

OMC

As novas guerras regulatórias

2015

Comércio e Barreiras Regulatórias

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□ OCDE

-1995 . Mercado Interno da CE

- 2008 . Crise econômica

- Globalização: necessidade de regulação global:

clima, riscos, água, energia, direitos do mar

- 2009 . Committee on Regulatory Policy

- 2012 . OCDE - Recommendation of the Council on

Regulatory Policy and Governance

Comercio e Barreiras Regulatórias

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- Acordos de última geração: : KORUS , KOREU
- TTP
- TTIP
- Regulatory Coherence
- Regulatory Convergence
- Regulatory Cooperation
- Regulatory Consultation
- Regulatory Coordination

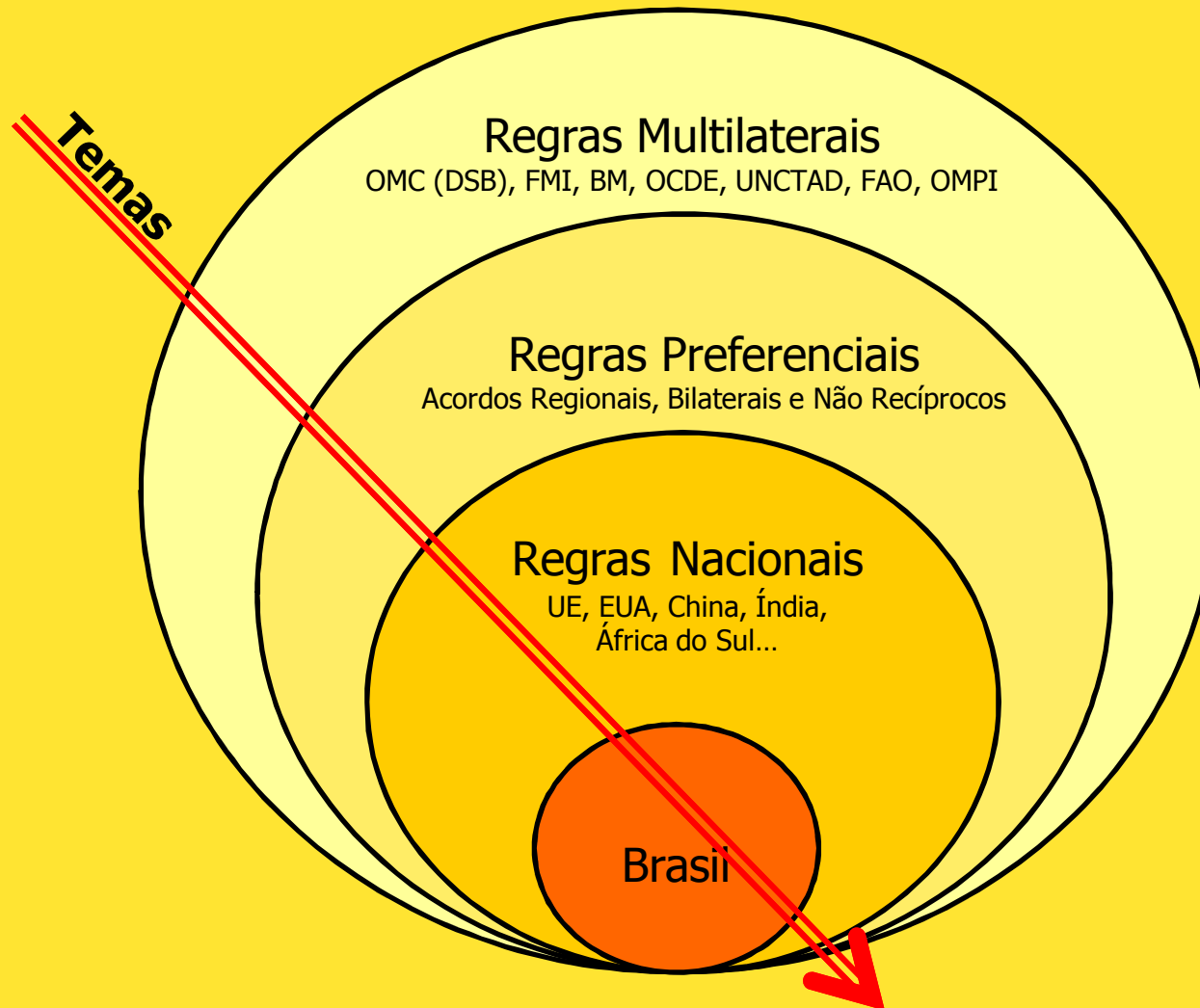
International Regulation

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- **TBT** Æ **technical barriers**
- **SPS** Æ **sanitary + phitosanitary**
- **Private Standards**
- **Custom rules**
- **Investments**
- **Competition**
- **Environment + climate change**
- **Sustainability**

O Multissistema do Comércio Global

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Governança Regulatória

(Ação Conjunta/ “Co-operação”)

Coerência

(“compatibilidade”)

- Eixo horizontal
- Interação entre diferentes jurisdições para minimizar inconsistências
- Preservação da autonomia nacional
- Foco: objetivos e resultados comuns
- Instrumentos: coordenação e reconhecimento mútuo

Convergência

(“uniformidade”)

- Eixo vertical
- Adoção de regras comuns a todos os Estados
- Ultrapassa a autonomia nacional
- Foco: instituições, procedimentos e processos decisórios
- Instrumentos: sistematização (princípios/*guidelines*) e harmonização

Modelos de Governança Regulatória

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Regulação Negociada

- “ Acordos internacionais formais e vinculantes
- “ Sistema regulatório comum a todos os Estados
- “ Mecanismo: convergência
- “ Instrumento: harmonização

Regulação Cooperativa

- “ Realizada por meio de etapas negociadas e flexíveis
- “ Mecanismos: coerência e convergência
- “ Instrumentos: coordenação, reconhecimento mútuo, sistematização e harmonização

Regulação Delegada

- “ Ponto focal comum a todos os Estados
- “ Delegação da tarefa a uma órgão meta-regulador
- “ Mecanismo: convergência
- “ Instrumentos: sistematização e harmonização

Regulação Semi-governamental

- “ Realizada por órgãos privados internacionais
- “ Regulação por meio de “padrões privados”
- “ Mecanismo: convergência
- “ Instrumentos: sistematização e harmonização

Regulatory Coordination (E15 - Hoekman, Mavroidis)

TABLE 1:

Alternative Types of Regulatory Coordination Across Country Groups

Note: FSB: Financial Stability Board; CETA: Comprehensive Economic and Trade Agreement.

