



# Note

## The Specific Trade Concern Mechanism of the TBT Committee and the WTO TBT Agreement Implementation

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### Summary

This note analyses the TBT Committee of the WTO and Specific Trade Concern (STC) data on the TBT-IMS and other sources to investigate how WTO Members use the STC mechanism of the TBT Committee in their efforts to implement the TBT Agreement. The note investigates whether South & South East Asia countries are active in the TBT Committee and provides some recommendations for the efficient use of the STC Mechanism.

## Introduction

This note aims to further discuss the TBT Agreement and its implementation by WTO Members through the TBT Committee. It will focus on the Specific Trade Concern (STC) mechanism of the TBT Committee with the view to provide a way forward on how South and South East Asian (S&SEA) countries can improve their participation in the TBT Committee through the effective and efficient use of the STC mechanism as they endeavour to reduce trade barriers in the trade of both industrial and agricultural goods.

## What is an STC?

When a WTO Member is of the opinion that another Member's new measures on technical regulations, conformity assessment procedures or standards that have been prepared, adopted and applied by that Member, may adversely affect their trade in particular good, the application of this measure can be questioned by the concerned Member to check if they adhere to the TBT Agreement within the TBT Committee. Such concerns or queries are referred to as STCs. STC can be raised for discussion at any time during the three meetings of the TBT Committee work year. As part of the WTO Membership, South and Southeast Asian (S&SEA) countries can raise STCs during the regular meetings of the TBT Committee to inquire whether the notified measures and other trade regulations of their particular interest adhere to the WTO TBT Agreement.<sup>1</sup>

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<sup>1</sup> Pursuant to Article 13 of the TBT Agreement, the TBT

## How S&SEA Countries can benefit from the STC Mechanism of the WTO TBT Committee?

The TBT Committee meetings are open to all WTO Members and observer governments.<sup>2</sup> The TBT Committee also extends invitations to the regular meetings to WTO observer governments and other international organizations and intergovernmental organizations several of which are standardizing bodies with observer<sup>3</sup> status in the Committee under specific guidelines.<sup>4</sup> The TBT Committee STC mechanism therefore avails Members both the forum and working space to find resolve to their trade quarrels as STCs in order to avoid trade disputes. In the event that an S&SEA country and other WTO Members fail to find remedy to a raised STC, the alternative avenue is through the establishment of a dispute settlement panel in the Dispute Settlement Body (DSB).<sup>5</sup>

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Committee is mandated to review the operation and implementation of the TBT Agreement on a triennial basis. The Seventh Triennial Review was completed in December 2015.

<sup>2</sup> TBT Committee was established with the purpose of: "affording Members the opportunity of consulting on any matters relating to the operation of this Agreement", WTO Agreement Series 118  
[https://www.wto.org/english/res\\_e/publications\\_e/tbttotrade\\_e.pdf#page=143](https://www.wto.org/english/res_e/publications_e/tbttotrade_e.pdf#page=143)

<sup>3</sup> [https://www.wto.org/english/thewto\\_e/igo\\_obs\\_e.htm#btb](https://www.wto.org/english/thewto_e/igo_obs_e.htm#btb)

<sup>4</sup> Annex 1. Which covers the guidelines for observer status for Governments in the WTO, and Annex 2 Which deals with the guidelines for observer status for International organizations in the WTO.

[https://www.wto.org/english/res\\_e/publications\\_e/tbttotrade\\_e.pdf#page=143](https://www.wto.org/english/res_e/publications_e/tbttotrade_e.pdf#page=143)

<sup>5</sup> The complaining Member must submit a request for consultations, identifying the agreements it believes are being violated. The list below shows the agreements cited in the request for consultations.

## Have S&SEA Countries Raised STCs in the WTO?

This note will reveal how S&SEA countries are not very active in the TBT Committee when we look at the registered STCs on the TBT Information System (TBT IMS)<sup>6</sup> or other relevant TBT information. To verify this fact stakeholders are encouraged to access this enquiry point in order to find out how their respective economies are participating in the TBT Committee. The system is also as it provides information for the implementation of the TBT Agreement with regard to STCs cases concerning other S&SEA country trade patterns in the WTO. The TBT IMS also archives information related to technical trade barriers studies from other sources which could be of use to S&SEA country delegates if when they prepare to raise an STC on a notified measure that is of particular interest to their producers and exporters. It should also be noted that S&SEA countries can join other STCs as raised by other members as a third-parties concern status given that the measure may have certain adverse effects on the their national trade of the good concerned and their TBT Agreement implementation efforts on a voluntary basis<sup>7</sup>. The system is mandated to be as transparent as possible such that Members can achieve the necessary clarity on any STCs as presented to the Committee.<sup>8</sup>

