

The multilateral review of TBT (and SPS measures)

Transparency and Committee work:
How does it work in practice?

“Notifications”

What is the obligation?

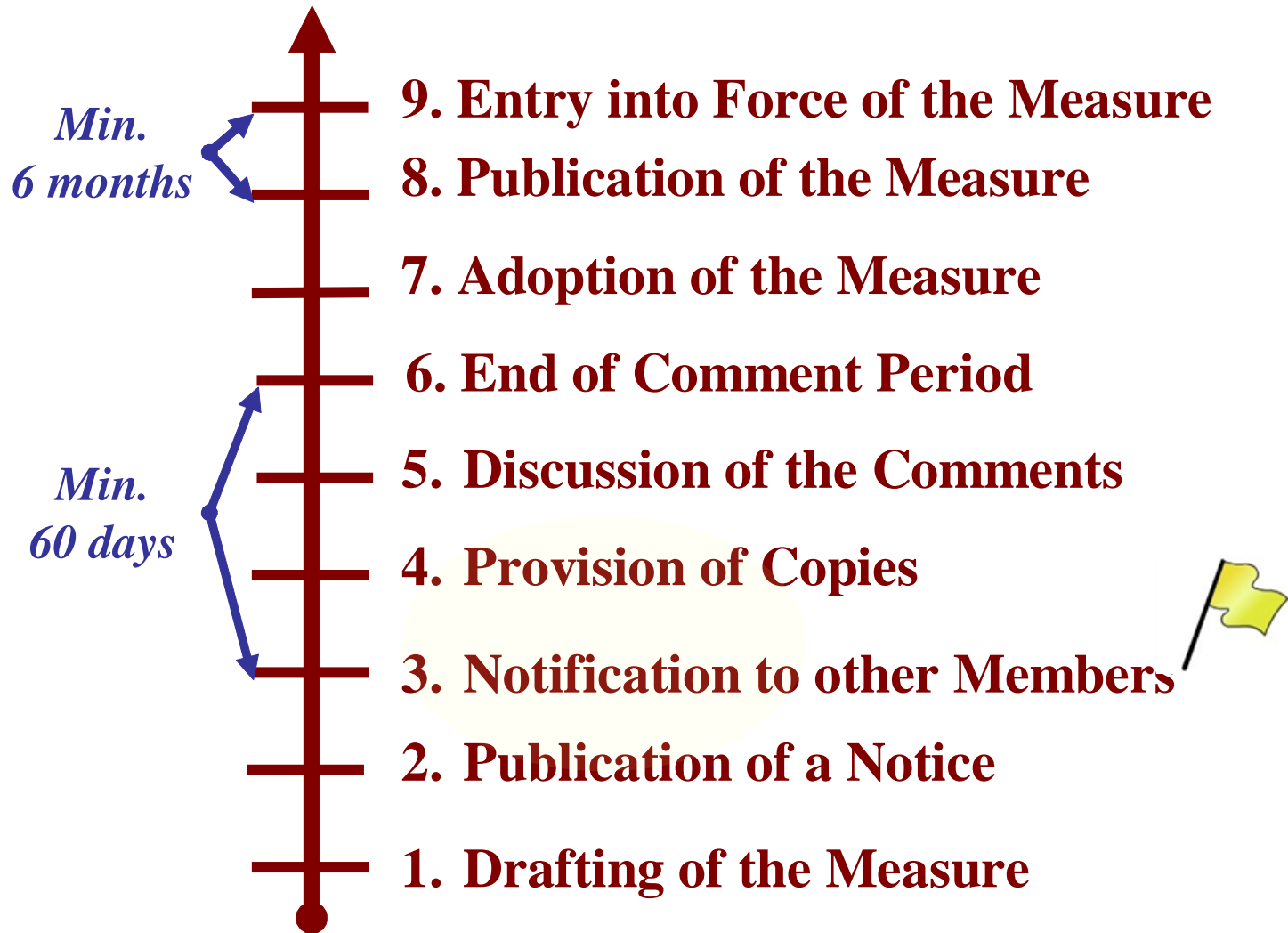
may have a “significant effect”

AND

is not based on an “international standard”

When does it kick-in?

"Regulatory life-cycle"



Note:

These are one or two-page documents ...

(... not the full text of the regulation! The full text is often referenced by hyperlink.)

Organization Framework Convention on Tobacco Control.

- 8. Relevant documents:** Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products - Commission statement (OJ L 194, 18.7.2001, p. 26-35)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:194:0026:0034:EN:PDF>

- 9. Proposed date of adoption:** 2014
Proposed date of entry into force: On the twentieth day following its publication in the Official Journal of the EU.

DIRECTIVE 2001/37/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 5 June 2001
on the approximation of the laws, regulations and administrative provisions of the Member States
concerning the manufacture, presentation and sale of tobacco products

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 95 and 133 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

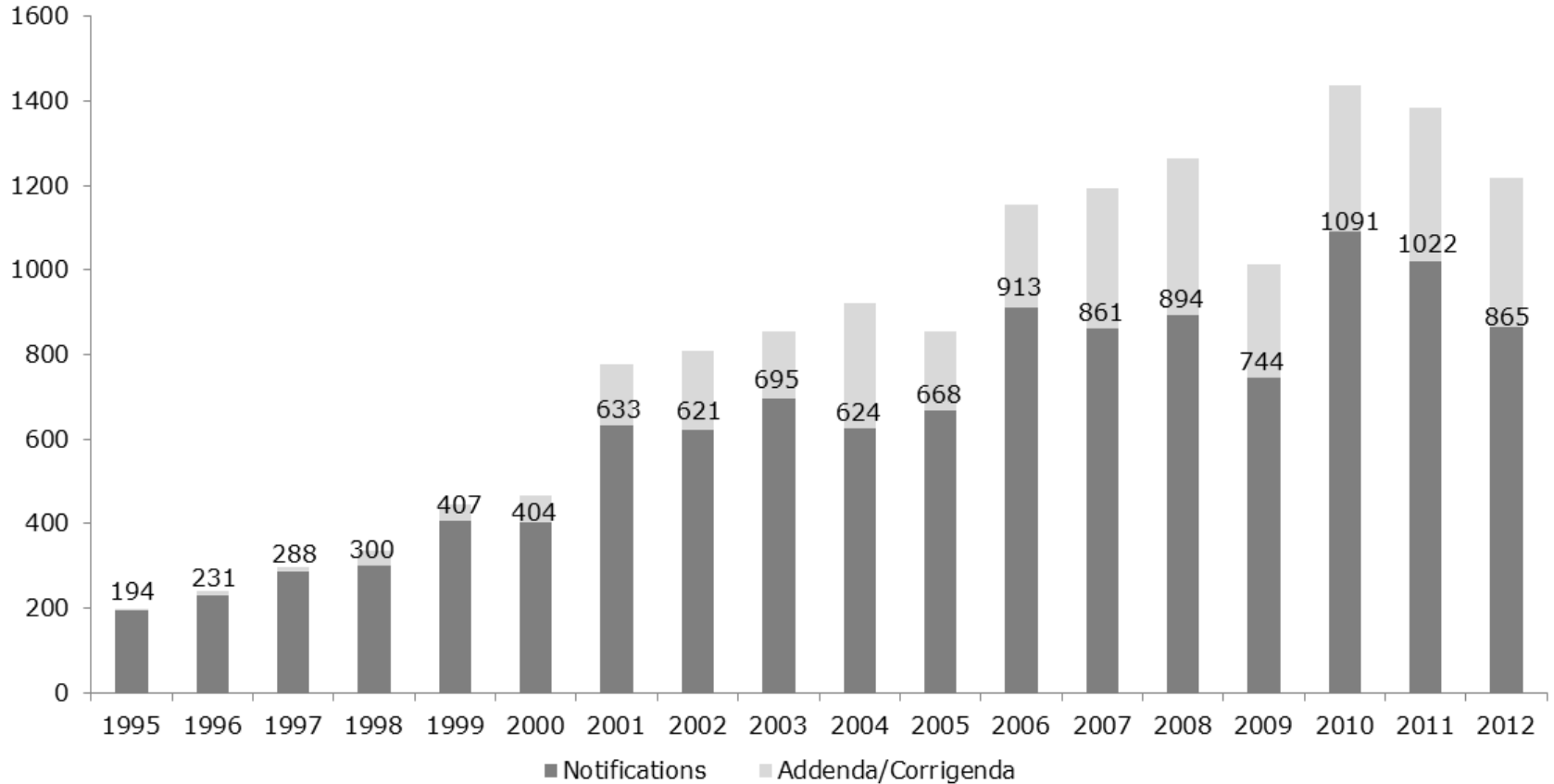
Having regard to the opinion of the Committee of the Regions ⁽³⁾,

consider necessary in order to guarantee the protection of the health of individuals.

