



European Commission

Enterprise and Industry Directorate General

Functioning of Directive 98/34/EC

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Seminar on TBT issues – EU-Central America Free Trade Agreement,
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DG Enterprise and Industry – Unit C/ 3

Unit C/3 “Notification of Technical Regulations”:

- Directive 98/34/EC
- Agreement on Technical Barriers to Trade
- Coordination with other Commission services

Directive 98/34/EC & Internal Market

Free movement of goods – fundamental freedom

After „*Cassis de Dijon*“ judgment of the ECJ:

- Mutual recognition (Article 28 EC Treaty)
- Harmonisation in important sectors (protection of health, safety and environment)
- Preventive control mechanisms (e.g. Directive 83/189/EEC, replaced by 98/34/EC)

What is Directive 98/34/EC?

A system of notification
of technical regulations
at a draft stage
applying standstill periods
during which the Commission
and all Member States
can react in a specific form.

Objectives of Directive 98/34/EC

Smooth functioning of the Internal Market

- Transparency

- All participants in the notification process are informed

- Prevention

- Avoiding barriers to trade before they appear

- Subsidiarity

- Detecting those areas where Community intervention appears most appropriate

Scope of Application of Directive 98/34/EC (1)

- Geographical scope: 27 Member States, EEA MS, Switzerland, Turkey
- The Directive applies to all industrial and agricultural products
- Directive 98/48/EC extended the notification procedure to Information Society service

Scope of Application of Directive 98/34/EC (2)

- Factors triggering a notification:
 - a) must contain technical regulations
 - b) Measures must be imputable to the state
 - c) must fall outside the “harmonised” area

Scope of Application of Directive 98/34/EC (3)

Technical regulations:

Technical specifications

characteristics of a product:

- levels of quality, performance, safety
- dimensions
- terminology, symbols, labeling, packaging
- testing, testing methods
- conformity assessment procedures
- production methods/processes

Other requirements

- affecting the life cycle after placing on the market
- such as conditions of use, recycling, reuse or disposal

Rules on I.S. services

- at a distance
- by electronic means
- at the individual request of a recipient of services

Moment of Notification

When to notify a text:

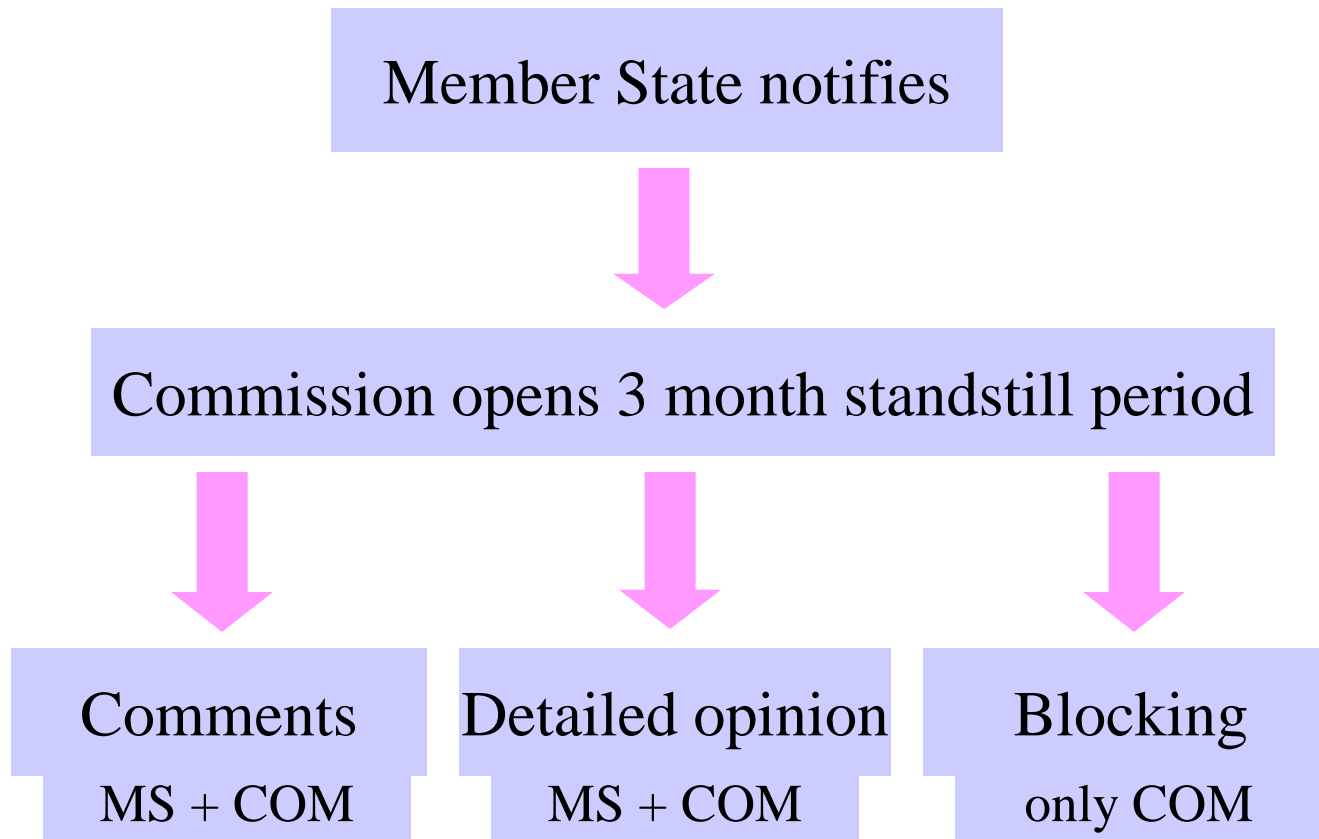
- when a text is still at a draft stage
- when substantial amendments can still be made