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[https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_agreement\\_s\\_index\\_e.htm?id=A22#](https://www.wto.org/english/tratop_e/dispu_e/dispu_agreement_s_index_e.htm?id=A22#)

<sup>6</sup> <http://tbtdims.wto.org/web/pages/search/stc/Search.aspx>

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[https://www.wto.org/english/news\\_e/news15\\_e/tbt\\_17mar15\\_e.pdf](https://www.wto.org/english/news_e/news15_e/tbt_17mar15_e.pdf)

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[https://www.wto.org/english/news\\_e/news15\\_e/tbt\\_17mar15\\_e.pdf](https://www.wto.org/english/news_e/news15_e/tbt_17mar15_e.pdf)

## How to Raise STCs?

To further investigate how other Members are using the STCs in the Committee as an effort to ensure that each country adhere to the TBT Agreement, S&SEA Member can look at the notifications on the TBT IMS. Where notifications are made regarding the trade of either industrial or agricultural goods that are also exported by the S&SEA countries, Article 2 of the TBT Agreements stipulates that S&SEA countries can ask for further clarification on such notification to comparatively verify if the measures notified on those particular goods traded by other Members adhere to the entirety of the TBT Agreement this is due process as mandated by the WTO core principles of non-discrimination, Most-Favored Nation and National Treatment as the core clauses on all WTO Agreements.

To that end Article 9 of the TBT Agreement stipulates that all standards adherence information from bilateral and regional agreements between Members with respect to the implementation of the TBT Agreement and other international standards to ensure the Code of Good Practice<sup>9</sup> is notified and made available to the TBT Committee. The IMS also provides contact information on all the standardizing bodies of the respective Members, their technical regulations enquiry points; and also detailed information on the notifying authorities in the Members territories from which S&SEA countries producers, exporters and other stakeholders can seek guidance in the clarification of trade measures or when raising STCs. For the S&SEA countries a regular check of the system is

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<sup>9</sup> List of standardizing bodies that have accepted the Code of Good Practice for the preparation, adoption and application of standards since 1 January 1995 (G/TBT/CS), 5 September 2015

<http://tbtdims.wto.org/web/pages/report/PreDefined.aspx>

vital in order to follow some of the STCs as raised against or by some like-minded developing Members in the trade of agricultural and industrial goods. When all these resources are exhausted and the concerned Member has gathered the necessary findings to report inconsistency with the TBT Agreement in a notified measure, the Member can contact the TBT Committee chair through the respective channels in the WTO secretariat to officially register a concern with the TBT Committee as stipulated by Article 5 of the TBT Agreement.

## Examples of STCs Raised by Developing Countries in the WTO

WTO membership has grown to 164 Members, in parallel with the expansion of international trade the need for countries to regulate and reinforce order for safety, health and the protection of the environment in commerce across borders has increased. According to data collected by the Goods Council of the WTO, TBTs/SPSs are the most frequently encountered Non-Tariff Measures (NTMs) in international trade. They are also considered among the most frequent impediments to exports in business surveys.<sup>10</sup> To date, the TBT Committee has discussed 503 STCs since its establishment in 1995. STCs continue to be the preferred alternative for the resolution of trade issues, in contrast to the Dispute Settlement Body.<sup>11</sup> As of 2016, only 52 STCs regarding the TBT Agreement failed to find resolve in the TBT

Committee to become trade disputes in the DSB since 1995. Therefore S&SEA countries should aspire to resolve their TBT issues through discussion and implementation reviews of each other and other WTO Members to achieve trade barrier reduction and export trade efficiency. To the end, this note examines the current STCs trends in the TBT Committee with the view to provide a way forward on how S&SEA countries can study other Members' experiences with the STC mechanism such that to improve their participation in the TBT Committee and their overall TBT Agreement implementation efforts..