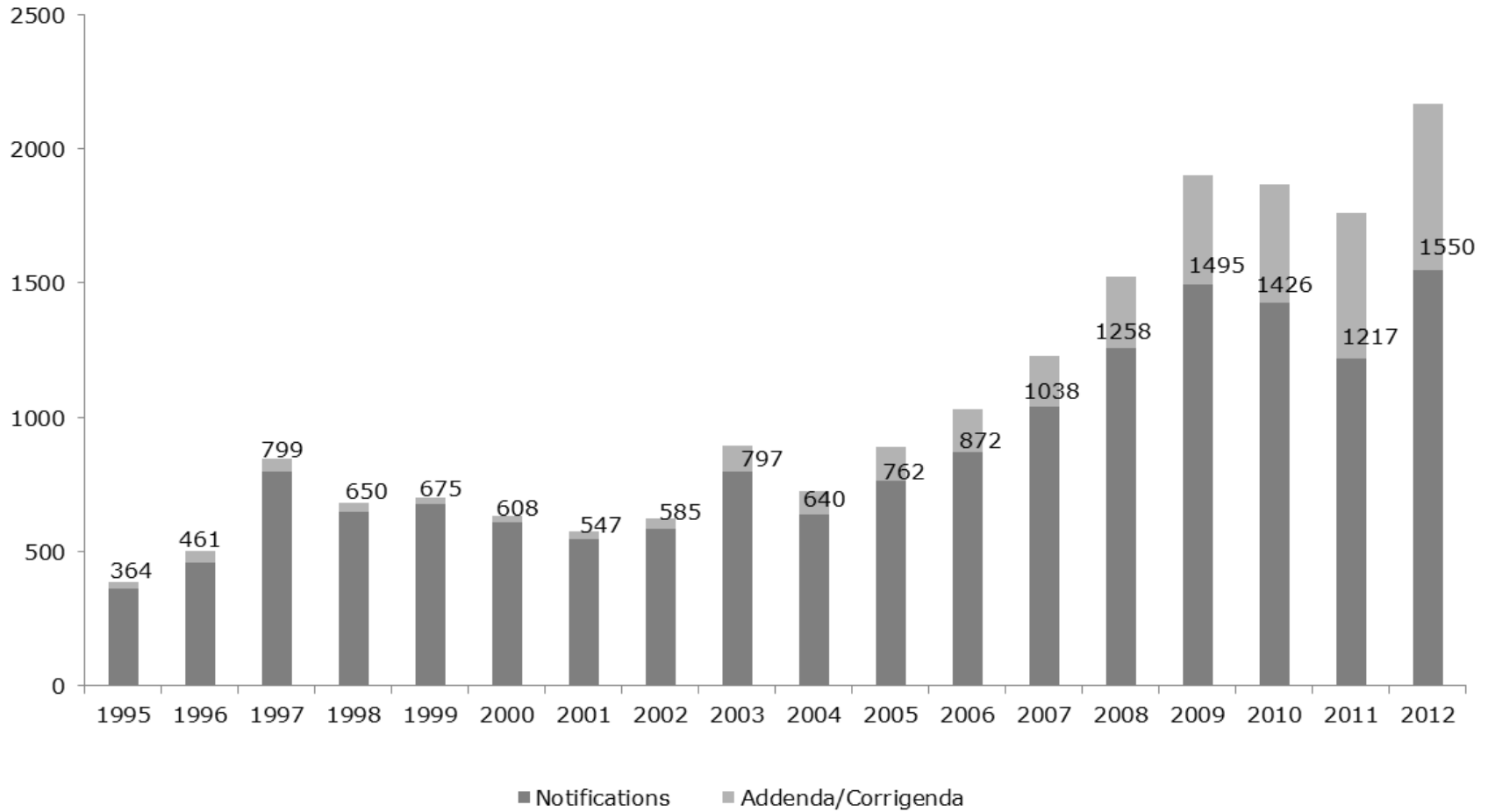
- (4) In accordance with Article 95(3) of the Treaty, a high level of protection in terms of health, safety, environmental protection and consumer protection should be taken as a basis, regard being had, in particular, to any new developments based on scientific facts; in view of the particularly harmful effects of tobacco, health protection should be given priority in this context.
- (5) Directive 90/239/EEC established maximum limits for

To what extent do Members notify?

SPS Notifications

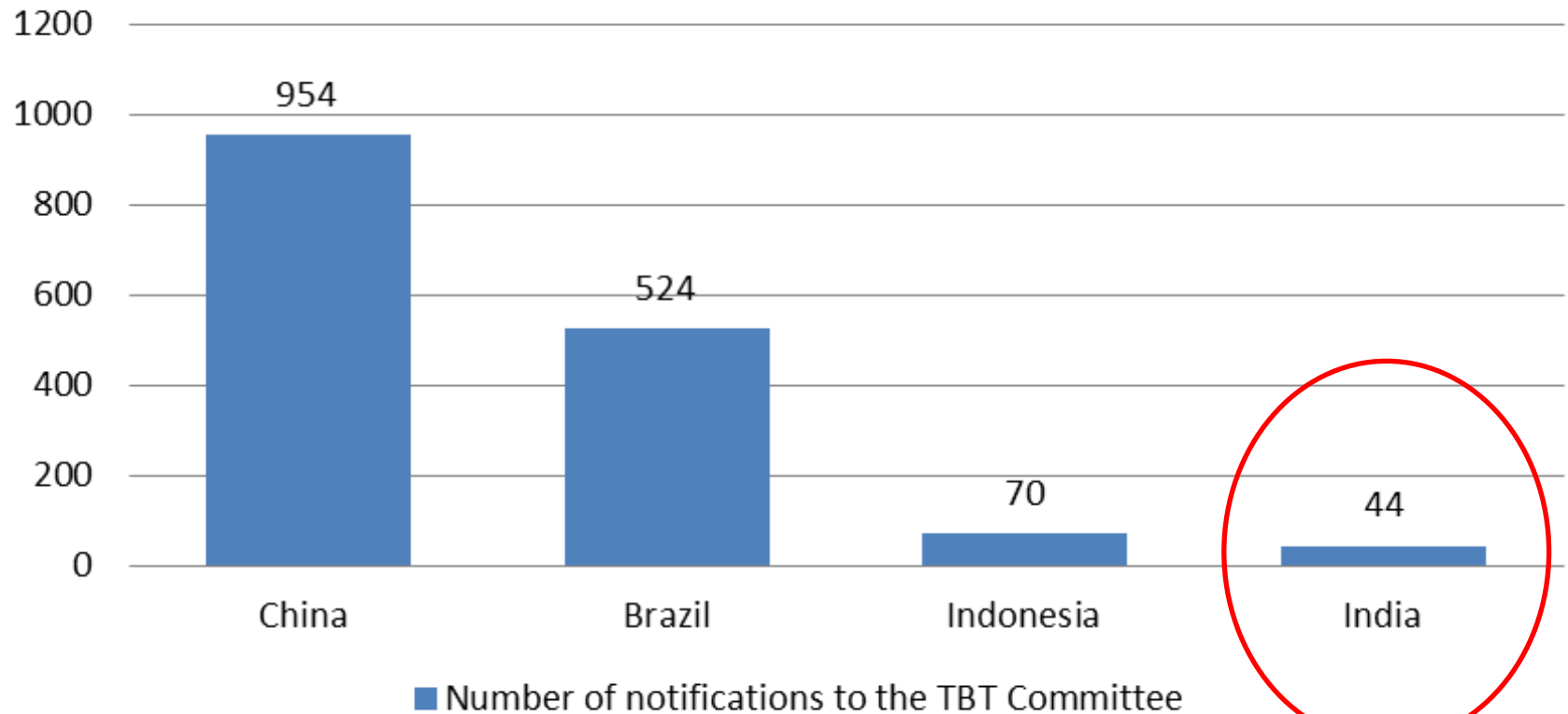


TBT Notifications



Notifications to TBT Committee

(to date, March 2013)

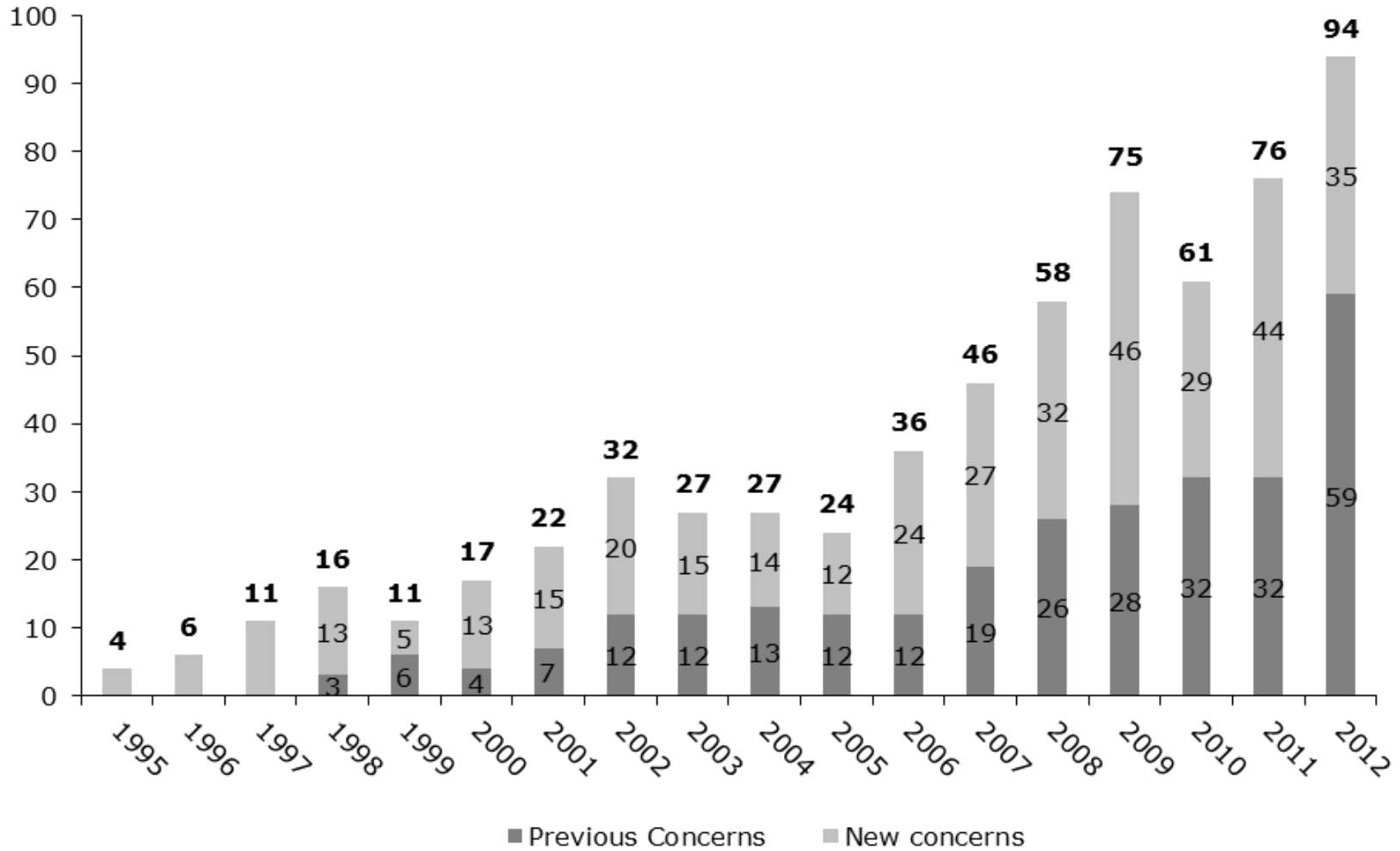


Members have gone further (than the text
of the Agreements) ...

