

Expert Group Meeting on “Navigating Non-Tariff Measures toward Sustainable Development”

11 July – 12 July 2019

Bangkok, Thailand

Report of the meeting

Background

The Economic and Social Commission for Asia and the Pacific (ESCAP) organized an Expert Group Meeting from 11 to 12 July 2019, Bangkok, Thailand. ESCAP’s research on Navigating NTMs toward Sustainable Development is the theme of Asia-Pacific Trade and Investment Report 2019. This meeting provided an opportunity for knowledge exchange and discussion on emerging trends on the use of non-tariff measures (NTMs) in the region, their potential impacts on trade and investment, and good practices in the region. The results from ESCAP research and policy recommendations were presented. Views and comments from participants will be taken to improve the report, and to identify ways in which national policy actions and regional cooperation can be strengthened to help countries in the region dealing better with challenges coming from the proliferation of NTMs. The meeting was carried out back-to-back with the technical workshop “Value chain development for deeper integration of FEALAC: The Asian perspectives”,¹ hence benefited from a high number of experts attending.

Objective

The purpose of the Expert Group Meeting (EGM) was to summarize the current knowledge related to NTM as well as provide feedback to the secretariat on the content on the Asia Pacific Trade and Investment Report 2019: Navigation non-tariff measures for sustainable development.

Welcome and Opening Remarks

On behalf of ESCAP, **Ms Mia Mikic**, Director of Trade, Investment and Innovation Division (TIID), ESCAP, welcomed the participants to the EGM and delivered opening remarks. Ms Mikic emphasized that having a thorough understanding of NTMs is vital for designing effective policies to enhance trade to achieve the 2030 Development Agenda. She further noted that NTMs are a cross cutting issue affecting not just trade, but a variety of sectors.

Mr Yann Duval, Chief, Trade Policy and Facilitation Section (TPFS), TIID, ESCAP, welcomed the participants and noted that the session of the meeting roughly followed the online of APTIR 2017, except for chapters 2 and 3 which were switched in place to allow for UNCTAD’s Geneva office to join in remotely due to time-differences with Bangkok.

¹ <https://www.unescap.org/events/technical-workshop-value-chain-development-deeper-integration-fealac-asian-perspectives>

Session 1: The Rise of Non-Tariff Measures: Why it matters for sustainable development?

Mr Alexey Kravchenko, Economic Affairs Officer, Trade Policy and Facilitation Section, TIID, ESCAP delivered a presentation outlining the main findings to be included in Chapter 1 of APTIR 2019.² Mr Kravchenko outlined the trends of increasing NTMs in the era of declining ordinary tariffs, MAST NTM classification, as well as main types of NTMs prevalent in the Asia-Pacific Region. He further provided results of ESCAP's work on matching NTMs to SDGs.

Ms Maria Semenova, Consultant, TPFS, TIID, ESCAP, supplemented the discussion on the link between NTMs and SDGs through describing in detail the methodology of matching NTMs with SDGs.³ In particular, Ms Semenova described the underlying concordance matrix that consists of 119 entries, which matches NTMs to SDGs through HS codes, NTM types, and keywords. She further explained the reason for necessity of keywords, for example, due to the dual nature of some product/NTM code combination, such as that of the same type of TBTs affecting motor vehicles for either exhausts reasons or safety reasons. Finally, Ms Semenova provided an example of indirect measures which, although are available in the database, were not within the scope of APTIR's detailed analysis.

Mr Arun Jacob, Environmental Affairs Officer, Environment and Development Division, ESCAP, provided feedback on the proposed structure and content of chapter 1 presented.⁴ He noted the current importance of trade wars in the context of international trade; suggested exploring the links between NTMs and various trade indices; noted the absence of discussion of regulatory convergence and harmonization as well as provided other suggestions. Mr Jacob further suggested that NTMs addressing SDGs should be used to construct prevalence scores and coverage ratios. Next, he suggested to use the derived NTM SDG indicators to conduct analysis of their impact on actual SDG progress. He concluded that underlying methodology paper linking on SDGs and NTMs could benefit from further expert review.