	Global	High-income	"North-South"	"South-South"
Competition	Baseline situation	Baseline situation	Baseline situation	Baseline situation
Coherence	Some WTO agreements; non-WTO sectoral initiatives	Core area of focus (e.g., OECD)	Element of some PTAs; APEC	Limited to date
Consultation	Some WTO agreements; non-WTO sectoral initiatives	Frequent; networks of sectoral regulators	Element of some PTAs, TPP	Limited to date
Cooperation	Sectoral examples: Codex Alimentarius; FSB	Examples in some PTAs: CETA, TTIP	Limited to date	Limited to date

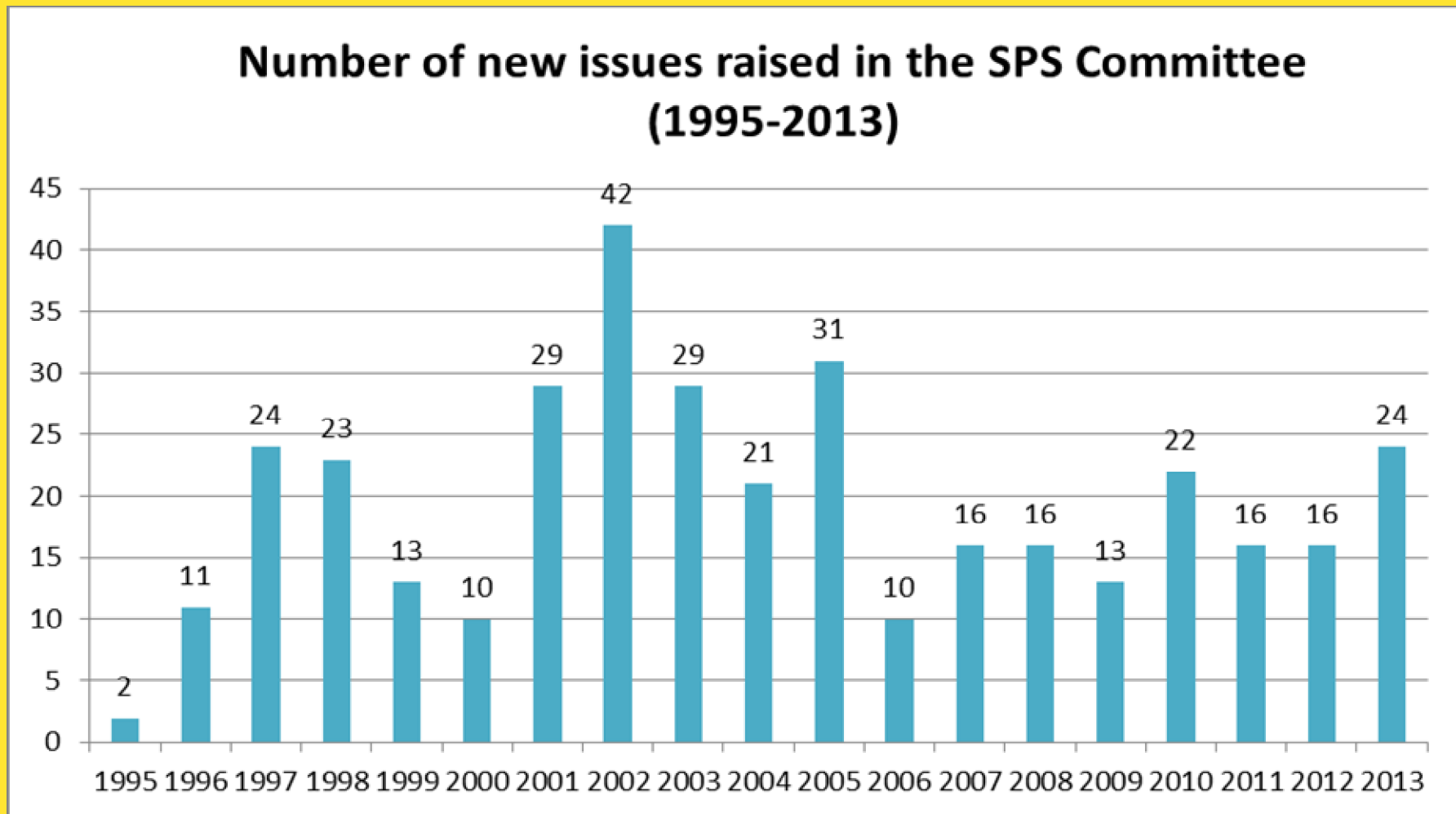
Regulatory Cooperation (Convergence)

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- TBT
- SPS
- Private Standards