Developing countries are increasingly active in using the STC mechanism particularly between 2012 and 2015. Developing countries raised 14 new STCs in 2015 the same number as developed members. They also raised nine new STCs jointly with the developed countries<sup>12</sup>

Therefore to improve their TBT Committee participation and to achieve efficiency from of the STC mechanism S&SEA Members are encouraged to consult the developing countries that are most active in the TBT Committee regarding their STC experiences for the implementation of the TBT Agreement in their efforts to avail the proper technical support and TBT implementation information to their respective producers and exporters of goods as shown in the examples below;

### The STC of EU-India

In 2004, the EU raised trade concerns about the market access for its steel products to India following the notification G/TBT/N/IND/9 by

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<sup>10</sup> World Trade Report 2012, Trade and Public Policies: A closer look at Non-Tariff Measures in the 21<sup>st</sup> Century, pg. 8. [https://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/wtr12-0\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/anrep_e/wtr12-0_e.pdf)

<sup>11</sup> The ultimate responsibility for settling disputes also lies with Member governments through the Dispute Settlement Body. [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_e.htm#dsb](https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm#dsb)

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<sup>12</sup> World Trade Organization Annual Report 2016 page 63

[https://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/anrep16\\_chap5\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/anrep_e/anrep16_chap5_e.pdf)

India on imported steel and related steel products.<sup>13</sup> EU was of the view that India was not granting the same national treatment granted by Annex 3 on substantive provisions, such that the steel products imported from the EU into Indian markets. As a result, this concern was expressed to the TBT Committee with the view to find out if the concern could be resolved along the guidelines of the TBT Committee. In order to determine the TBT Agreement validity of the EU concern and whether India's measures on imported steel adhered to the TBT Agreement, when verified by the TBT Committee along the Good Regulatory Practices as mandated by Annex 3<sup>14</sup> with the view to reduce any adverse trade effects on EU vehicle exports to India.

### Summary of the EU-India STC<sup>15</sup>

India number 84 on the TBT IMS in 2002 in which India informed Members of its new measures<sup>16</sup> on steel products in particular the new standards on the imported second-hand vehicles, in 2004<sup>17</sup> India remained confident of its measures and reminded all producers and exporters of these product of its measures in notification 104 on the TBT IMS in 2004 to which the EU raised the following trade concern:

The representative of the European Communities concerns on the issue of the importation of vehicles and vehicle components into the Indian market on

the 31 of August 2004. The EU's concerns related to the practical problems linked to the importation of components and aggregates for vehicle production, in addition to the fact that the Indian type approval test agency (ARAI) did not seem to have appropriate test facilities for large engines. Manufacturers had to construct their own facilities or use those of competitors, which created problems of unfair competition. These procedures were considered to be excessively burdensome, hence the request to India to solve the problem.

The representative of India had previously responded to some of the issues and had explained the rationale of the measure on second-hand vehicles. On the issue of ARAI facilities in Pune, he emphasized that the upgrading of facilities in any country was a continuous process. He understood that ARAI had been accepting certification from officially authorized and recognized testing agencies in Europe for those items and components for which there were no commensurate facilities in India; however, he could not comment on it at the time. He would inform the authorities in capital of the concerns and he expressed a willingness to engage in bilateral discussions to arrive at a better understanding of the measure.

In the STC cited above, the representatives of the EU and India sought the TBT Committee assistance using the STC mechanism so as to avoid a full dispute in the DSB through bilateral consultations. The status or outcomes of these bilateral consultations are not shared on the TMT-IMS which leads us to presume that the two parties were able to reach satisfactory closure on this STC.

### The US-China STC

China also raised an STC following the United

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<sup>13</sup> (G/TBT/N/IND/9) *WTO TBT Committee (2004)*

<sup>14</sup> According to Annex 3, all new measure imposed by a Member have to be; Transparent, pass the Conformity Assessment Procedure (CAPs Text) and the issuing Member has to avail all the technical assistance for the implementation of such measures upon the request of the concerned party. [https://www.wto.org/english/res\\_e/reser\\_e/ersd201609\\_e.pdf](https://www.wto.org/english/res_e/reser_e/ersd201609_e.pdf)

<sup>15</sup> (G/TBT/M/33), Committee on TBT, Minutes of the meeting of 1 July 2004, Chairperson: Mr.Sudhakar Dalela (India), Note by the Secretariat.

