such as consumer safety and health protection. Every government may establish the levels of protection that it considers appropriate. In other words, nothing in either the North American Free Trade Agreement [NAFTA] or the World Trade Organization Agreement constrains a government from determining the degree of tolerance or protection it wishes.

The technical barriers agreement says, in effect, that technical regulations must not discriminate between foreign and domestic products, and must not create unnecessary obstacles to trade. Special rules ensure that, where testing and approval procedures, or "risk assessments," are required, they are administered in a manner that treats foreign and domestic goods on an equal footing. The SPS agreement takes a somewhat different approach: governments must base their SPS measures on scientific principles and on a risk assessment. In effect, this requires a government to ensure that there is a reasonable relation between its measure and the underlying objective it is designed to meet.

Both agreements use internationally agreed standards as a benchmark, but generally allow governments to impose higher standards where the international standard is ineffective or inappropriate to meeting legitimate objectives.

In recognition of the fact that trade is made easier where domestic regulations in different countries are compatible, both agreements promote "equivalence" of standards and technical regulations. However, the notion of "mutual recognition" can be just as