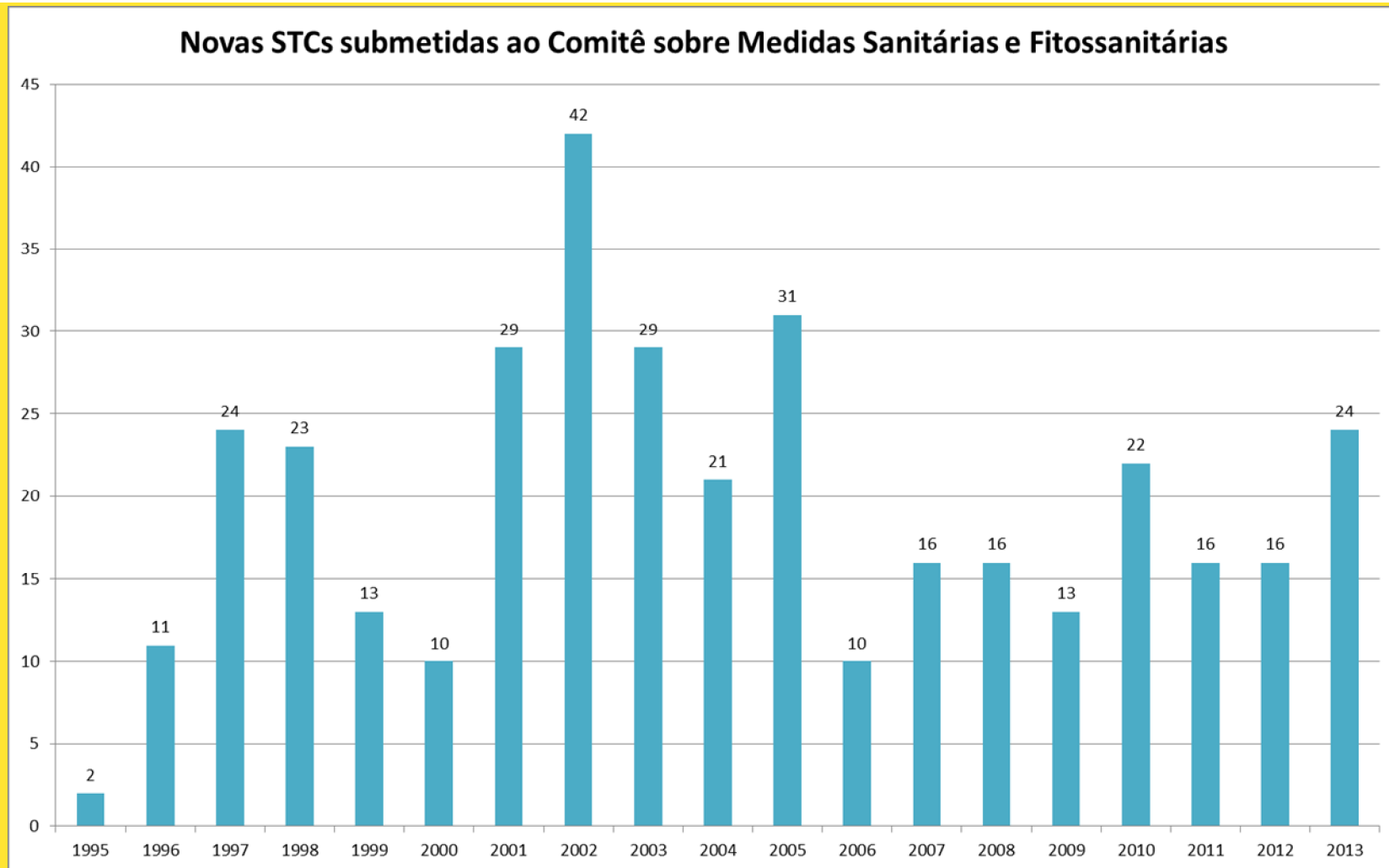
SPS Ë Notificações

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SPS Ë STCs

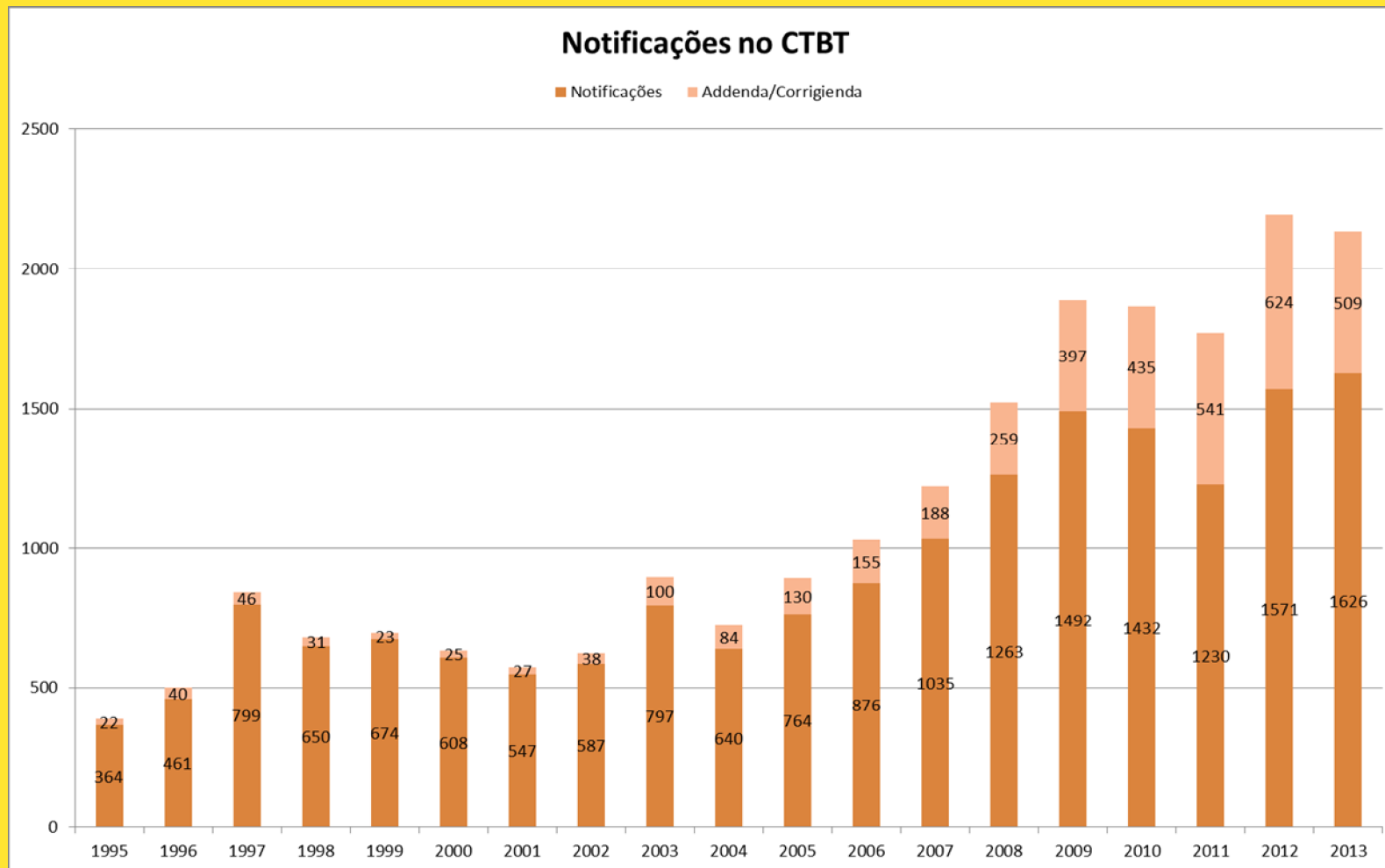
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Fonte: CSPS-OMC

TBT É Notificações

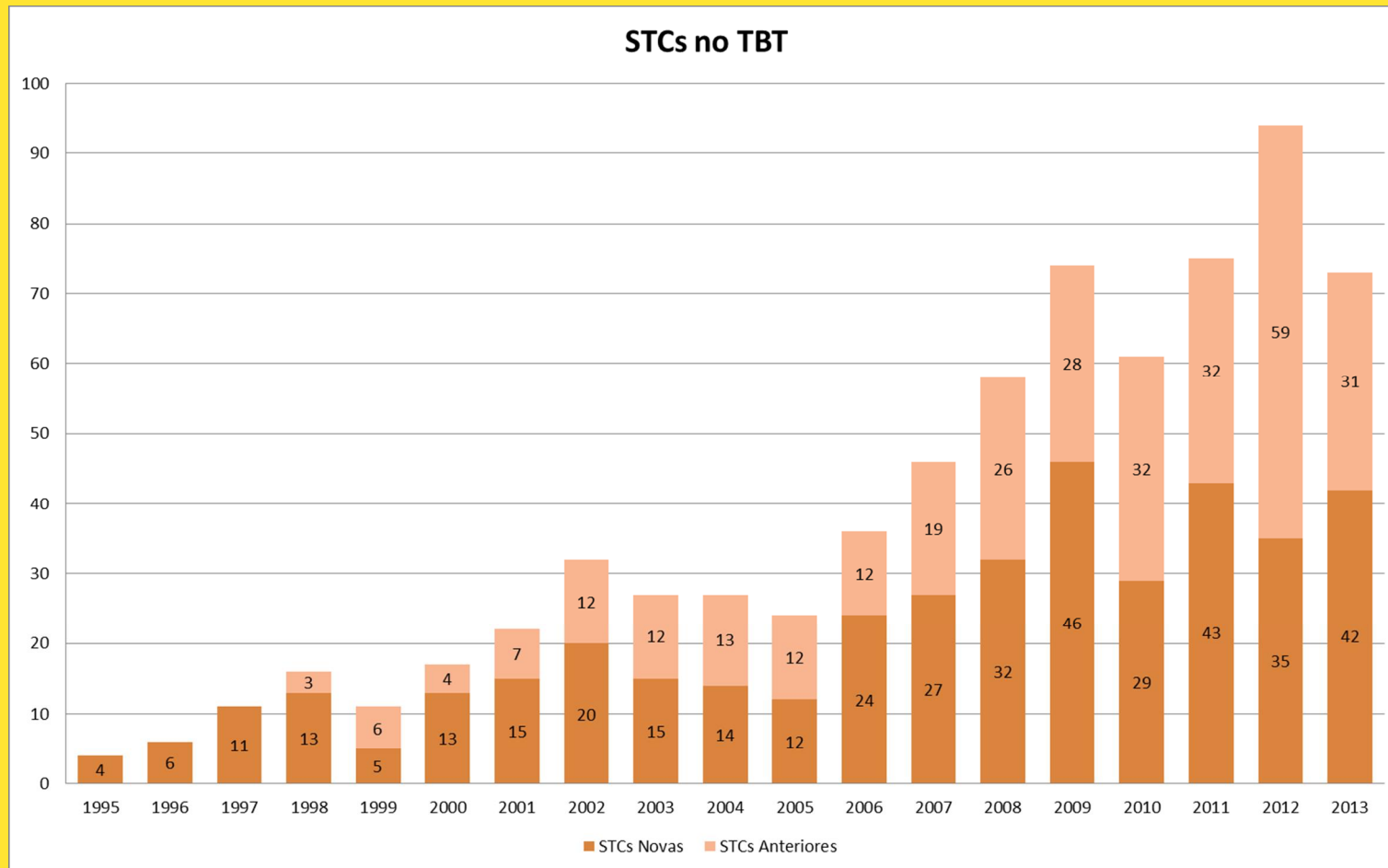
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Fonte: CTBT-OMC.

