

# World Trade Report 2012



Trade and public policies:  
A closer look at non-tariff  
measures in the 21st  
century



# Major themes of World Trade Report 2012

- Motivation behind NTMs is changing (public policies becoming more prevalent)
- NTMs raise a transparency issue
- Public policies have ambiguous trade effects
- Public policies require deeper cooperation



# Motivations behind NTMs

- Governments employ NTMs to achieve public policy objectives such as:
  - Protection of public health or the environment
  - Addressing information asymmetries
- Archetypical examples of public policy NTMs: TBT/SPS measures and domestic regulation in services
- Public policy concerns have grown, adding significantly to the complex nature and variety of NTMs deployed by governments
- The expansion of the policy agenda implies that NTMs will not shrink in relevance like tariffs have done...



# Motivations behind NTMs

- ...but NTMs can also serve a dual purpose
  - They may be designed or administered in ways that intentionally restrict trade even if their primary purpose is to serve a public policy
- The potential for dual purpose underlies the difficulty of:
  - Distinguishing between “legitimate” and “protectionist” motivations for NTMs
  - Identifying instances where NTMs create “unnecessary” trade costs



# Transparency

- Transparency is a major issue with regard to both NTMs and services measures
- Information on public policies is not as easily accessible as information on border measures
- Public policy measures are diverse and difficult to compare across countries and sectors (AVEs are needed)
- Their effects depend on how they are applied



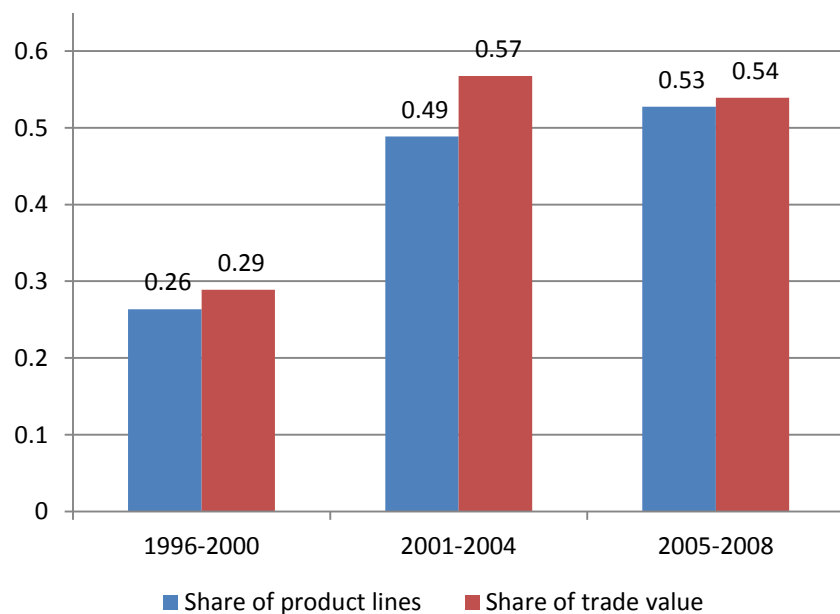
# Transparency

- The report taps diverse sources of data: notifications, data collected from official sources, concerns raised at the WTO, disputes, business surveys
- None of the available data sources provides comprehensive coverage
- Some stylized facts:
  - Inconclusive evidence of a rising trend in NTM incidence over the last 20 years
  - Some evidence of upward trend in TBT/SPS measures
  - TBT/SPS measures are major impediment to exporters
  - Procedural obstacles matter