Mr Durai Raj Kumarasamy, Consultant, ASEAN India Centre, Research and Information System for Developing Countries, noted the difficulty in examining NTMs vis-à-vis SDGs, as some of them were imposed at HS two-digit level. Furthermore, some measures could ostensibly be directly affecting multiple policy objectives. He also noted that it would be useful to have country rankings with such an index, as it may stir action among policymakers. Mr Kumarasamy further mentioned that it would be important to see how regulations are applied domestically – whether they discriminate against importing firms alone. He then reiterated the need to examine regulatory distance, with the aim of reducing it as a policy recommendation, such as through mutual recognition agreements. He further provided an example of NTMs also positively impacting SDGs, for example, when Germany put an import ban on Indian leather due to unsustainable practices. This led businesses to increase innovation to comply with the requirements, helping to address SDG9 and SDG 12. As such the trade partner NTMs, such as in the case of Sri Lanka described in Chapter 1, could be used to increase absorption of sustainable technologies.

Participants further suggested explaining in more detail the underlying reasons behind patterns in NTM notifications to the WTO, particularly where LDCs are concerned.

Session 2: NTMs and their relationships to international standards

Mr Ralf Peters, Chief, Trade Information Section (TIS), Division on International Trade in Goods and Services and Commodities (DITC), United Nations Conference on Trade and Development (UNCTAD),

² <https://www.unescap.org/sites/default/files/Session%203%20-%20Alexey%20Kravchenko.pdf>

³ <https://www.unescap.org/sites/default/files/Session%201%20-%20Maria%20Semenova.pdf>

⁴ <https://www.unescap.org/sites/default/files/Session%201%20-%20Arun%20Jacob.pdf>

presented the main findings to be included in Chapter 3 of APTIR.⁵ In particular, Mr Peters noted that SPS measures are the most costly and the most common type of NTMs, particularly in the agricultural sector. He further noted that one of the most important avenues to reduce costs related to SPS measure was through adherence to international standards. Mr Peters presented the work of coding international standards classification according to MAST classification and provided overall results as regulatory stringencies (i.e. when comparing national regulations for agricultural products against international standards). Next, he presented three case study analysis which took an in-depth look of stringency of measures, as compared to international standards in Bangladesh, Lao PDR and Viet Nam. Mr Peters concluded by stressing that adherence to international standards could significantly reduce costs, but at this stage it appears that few countries follow the international standards closely.

Mr Ravi Khetarpal, Executive Secretary, Asia-Pacific Association of Agricultural Research Institutions (APAARI), agreed with Mr Peters that economies have vastly different standards. He noted that there are still open-ended questions with regard to SPS Agreement, in particular, on the “appropriate level of protection” (ALOP), which were not universally agreed on. He further agreed that it is best to go with international standards as ALOPs are a grey area. Mr Khetarpal noted that adoption of international standards and compliance are currently largely lacking in the region. The major problem with achieving compliance is capacity. In turn, the problem with capacity is retention of human resources. One anecdotal evidence he provided was that out of 40 government officials previously trained in Nepal, only two were left in the positions two years later. Mr Khetarpal further noted that capacity developing on SPS standards is currently implemented as a standalone exercise. He suggested that an integrated approach should be employed along the various components of the value chain process from input supplies to exporters, as SPS issues concern various components of the value chain.

Mr Watcharas Leelawat, Executive Director, Mekong Institute, stressed the importance of regulatory similarity. He informed that needs assessments in CLMV countries were conducted by the Institute. Lack of capacity can explain lack of compliance in CLMV countries. This lack of capacity further results in out-of-date regulations and non-conformance, including inability to amend or update laws related to SPS measures. Mr Leelawat further noted that there is weak ministerial cooperation, highlighting the need to coordinate between various line ministries. In addition, there is a lack of testing facilities, when, for example, goods from Myanmar bound for Mae Sot (Thailand border province on the border with Myanmar) have to first get tested in Chiang Mai province (over 350 km away). Mr Leelawat also highlighted that clear penalties or punishments are currently lacking among CLMV countries.