TBT E STCs

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Fonte: CTBT-OMC.

PRIVATE STANDARDS

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Standard Types		
	Public	Private
Mandatory	Regulations	Legaly binding private standards
Non-Mandatory	non-mandatory public standards	Non-mandatory private standards

Source: FAO/WHO, In: Manuela Amaral, 2014

PRIVATE STANDARDS

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Exemplos de padrões privados no setor de alimentos

Esquemas de firmas individuais	Esquemas coletivos nacionais	Esquemas coletivos internacionais
<ul style="list-style-type: none">• Nature's Choice (Tesco)• Filières Qualité (Carrefour)• Field-to-Fork (Marks & Spencer)• Filière Controlleé (Auchan)• P .Q.C. (Percurso Qualità Conad)• Albert Heijn BV: AH Excellent	<ul style="list-style-type: none">• Assured Food Standards (UK)• British Retail Consortium Global Standard• Freedom Food (UK)• Qualitat Sicherheit (QS)• Assured Combinable Crops Scheme (UK)• Farm Assured British Beef and Lamb• Sachsens Ahrenwort• Sachsen Qualitatslammfleisch• QC Emilia Romagna• Stichting Streekproduction Vlaams Brabant	<ul style="list-style-type: none">• GlobalGAP• International Food Standard• Safe Quality Food (SQF) 1000/ 2000• Marine Stewardship Council (MSC)• Forest Stewardship Council (FSC)

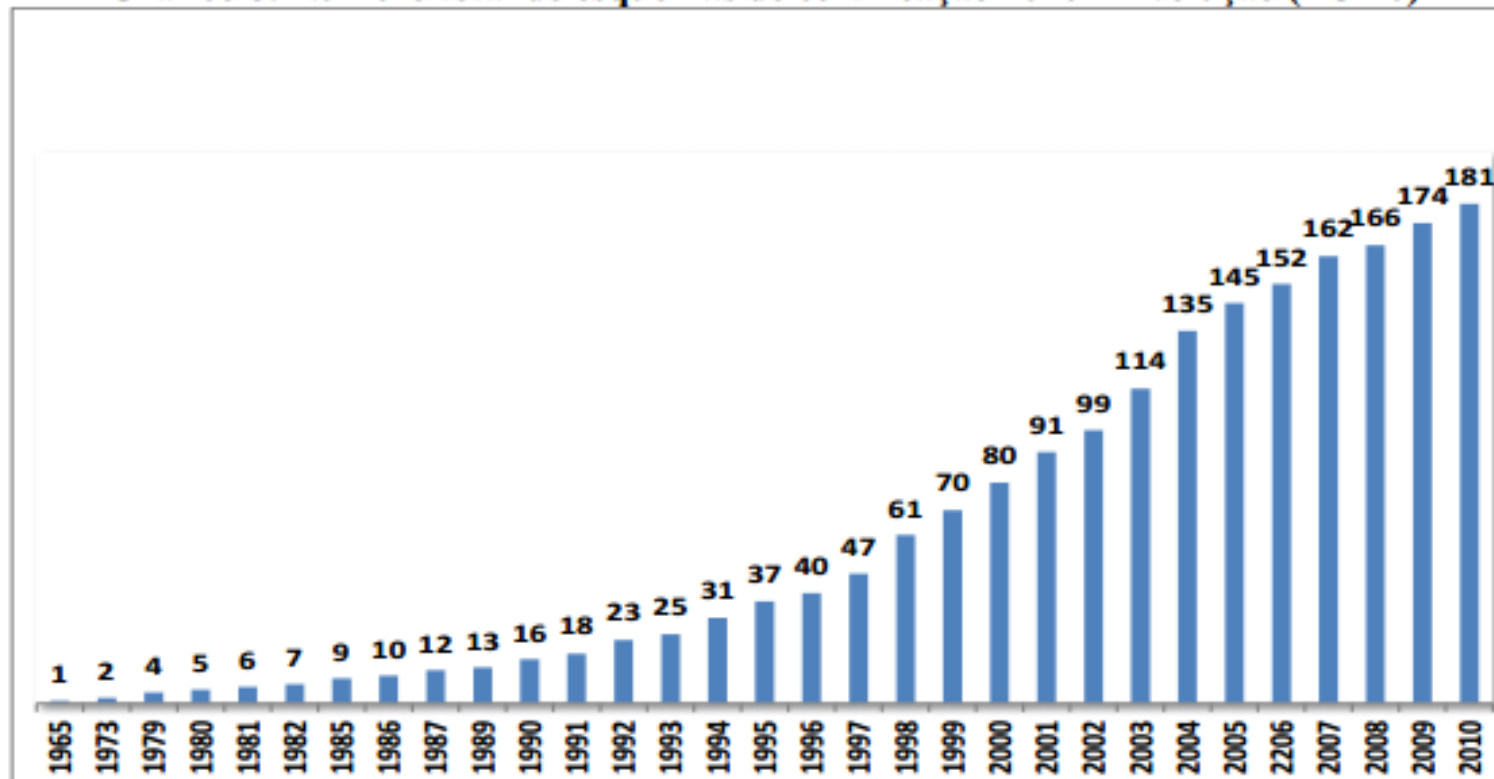
Fonte: OMC, Comitê SPS e FAO/WHO.