- in any case before its adoption

Underlying Principles

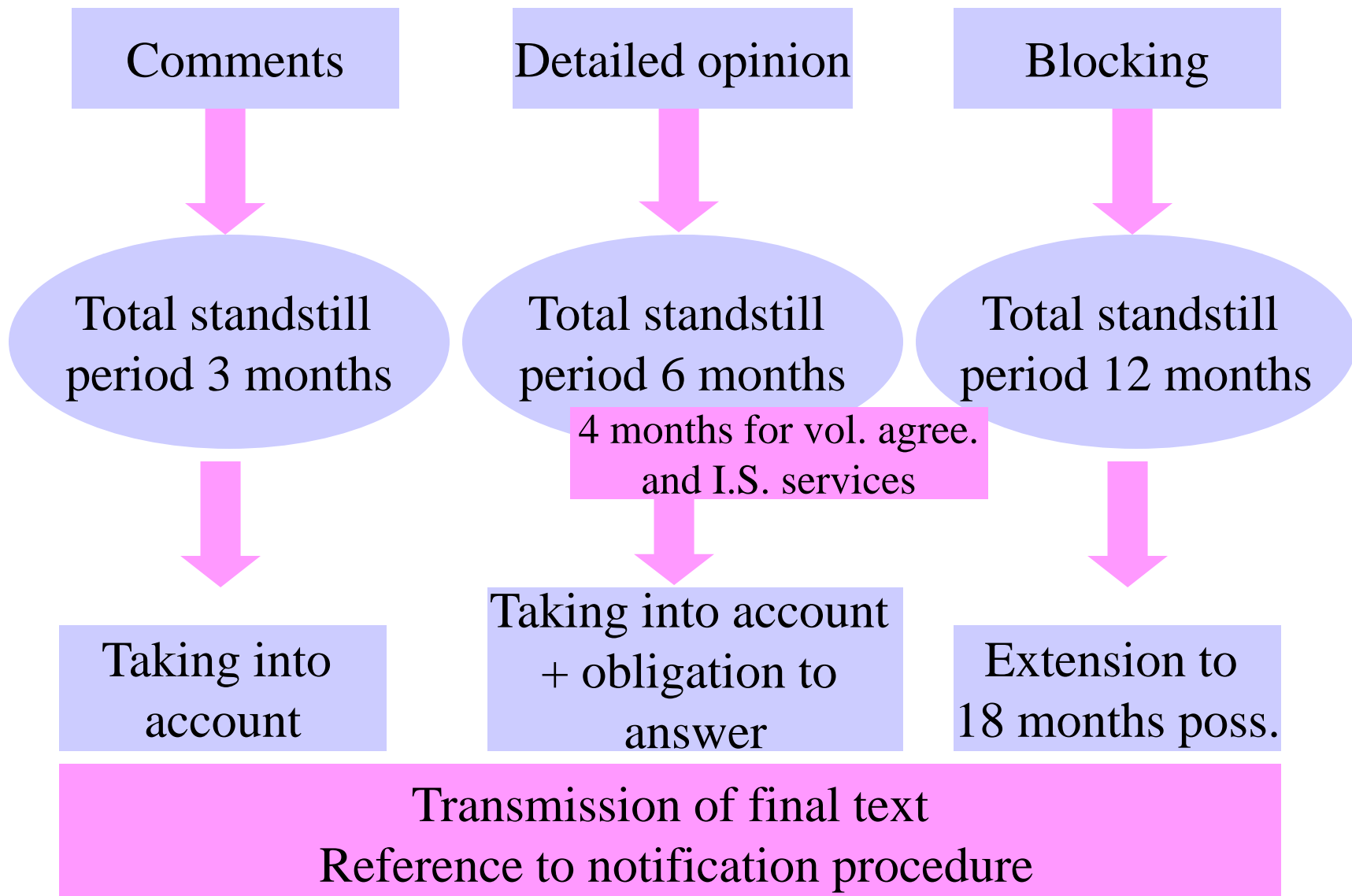
Assessment of potential obstacles to trade

