

ASIA-PACIFIC TRADE AND INVESTMENT REPORT 2019

Navigating Non-tariff Measures towards Sustainable Development



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EXECUTIVE SUMMARY

During the past two decades, thanks to multilateral and regional trade agreements (RTAs) as well as unilateral efforts, applied tariffs in the Asia-Pacific region have been halved. At the same time, the number of non-tariff measures (NTMs), including sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBTs), has risen significantly. NTMs often serve legitimate and important public policy objectives, but their trade costs are estimated to be more than double that of ordinary customs tariffs. The economic cost of SPS and TBT measures is estimated to be up to 1.6% of global gross domestic product, amounting to \$1.4 trillion. As such, they have become a key concern for traders as well as for trade policymakers aiming to ensure that trade can continue to support sustainable development.

“Trade costs of NTMs are more than double that of ordinary customs tariffs.”

This year’s Asia-Pacific Trade and Investment Report provides an overview of NTM trends and developments in Asia and the Pacific. It explores how NTMs relate to the Sustainable Development Goals (SDGs). This is followed by a discussion of the impacts of NTMs on trade and investment, together with a private sector perspective outlining the difficulties posed by NTMs and related procedural obstacles. The importance of aligning NTMs with international standards as one way to bring down trade costs of NTMs, as well as other policy recommendations and good practices on streamlining NTMs towards sustainable development are discussed.

“NTMs are not inherently good or bad – they add to trade costs, but can be important instruments in achieving SDGs, and can even promote trade.”

NTMs are policy measures other than ordinary customs tariffs that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both. The universe of NTMs is diverse. While SPS and TBT measures account for the bulk of measures, it includes policies such as licensing, subsidies, distribution restrictions, quotas, prohibitions, excise taxes and so on. NTMs as policy instruments are not inherently good or bad. They often serve important purposes, such as protection of human, animal and plant health or, protection of the environment, and can therefore help achieve the 2030 Agenda for Sustainable Development. Failure to have essential technical NTMs in place, or their poor implementation, may have serious detrimental impacts (e.g., the spread of diseases such as the African swine fever in parts of the region). Technical NTMs can also boost demand and trade under certain conditions. At the same time, a key characteristic of NTMs is that they usually generate costs for producers and traders, potentially inhibiting international trade. NTMs are usually more complex, less transparent and more difficult to monitor than tariffs, and are sometimes used by Governments with a protectionist intent, rendering them non-tariff barriers – NTBs.

“In Asia and the Pacific in 2018 the number of new technical NTMs notified to WTO reached 1,360 measures – a 15% year-on-year increase.”

On average, each imported product in Asia and the Pacific faces 2.5 NTMs, and 57% of imports are affected by at least one NTM. The number of new or updated SPS and TBT measures initiated globally and notified to the World Trade Organization (WTO) in 2018 reached 3,466 – a 16% increase from the previous year. In Asia and the Pacific, the number of new initiations reached 1,360 measures – a 15% year-on-year increase. In comparison, in 2007, globally 1,875 SPS and TBT measures were initiated, and 522 in Asia and the Pacific.

It is generally agreed that this increase is due to the efforts of developing countries to improve their technical, sanitary and phytosanitary regulatory frameworks; in contrast, annual notifications by developed economies have remained fairly constant across the years.

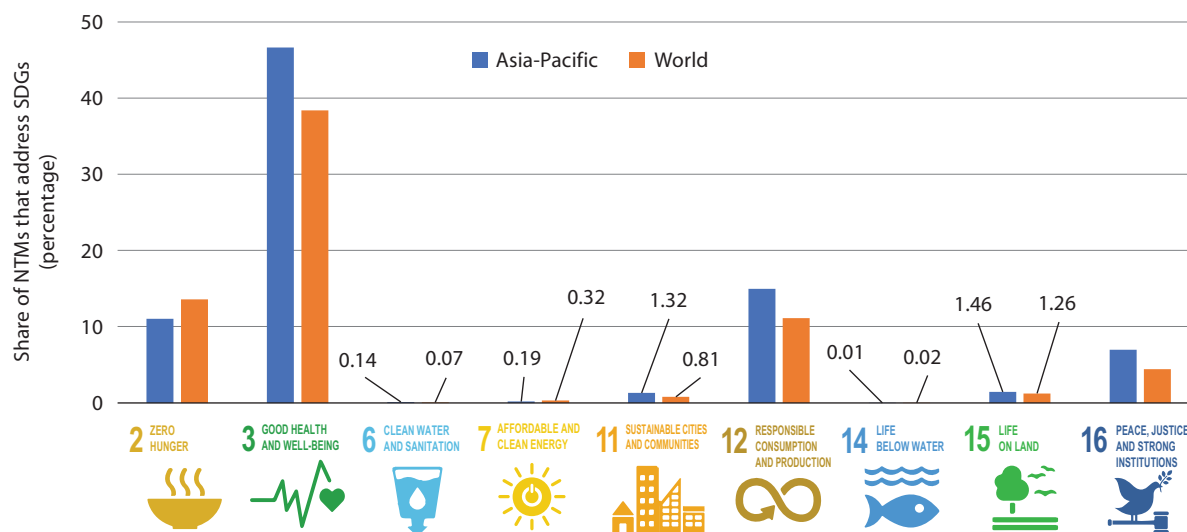
“NTMs have a multifaceted effect on sustainable development through direct and indirect impacts.”