Fonte: Manuela Amaral, 2014.

Padrões Privados

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Gráfico 8: Número total de esquemas de certificação 2010 – Evolução (EU-27)



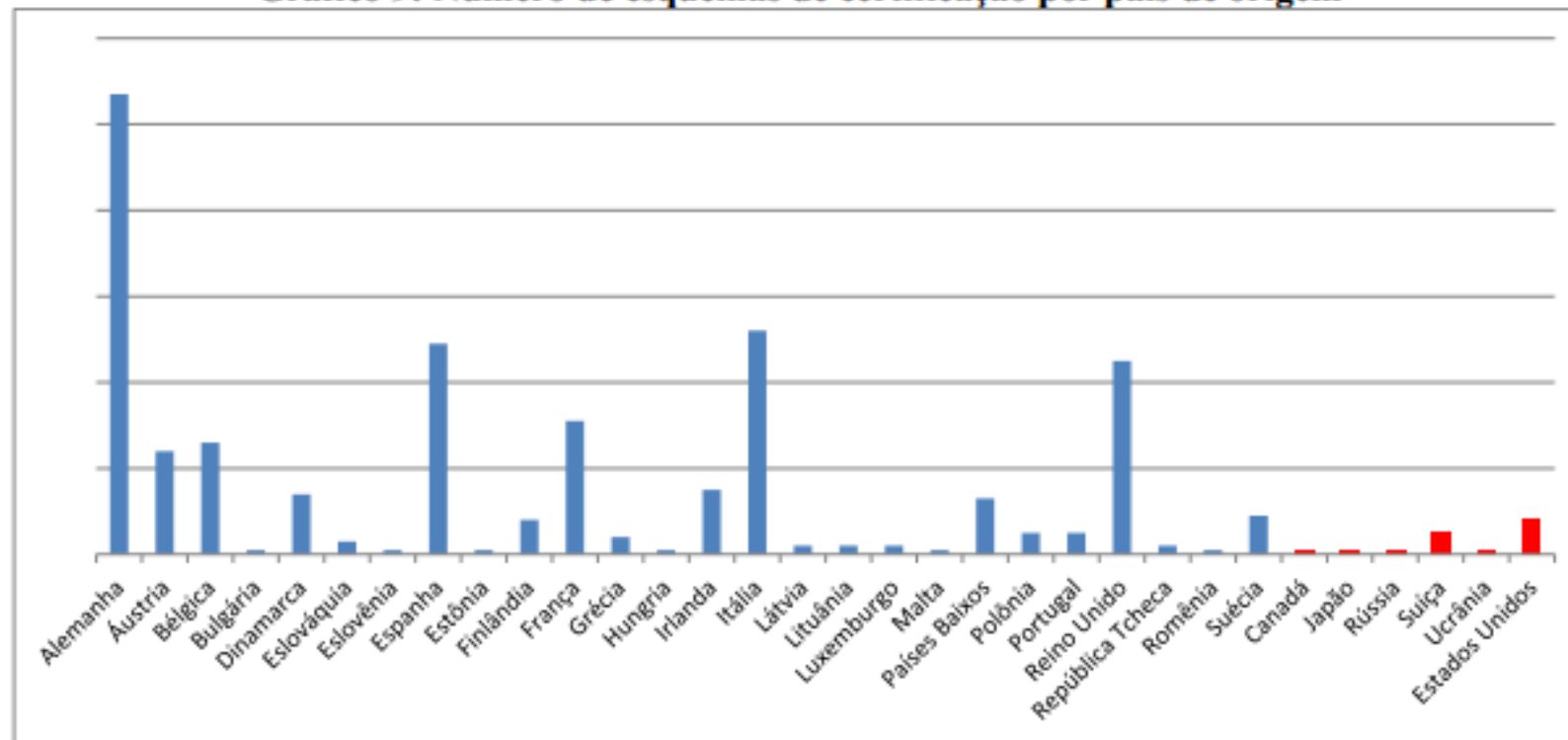
Fonte: Comissão Europeia. *Agriculture and Rural Development*. 2010.

Fonte: Manuela Amaral, 2014.

Padrões Privados Por origem

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Gráfico 9: Número de esquemas de certificação por país de origem



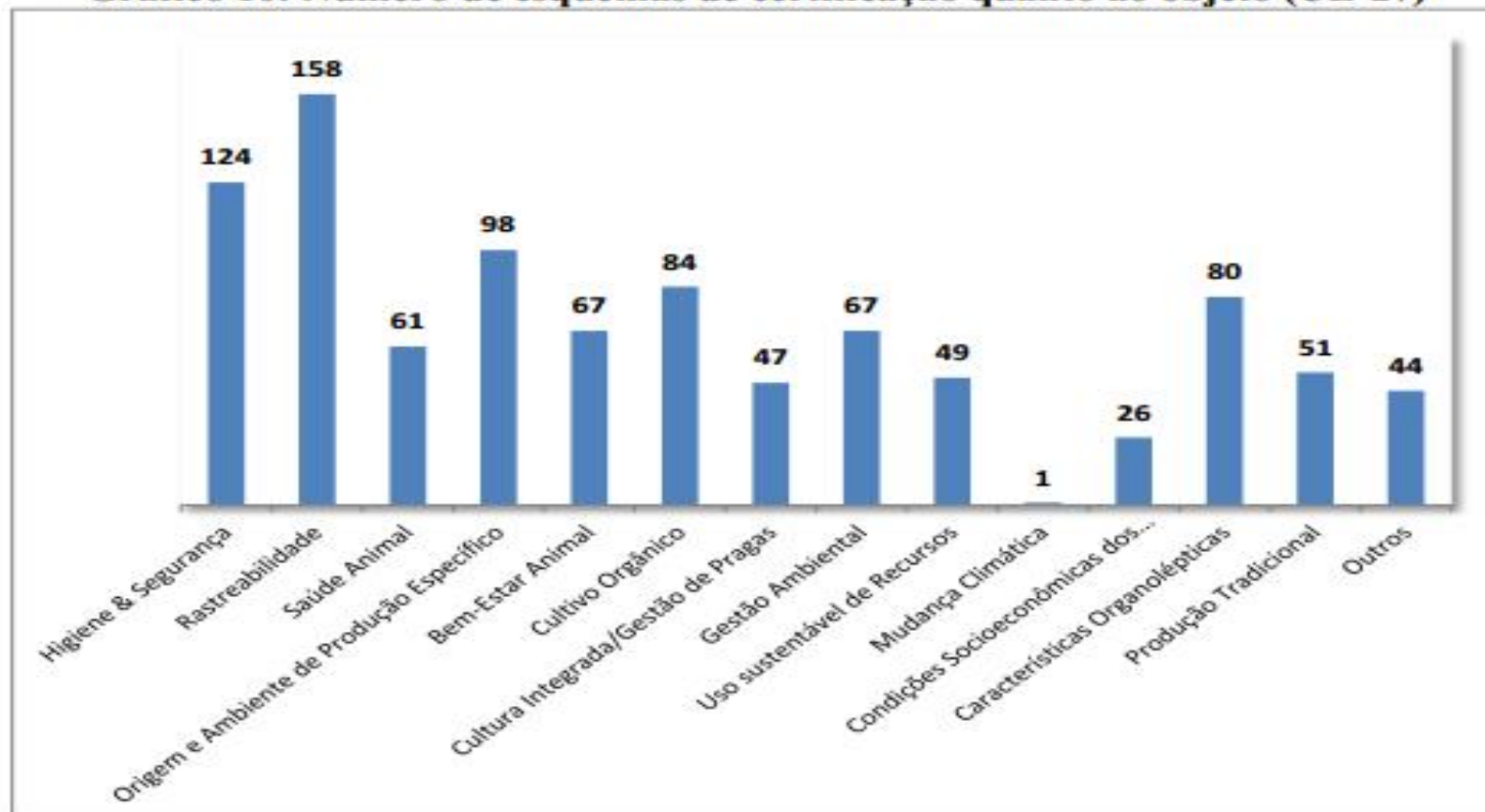
Fonte: Comissão Europeia. *Agriculture and Rural Development*. 2010.

