

Emerging issues shaping NTM research frontier and Policy implications

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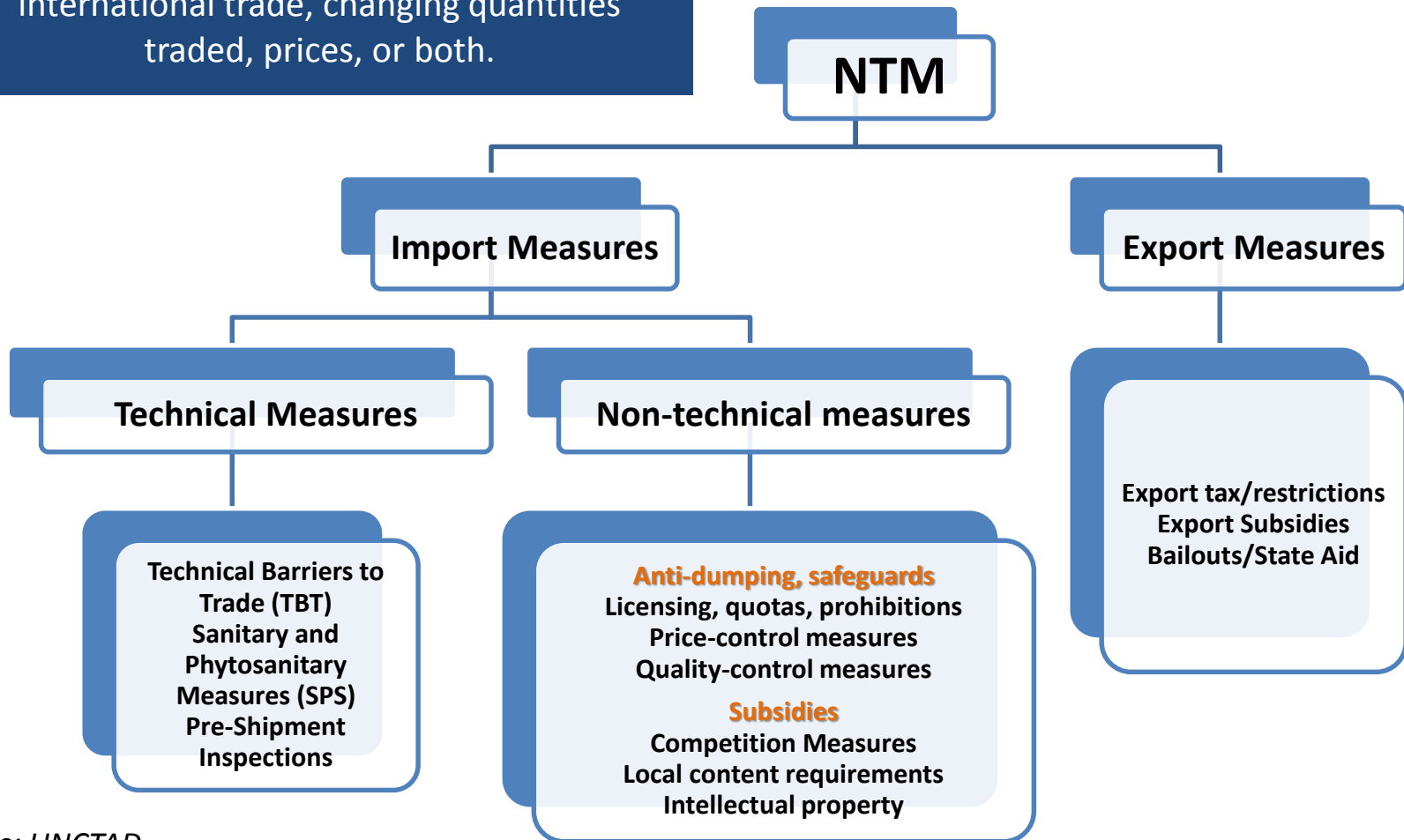
ESCAP EGM Navigating NTMs towards Sustainable Development
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Outline

- Recap: Definition of NTMs
- Issues relating to existing NTMs
 - Eradication or mitigation
 - Whose job
- Emerging NTMs
- Role undertaken by FTAs
- Possible way forward

Recap: Definition of NTMs

NTMs are policy measures, other than tariffs, that can have an economic effect on international trade, changing quantities traded, prices, or both.



