Medalla, Erlinda M.; Mantaring, Melalyn C.

**Working Paper**

# Review of intra-ASEAN nontariff measures on trade in goods

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Philippine Institute for Development Studies
*Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas*

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*Erlinda M. Medalla and Melalyn C. Mantaring*

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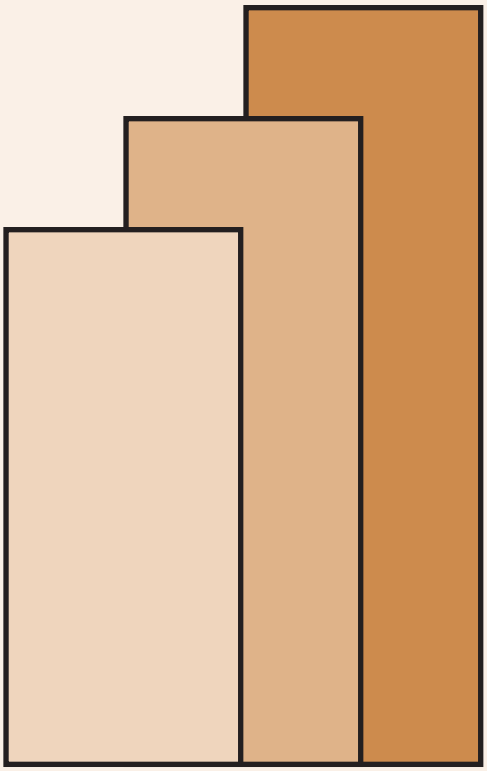



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For comments, suggestions or further inquiries please contact:
**The Research Information Staff,** Philippine Institute for Development Studies
18th Floor, Three Cyberpod Centris – North Tower, EDSA corner Quezon Avenue, 1100 Quezon City, Philippines
Tel Nos: (63-2) 3721291 and 3721292; E-mail: publications@mail.pids.gov.ph
Or visit our website at http://www.pids.gov.ph

# Review of Intra-ASEAN Non-Tariff Measures (NTMs) on Trade in Goods

**Erlinda M. Medalla and Melalyn C. Mantaring**[1]

*Abstract*

ASEAN has been working towards the free movement of goods in the region. Although significant progress has been made in the opening up of markets through tariff elimination, addressing the issues of non-tariff measures (NTMs) remain. With the reduction in tariffs across the globe, increasing attention has thus shifted to the effects of these NTMs that become simply non-tariff barriers (NTBs) to trade.

Non-Tariff Measures (NTMs) could be justified for different reasons such as health, security, environment, and consumer protection. However, they could adversely affect the global and regional production chains by unnecessarily increasing the cost of doing business. This paper reviews existing studies in Non-Tariff Measures for better understanding of NTM implications to international trade as well as local business and to propose some ways forward. For additional insights, it presents the results of the small sample survey (perception) among exporters on the types of NTMs encountered within and outside ASEAN and the perceived operating cost impact of NTMs. The survey identifies three main NTBs affecting operations of their businesses either within or outside ASEAN- these are (i) Custom Formalities (ii) Rules of Origin (iii) Technical Barriers to Trade. These are consistent with the findings of an International Trade Center (ITC) Business Survey on NTMs in the Philippines 2015-2016. Some of the policy recommendations of the paper are creating a comprehensive and updated database of NTMs, intensive reforms to streamline NTM procedures, improvements in testing laboratories and facilities, accreditation and certification process and capacity building on what and how to comply with applicable SPS and TBTs.

Keywords: ASEAN, non-tariff measures (NTMs), non-tariff barriers (NTBs), sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBTs), trade in goods, rules of origin

[1] Senior Research Fellow and Project Development Officer IV of the Philippine Institute for Development Studies (PIDS), respectively. The authors acknowledge the contribution of Ma. Kristina Ortiz in preparing the preliminary write-up of this paper (Part 1 and 2) and Fatima Lourdes del Prado in encoding and processing the survey results (Part 3). The usual disclaimer applies.