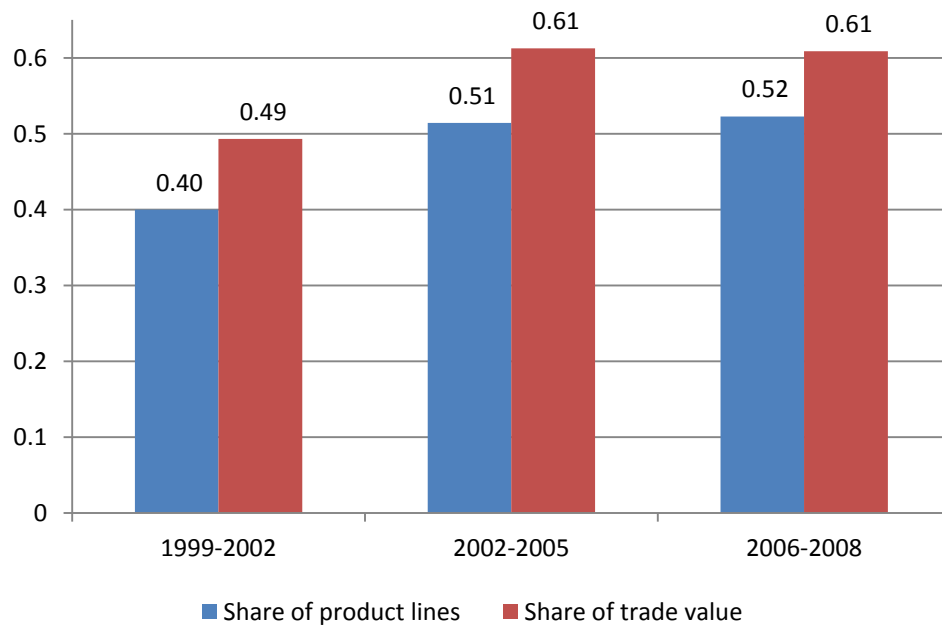


# NTMs inventory, 1996-2008

a) All available countries

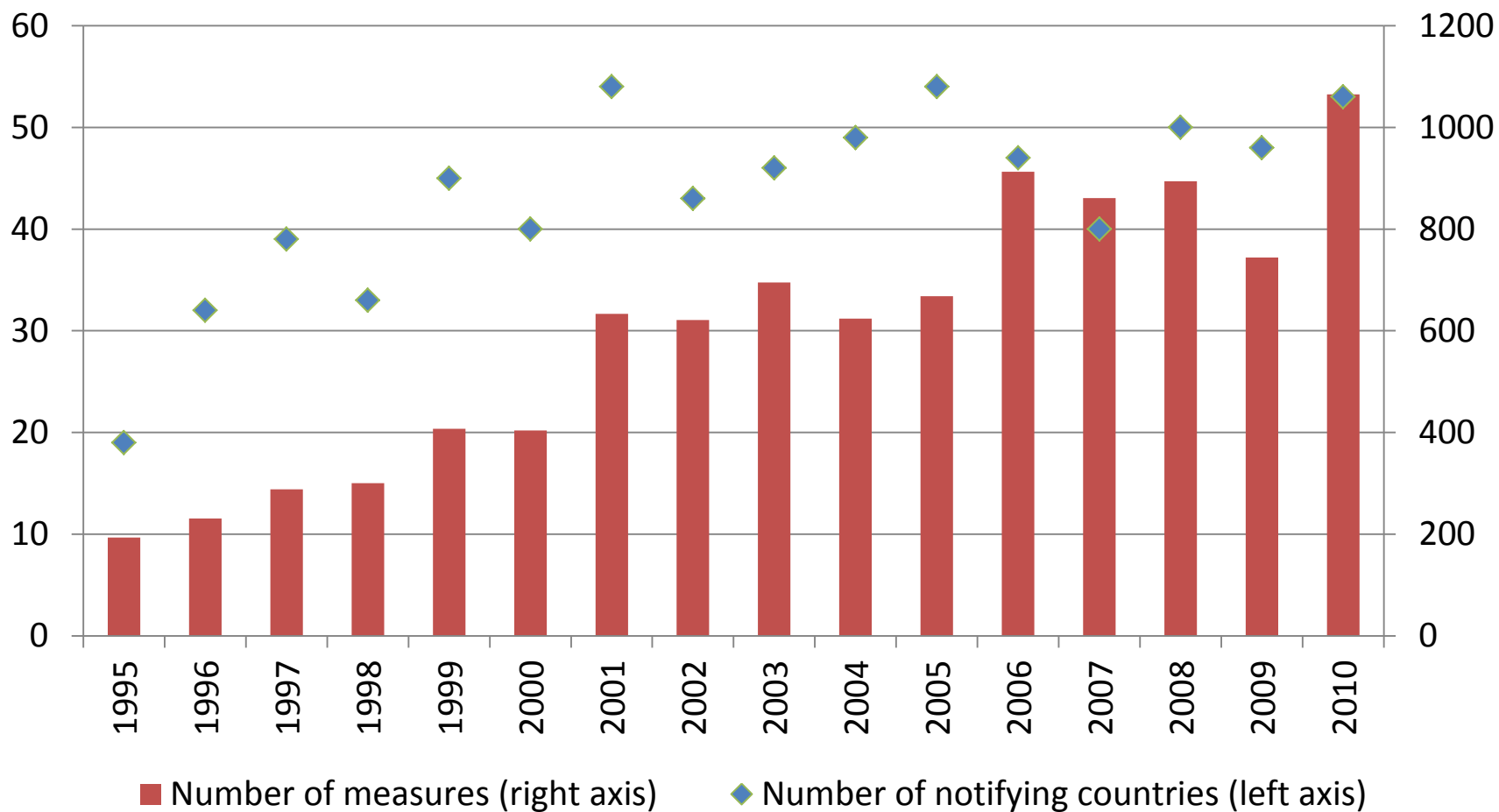


b) Selected Latin American countries





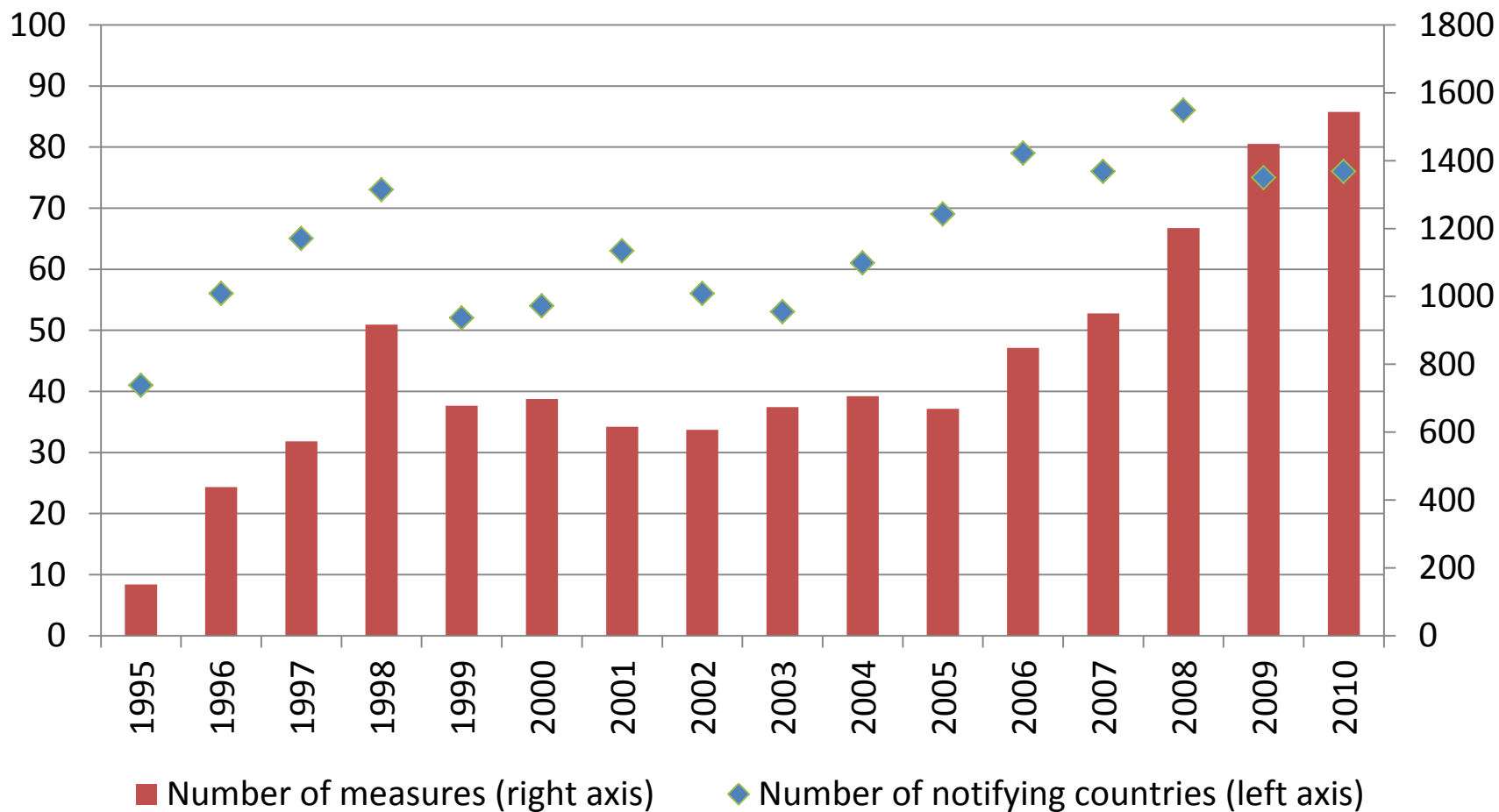
# SPS notifications, 1994-2010





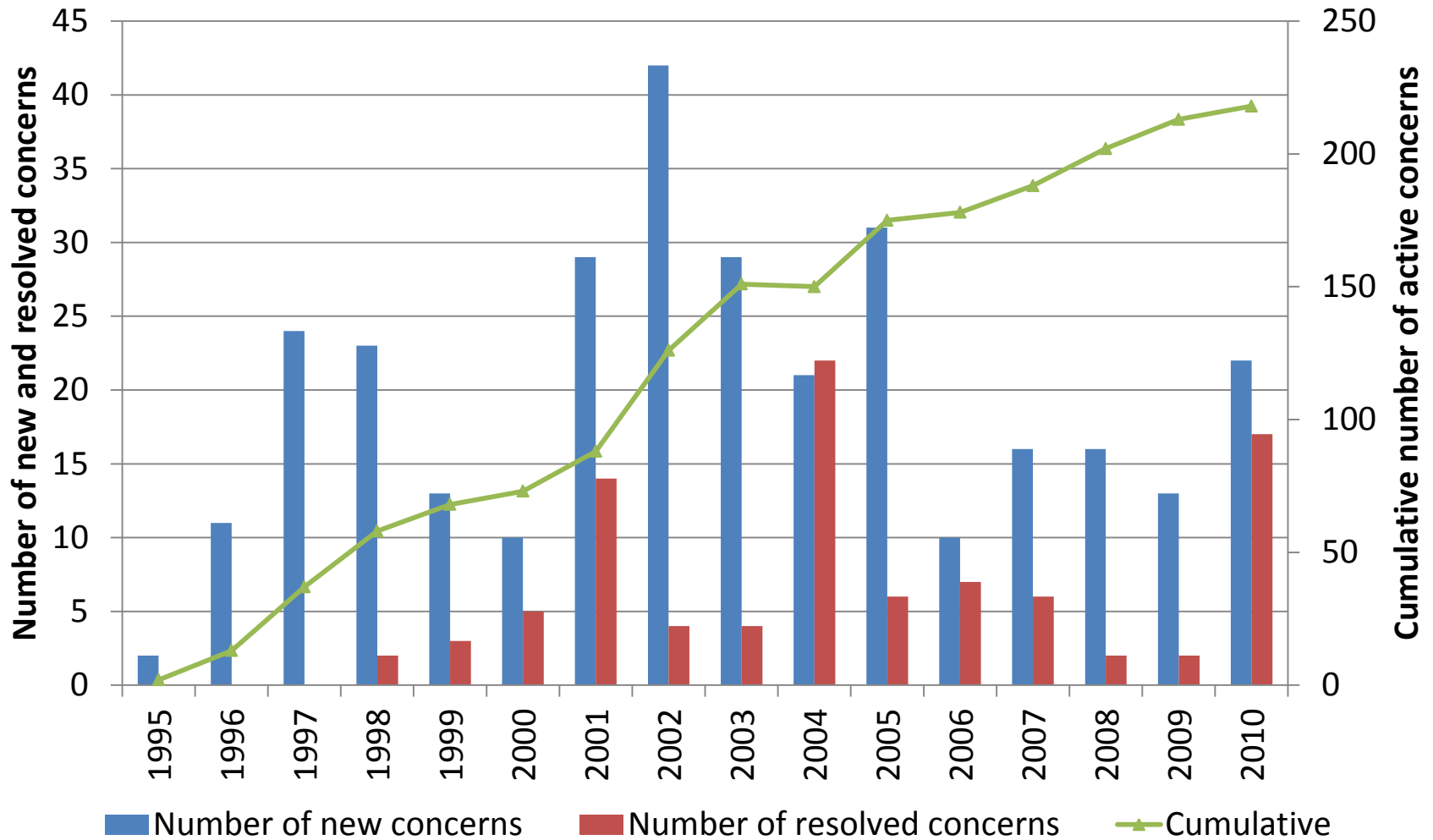


# TBT notifications, 1994-2010



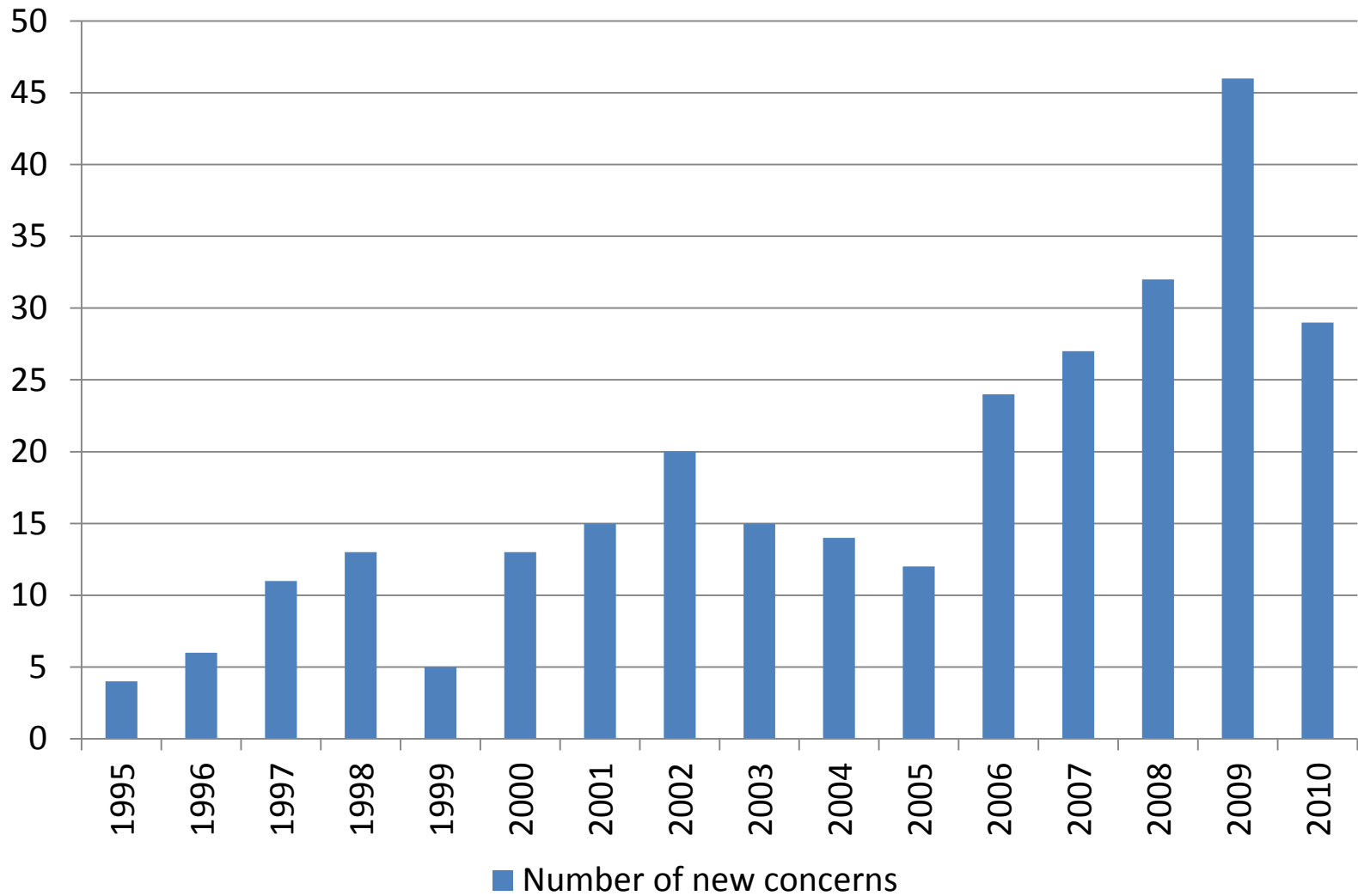


# SPS Specific Trade Concerns, 1995-2010



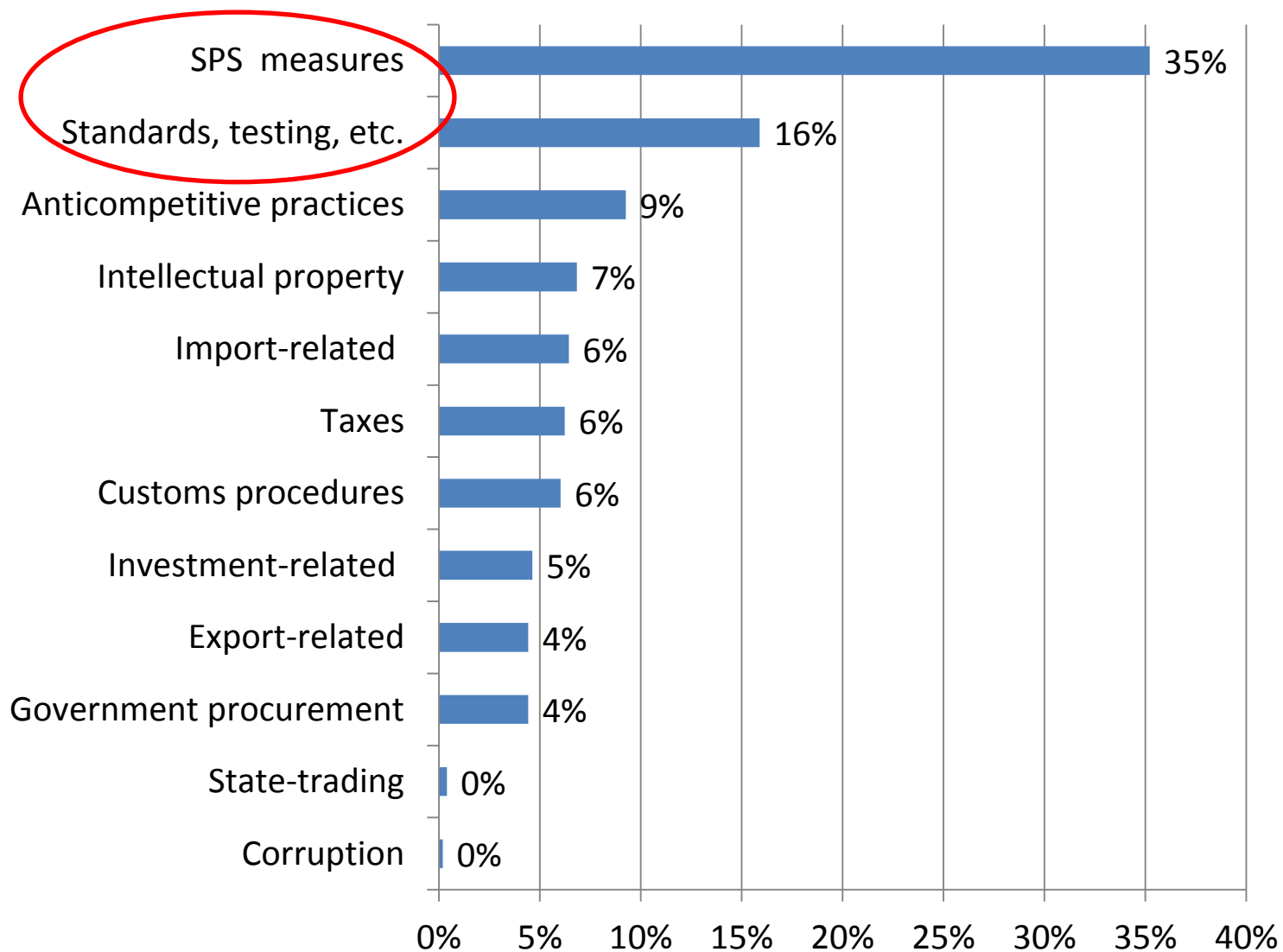


# TBT Specific Trade Concerns, 1995-2010



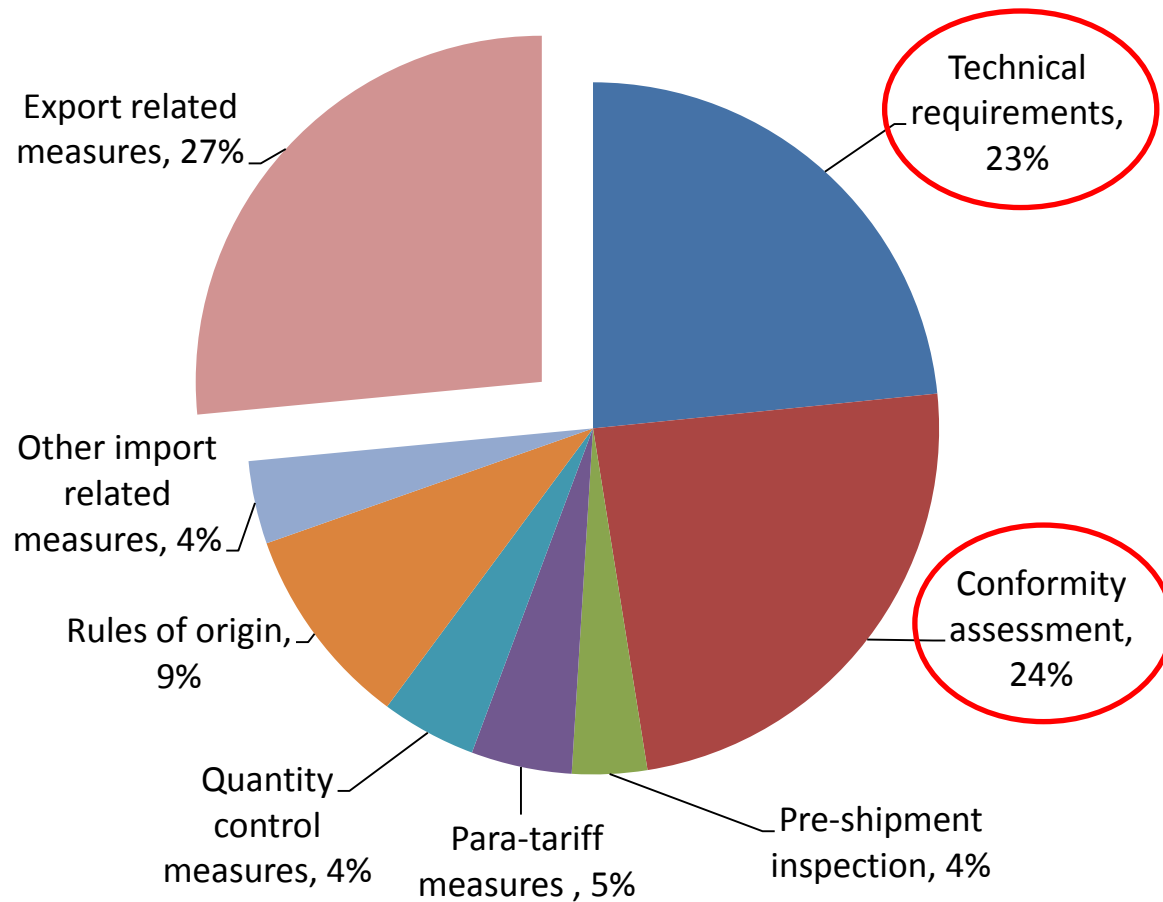


# NTMs facing EU exporters, 2009



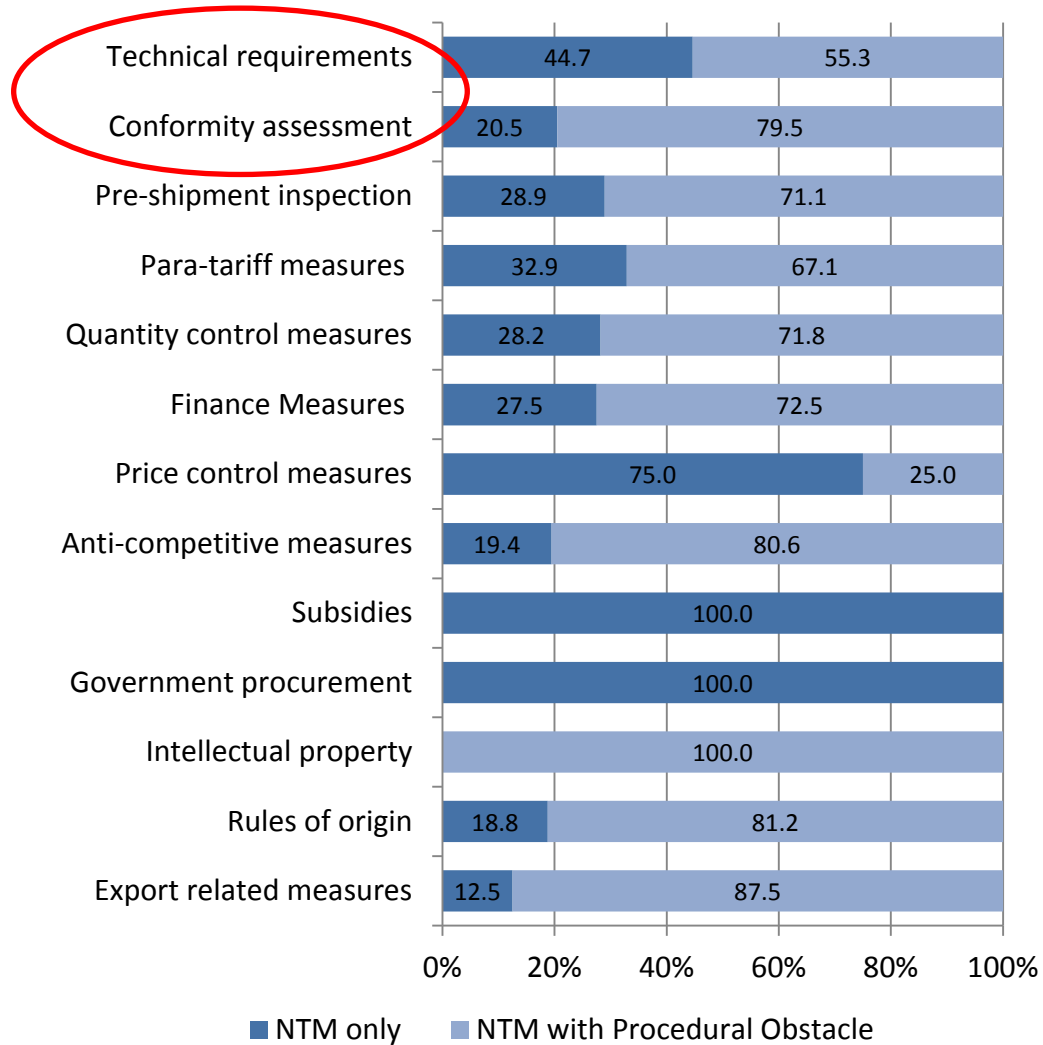