The 2030 Agenda for Sustainable Development recognizes international trade as an engine for inclusive economic growth and poverty reduction, and an important enabler to achieve SDGs. Trade is strongly linked to the Goals related to health and safety, the environment and climate, public security and peace. As such, broadly speaking, NTMs can directly contribute to sustainable development as policy instruments, or they can indirectly affect sustainable development through their impact on trade and investment.

“Almost half of NTMs in Asia and the Pacific directly address SDGs.”

The analysis presented in this report shows that almost half of NTMs in Asia and the Pacific directly address SDGs. The highest share of SDG-related NTMs in the Asia-Pacific region and globally directly address Goal 3 (Good Health and Well-being) (see the following figure). NTMs that address this Goal include regulation of medicines, food safety, technical regulations on vehicle safety, and regulations on trade, and packaging of alcohol and tobacco products. NTMs that arise due to international agreements (such as the Montreal Protocol on Substances that Deplete the Ozone Layer) and address Goal 12 (Responsible Consumption and Production) are also prevalent, highlighting the need for international collaboration to achieve SDGs.

Distribution of NTMs that directly address SDGs, by Goal



“Only 10% of the economies in Asia and the Pacific have NTMs addressing illegal, unreported and unregulated fishing and illegal timber trade.”

While other Goals are addressed by relatively fewer NTMs, they are nonetheless important for sustainable development. However, the analysis indicates that some SDG targets remain unaddressed by trade regulations. For example, approximately only 10% of the economies in Asia and the Pacific have at least one NTM addressing illegal, unreported and unregulated (IUU) fishing and illegal timber trade. As such, there

seems to be more scope for member States in the region to address these aspects of sustainable development through trade measures.

“Well-intentioned NTM regulation addressing one dimension of sustainable development may inadvertently, negatively and severely affect other dimensions.”

Many NTMs were found to have no direct linkages to SDGs. This is not to say that they lack public policy objectives. For example, while motor vehicle safety can be linked to reducing traffic accident fatalities, safety of consumer and commercial products cannot be directly linked to any SDG target. Taking a gender focus as another example, NTMs aimed at controlling and reducing the use of alcohol and narcotics can also reduce violence against girls and women (SDG Target 5.2). Many, if not most, NTMs affect a number of SDGs simultaneously. In some cases, well-intentioned NTM regulations addressing one dimension of sustainable development may inadvertently, negatively and severely affect other dimensions. As such, detailed sustainability impact assessments at the country and sector levels are recommended in order to draw accurate conclusions for each new or existing NTM.

“The average trade costs of NTMs in the Asia-Pacific region are 15.3%, which is higher than those in the United States and the European Union.”

While NTMs often serve legitimate and necessary purposes, they add costs to trade. It is estimated that the average combined cost of all NTMs for imports is 15.3% in Asia and the Pacific, whereas tariffs account only for 5.8%. In the agricultural and automotive sectors, the combined costs of NTMs are up to 20% for imports. While the United States and the European Union have more NTMs in place, costs related to NTMs are higher in Asia and the Pacific, suggesting that the design or the implementation of NTMs in the Asia-Pacific region is less efficient.

“High average regulatory distances among economies in Asia and the Pacific strongly puts forward a case for regulatory cooperation.”

Trade costs related to NTMs increase with the divergence of measures in different countries, affecting small and medium-sized enterprises (SMEs), and smaller and lower income countries disproportionately. An analysis of the similarity of NTMs between economies suggests that regulations may be less harmonized among the economies of the Asia-Pacific region than globally. The lowest average regulatory distance within the Asia-Pacific subregions is in North and Central Asia, in large part due to the Eurasian Economic Union's efforts at harmonization. When comparing NTM regulations with trade partners beyond the region, similarity is significantly lower with the United States than with the European Union. Regulatory distance for measures that were identified as having a direct and positive impact on SDGs is slightly higher than for all measures. Most notable, however, the regulatory distance of SDG-related NTMs within Asia and the Pacific is significantly higher than the distance between that region and the European Union and the United States. Particular efforts may be needed to harmonize NTM regulations that support sustainable development in the Asia-Pacific region with those of major trade partners outside the region.

“NTMs have a positive impact on FDI, on average, but detailed case-by-case impact assessments need to be carried out.”