- In the **non harmonised area** in the light of :
 - **Non discrimination (imported goods = domestic goods)**
 - **Necessity of the proposed measure**
 - **Proportionality to the objective of the measure**
-
- In the **“harmonised” area** in the light of :
 - **Relevant EC Acts (Regulations, Directives, Decisions,...)**

Notification Process (1)



Notification Process (2)



Request for Urgency

Article 9.7

No standstill period if a Member State invokes **serious** and **unforeseeable** circumstances relating to:

- protection of public health or safety, protection of animals and plants
- for rules on services, also to public policy, notably the protection of minors

Consequences of absence of notification

ECJ judgments regarding the procedure

- CIA Security (C-194/94)

- Inapplicability of non-notified technical regulations

- Unilever (C-443/98)

- Inapplicability of technical regulations adopted during standstill period

Results of the procedure

Directive 98/34/EC is an instrument ensuring:

- Transparency
 - TRIS internet site
- Openness
 - alert system, brochure, etc.
- Participation
 - stakeholders' comments are welcome
- Efficiency
 - prevention is better than cure

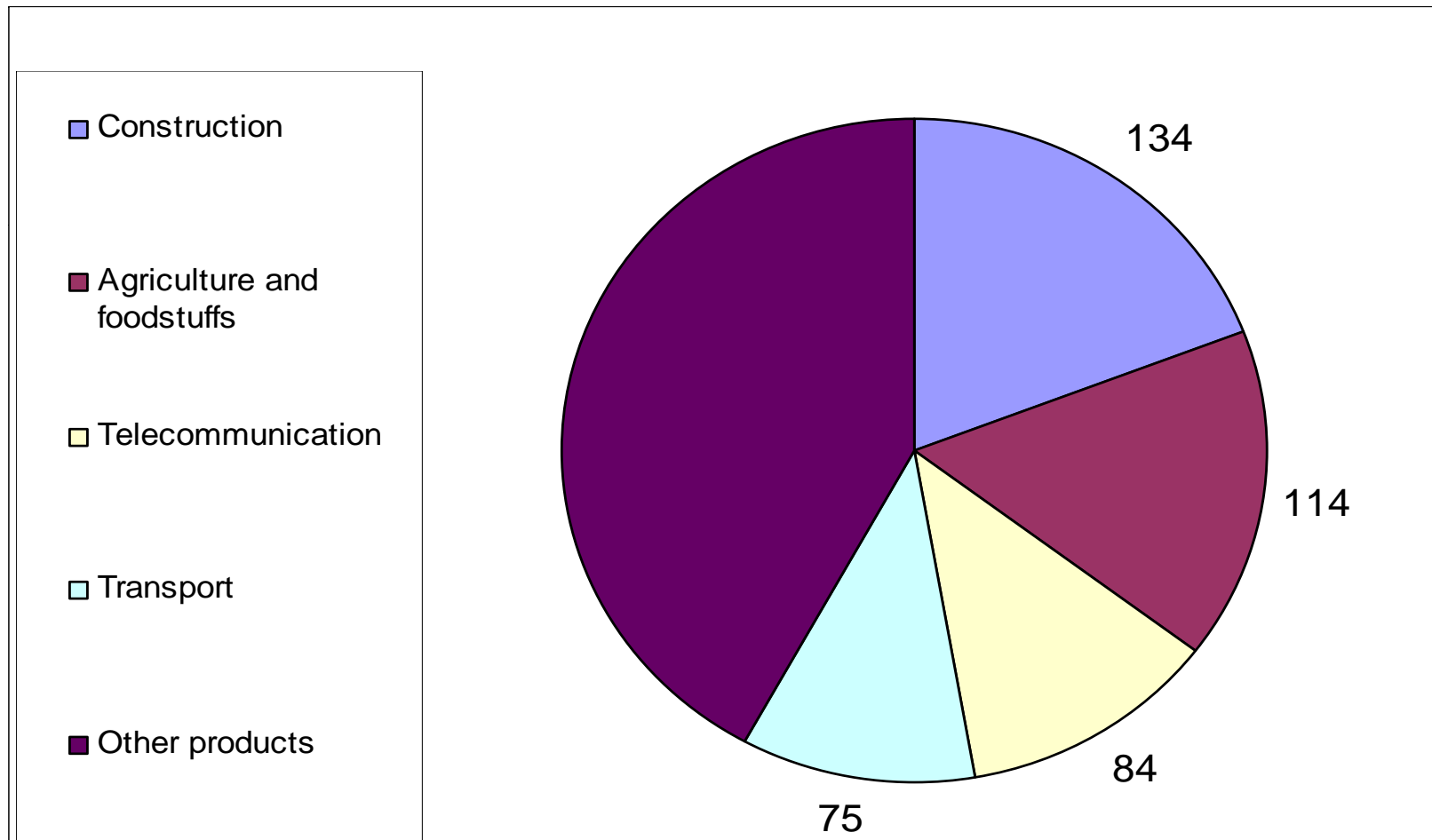
Statistic – number of notifications

2003	520 (486 MS)
2004	613 (557 MS)
2005	800 (739 MS)
2006	723 (668 MS)
2007	752 (710 MS)

Statistics – number of notifications and reactions

	Total	Detailed opinions	Comments
2003	520 (486 MS)	80 (COM) 59 (MS)	165 (COM) 151 (MS)
2004	613 (557 MS)	66 (COM) 60 (MS)	229 (COM) 178 (MS)
2005	800 (739 MS)	77 (COM) 45 (MS)	263 (COM) 227 (MS)
2006	723 (668 MS)	61 (COM) 52 (MS)	183 (COM) 207 (MS)
2007 (until 25.2.2008)	752 (710 MS)	58 (COM) 34 (MS)	135 (COM) 162 (MS)

Sectors of notifications of technical regulations (2007)





Useful links and contacts

Commission internet website:

<http://ec.europa.eu/enterprise/tris>