The subsequent discussion among participants highlighted a number of further issues. First, in ASEAN, there is no problem with standards, but the problems lies with equipment and conformity assessment bodies. Furthermore, these are systemic issues with large disparities among economies. Second, on the ground reality suggests that is not that governments do not want to improve their regulations and procedures, they just are not able to do so. One of the key reasons highlighted for this was brain drain, hence, there is a need for education/university training. It was suggested that one way to ensure that capacity is not lost is through training of trainers, as was successfully done in Mauritius. Third, lack of facilities has been again highlighted as an issue. Even though there were projects implemented by the World Bank, in the end no one used the outputs from the project. Fourth, mutual acceptance recognition and reduction of regulatory distances were again highlighted as an important way forward in reducing costs associated with NTMs. Firth, it was suggested to use examples from the ARTNeT book on MRAs to highlight ASEAN cooperation in this area.⁶ Fifth, another way forward suggested was through using “SPS diplomacy” by setting up

⁵ <https://www.unescap.org/sites/default/files/Session%202020-%20Ralf%20Peters.pdf>

⁶ <https://www.unescap.org/resources/trade-integration-within-asean-role-non-tariff-measures-cambodia-lao-peoples-democratic>

bilateral standards and SPS cooperation through trade agreements, as well as ensuring that any capacity building is set up along the whole of value chains for maximum and sustainable impact.

Session 3: Measuring the Development Impact of Non-Tariff in Asia and the Pacific

Mr Alex Kravchenko and Ms Heather Lynne Taylor-Strauss, Economic Affairs Officer, Investment and Enterprise Development Section, TIID, ESCAP, presented the content to be included in Chapter 2.⁷ Mr Kravchenko presented various indicators of NTMs, as well as ESCAP-calculated ad valorem equivalent (AVEs) of NTMs by imposing and facing economies, as well as by industries. He noted that AVE estimates can be incorporated into computable general equilibrium (CGE) GTAP model to examine the effect of various policies, such as removal of NTMs as well as harmonization of NTMs. The scenario of the removal of all technical non-tariff measures can potentially increase the global GDP by 1.6 per cent, which, although not a proposed solution, shows the ballpark figure of the costs of NTMs to the global economy. Mr Kravchenko then highlighted the findings of the joint ESCAP-ITC publication “Company perspectives on non-tariff measures in Asia-Pacific”.⁸ Key findings of the report to be included in APTIR suggest that it is the domestic procedural obstacles associated with NTMs, rather than NTMs themselves, are more often than not found to be burdensome by traders in the region. Ms Taylor-Strauss presented case studies of the relationship between foreign direct investment (FDI) and NTMs, namely intellectual property rights (IPRs) in the Indian pharmaceutical sector, local content requirement (LCR) on 4G enabled smartphone devices in Indonesia and TBTs in the pharmaceutical sector in China. The case studies analysis suggested that IPRs in India stimulated inward FDI; LCRs in Indonesia’s positive impact on FDI was only short-lived; and removal of TBTs in China stimulated inward FDI in the sector. Policy recommendations were also provided, namely, the need to ensure that policies are well-craft for the long-term positive impact, including a particular attention to balancing the desire for FDI vis-à-vis imposing trade barriers.