<http://tbtims.wto.org/web/pages/edition/stc/SpecificTradeConcern.aspx?ID=183326>

<sup>16</sup><http://tbtims.wto.org/web/pages/edition/stc/SpecificTradeConcern.aspx?ID=185325>

<sup>17</sup> Homologation of Vehicles (G/TBT/N/IND/9)

States' notification of new measures on textiles from China with regards to their flammability.<sup>18</sup>

This STC number 172 on the TBT-IMS was raised after the United States issued a change in the certification standards on clothing textiles into US markets from China in the notification document (G/TBT/N/USA/242) of March 8 2007 as compiled by the Consumer Products Safety Commission (CPSC)<sup>19</sup>,

The representative of China stated that comments had been provided to the Enquiry Point regarding the above-mentioned measure. While he understood the objective of protecting human life and health, he found some requirements in the current regulation to be more trade restrictive than necessary. He invited the United States to observe the principle of least trade restrictiveness under the TBT Agreement and to reduce the impact of its regulation on international trade.

First, the representative of China noted that the draft standard stipulated that "all samples shall be dry-cleaned before they undergo the laundering procedure", which meant that refreshing methods included both dry-cleaning and water-cleaning. Since dry-cleaning was suitable for some fabrics and water-cleaning was suitable for others, he suggested that the United States should make a revision to require that only one refreshing method be set in this step. Second, he understood that there had been reports of fire accidents and agreed

that some fabrics might be controlled. He suggested that the United States make a "suspicious fabric list", which included only those fabrics with high potential risk, rather than restricting all fabrics.

Third, the representative of China noted that the draft standard did not apply to hats, gloves and footwear, while scarves were not mentioned. His delegation was not clear whether the standard would apply to scarves and suggested that the United States should clarify that it did not apply to them. Finally, he noted that the notification did not indicate the proposed date of adoption and entry into force. Taking into account the difficulties of the manufacturers to adapt their production to the new standard, he suggested that the United States should offer developing Members at least one year for adaptation, so that the industry could have sufficient time to implement the new requirements.

The representative of the United States stressed that the Consumer Products Safety Commission (CPSC) was not intending to amend the substance of the Standard for the Flammability of Clothing Textiles, but was updating the language of the regulation, the text of which had been unchanged since the 1950's. As such, China's comments did not pertain to new provisions but to requirements that had been part of the regulation for over 50 years. Nevertheless, he pointed out that CPSC was considering carefully China's comments in its review of the updated regulation.

Subsequently, China's concern on the United States- Flammability of Clothing Textiles notification (G/TBT/N/USA/242) was readdressed in the 2008 in the TBT Committee minutes in document, G/TBT/M/44 in which the two parties reiterated their concerns as noted below;

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<sup>18</sup> (G/TBT/N/USA/242) WTO, TBT Committee (2007) <https://docsonline.wto.org/dol2fe/Pages/FormerScriptedSearch/directdoc.aspx?DDFDocuments/u/G/Tbt07/USA242.doc>  
Committee on Technical Barriers to Trade: Minutes of the Meeting of the Committee of 5 July 2007, 6 August 2007 Page 4.  
<http://tbtime.wto.org/web/pages/edition/stc/SpecificTradeConcern.aspx?ID=187199>

<sup>19</sup> CPSC is National Standardizing Body (NSB) of the United States responsible for protecting the American consumers from harmful products, <http://www.cpsc.gov/en/About-CPSC/>

The representative of China recalled that his delegation had submitted comments on the draft regulation on the flammability of clothing textiles, and raised concerns at the July 2007 meeting of the Committee. He recalled that in that meeting, the US delegation had said that the Consumer Products Safety Commission (CPSC) was considering China's comments in its review of the updated regulation. He sought information on whether the review had been finished, and how the Chinese comments had been taken into account by CPSC.

The representative of the United States recalled that at the July 2007 meeting, his delegation had explained that CPSC's intent was to update the language of a standard that had been drafted in 1952 to better reflect current practices and technologies, but the intention was not to alter the substantive provisions of the standard. It had also been noted that CPSC's work was at an early stage, and that the revisions were not expected to be imminent. His delegation would keep trading partners informed of developments.

STC 172 as raised by China was not raised again at other meetings of the committee which leads us to presume that as last noted in their responses to China, the United States delegation would keep trading partners informed of the developments. Therefore it is safe to say that the issue was resolved along Article 10 of the TBT Agreement.