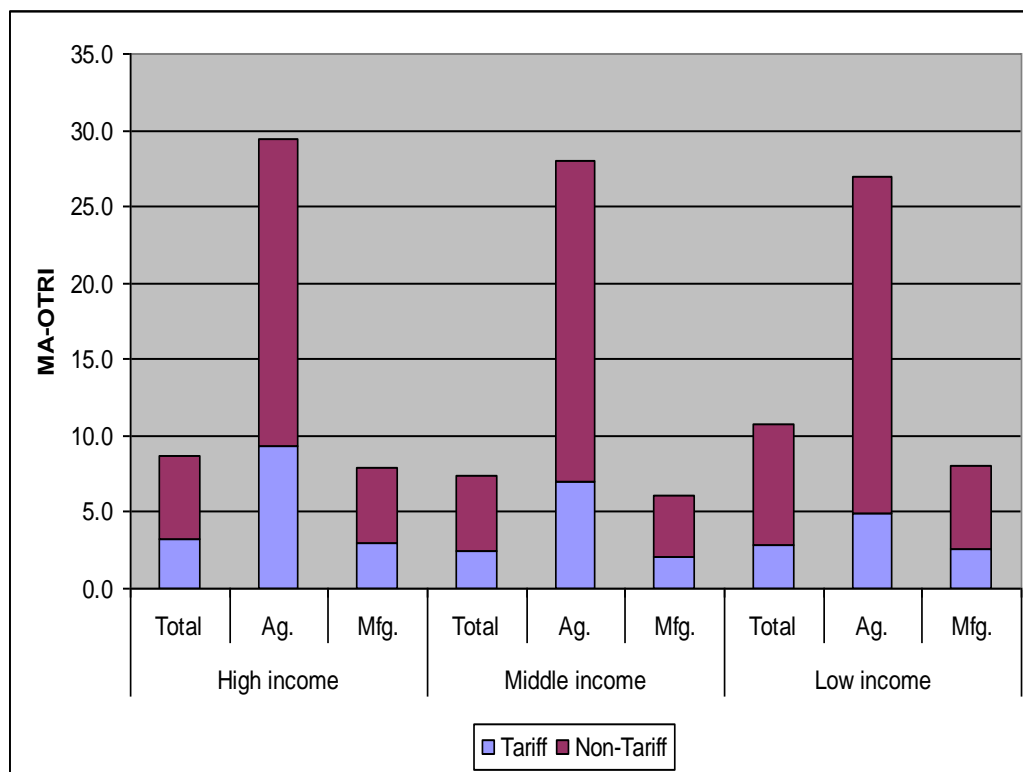
Source: UNCTAD

Why NTMs matter

NTMs are widely perceived to have larger distortionary effects on trade than tariffs

- NTMs are inherently complex and non-transparent
- Compliance costs disadvantage small firms and small developing countries
- Regulatory incoherence can compound costs