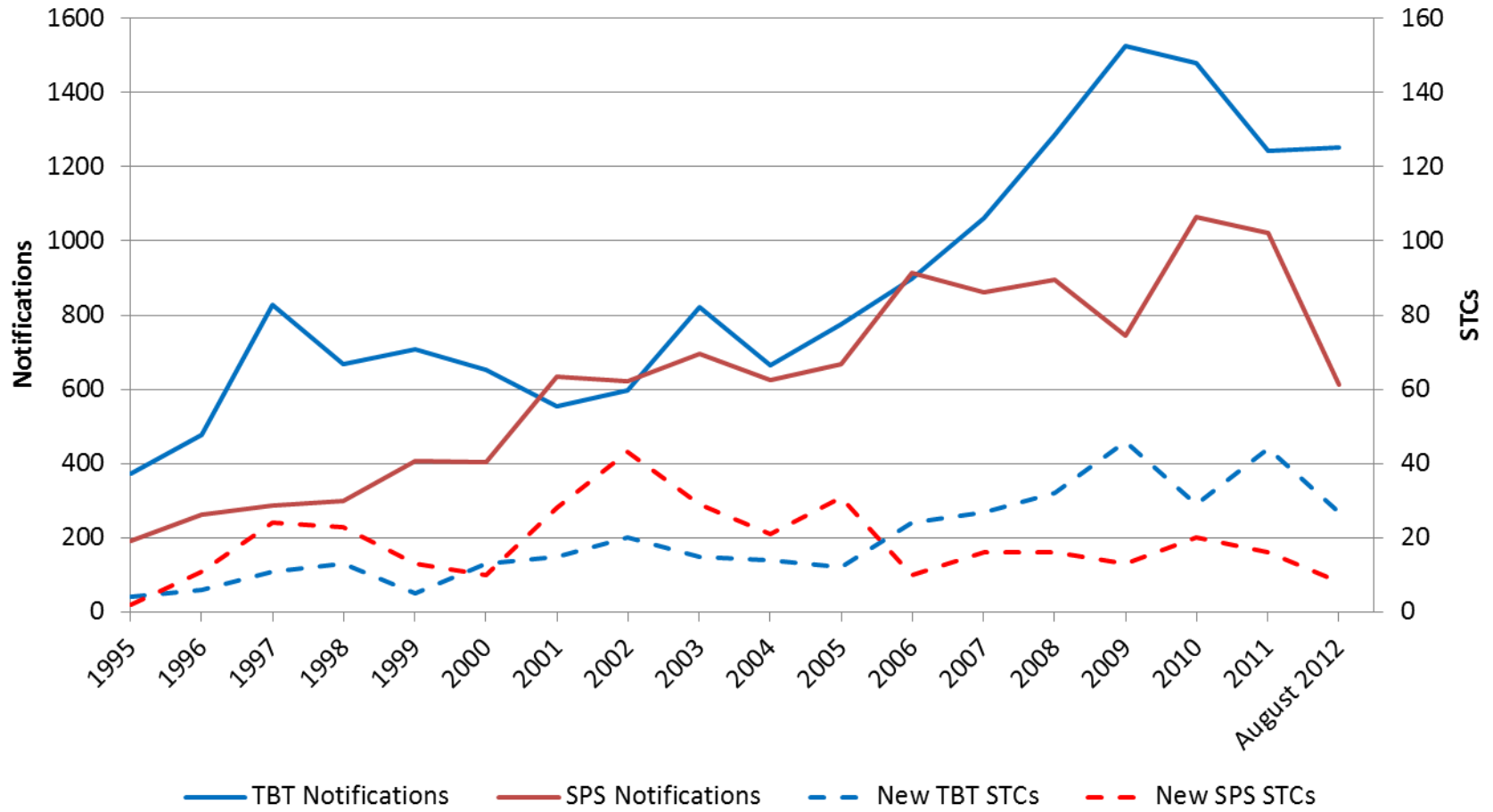
How are the notifications used?

A closer look at
“specific trade concerns”
(STCs)

TBT: specific trade concerns



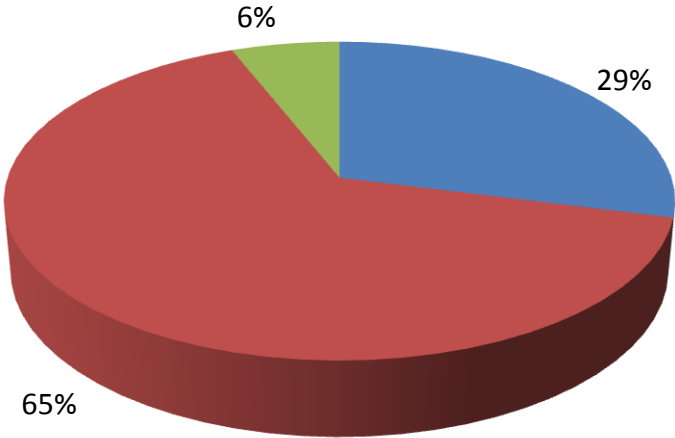
Notifications and STCs



Products?