# NTMs facing developing countries' exporters, 2010





# Procedural obstacles matter





# Trade effects

- Trade effects depend on the measure and are highly variable
- Calculation of AVEs raises both methodological and practical issues
  - Value chains amplify the effect of trade costs and this is difficult to document
  - The effect of specific measures is difficult to single out
- In the case of standards, trade effects hinge on the degree of policy heterogeneity
- Harmonization of TBT/SPS measures increases trade, in particular by enhancing the presence of small and medium sized firms in export markets



# Cooperation

- Historically, regulation of NTMs in trade agreements has addressed the problem of tariffs being replaced by NTMs
- Shallow integration is sufficient in this regard
- Global supply chains create a need for deeper forms of institutional integration to prevent distortions of trade and investment decisions along the supply chains
- The increased prominence of public policies driven by consumer concerns has also created a need to develop rules to identify efficient and legitimate uses of NTMs





# Cooperation

- GATT rules on national treatment and non-violation complaints were designed to address the policy substitution problem between tariffs and NTMs
- The SPS and TBT Agreements are “post-discriminatory” agreements that go in the direction of deeper integration
- They promote harmonization through the use of international standards
- They include the need to ensure that requirements are not unnecessarily trade restrictive



# Challenges for the WTO

- The deeper integration approach in the SPS and TBT Agreements goes a long way towards addressing changes in the global economic environment...
- ...but it is not without problems:
- First, strong encouragement to follow international standards creates tensions (for example because of different national preferences)
- This raises the question where and how regulatory convergence should take place