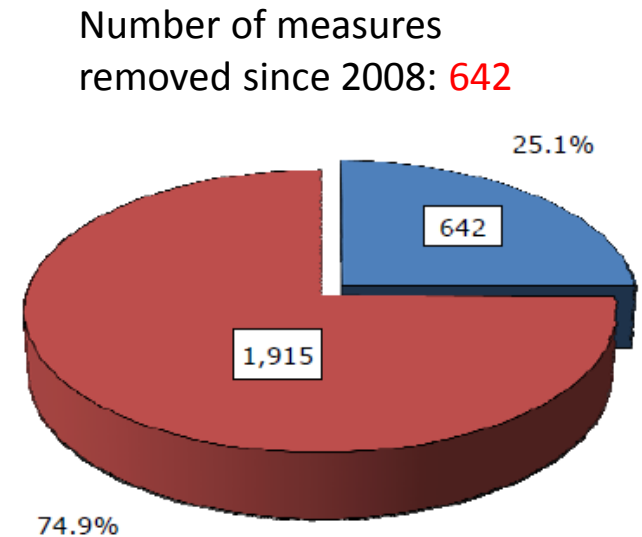
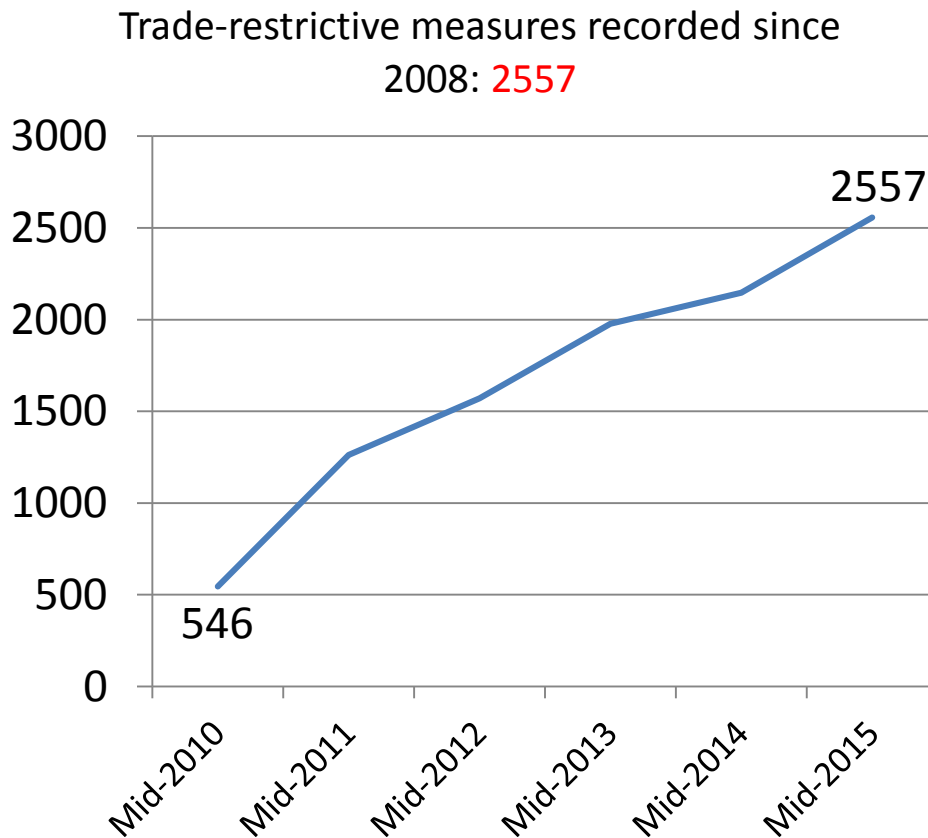
Tariffs vs NTMs: Trade cost estimates



Source: UNCTAD

International Developments

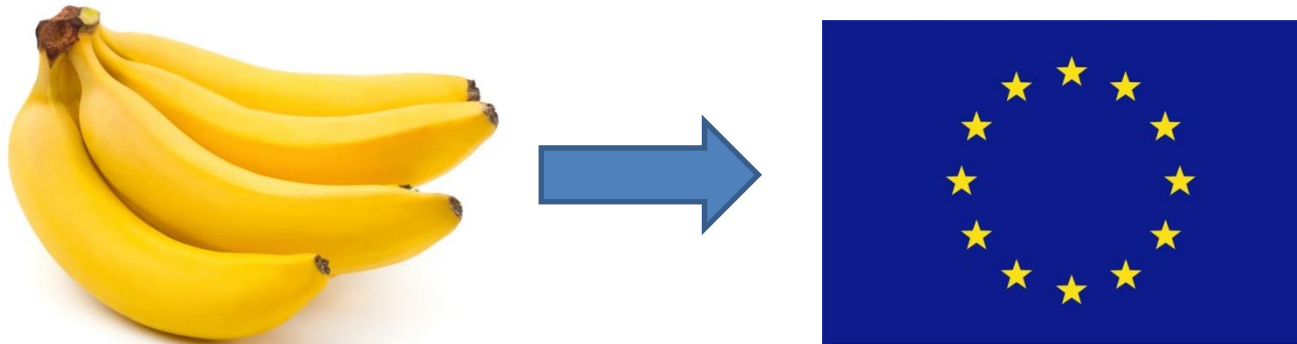
The overall stockpile of restrictive measures continues to grow. While some have been eliminated, the rate at which this is done remains insufficient to seriously dent the stockpile.