Fonte: Manuela Amaral, 2014.

Padrões Privados Objetivos

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Gráfico 10: Número de esquemas de certificação quanto ao objeto (UE-27)



Fonte: Comissão Europeia. *Agriculture and Rural Development*. 2010.

Fonte: Manuela Amaral, 2014.

UNFSS - UN Forum on Sustainability Standards

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UNITED NATIONS
UNCTAD

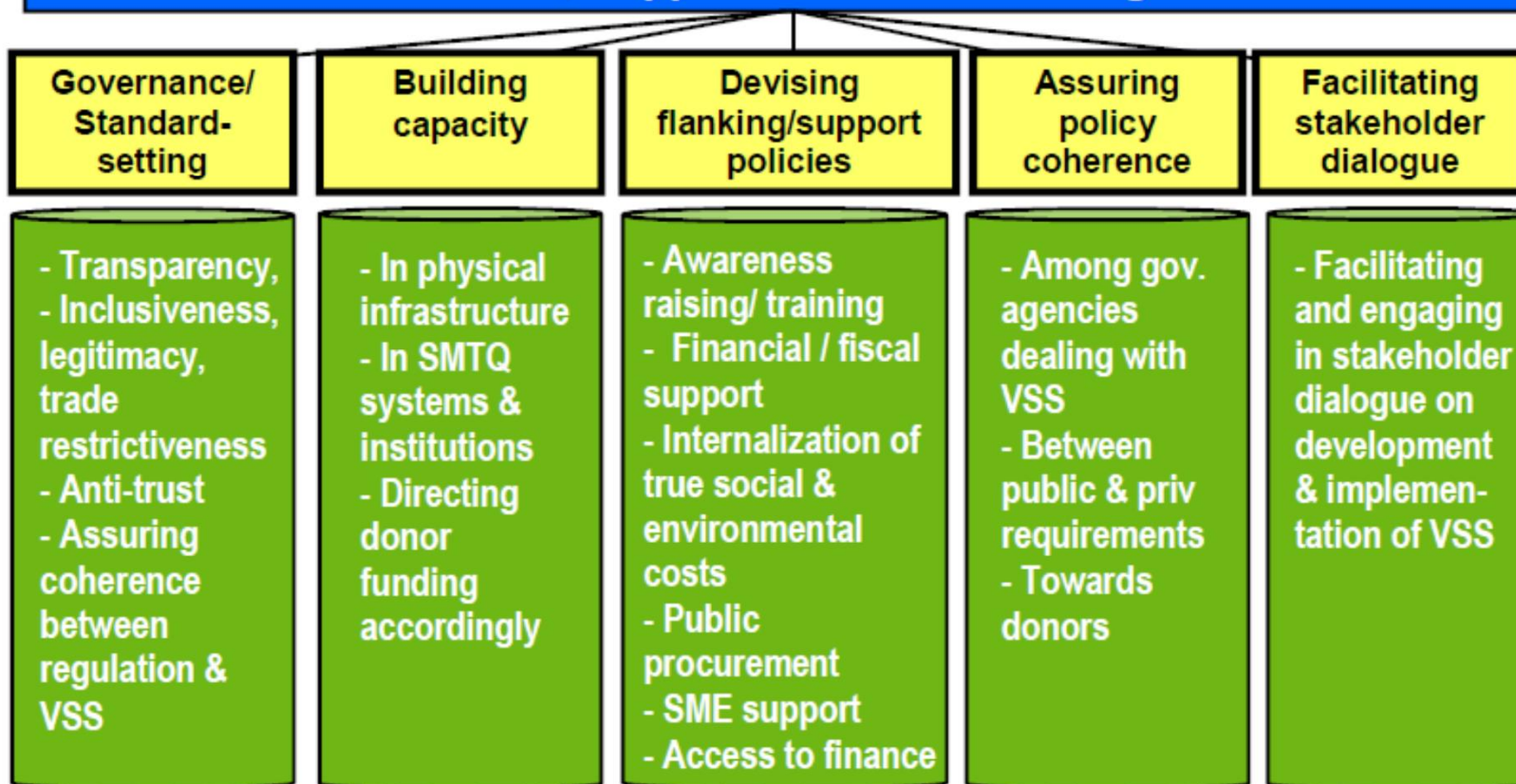


UNFSS - Pro-active Role of VSS -

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The Pro-active Role of Governments on VSS