Mr Jose Elias Duran Lima, Chief, Regional Integration Unit (RIU), International Trade and Integration Division (ITID), United Nations Economic Commission for Latin America and the Caribbean (ECLAC) and **Mr Marcelo Dolabella**, Consultant, RIU, ITID, ECLAC provided feedback on the content of Chapters 1 and 2. They purported that it would be beneficial in CGE analysis to separate NTMs that directly address SDGs (described in Chapter 1) to the CGE simulations carried out in Chapter 2. Similarly, it would be interesting to see the share of trade under NTMs directly related to SDGs vs non-SDG related trade, and calculate indices such as coverage ratio and prevalence scores. Mr Duran Lima further suggested to increase the visibility of the report in Latin America and elsewhere to add results for all countries, perhaps in an annex. Mr Duran Lima noted that Latin America has similar results from perception of businesses, based on ITC surveys. In some cases, while there may be zero tariffs on some products, yet AVEs of NTMs were estimated to be up to 25 per cent. He further stressed that the key is trade facilitation and dialogue to improve transparency. Mr Duran Lima also stated that harmonization and mutual recognition were important ways in reducing cost associated with NTMs. He noted that NTMs such as import licenses, quotas, contingent protection measures are not really related to SDGs, and should be targeted for removal. As such, he suggested examining the effect of their removal alone (through CGE simulations) to see the resultant efficiency gains, perhaps as a box in the chapter. Mr Duran Lima further noted that the analysis in the box on CGE modelling, namely information cost and conformity assessment costs – should be included in the conclusion as one of the main findings, as these costs could actually be addressed through harmonization and mutual recognition. Other important points to consider in the chapter would be expand the depth of the analysis of NTMs’ effect (CGE modelling), as well as expanding on the impact of scenarios on other aspects of Sustainable Development. Mr Dolebella added that it would be beneficial for the purposes of transparency to add technical details of estimation and simulation. He further noted that it could be feasible

⁷ <https://www.unescap.org/sites/default/files/Session%2020-%20Alexey.pdf> and

<https://www.unescap.org/sites/default/files/Session%203%20-%20Heather%20Lynne.pdf>

⁸ <https://www.unescap.org/resources/company-perspectives-non-tariff-measures-asia-pacific>

to calculate regulatory distance among countries based on the SDG-NTM matrix presented earlier, similar to what they calculated for the APEC the list of environmental goods in Latin America.

Mr John Gilbert, Professor, Economics and Finance Department, Jon M. Huntsman School of Business, Utah State University, largely commented on the CGE component of the Chapter as well as intricacies related to modelling NTMs in CGE models.⁹ He noted that if AVEs of NTMs are assumed to be like tariffs, it would be necessary to adjust underlying data, which could be problematic due to the revenue effects. An alternative approach to model NTMs in CGE analysis is through iceberg costs (noted to be the method employed in the latest draft of the chapter), as it does not require to adjust the underlying data, and the mechanism acts works through efficiency impacts, generating no tariff like revenue. Mr Gilbert, however, noted that NTMs are not all waste, and in some cases revenue is collected due to NTMs, and there are further expenses due to compliance costs, as well as positive effects due to safety. Hence, they are also not entirely a waste implied by iceberg costs method. Hence, the efficiency gains using this method are overstated, and should be used as upper bound estimates only (which needs to be described in the limitations part of modelling). He concluded this section saying that while some NTMs may seem like tariffs due to the way AVEs are calculated, others are not (and may have revenue impact), and as such careful discussion and sensitivity analysis must be included. Mr Gilbert further noted that for researchers it would be good to have the data in as much detail as possible, highlighting that the AVE database developed by ESCAP will be very useful to researchers. He noted, however, that there should be a sensitivity analysis conducted because the estimates are not point estimates. Mr Gilbert concluded by noting that NTMs can have a trade creating effect, which is currently not accounted for, however, there are currently no best practices in modelling such trade-creating effects in CGE modelling. One approach, he suggested, was to adjust Armington elasticities to create a supply-side shifting effect.

Mr Sufian Jusoh, Deputy Director, Institute of Malaysian and International Studies, The National University of Malaysia, presented results from some of the ongoing work on the relationship between NTMs and investment currently conducted by the Institute. He noted that there were large effects on investment due to the ASEAN-Australia-New Zealand trade Agreement. He suggested that the research should look at impact of NTMs on efficiency seeking investment, not just equivalent of “tariff jumping”. In addition, Mr Jusoh stressed the importance on examining the effects of NTMs on domestic investment, as well as existing investment of importing countries. He further noted that in particular for LDCs, the agricultural sector is an important destination of investment. As such, one could explore the case of Lao PDR as a case study.