Source: WTO Trade Monitoring Annual Report, Nov 2015

Setting the scene

You're looking to export bananas to the European Union...



- ✓ Pay import tariff/duty of EUR ~~700~~ 176 /tonne
- ✓ Test and certify free from disease, pests and pesticide residues
- ✓ Certify for quality e.g. size, weight, colour, ripeness
- ✓ Certify type of banana
- ✓ Comply with packaging and labelling requirements
- ✓ Ensure proper storage conditions
- ✓ Obtain import license
- ✓ Shipping and customs formalities



Tariff



Non-tariff measures

The legitimacy of NTMs

- **NTMs are typically implemented to fulfil legitimate policy objectives**
 - Protect human health or safety, plant and animal life or health and the environment;
 - Prevent deceptive practices;
 - National security;
- **NTMs can *restrict or facilitate* trade**
 - e.g. facilitate - toy safety standards create consumer confidence
 - Restrict - used as barriers to insulate domestic industries from competition (eg Trade Remedies)
- **WTO Agreements provide framework to apply some NTMs – primarily Goods**
- **Services Regulations are also technically NTMs – unfinished agenda for GATS**

Examples:

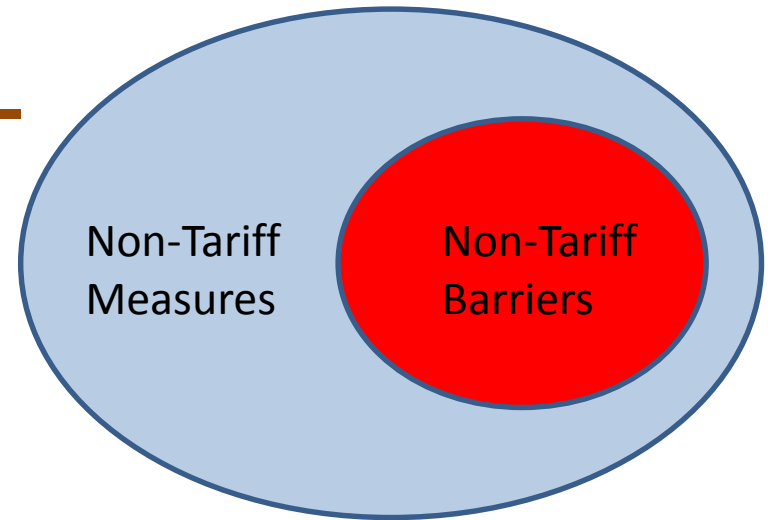
- GATT Art I and III on non-discrimination
- GATT Art XI on the general elimination of quantitative restrictions
- GATT Art XX on general exceptions
- GATT Art XXIII on non-violation complaint
- WTO TBT & SPS agreements
- Rules on import-licensing procedures/Rules of origin
- TRIMs/Pre-Shipment Inspection agreement
- State-trading enterprises/Trade remedies

Issues with respect to Existing NTMs and the future of trade and trade policy

- Is it possible to eradicate NTMs
 - who determines if a regulation should be withdrawn – that an NTM has become an NTB / WTO inconsistent measure
 - Issue of “Policy Space”

From NTMs to NTBs...