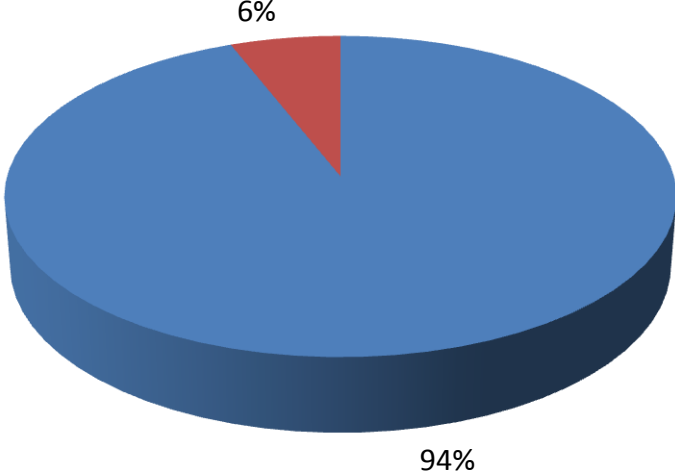
STCs by sector

TBT



- Agriculture
- Non-Agriculture
- Agriculture and Non-Agriculture

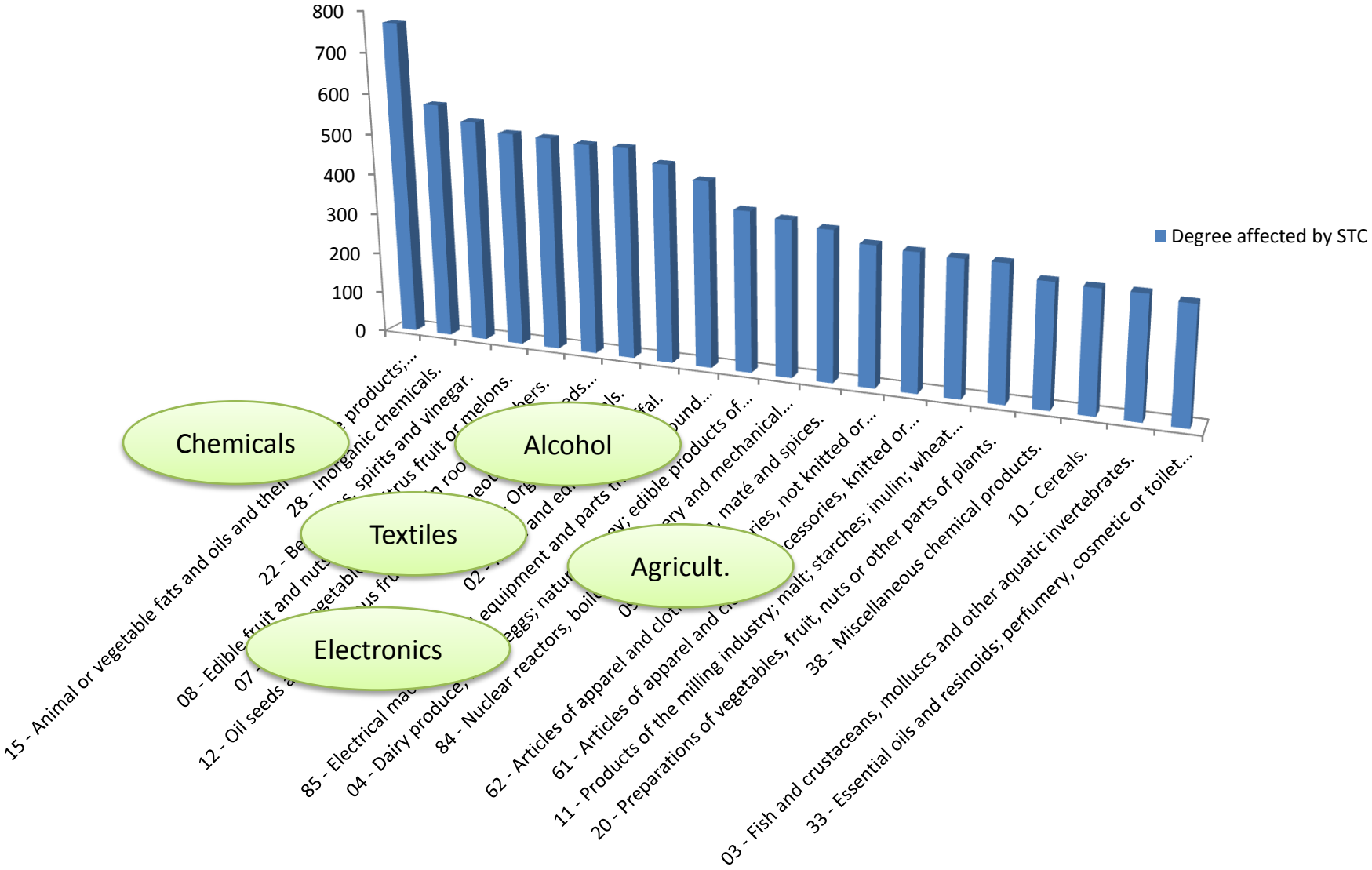
SPS



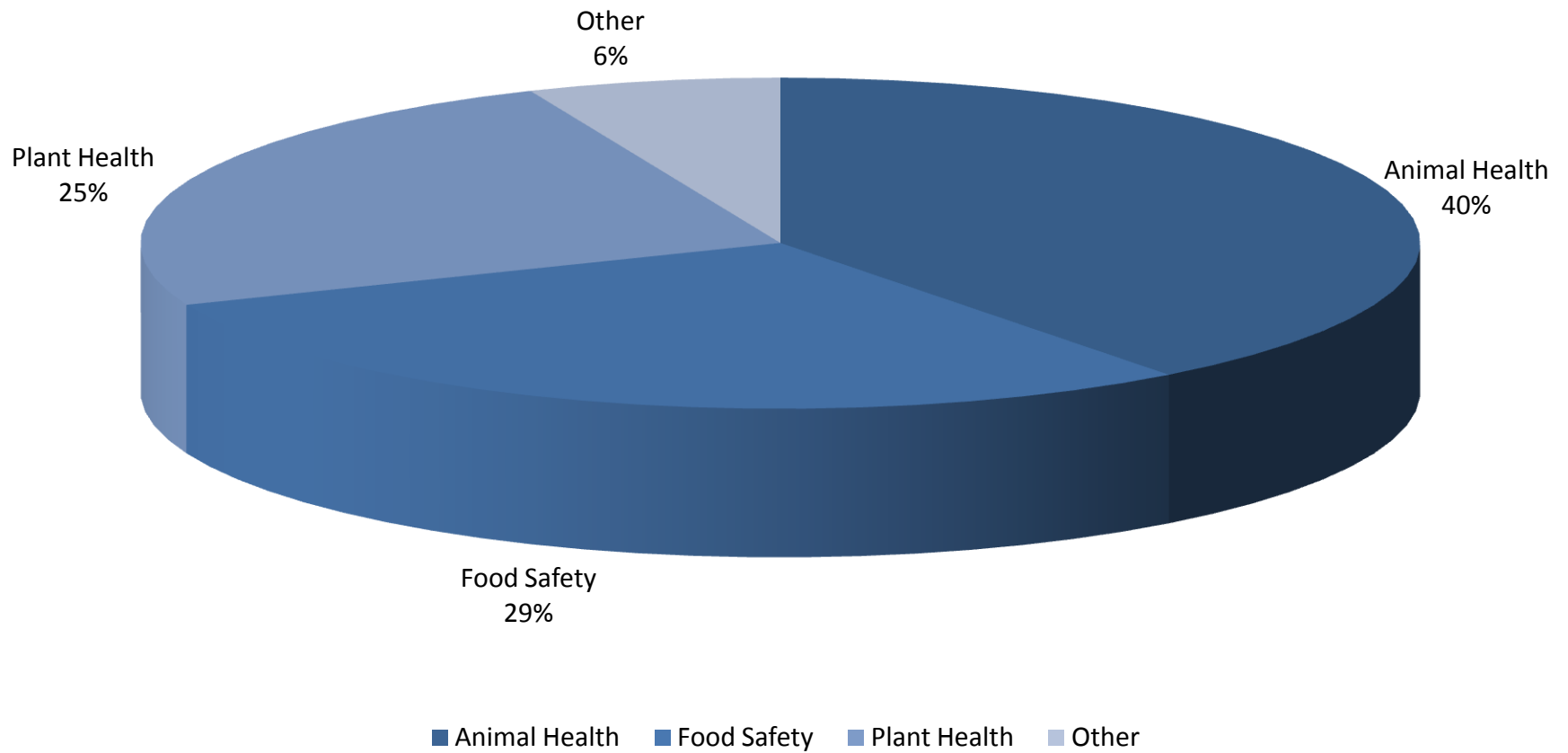
- Agriculture
- Non-Agriculture

Source: WTR 2012, Section C.2(d)

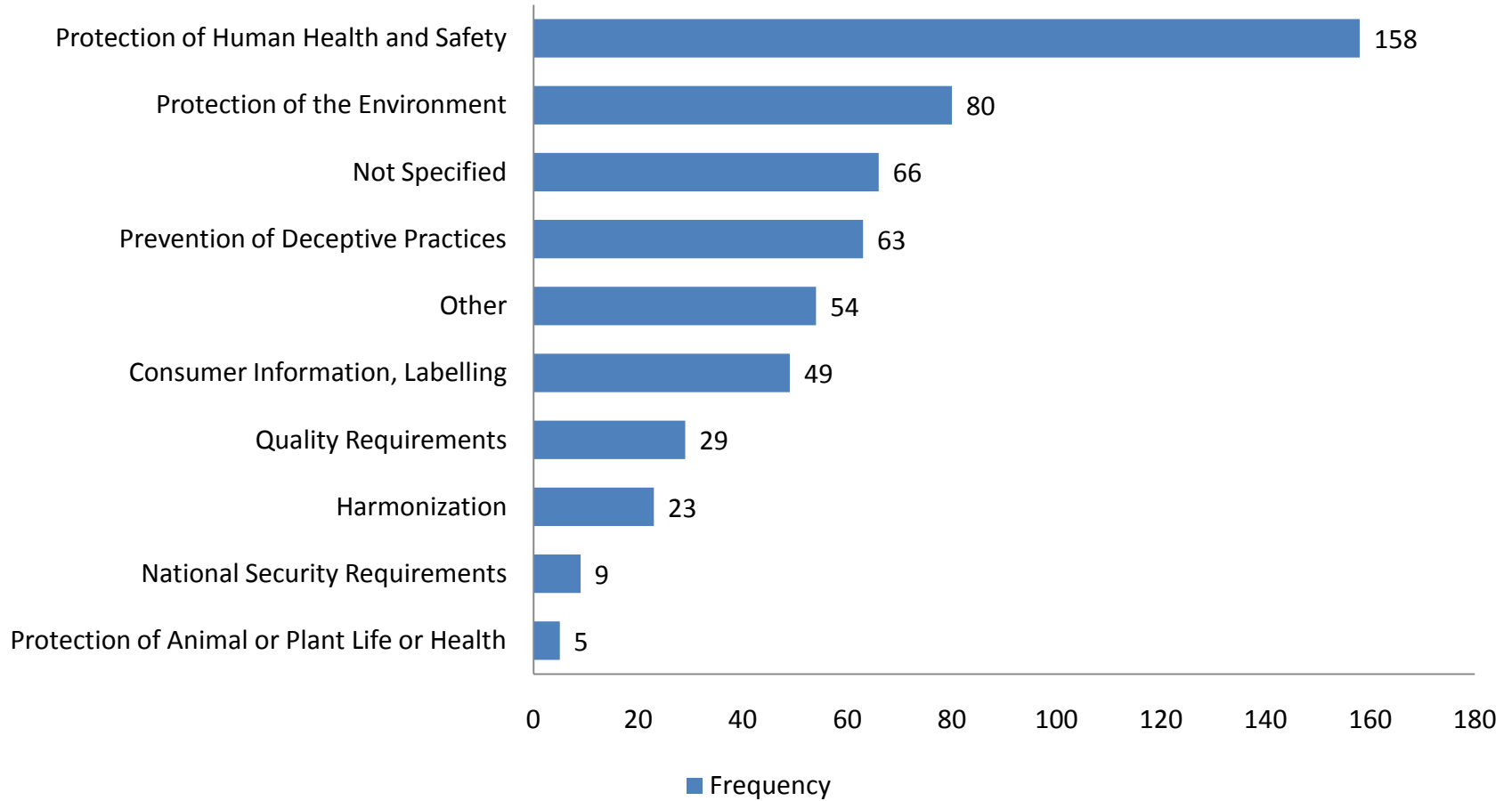
TBT: products affected by STCs (1995-2011)



SPS: Objectives of measures raised as STCs (1995-2011)