During the subsequent discussion, one participant suggested that it would be beneficial to use a dynamic CGE model to examine the effect of NTMs on investment as well as the impact of trade facilitation and FDI. The analysis should explore theoretical ways of modelling the effect of NTMs on FDI as not just like tariff jumping. Another participant expressed desire to see higher level of disaggregation on the impact of NTMs in CGE modelling, perhaps, measure by measure, particularly with regard to safeguard measures, IPR and ROOs, going to as much detail as possible. Other participants also noted that it would be good to include all the econometrics behind estimation and the way harmonization scenario was modelled, as well as a glossary of all terms and definitions.

Session 4: Maximizing Benefits of NTMs for Sustainable Development

Mr Yann Duval presented the outline of Chapter 4. He noted that the chapter is currently being drafted,¹⁰ and welcomed the participants to contribute as much as possible with the aim for best practices highlighted to be included in the chapter. He noted that the concept of the chapter was to “highlight good practices on

⁹ <https://www.unescap.org/sites/default/files/Session%203%20-%20John%20Gilbert.pdf>

¹⁰ <https://www.unescap.org/sites/default/files/Session%204%20-%20Yann%20Duval.pdf>

how to streamline procedures associated with implementation of NTMs; review on-going ASEAN, EAEU and other subregional initiatives on NTMs, and identify opportunities for enhanced regional cooperation in this area”. Some of the best practices presented by Mr Duval include the use of international standards, conducting sustainability impact assessments, regulatory reviews as well as transparency initiatives. He further outlined supporting practices to streamline procedures associated with NTMs, such as mutual recognition arrangements, private sector feedback mechanisms and digital trade facilitation. Mr Duval concluded with presenting the results from ESCAP’s work on examining NTMs provisions in trade agreements, as well as a snapshot of the soon-to-be release 2019 results of UN Global Survey on Trade Facilitation and Paperless Trade, in particular on NTM-related provisions.¹¹

Mr Javier Lopez Gonzalez, Senior Trade Policy Analyst, Organization for Economic Co-Operation and Development (OECD), presented the findings from OECD work on participation of SMEs in global value chains (GVCs). In general, the findings were that border control measures and quantitative restrictions all have negative effects on SME’s participation in GVCs. He noted, however, that there are conflicting results on participation of SMEs depending on the size of SMEs.

Mr Nimal Aluthgama Gamladdalage Karunathilake, Acting Additional Director General of Commerce, Department of Commerce of Sri Lanka, commented that ESCAP’s work on linking SDG to NTMs is very useful. He then discussed the government perspective regarding the private sector NTM survey conducted in Sri Lanka in collaboration with the ITC. He noted that the customs-related office and border controls were found to be the biggest issues. As an example, after the civil war in Sri Lanka, there were three separate border checks to the airport – by army, quarantine and customs. The ITC survey further identified that there were 42 separate border agencies involved in trade – the government was previously not aware of that. Mr Gamladdalage Karunathilake noted the current situation has, in part due to the study, improved. The Government has also set up a trade information portal to improve transparency. He noted that key is striking the right balance: promote trade and investment for SDGs, while ensuring adequate protection. One further avenue of addressing NTMs is through comprehensive trade agreements. For example, food safety agency from India now cooperates with Sri Lankan counterparts and recognized three laboratories under mutual recognition testing. Mr Gamladdalage Karunathilake further suggested that the title of the chapter should perhaps be streamlining NTMs for sustainable development rather than maximizing benefits for sustainable development.

Mr Allwyn Netto, Chief Customs Officer, New Zealand Ministry of Foreign Affairs and Trade (MFAT), New Zealand Embassy in Jakarta, spoke of this on-the-ground experience in market access in ASEAN markets. He noted that the biggest issue is the rules of origin, specifically, the certificate of origin. He noted that border officials sometimes focus on trivial things, such as a missing comma in the documentation, resulting in large bills for traders. While the rules themselves are clear, such as those of ASEAN Australia New Zealand Free Trade Area (AANZFTA), when domestic legislation comes into play, officials have different interpretations. Different ports in the same countries sometimes have different interpretations of the rules, and even different officers within the same port will sometimes offer conflicting information. While there are minimal data requirement set as part of the Agreement, in some cases the actual on the ground requirements are much higher. One of the biggest issues within interpretation of the rules is tariff line classification. In some cases, even WCO classification (which is clear) was challenged. Officers often lack training, there are also no consistent messages from the head office. As such, there is a clear need for a consistent message from the head office, but the progress of improvement is slow. The delays at the border are particularly detrimental to perishable goods. Furthermore, while large companies can and do complain, smaller traders are not able to do so. Even large companies, when they take it up, are not sure they will win