- Embedded in these WTO provisions are obligations that NTMs should not :
 - be **more trade restrictive than necessary** to meet legitimate objectives;
 - constitute a means of **arbitrary or unjustifiable discrimination**;
 - fundamentally **change the conditions of competition**,
 - be a **disguised restriction on international trade**
- However, very difficult to prove that measures meet the above
- **Hence, NTMs can be used as barriers to protect domestic industries from competition**



When NTMs become NTBs...

- Excessively stringent regulations that exceed international standards
- Technical measures without sufficient scientific basis or evidence
- Licenses used to restrict imports to protect local producers
- Quotas
- Prohibitions for purposes other than security, protecting the environment or health

Issues with respect to Existing NTMs and the future of trade and trade policy

Can NTMs really be eradicated

- If not, what sort of rules do we need for NTMs
 - How do we mitigate impact
 - Regulatory coherence or convergence
 - Harmonisation or equivalence
 - MRAs ?
- Who designs these rules
 - WTO or via FTAs
 - WTO guidance is to use international standards as a way to achieve harmonisation and mitigate impact
 - Realistic ?
- Should FTAs play a role ?

NTMs: Sanitary and Phytosanitary Measures (SPS)

Measures to protect human, animal or plant life from contaminants, toxins, diseases, pests, and to protect biodiversity.

Top Measures	Example
Prohibitions/restrictions of imports	<i>Prohibition on import of poultry from countries affected by avian flu.</i>
Tolerance limits for residues and restricted use of substances	<i>Maximum residue limits for insecticides, pesticides, heavy metals and veterinary drug residues</i>
Labelling, Marking and Packaging requirements	<i>Labels that must specify the storage conditions such as “5 degree C maximum”</i>
Conformity assessment	<i>Test on a sample of orange imports is required to check against the maximum residue level of pesticides.</i>

NTMs: Technical Barriers to Trade (TBT)

Technical regulations, designed to human health or safety, animal or plant life or health, or the environment, ensuring quality standards and prevention of deceptive practices.

Top Measures	Example
Prohibitions/restrictions of imports	<i>Imports of hazardous substances are restricted and must be approved</i>
Labelling, Marking and Packaging requirements	<i>Refrigerators need to carry a label indicating its size, weight and electricity consumption level.</i>
Product quality or performance requirement	<i>For a product to be classified as “chocolate”, it must contain a minimum of 30% cocoa.</i>
Conformity assessment	<i>A testing on a sample of motor vehicle imports is required against the required safety compliance and its equipment</i>

Attempted Role of FTAs in Tackling Existing NTMs

via

- Regulatory Coherence
- Improved Transparency / notification requirements
- New rules on what is permissible eg expanded coverage on temporary admission of goods and clarity of criteria for non-automatic IL as found in CPTPP
- Enhanced trade facilitative measures
- Tackling digital economy issues – eg data, IP, ePayments

Impact

- Uneven

 - only applies to members of the FTA

 - Tackles only what those FTA partners deem to be relevant

- Monitoring difficulties

 - Interpretation

 - A disputable issue

Emerging NTMs that are challenging trade policy development

- Use of “security” exceptions as a shield
- Difficulties in tackling increase use of regulations on Issues which WTO has not traditionally covered – WTO consistency cannot be assessed or addressed though some attempts via some FTAs
 - eg taxation (BEPS), competition , investment (FIRMA) , Money-laundering, unilateral sanctions, labour or environment related regulations in response to consumer demands
- Digital economy related issues

Is there a possible way forward

- What is the carrot to get governments to limit regulations
 - Use of indicators – rankings
 - EoDB initiative at APEC
 - Be more pro-enterprise and cut red-tape
 - Singapore's experience
 - Depends on business culture – protected ? Difficult to change
- What could International Organisations do ?
 - Facilitate adoption of international standards – current processes at CODEX, ISO etc are long and tedious , many countries do not have the resources to cope – result in lack of awareness
- What should research institutes focus on
 - Competitive advantage of having regulatory coherence in economic growth creation

End