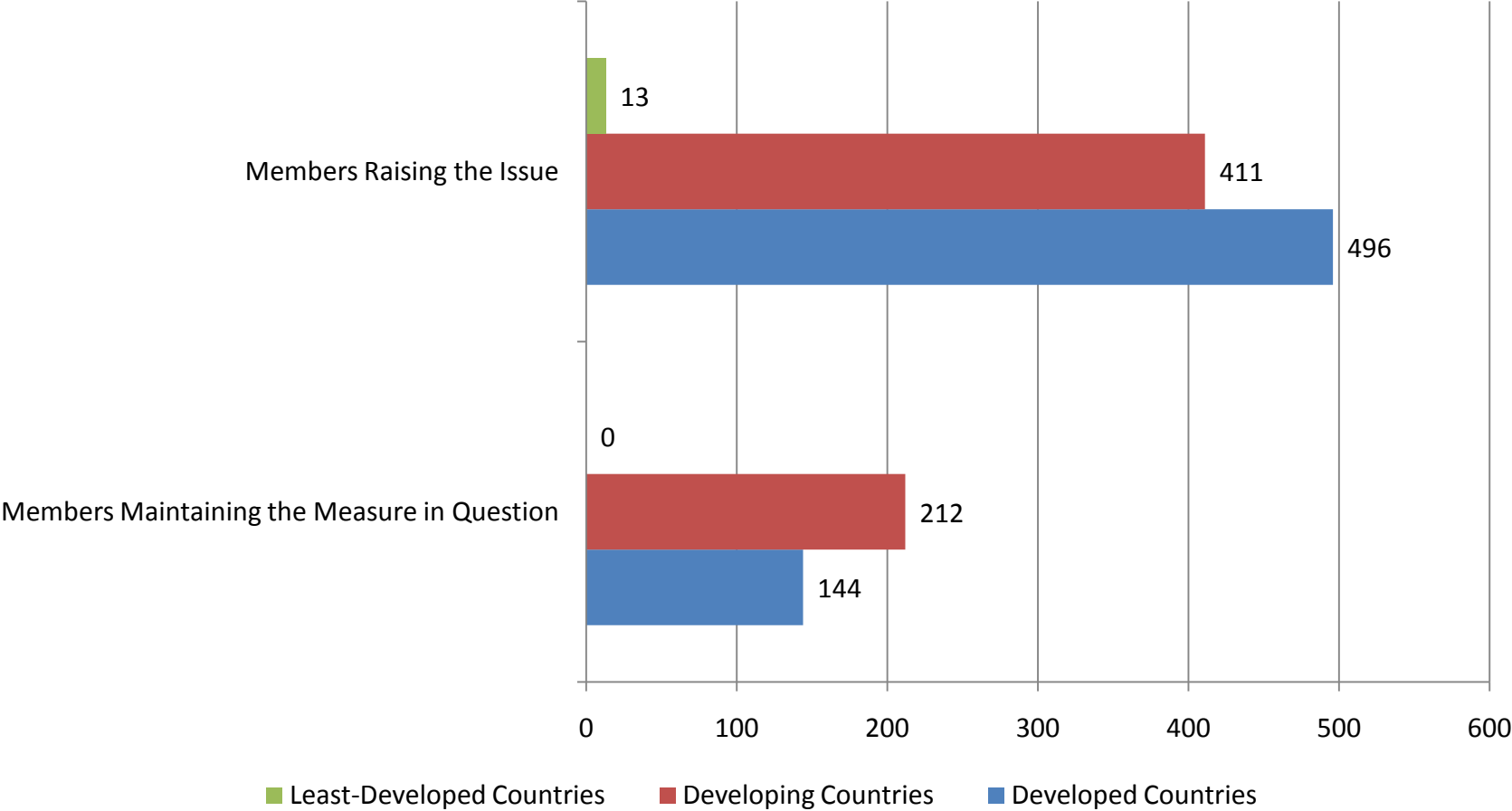


TBT: Objectives of measures raised as STCs



How about Members' engagement?

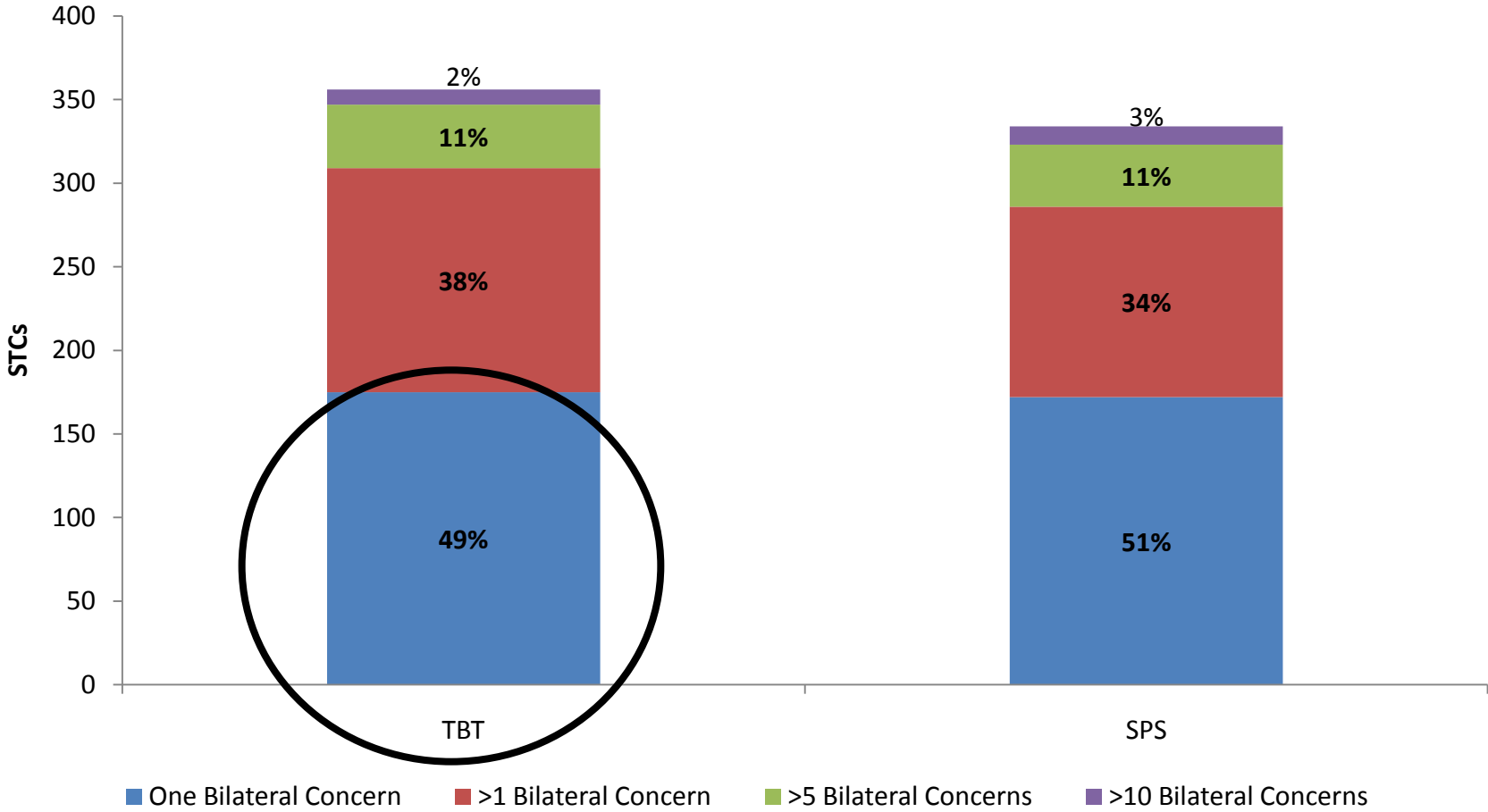
TBT: Engagement by Development Status



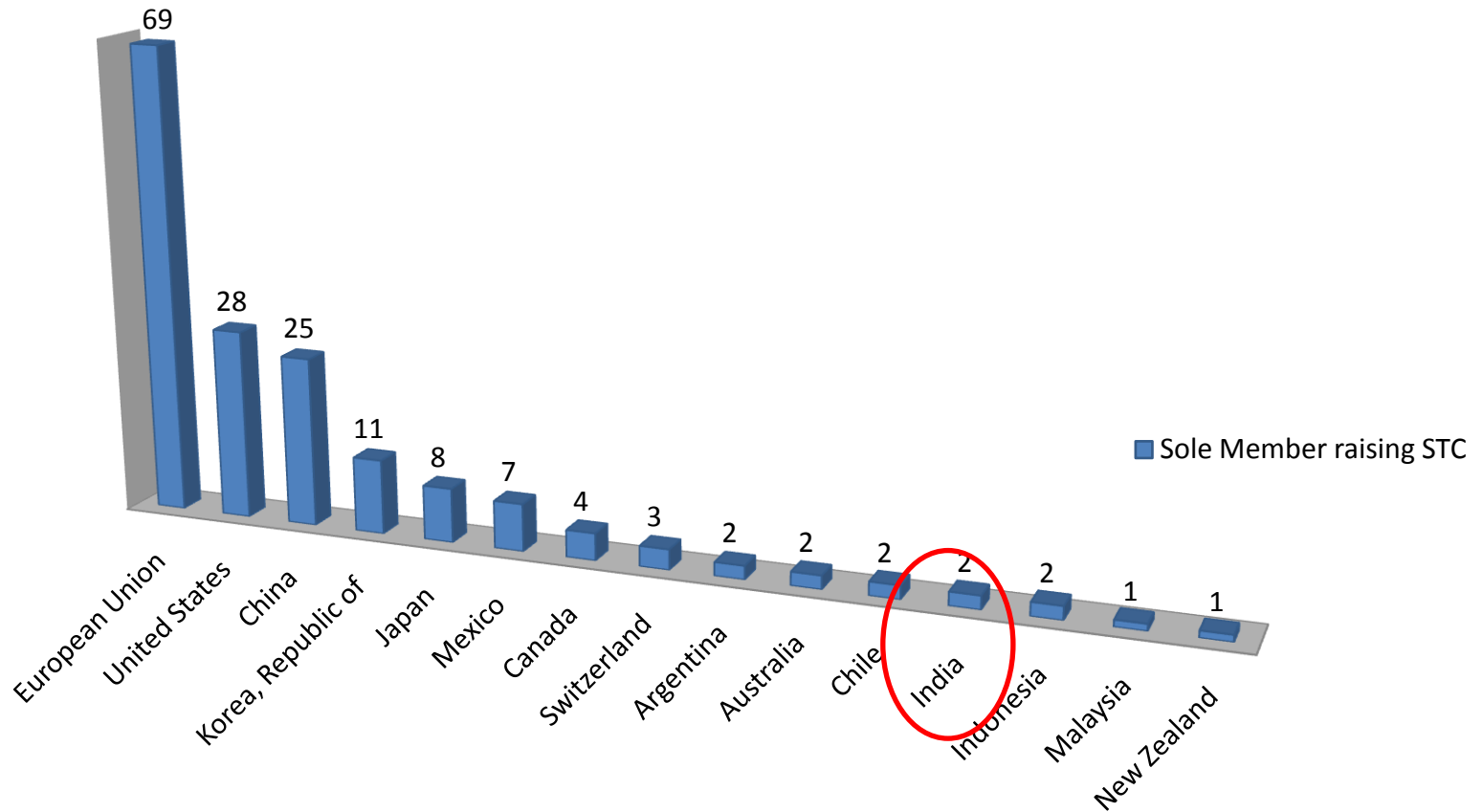
Another way to look at Members' engagement:

“bilateral concerns”