¹¹ <https://untfsurvey.org/>

disputes. He noted that one reason for frictions at the customs is that customs are under pressure to increase revenues.

Mr Netto then described the best practices stemming from New Zealand. One particular example is the good regulatory practice guidelines issued by the New Zealand Treasury. The guidelines note that evaluation of regulations must involve measuring their impact and suggest revising legislation as necessary. New Customs Act has been an improvement which now has more provisions for consultations as well as increasing efficiencies through the use of Information and Communications Technologies (ICTs). Mr Netto noted that in New Zealand there is a “whole of customs” approach. There are synergies between involved agencies, such as MFAT, Ministry of Primary Industries, and Customs, among other agencies. All involved agencies regularly discussed pertinent issues, with the driving principle “*Compliance should be easy to do, but hard to avoid*”.¹² All related agencies have joint border management using one system, one single window. Another important aspect is risk-based targeting of imports, currently not practiced in ASEAN. Mr Netto also stated that advanced ruling is important, as this gives predictably and certainty to traders. He informed that all trade procedures in New Zealand are electronic and risk-based. Mr Netto concluded that MRAs are important, and New Zealand is open to establishing MRAs with economies that are interested. Using Australia as an example, he noted that there are mutual arrangements enabling quick clearances. It is also important to engage with the private sector and that partnerships are critical. Building capacity is critical, particularly with regard to risk management.

Based on the presentations and discussions, participants provided further comments. First, discussions in Chapter 4 on going forward should include quality infrastructure needs. Second, trade restrictiveness in services has not been explicitly mentioned, and should be included in the discussion. In addition, impact of NTMs on SMEs should also be included. Third, the key aspect of going forward should include harmonization of regulations. Fourth, it was noted that CPTPP specially includes SPS provisions to mitigate abuse. Going forward, future agreements should replicate similar provisions. As the WTO is failing with this respect, the onus can be on trade agreements to mitigate SPS measure abuse. Fifth, with regard to ITC survey, it was noted that some traders may not have knowledge of “burdensome issues” as in many cases it was trade agents hired by traders in Cambodia that dealt with various NTMs. Sixth, it was further noted that the problem with various Agreements in the region is that customs themselves often do not understand the Agreements, hence there are no systems of implementation or enforcement. Seventh, it was highlighted again that capacity building is limited because as soon as officials receive training they go to work in the private sector. Eighth, self-certification was mentioned as a compromise to certificate of origin. While some trade agreements in Singapore allow for self-certification some officials in partner countries still want a government stamp. An option is currently being explored as part AANZFTA upgrade is establishing a dual system – large companies that have staff who know rules of origin well would do it themselves (self-certify), whereas others/smaller traders would obtain a certificate of origin.

Session 5: Emerging issues shaping NTM research frontier and policy implications

Ms Ernawati Munadi, National Doing Business Advisor, Ministry of Trade Sub Facility, Australia Indonesia Partnership for Economic Governance, presented an update on the latest literature and studies related to NTMs. Various indicators, including regulatory distance, together with findings from studies on the costs of NTMs. She highlighted the main issues with regard to costs associated with NMTs are, in large part, due to unharmonized regimes/high regulatory distance. Ms Munadi noted that due to their cost-increasing effects, NTMs have the potential to increase poverty, as based on findings from studies linking NTMs costs to household survey expenditure data. With regard to food security, she noted that there are conflicting results: SPS standards may increase food quality and reduce instances of food borne diseases, whereas at the same time increase costs of food, contributing to food insecurity. Ms Munadi concluded

¹² Highlighted because multiple participants noted this is a good guiding principle.

with insights from the ITC study on the private sector perspective in Indonesia, echoing earlier comments that it is procedural obstacles, rather than NTMs themselves, that were found to be most burdensome.