What we can draw from these two examples of STCs as discussed above, the concerned Members (EU and China) and the subjects to the STCs (India and the United States) in STCs 82 and 172 as noted on the TBT-IMS respectively, were able to address their concerns usefully in the TBT committee. The TBT-IMS has recorded exactly 503 STC; while the DSB has recorded 52 trade disputes citing the TBT Agreement that proceeded onto the DSB for

consultations<sup>20</sup> as instructed by Article 13 and 14 of the TBT Agreement on dispute settlement establishment. From this data we can deduce that only 10.34 percent of STCs that were raised in the TBT Committee failed to reach some sort of bilateral resolve which in itself a commendable effort of the TBT STC mechanism. To understand how other Members are using the STC mechanism in the WTO, S&SEA countries and other concerned stakeholders can refer to STCs; 165, 167, 168, 172 and 180 to further analyse how other developing countries have been able to reduce TBTs using the STC mechanism of the TBT Committee.<sup>21</sup>

## STC Trends in the WTO

Current trends in STCs show that in 2015, 37 new STCs were raised in comparison to the previous year. 49 STCs that had been raised previously were continually discussed over the course of 2015, emerging as the second highest number of ongoing STC discussions in any given year since 1995.<sup>22</sup>

In 2015, WTO Members agreed on a three-year work plan for the TBT Committee. This work includes further efforts to improve good regulatory practice, regulatory cooperation and transparency between Members. The data in Figure 3 identifies the most active Members in the TBT Committee, determined by the amount of STCs they are involved in, either as the respondents or claimants of the STC. It should be noted that developed country Members consistently raise the same STCs during the course of the three meetings of the TBT

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<sup>20</sup> 52 case(s) cite this agreement in the request for consultations.  
[https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_agreement\\_s\\_index\\_e.htm?id=A22](https://www.wto.org/english/tratop_e/dispu_e/dispu_agreement_s_index_e.htm?id=A22)

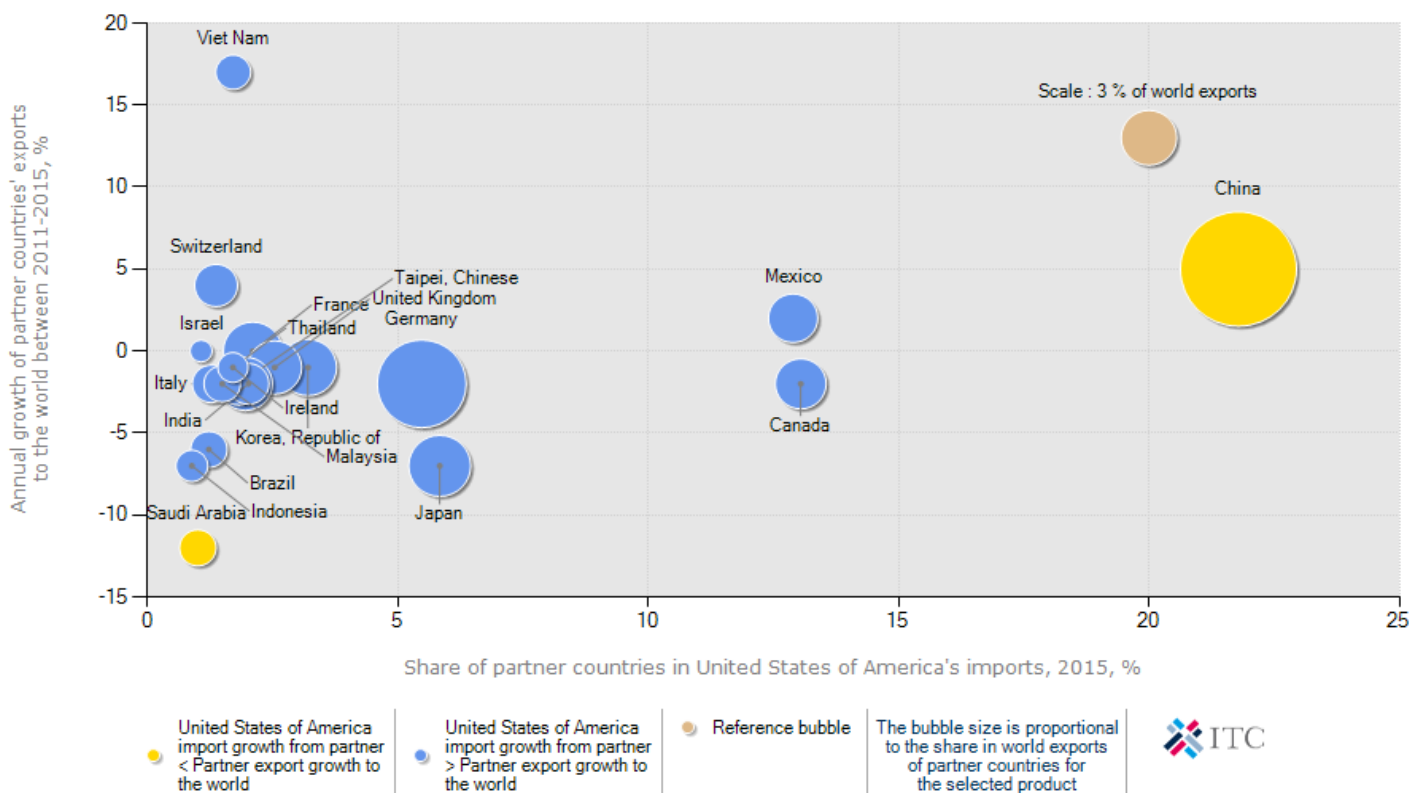
<sup>21</sup> Extensive analysis of these STCs can be found at: <http://tbtime.wto.org/web/pages/search/stc/Results.aspx>