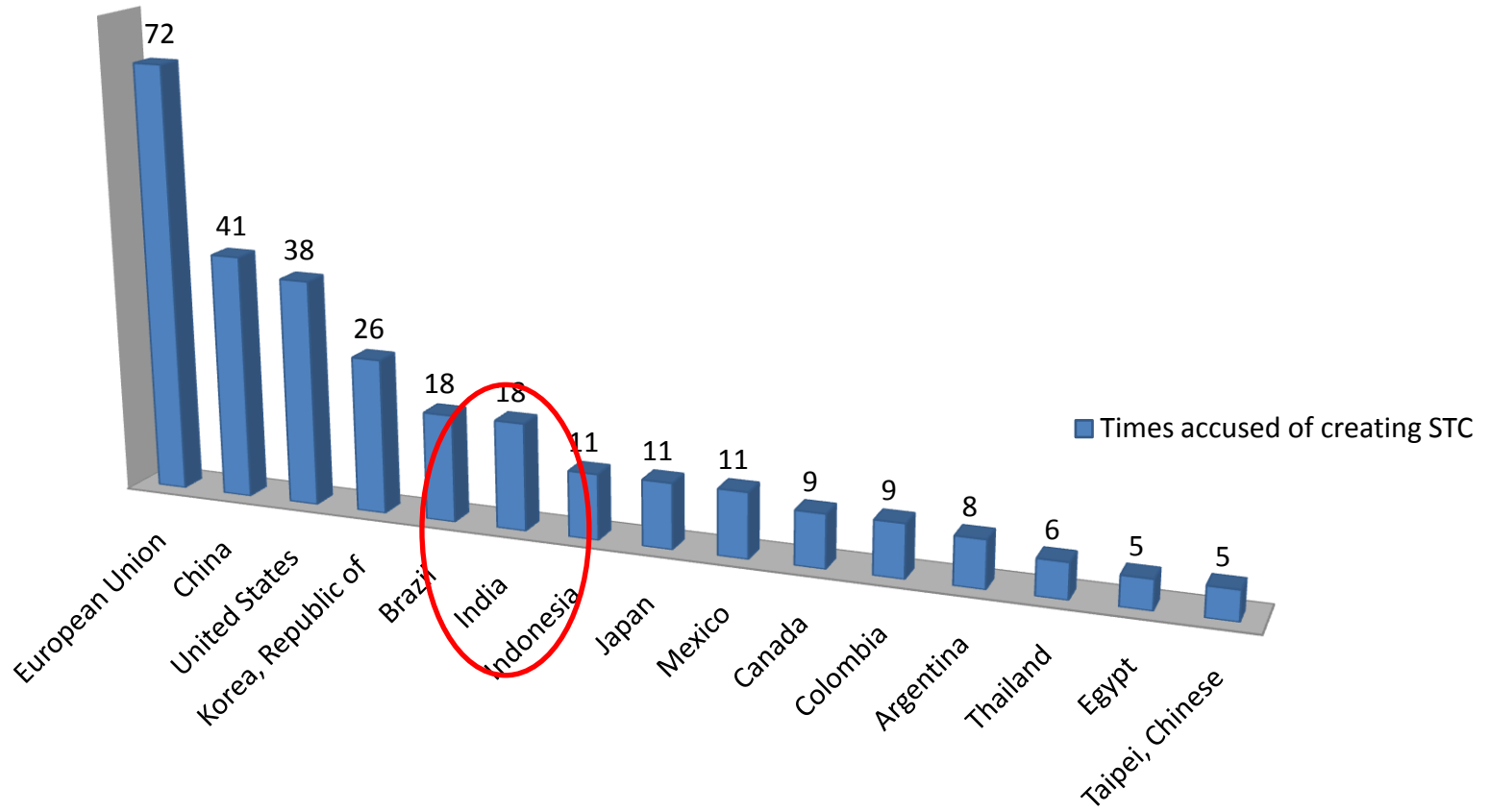
Number of “bilateral concerns” per STC



TBT “bilaterals”: Members “going it alone”

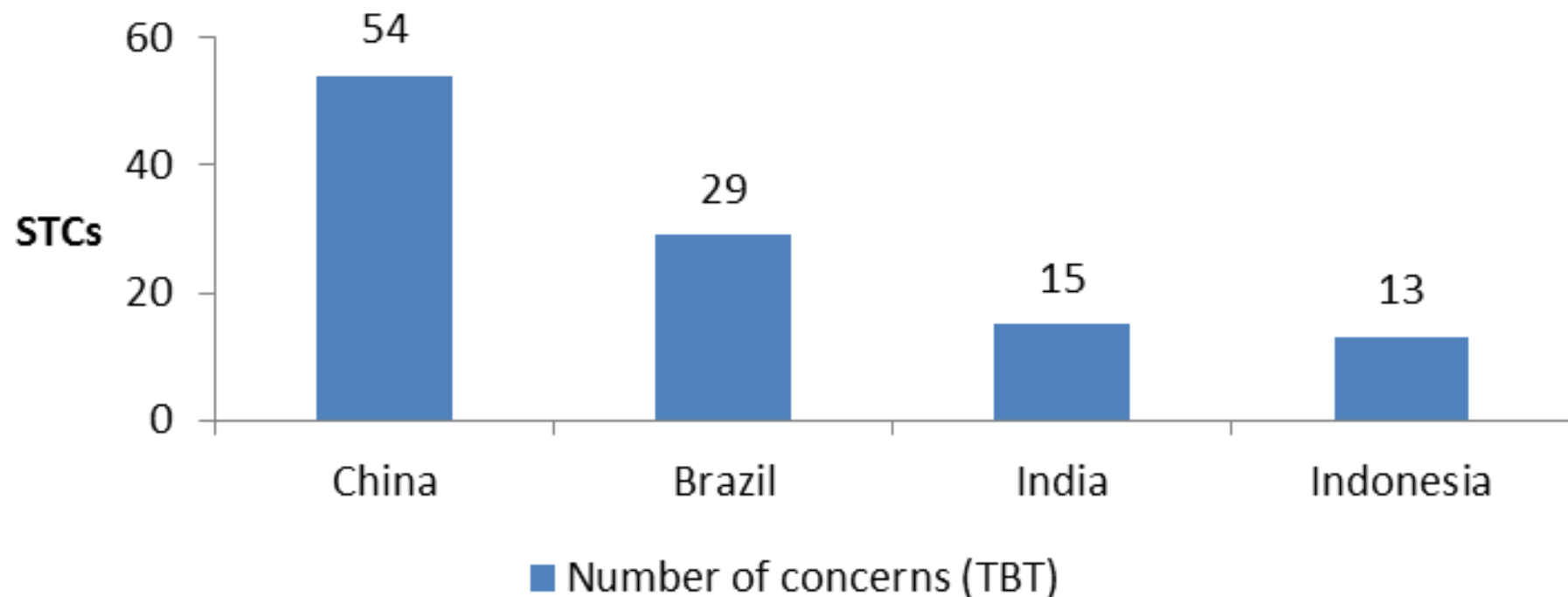


TBT: Most frequently accused of creating STCs

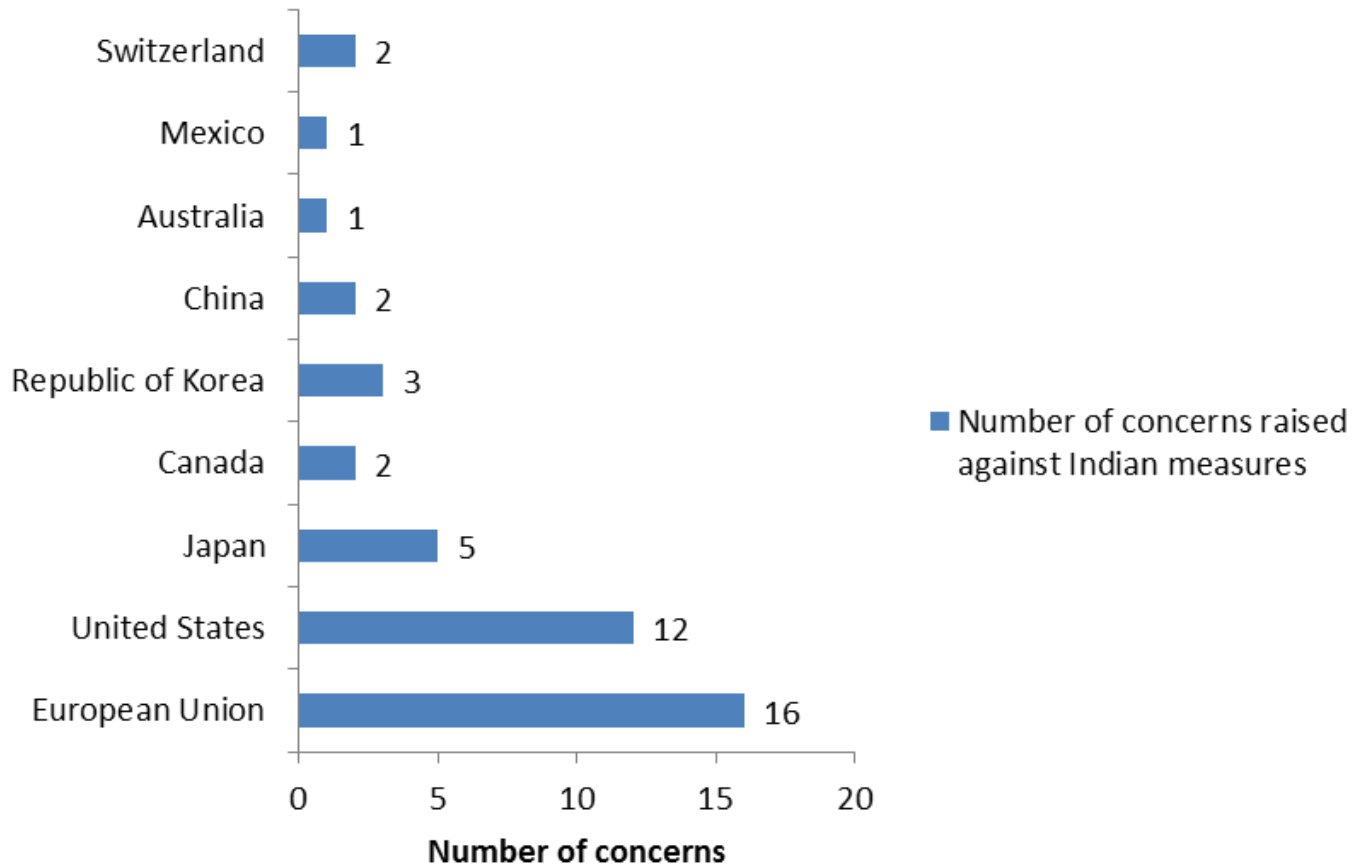


Offensive interest

(use of the TBT Committee to raise a concern)