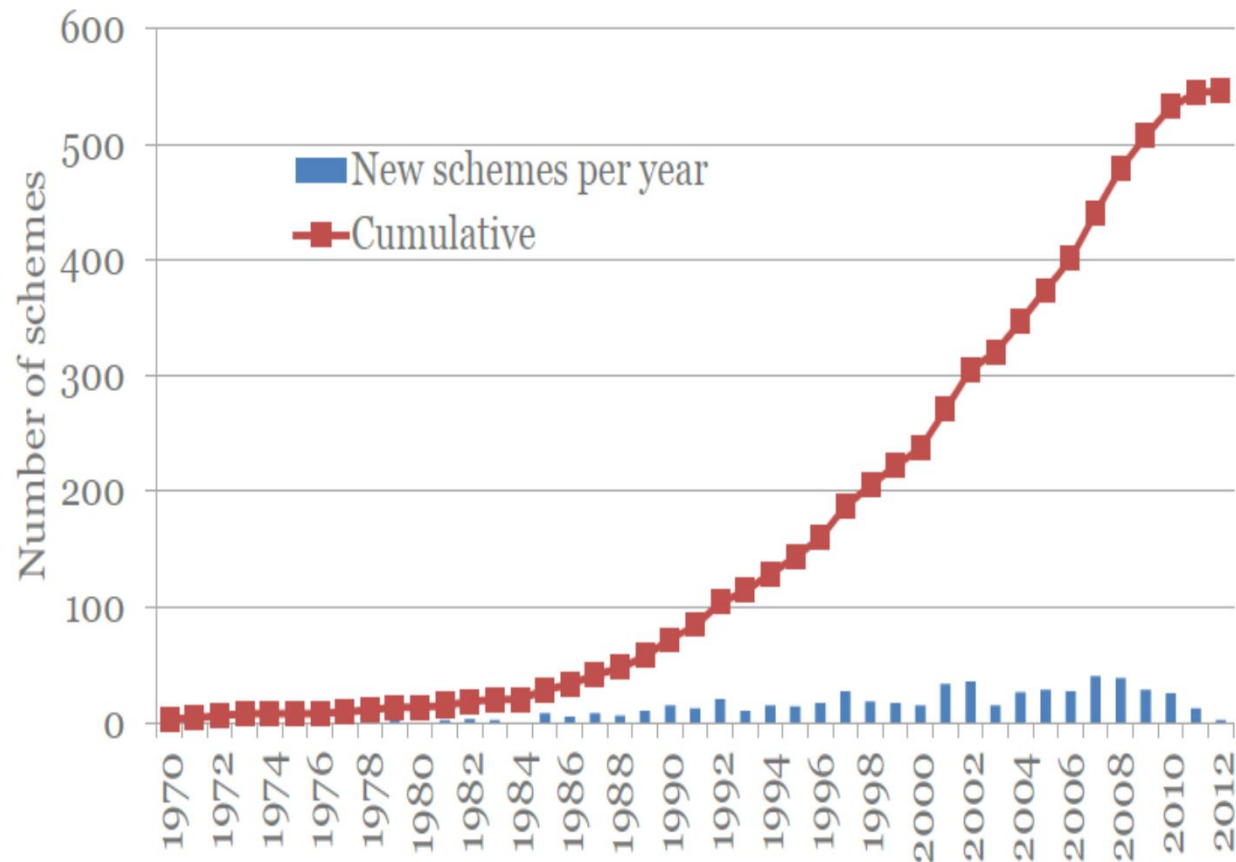
Surveillance, Supportive and Facilitating Role



UNFSS

Some key recent trends in the use of VSS

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Possible
slow-down
of new
schemes?

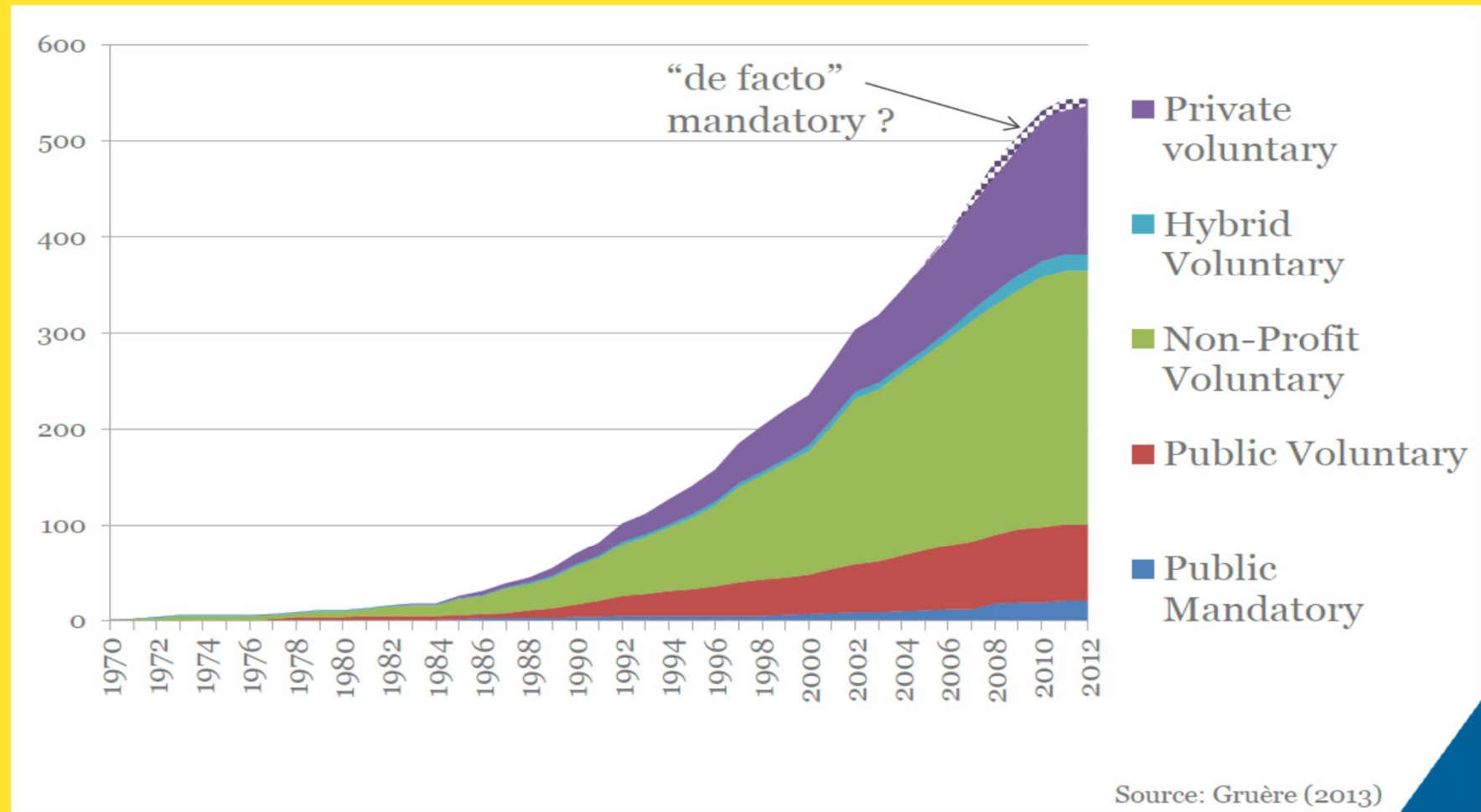
Source: Gruère (2013)

UNFSS

Some key recent trends in the use of VSS

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Evolution of private voluntary versus public standards and regulation



UNFSS

Some key recent trends in the use of VSS

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Example label mapping: Fruit, vegetables and coffee