<sup>22</sup> G/TBT/38/Rev.1 (Annex B contains a full list; Annex C provides details on new STCs raised in 2015).

Committee, which creates an overload burden on the Committee's work. In fact, this practise of repeating the same STCs creates a backlog and exacerbates the efficiency of the Committee in advancing the concerns and interests of other Members, specifically those of developing countries. In 2015, the United States raised the highest number of both new and previous STCs in the TBT Committee. The highest level of STCs were raised against China, which could be attributed to the fact that they export the most manufactured consumer goods to both the EU and the United States, as illustrated in Figure 1.

S&SEA Members do not produce finished consumer products for export to developed country markets at the same proportion as the members like China, India who are most frequent subject to US and EU STCs. This could be attributed to the fact that S&SEA countries, developing or LDCs benefit from Special and Differential treatment (S&DT)<sup>23</sup> in terms of their market access to the EU and US markets. Therefore, S&SEA countries trading with developed countries like the US and EU Member States may be rarely scrutinized with the same STCs intensity as other import partners from the developing economies in world trade.

**Figure 1: ITC calculations based on UN COMTRADE**



<sup>23</sup> WTO, Annual Report 2016: Supporting development and building trade capacity. [https://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/anrep16\\_chap7\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/anrep_e/anrep16_chap7_e.pdf)



STC data from the TBT IMS shows that on aggregate the EU, US and China have previously been subject to the most STCs since the enforcement of the TBT Agreement of the WTO in 1995. Although the data could be attributed to the concerns raised by these member's implementation efforts in the earlier phase of the TBT Agreement, as these Members required more clarification of each other's technical regulations and measures, nonetheless the data reveals that the most active members in international trade are also the most subject to STCs with regards to clarification on trade partner technical regulations, standards and CAPs. Therefore the STC data as illustrated above is important for tracing the most active Members in the TBT Committee, This data therefore reveals that the WTO Members that most frequently raise STCs are also the most efficient users of the TBT Committee in upholding the TBT Agreement adherence not only for the safety of their producers and consumers of goods but also for the protection of their international trade participation and global market share as well. The data also shows that both developed and developing countries have been frequent subject to STCs in recent years.

To maintain their international trade participation and global market share in the production of both industrial and agricultural goods, the most active Members in the TBT Committee make sure that each STC raised aims to address the implementation of certain provisions of the TBT Agreement with regard to their comparative advantage in the production of particular goods. This is evident in the' categorical trade objectives as identified by the STCs with which they maintain concern whether as the members maintaining initial concern or as respondent to the particular STC category as identified in the Figure 6.