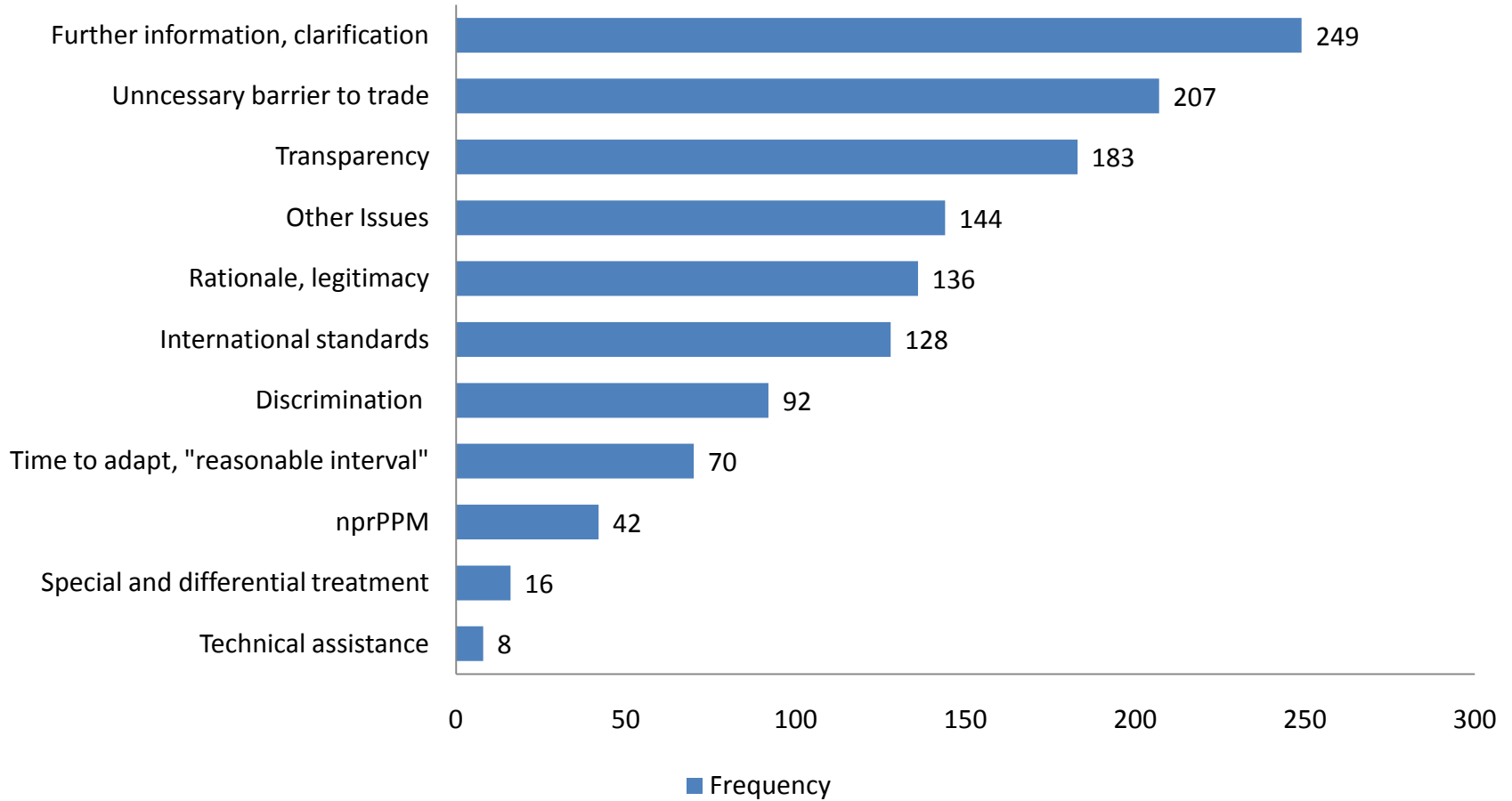
Members raising concerns against Indian measures



In general,
engagement is strong,
and substantive

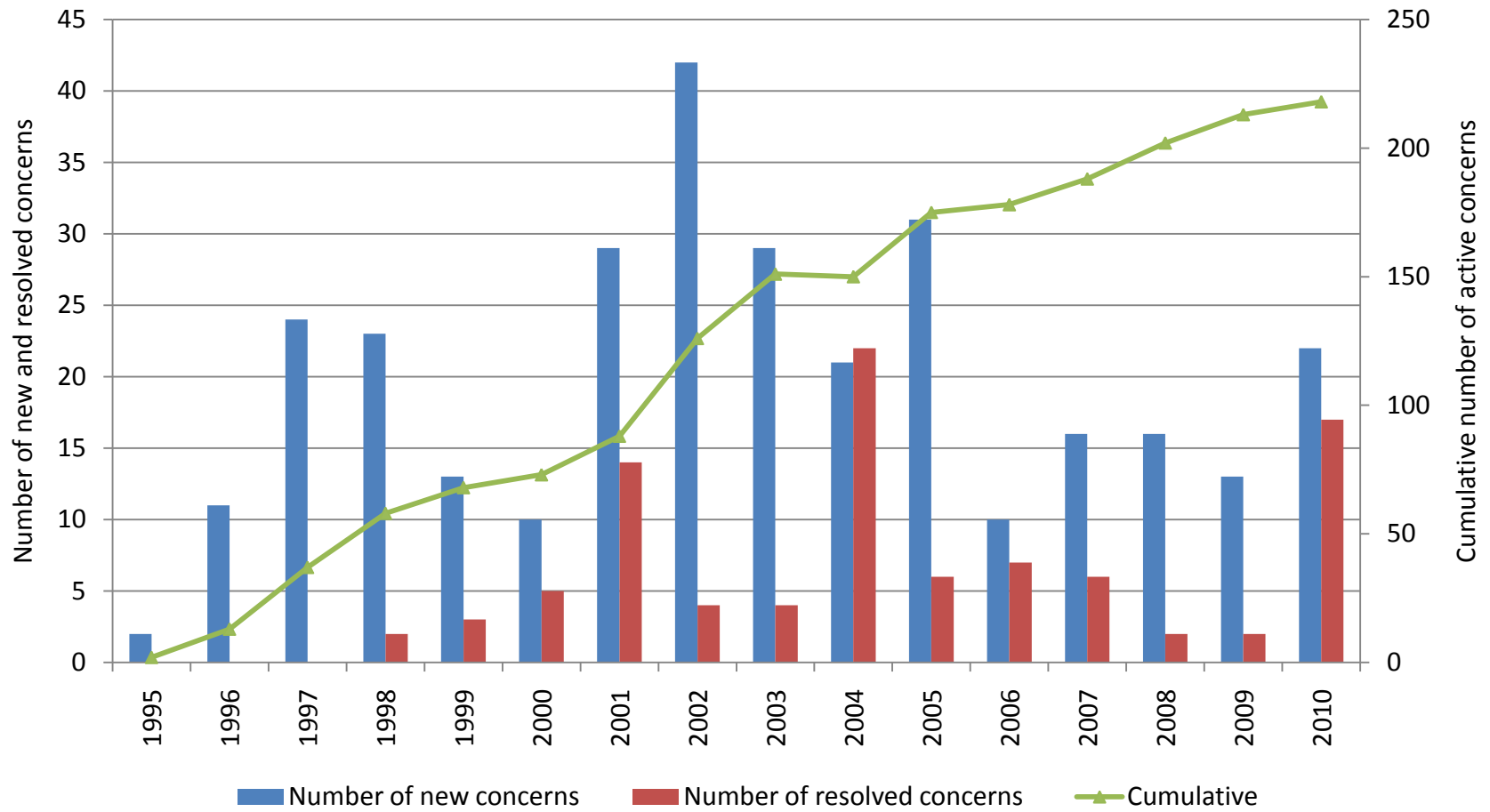
What are the concerns about?

Main TBT concerns



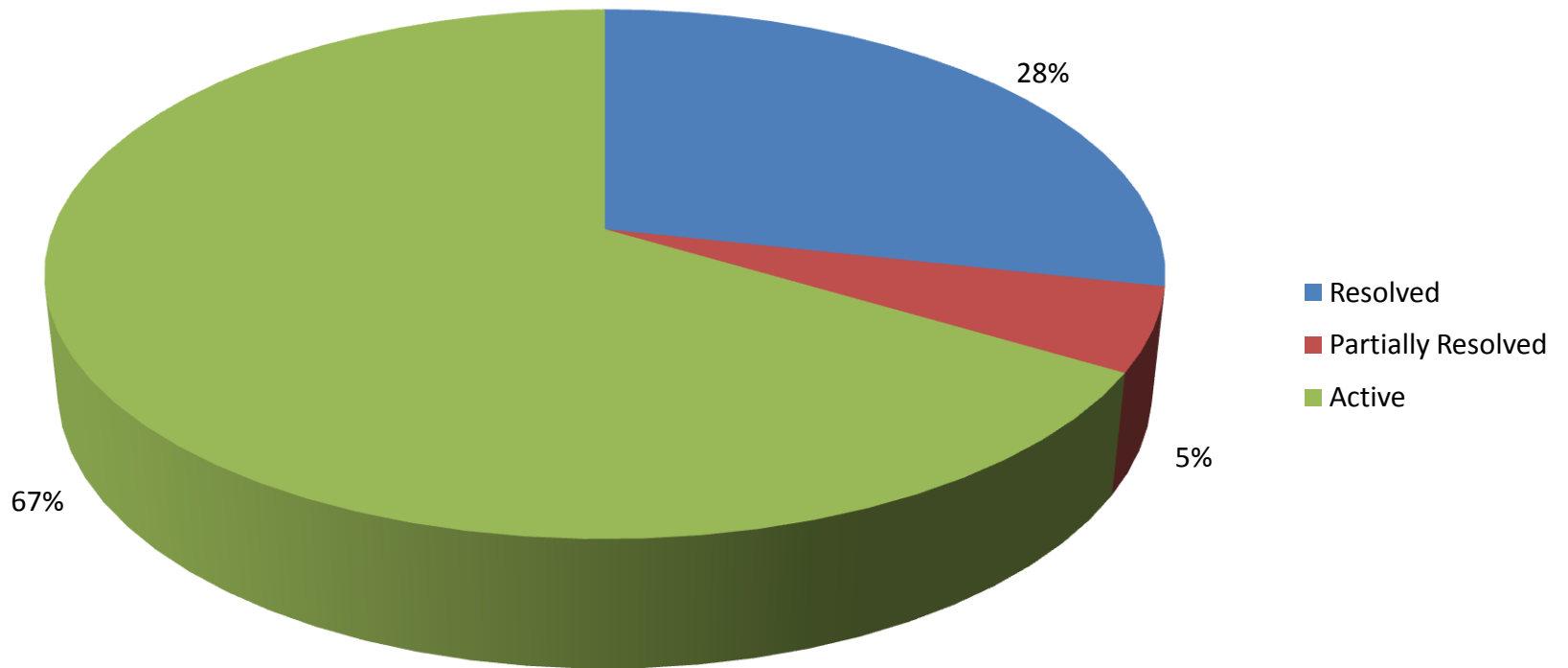
So, are the STCs resolved?