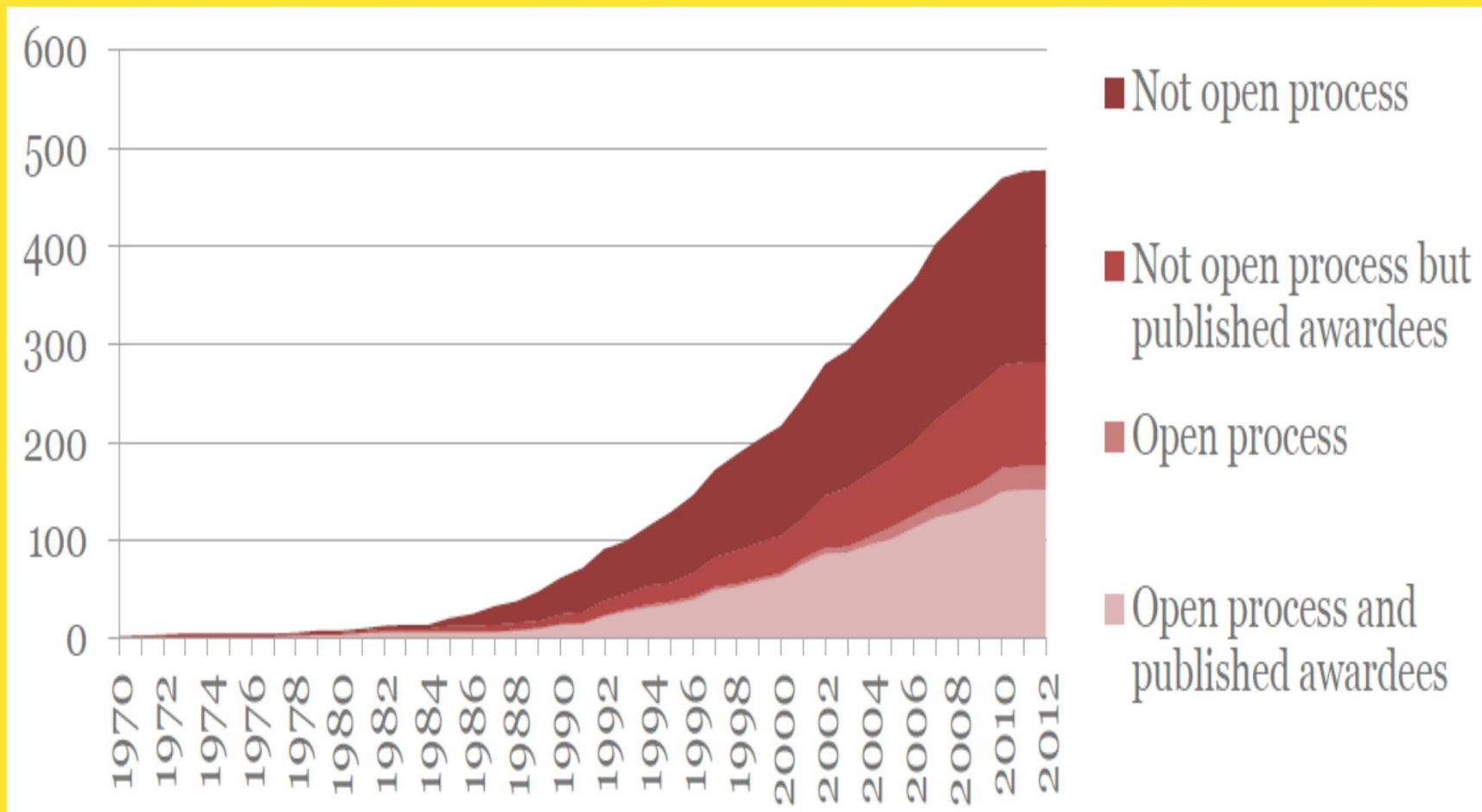
Attributes targeted	Life-cycle stages covered			
	Transport	Raw materials	Processing	End use and disposal
Social sustainability		FairTrade		
Chemical control		Organic labels		
Natural resource mgmt				
Biodiversity conservation		Biodiversity footprint /impact		
Energy use	Transport related labels (air freight, food miles)	Rainforest Alliance, 4C coffee, Utz, Food Alliance Certified, etc		
GHG emissions			Carbon footprint	
Water use			Water footprint	
Waste and recycling		Packaging recycled content		Packaging recyclable
				Composting labels

UNFSS

Some key challenges related to VSS

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More third-party audit, but many private standards are still not transparent



UNFSS

Some key challenges related to VSS

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- Competitive pressure tends to limit interest in and preparedness for upscaling the reach of VSS beyond a certain critical mass of better organized and logistically well-located producers.
- Many VSS are unlikely to create on their own sufficient impact and leverage for real transformational change. They have however been very successful in facilitating market access and responding to specific consumer or civil society concern, for instance on certain environmental or social issues.
- The pressure of conventional markets on costs of production that do not internalize environmental damage or true social costs and the additional costs of sustainability-standards-compliant producers, in particular for inspection and certification, remain a serious hurdle for increasing the market share of VSS beyond a certain threshold (usually 10-15%).

National Platform in India and China

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- ~ The Platform would be **demand-driven** and **steered by Indian policy makers, based on a consultative process with other stakeholders.**
- ~ Assist Indian standard setting organizations in arranging for training and developing effective VSS frameworks and how to prepare the domestic users for effective VSS use.
- ~ Strengthening cooperation between relevant stakeholder groups to the benefit of more inclusive standards development.
- ~ UNFSS would support National Platform with experts, comparative analysis and the collective capacity-building network of the UNFSS member organizations (FAO, ITC, UNCTAD, UNEP and UNIDO).
- ~ National Platform would closely collaborate with the Training Institute on Standards.

Deliverables of the platform

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- 1. Build a more institutionalized structure to facilitate and strengthen an informed policy dialogue on how to pro-actively use VSS to strengthen competitiveness and facilitate access to export markets, on the one hand, while contributing to achieving specific sustainable development objectives, on the other.
- 2. To gather and exchange information on the key sectors and product groups, in which VSS play an important role for access to export markets and/or the management of international supply chains.
- 3. Comparative analysis of VSS and what standards might be a best fit for assuring market access and meeting specific sustainability goals at micro- and macro-economic level.
- 4. Review the need to bring certain national standards in line with international VSS for key product groups. Explore in this regard the experience of countries like China and Brazil.
- 5. Review of best practice cases in India for having a pro-active and supportive policy of VSS and drawing lessons that can be generalized.
- 6. Analysis of pro-active and supportive policy at national and regional level for optimizing the use of VSS aimed at harnessing their benefits and minimizing their cost of compliance.
- 7. Conducting impact assessment of VSS in terms of achieved market access and sustainable development goals.
- 8. To assist Indian standard setting organizations in arranging for training and developing effective VSS frameworks and how to prepare the domestic users for effective VSS use.
- 9. To identify key areas of research interest and assist in conducting such research in collaboration with selected national and international partners.

Brasil x Padrões Privados

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- **Mundo precisa de uma Meta Regulação**

- **Estrutura**
- **Regras**

- **Onde: ?**
 - ISO**
 - Codex**
 - UNFSS**

Foros de discussão

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- **OMC**
- **Acordos preferenciais**
- **Megas**

- **Guerra regulatória ?**
 - . **Proteção do consumidor**
 - . **Proteccionismo**

- **Brasil ?**

Conclusões

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- **TBT e SPS são as novas barreiras ao comércio**
 - **violações podem ser levadas a OMC**

- **Padrões Privados**
 - **governos não tem responsabilidade**
 - **não tem foro para discussão**

Necessidade de se criar META-REGULAÇÃO
Órgão Internacional e regras

Conclusão

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Propostas:

- **Brasil deve participar ativamente na OCDE e na UNECE**
- **Brasil deve propor a discussão de Barreiras Regulatórias na OMC**
- **O Brasil deve levar o tema PPs para a OMC como *Í Specific Trade Concern***