Mr Simon Lacey, Vice-President, Global Government Affairs, Trade Facilitation and Market Access, Huawei Technologies, provided a historical overview of various agreements related to NTMs. He noted that non-technical measures, such as quantitative restrictions, subsidies and safeguards are not conducive to sustainable development. Furthermore, in some instances TBTs are used to promote industrial development goals, and there is a need to minimize the incidence of that happening. Mr Lacey noted that historically, quantitative restrictions have been removed through the Uruguay round of the WTO. Yet, it is not possible to address TBTs in a similar manner, which is clearly exemplified by the growing incidence of specific trade concerns notified to the WTO TBT Committee. Mr Lacey suggested that bilateral trade agreements are the answer to the issue of the surge in NTMs. There is also scope to address NTMs for harmonization of technical regulations. In terms of multilateral efforts, there should be stricter rules on adherence to international standards. Other ways forward suggested include interoperability or mandatory **MPAs**, mandatory cost benefit analysis, and mandatory use of least trade restrictive measures. Mr Lacey concluded that many countries have unilaterally removed tariffs because it helps them to become globally competitive. This path should be followed so that NTMs do not increase costs to traders and ensure that their industries are globally competitive.

Ms Mary Elizabeth Chelliah, Principal Trade Specialist, Singapore Ministry of Trade and Industry, provided a recap of the concepts related to NTMs, as well as the reasons why NTMs are becoming increasingly important in today's trade environment.¹³ Based on her experience, she noted that some NTMs are unnecessarily burdensome: for instance, in some cases labels must be printed on the products, whereas in others stickers are sufficient. The problem is when traders export to different countries at the same time – for example, some companies have different rooms for storage of goods destined for European Union and the United States markets due to different storage requirements. Ms Chelliah noted that among traders in Singapore, understanding measures notified to the WTO is an issue as regulations are often in local languages. SMEs can't afford to hire translators to look at them in detail, and in some cases, request diplomatic missions to assist (not ideal). She highlighted as good practice the case of CPTPP, with its key objective at the outset was to facilitate trade, especially for SMEs. Furthermore, binding provisions on NTMs in trade agreements are generally more helpful than voluntary provisions. Ms Chelliah stated that trade agreements should tackle procedural issues, as it is often difficult to tackle actual NTMs. She concluded by suggesting a “carrot approach” in terms of inducing governments to reduce costs associated with NTMs and/or implement them better via establishing some sort of an NTM indicator: many governments like to see their countries go up in rankings. There is scope to remove some outdated legislation in the region that was introduced in the 1980's and currently does not apply.

Roundtable discussion on APTIR 2019

Moderating the session, Ms Mia Mikic provided guidance to the participants to highlight in five minutes the key takeaways, including policy recommendations, recommendation for content and format of the publication and dissemination strategies.

First, it was noted that the problem is regulatory incoherence. There are efforts in Indonesia to develop national regulatory improvement. There is a need for a national team addressing NTMs to review new and past regulations, as well as evaluate their impact. There is also need for capacity building, specifically how to make “good” regulations, which can be divided into two parts: how to design it, and how to increase awareness of staff regarding NTMs.

¹³ <https://www.unescap.org/sites/default/files/Session%205%20-%20Mary%20Elizabeth%20Chelliah.pdf>

Second, it has been noted that there is possibility of duplication of efforts by government agencies in an attempt to help with market access abroad as well as to increase transparency of domestic regulations. For example, in Indonesia, multiple government departments seem to be engaged in creating such portals, meaning there is a need for cooperation in order not to duplicate efforts. Finally, it has been noted that it is hard and expensive for firms in rural areas to address foreign NTMs due to the lack of infrastructure, meaning that to obtain certifications they must first ship goods to cities.