Through their effects on imports, NTMs may indirectly affect inward foreign direct investment (FDI). Overall, the analysis suggests that increasing the average number of NTMs applied to a product by one (i.e., from 2.5 to 3.5 NTM per product) could boost FDI by 12%. Case study analyses confirm that certain NTMs, such as intellectual property rights, local content requirements and TBTs in selected sectors, seemingly have

a significant impact on FDI. This could prove increasingly relevant to policymakers aiming to generate investment in key SDG sectors. At the same time, a potentially positive effect of NTMs on FDI may be offset by the negative effect on trade; hence, these impacts cannot be considered in isolation. As such, any sustainability impact assessment of NTMs needs to consider their effects on FDI as well as trade (and other aspects of sustainable development).

“Domestic procedural obstacles are the primary reason why NTMs are perceived to be burdensome.”

A synthesis of country-level ITC private sector survey studies on NTMs in the Asia-Pacific region reveals that, on average, 56% of all interviewed firms in the region reported encountering problems related to NTMs when engaging in international trade. Most significantly, it was reported that domestic procedural obstacles – rather than the required standards embedded in NTMs – are the primary reason why foreign and domestic NTMs are perceived to be burdensome. Such procedural obstacles are not NTMs themselves, but they exist because of NTMs. They include time constraints, informal or unusually high payments, lack of transparency, discriminatory behaviour of government officials and a lack of appropriate testing facilities. As such, policymakers wishing to promote exports need to address domestic procedural obstacles through trade facilitation as a priority – it also is easier than trying to change export partners’ trade regulations.

“To protect health, safety and the environment, NTMs need to be coordinated or harmonized rather than eliminated.”

A significant share of trade costs stem from the fact that technical regulations (SPS and TBT) are often very different between countries. As such NTMs are necessary to protect health, safety and the environment, they need to be coordinated or harmonized rather than eliminated. Research suggests that a similar level of protection of health, safety and the environment could be achieved at lower costs if regulations were more similar or mutually recognized.

“International standards are aimed at assisting harmonization of measures, thereby facilitating international trade.”

The use of international standards – a form of regulatory harmonization – is one way of overcoming challenges related to heterogeneity of regulations. International standards are considered scientifically justified and are accepted as the benchmarks against which national measures and regulations are evaluated. According to the WTO SPS Agreement, unless there is a scientific justification for a more stringent SPS protection, members must base their SPS measures on international standards in order to achieve broad harmonization. Similar to the SPS Agreement, the WTO TBT Agreement also places an obligation on member States to use international standards wherever they exist as a basis for their technical regulations and standards, unless the existing international standards or their parts are ineffective or inappropriate to fulfilling the respective legitimate objectives.

“Most countries in Asia and the Pacific divert from the recommendations of international standards and under-regulate.”

Most countries in Asia and the Pacific have been found to diverge from the recommendations of international standards bodies listed in the WTO SPS Agreement and have fewer measures. A likely reason for under-regulating is that many developing countries lack the necessary quality infrastructure to assess conformity, and thus apply less regulations. Many of the economies with relatively higher similarity to international SPS standards are significant agricultural goods traders, either as agricultural exporters such as New Zealand or

as food importers such as the Republic of Korea. Developing countries should more actively participate in the standard-setting process to ensure that they are relevant and can be adapted to their needs.

“Sector case study analysis of regulatory stringencies in Bangladesh, the Lao People’s Democratic Republic and Viet Nam shows that NTMs are generally less stringent than those proscribed by the international standards.”

Detailed case studies of the stringency of regulations were carried out on one imported product each in Bangladesh, the Lao People’s Democratic Republic and Viet Nam. The regulatory stringency analysis confirms the findings of the studies of overall regulatory structures vis-à-vis standards. Countries divert from international standards and they more often under-regulate than over-regulate. Products that are relatively more integrated in global value chains are closer to the international standards than other products. Due to the lack of clear identification of international standard bodies in the WTO Agreements for industrial goods as well as the higher complexity of these products, it is likely that the situation for industrial goods is worse.

“Sustainability and impact assessments of new and existing NTMs should be systematically conducted.”

The key to maximizing benefits is to determine appropriate levels of protection and to reduce the cost of compliance and the divergence of legitimate NTMs. Both regional cooperation and domestic efforts are needed to reduce the burden associated with compliance with NTMs and to strengthen positive impacts. While most burdens may result from export partners’ NTMs, countries also have room for improving their own NTMs. A useful starting point for increasing net benefits from streamlining NTMs is through the review of existing NTMs to eliminate unnecessary ones, and identify the ones that may need to be improved or updated. Newly proposed NTMs should be systematically subject to a regulatory impact assessment to ensure benefits of the new regulations outweighs the costs as much as possible.

“NTMs and related procedures should be made easily available, ideally through a national trade portal providing comprehensive one-stop access to all relevant trade regulations.”

Enhancing transparency in NTMs and related procedures can also reduce NTM-related costs and is a necessary precondition for any streamlining efforts. This may be done as part of the implementation of transparency provisions under the WTO Trade Facilitation Agreement (TFA), or the establishment of national trade portals. Enhanced transparency serves as a driver for reform and streamlining: some countries simply do not know how many trade regulations are in place and which agency is responsible. Enhanced transparency can also serve as a tool for capacity-building, as establishing trade portals synthesize all the available information for government officials.

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