# Challenges for the WTO

- Second, WTO adjudicators may have to “second-guess” a member’s domestic regulatory choices in deciding whether a measure is discriminatory
- Two recent Appellate Body reports (*US - Clove Cigarettes* and *US - Tuna II*) clarify the role of “regulatory purpose” for the analysis of national treatment in the TBT Agreement
- These rulings show that existing disciplines do leave considerable scope for the unilateral pursuit of public policy objectives without running afoul of trade commitments



# Challenges for the WTO

- The report argues that better integration of economic and legal analysis would be helpful
- At any event, some question whether it should be the prerogative of WTO adjudicators to decide on the legitimacy of a stated public policy objective and to strike the balance between the pursuit of such objective and the pursuit of gains from trade



# Challenges for the WTO

- Transparency provisions in the WTO agreements help address the problems raised by the opacity of NTMs but they are not sufficient
- Notifications in particular do not provide adequate information on a number of NTMs
- Compliance is low because of lack of incentives for governments to be transparent
- The new I-TIP portal will improve accessibility (and possibly quality)
- Relying on third party information will help in the short run but in the long run the incentive problem needs to be addressed



# Challenges for the WTO

- The responsibility of governments with respect to private standards and the role of the WTO are not clear
- Negotiations on domestic regulation in services have turned out to be very difficult to conclude, mainly because of concerns with regulatory autonomy
- Capacity building is a vital part of improving international cooperation both on TBT/SPS measures and on domestic regulation in services (preferences do not help)
  - The Standards and Trade Development Facility (STDF) is effective and could be extended to the TBT area
  - The Enhanced Integrated Framework and Aid for Trade Initiative are also relevant here

Thank you