Third, it has been indicated that in Lao PDR there are comparatively fewer NTMs because Lao PDR lacks local production capacity, and as such, the country relies heavily on imports and doesn't want to impede their entry. Exporters, on the other hand, face a lot of NTMs, namely SPS especially in the agricultural and food markets of the European Union, and it is hard for small producers to comply with them. At the same time, electricity and mineral exports don't face as many NTMs. Larger companies have the capacity to deal with NTMs, whereas smaller do not. It was also noted that recently Lao PDR has enacted a new law on safeguards that should be coming into effect soon.

Fourth, it has remarked while there are many issues regarding NTMs, there is also a lot of research on streamlining NTMs, but implementation is lacking. It was noted that recommendations from research are often too broad, and recommendations should be more concrete to be useful for policymakers. There is a need for collaboration between line ministries. There was hope that the national body of trade facilitation should compile all requests by traders and come up with regulations to help to address NTMs. Laws are currently being drafted to remove unnecessary NTMs.

Fifth, it was indicated that putting recommendations in place suggested by international organizations is often hard in practice in Sri Lanka. As discussed previously, procedural obstacles were the main issues. Donor agencies, particularly from the European Union are helping with quality infrastructure, and such efforts should continue. Previous suggestion on introducing "a carrot" for governments in a shape of some sort of NTM index, like easy of doing business index, was seconded.

Sixth, a suggestion was made to develop guidelines on procedures for compliance with SPS and TBT standards for traders, which was found to be more of a problem actual standard. This could potentially substantially help exporters. Such guidelines could be used in capacity building activities carried out by the Mekong Institute. An additional issue highlighted was of low utilization of trade agreements, in part due to exclusion lists and lists of sensitive products. In large part, however, underutilization was found mostly due to the lack of awareness. Complications arise due to product level classifications, including with NTM provisions, and as such businesses are burdened with extra tariff costs as well as costs related to NTM when products are misclassified and businesses resort to going through MFN rather than FTA rules. It was also necessary to simplify rules of origin in trade agreements. Finally, it was suggested to conduct an environmental impact assessment of NTMs, thereby relating them to SDGs.

Seventh, it was reiterated that the private sector perspective is important, and it was suggested to include businesses in analytical work. In particular, ECLAC asks for firm level customs data, administrative reports, employment, balance sheets through established relationship with the private sector, government and export associations. Involving private sector aids to get buy in for implementation of suggestions and recommendations.

Eighth, it was repeated that it was important to include SMEs in analysis, as while large companies may have capacity and knowledge to deal with NTMs, small SMEs in particular lack such knowledge and capacity. It was suggested to provide short executive summary for firms, translated in local languages, and partner organizations (including those in attendance) could aid in dissemination through various associations and networks. It was also suggested to provide more frequent updates on the changes in NTMs

in the region, as analysis of NTMs is longer a term process, and ongoing changes need to be constantly monitored and evaluated.

Ninth, a number of participants suggested that databases as well as technical annexes should be available separately for researchers. It was also suggested that communication venues for different target audiences should be different: for ministerial level maximum two pages, for policymaker maximum 20, and as much as detail as possible to academics and researchers as technical papers. In terms of dissemination, other avenues suggested included blogs, vlogs, road shows, as well as capacity building activities. Other dissemination suggestions included promoting one-page infographics as well as “teasers” to businesses. Capacity building activities could be conducted in collaboration with ASEAN and ERIA, which target audiences including government agencies as well as the private sector.

Tenth, it was suggested to concentrate into two key NTMs types as a pilot, namely SPS and TBT. It was said that it is easier to address procedural obstacles, as well as increasing awareness of advantages offered by trade agreements.

Other suggestions to be consider in APTIR included highlighting the roles that international organizations have in helping governments in addressing NTMs and procedural obstacles. It was also mentioned reiterated that quality infrastructure needs must be included in recommendation of the report; and barriers to trade in services should be discussed. The meeting concluded with an understanding that NTMs are currently the most important trade barriers.