## **How S&SEA Countries Can Achieve STC Mechanism Efficiency**

As illustrated by Figure 6 and 7, the most frequently raised categories of STCs relate to the demand for further information regarding clarifications on objectives of the measures imposed, complaints over unnecessary barriers to trade, transparency issues, as well as the rationale and legitimacy of certain TBT measures and requirements. Other STCs address issues such as compliance to international standards, discrimination in cases where Members suspect or find that certain Member's measures favour domestic goods over imported goods which is in violation of the MFN and National Treatment clauses which are fundamental to WTO Agreements. Given that logic, S&SEA countries can study the STCs raised by other Member countries such that to identify those problematic STC categories and TBT objectives that are of great importance to the S&SEA countries and their respective domestic stakeholders. The list of the most frequently raised STC categories can help S&SEA countries to identify areas in their export mix that might face potential impediments on the international markets. In that regard, without necessary raising STCs in the TBT Committee, S&SEA countries can study the STC trends in the Committee so as to ascertain the technical competitive intelligence for their exporters through the dissemination of efficient TBT implementation knowledge as technical barriers to trade preventative effort. As note in figure 6, the STC categories that may be of particular interest to the S&SEA countries are S&DT and technical assistance, both of which have only been raised as STCs in 22 and 8 different notifications respectively

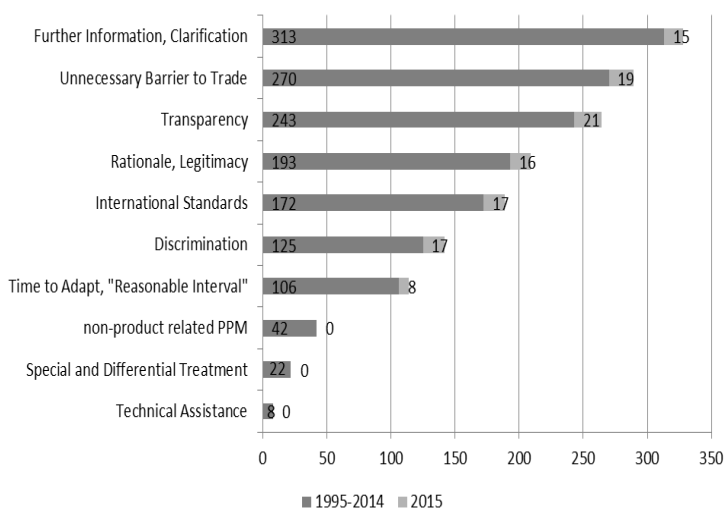
since 1995.

Emphasizing the importance of the STC mechanism for the TBT Agreement implementation, it can be a strategic approach with which S&SEA countries avoid inefficiency in the implementation of the TBT Agreement along their respective production and export absolute advantages.<sup>24</sup> As S&SEA aspire to be more competitive in the export of goods on the international market, increased STC efficiency will reduce the unnecessary barriers in their trade of agricultural and industrial goods.

The data in Figure 2 shows that since 1995, the most commonly stated STCs arose from measures notified for the protection of human health and safety. The protection of the environment is an objective often cited in many notified measures since 1995, but was cited less frequently in recent STCs trends in comparison to previous years. In recent STCs raised in the Committee, the categories of prevention of deceptive practices, consumer information and labelling were stated more frequently. Other STC categories of importance to S&SEA countries and other developing countries included trade facilitation, enhancing the effectiveness of conformity assessment procedures as noted in Figure 2.

**Figure 2: Types of concerns raised, 1995-2014, and 2015, WTO**

(G/TBT/38/Rev.1/19)



It is well known that the developing countries and LDCs generally lack the technical capacity to address trade concerns of particular interest to them for export capacity development and greater international trade integration such as; international standards, concerns on non-product related Process and Production Methods (PPM) and technical assistance for the TBT Agreement implementation using the STC mechanism. Similarly for the some S&SEA countries, the lack of technical capacity to assess their international obstacles to trade makes it difficult for the S&SEA WTO delegates to use the STC mechanism by raising the trade challenges faced by their exporters in the TBT Committee with in itself exacerbates their implementation TBT Agreement adherence and their export competitiveness.

<sup>24</sup> For S&SEA countries to use the STC mechanism more efficiently, Adam Smith's "*Theory of Absolute Advantage*" implies that each country should ensure that the production and export of goods in which it produces most efficiently – that is with the fewest production costs. Each S&SEA country and their respective stakeholders should adhere to the TBT Agreement with the view to address some of the most frequently raised concerns identified in Figure 7.

To mitigate the latter challenge it is vital that the S&SEA countries study the most frequently raised STC objectives, such that to assessment and identify how these similar objectives can be further improved along each of their respective production sectors with the view to address notified measures that adversely affect their exports in those particular sectors.