SPS: Resolved and Active STCs



Source: WTR 2012, Section C.2(a)

SPS: Status of STCs

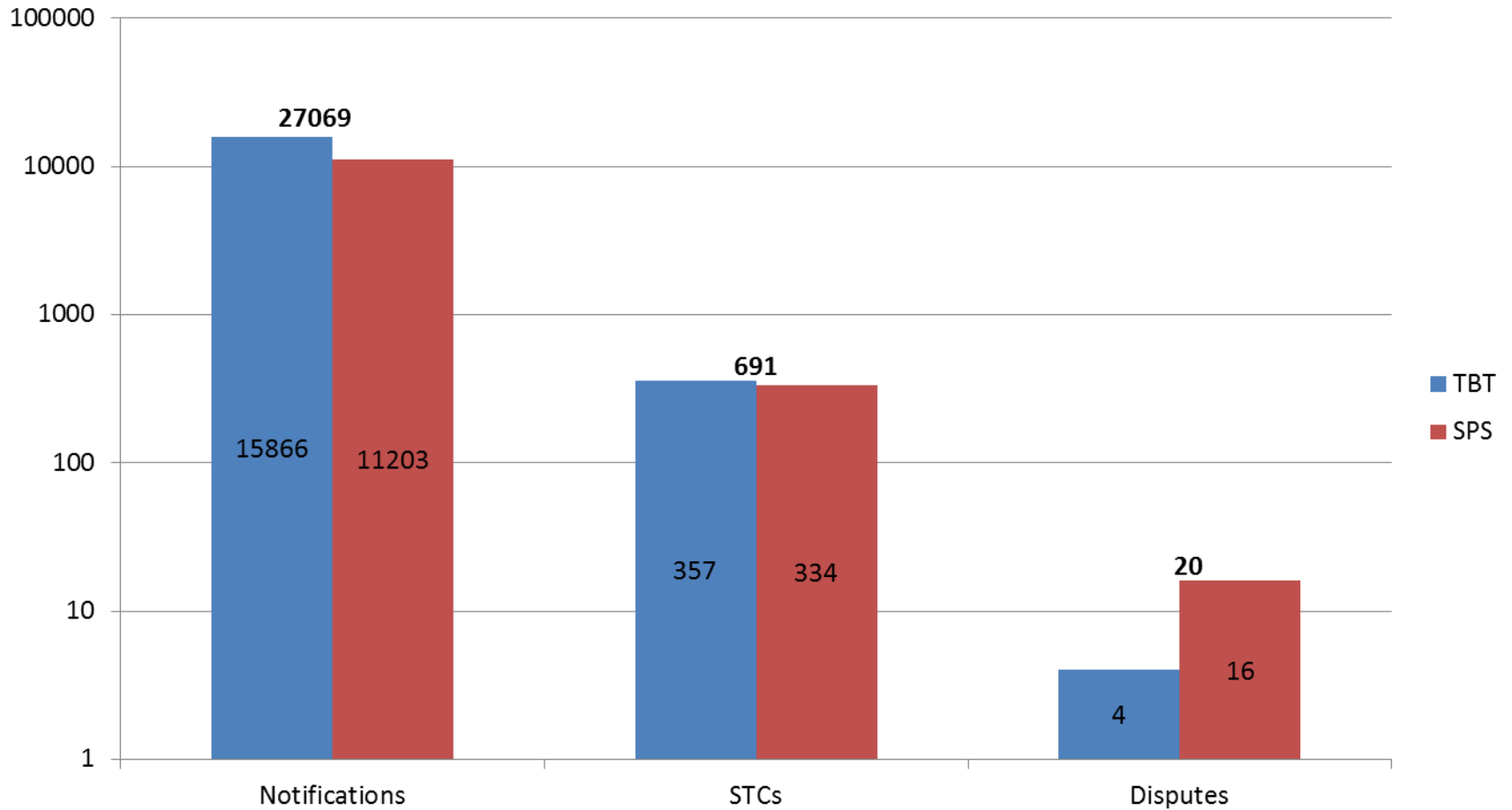


On TBT, we don't know (!)

Notifications → “STCs” → Disputes ?

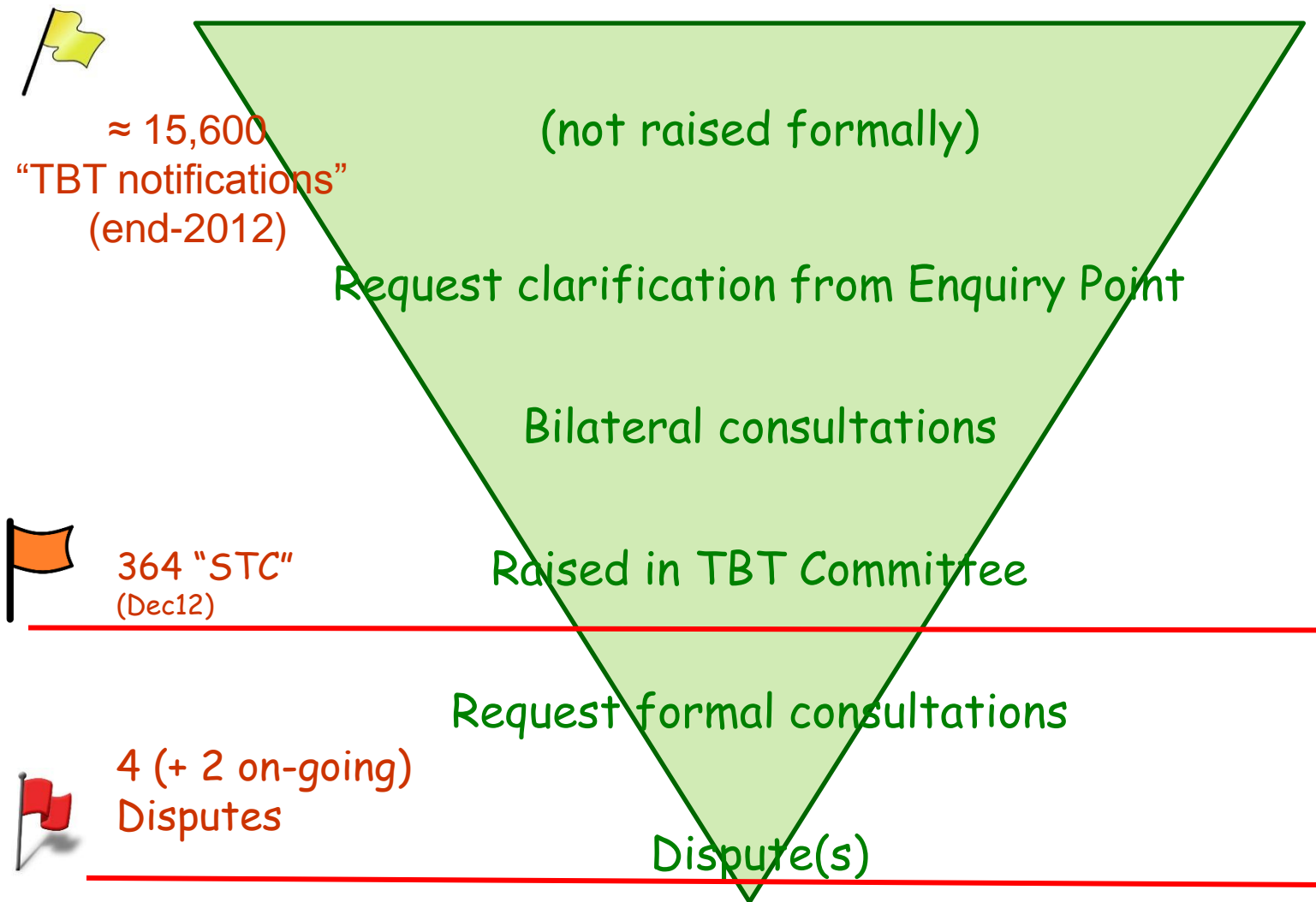
Notifications → “STCs” → disputes

Log scale !

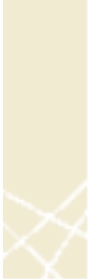


In sum: many STCs, few “fully fledged” TBT disputes; strong engagement by Members; most issues raised for discussion relate to “clarification” – this is a useful multilateral review process (lends transparency!); and, a substantive number of STCs (at least on SPS side) are reported as “resolved”.

Where does the Committee work fit in?



<http://tbtims.wto.org/>



Transparency Counter	
Regular Notifications	16254
Addenda / Corrigenda	2938
Revision	188
Specific trade concerns	363

(visited on 18 Marc 2013)