## A Way Forward for S&SEA Countries

Overall, the STC data trends show that S&SEA countries have not been active in representing the trade challenges faced by their exporters with in the TBT Committee. These challenges include, Non-Tariff Barriers to Trade (NTBs) i.e. TBTs and SPS, private standards, the lack of conformity assessment facilities which is also exacerbated by both the lack technological transfer, and the lack of technical assistance to meet international standards due to the cost of implementing such standards. Furthermore the SMEs from the S&SEA countries are expected to implement both the international standards and the TBT Agreement simultaneously in their efforts to produce competitive exports. Given evident overwhelming TBT Agreement implementation challenge for the S&SEA countries, it is paramount that their WTO delegates endeavour to enact the STC mechanism of TBT Committee to the benefit of the S&SEA exporters and producers of both agricultural and industrial goods.

Qualitatively the STC data and trends as analysed in this note show that S&SEA countries were neither the demanders nor the respondents to STCs in recent years. It is therefore evident that S&SEA countries have not been efficient in identifying the TBT challenges faced by their exporters which

made it difficult for this note to address specific cases of TBT Agreement violations nor in the notified measures where S&SEA country exporters have expressed grave technical barriers in their trade of goods. Therefore it is important for the S&SEA government delegates at the WTO to exercise their TBT Agreement implementation rights and use the STC mechanism in the STC Committee.

Unfortunately the absence of STCs raised by the S&SEA countries on the TBT-IMC does not mean that S&SEA countries do not have any STCs to be addressed in multilateral trade. Rather it shows that the exporters from S&SEA countries have not been able to relay their trade barriers in respect of the TBT Agreement through their delegates to the WTO and the TBT Committee. The latter can be attributed to the lack of National Standardizing Bodies, the failure to create a TBT implementation information linkage from the WTO TBT Committee through their respective delegates to the business stakeholders in the S&SEA economies. Therefore, in light of the above mentioned limitations, S&SEA countries need to improve their capacity to identify their domestic and regional international standards compliance limitations before they can fully optimize their participation in the TBT Committee and the use of the STC mechanism.

## Recommendations

First and foremost given the absence of S&SEA STC notifications on the TBT IMS of the TBT Committee, it is difficult to further investigate the most prevalent TBT Agreement implementation challenges faced by S&SEA exporters. To improve their performance assessment S&SEA countries can consult with the most active developing ASEAN Community Member economies in the TBT

Committee such as Malaysia, the Philippines, Thailand, Indonesia<sup>25</sup> and the STCs expertise of China and India in order to learn from their experiences in raising and responding to STCs in their overall TBT Agreement and implementation objectives for trade and development.

Secondly, S&SEA countries should endeavour to create policy convergence between the available sources of international standards in the WTO regimes, the International Standardizing Organizations (ISO)<sup>26</sup>, the International Chamber of Commerce (ICC)<sup>27</sup> such that their exporters are well informed on the technical aspects of doing international trade such as to reduce other NTMs. Policy convergence can prevent overlaps in their standards implementation and compliance efforts given their technical capacity limitations.

In conclusion, for S&SEA countries, these three spectra of international trade compliance should work complementary of each other for the reduction of TBTs in the S&SEA countries export trade. Any Standards compliance efforts whether in the multilateral regimes, intergovernmental standardizing organizations or NSBs – should endeavour to improve the trade capacity for SMEs and other stakeholders to mitigate the domestic and international barriers faced by the SMEs producers in the trade of industrial and agricultural goods. To that end several TBT observer organizations can be reached to assist the S&SEA countries in TBT Committee efforts to increase STC mechanism efficiency.

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<sup>25</sup> <http://asean.org/asean-economic-community/asean-free-trade-area-afta-council/>

<sup>26</sup> <http://www.iso.org/iso/home.html>

<sup>27</sup> <http://www.iccwbo.org/about-icc/organization/policy-and-business-practices/>



## **CUTS International, Geneva**

CUTS International, Geneva is a non-profit NGO that catalyses the pro-trade, pro-equity voices of the Global South in international trade and development debates in Geneva. We and our sister CUTS organizations in India, Kenya, Zambia, Vietnam, and Ghana have made our footprints in the realm of economic governance across the developing world.

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### **GENEVA TRADE & BUSINESS CONNEXION FORUM**

The Trade & Business Connexion project aims at bridging the gap between South and Southeast Asian WTO delegates and their national private sectors. Web: [http://www.cuts-geneva.org/Geneva\\_Connexion\\_SNSEAsia.html](http://www.cuts-geneva.org/Geneva_Connexion_SNSEAsia.html)



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