## I. Introduction

During the last decades, the ASEAN countries have engaged in mutually reducing tariff barriers to trade, toward the achievement of the ASEAN Economic Community (AEC). ASEAN, as a grouping, also engaged in various trade agreements with dialogue partners (China, Korea, Japan, Australia-New Zealand, and India). At the same time, ASEAN remains steadfast in its support for WTO (World Trade Organization) and the multilateral trading system. Although the whole process has led to substantial reductions in barriers to trade, important non-tariff measures (NTMs) have emerged to become the more difficult trade obstacle to overcome.

NTMs could be justified for different reasons, e. g. health, security, environment and consumer protection. However, they could adversely affect the global and regional production chains by **unnecessarily** increasing the cost of doing business. With the reduction in tariffs across the globe, increasing attention has thus shifted to the effects of these NTMs that become simply non-tariff barriers (NTBs) to trade.

With the rising importance of global and regional production chains and international firms, NTBs could constitute an increasingly important impediment both to trade and foreign direct investment (FDI) that could constrain the participation of firms in affected countries, especially SMEs. Trade and FDI that are freed from NTBs would potentially benefit all ASEAN countries. Unlike tariffs, regulation cannot just be removed. However, regulatory differences between countries and the trade and investment costs that they create can be reduced. To understand the importance of these impediments and the potential for their reductions in the ASEAN region, the first step is to understand the nature and possibly measure these NTMs.

An ERIA (Economic Research Institute for ASEAN and East Asia) project was undertaken to understand how prevalent and important these impediments are in the ASEAN region. To do this, a significant task of the project is to undertake a survey about existing NTBs among local or multinational firms, industry associations or chambers of commerce and other federation of exporting industries and services to the ASEAN six countries (Indonesia, Singapore, Thailand, Philippines, Malaysia, Vietnam) as well as outside ASEAN markets. This paper focuses on the Philippine case.

The paper has four sections. Section 1 provides background and context of the study, Section 2 includes a survey of literature review on the definition and classification an NTM to provide a better understanding of its nature, its breadth and scope. Findings of previous studies on the economic impact of NTMs are also shown in this section particularly in ASEAN and Philippines. Section 3 then focuses on the survey results and presents some analysis on the incidence of NTMs in the Philippines. Finally, Section 4 highlights the summary and recommendation.

## 2. Survey of Related Literature[2]

Since the inception of the ASEAN Free Trade Area (AFTA) agreement in 1992, the ASEAN member states (AMS) have been continuously active in initiating efforts to reduce or eliminate non-tariff barriers in the region. Tariffs for the original ASEAN-6 countries have been eliminated for 98% of all tariff lines by 2010, with CMLV to achieve the same by 2015. The tariff reduction proceeded as scheduled and is considered as one of ASEAN successes toward the achievement of AEC. ASEAN also commit to eliminate quantitative restrictions and non-tariff barriers on products specified in the inclusion, temporary exclusion, and sensitive lists. While trade liberalization in the area of tariffs is an ASEAN success story, there are questions about how much has been achieved in terms of reducing non-tariff measures (NTMs).

UNCTAD (2010) defines NTMs as "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". To be sure, there are legitimate reasons for NTMs. NTMs could be justified for different purposes and objectives, e. g. for health, safety, security, environment and consumer protection. However, there are increasing and legitimate concerns as well that some NTMs are used mainly for protectionist reasons (trade distortion). In such cases, NTMs become simply non-tariff barriers (NTBs) to trade and investment. They become unnecessary and unwarranted additional costs to doing business that would adversely affect the global and regional production chains. UNCTAD (2013) attempts to distinguish between the two by defining NTMs to refer to a broader set of trade policies in which NTBs may be a part of. In other words, unlike NTBs, NTMs may not necessarily be trade discriminatory (i.e. governments imposing policies which favor domestic over foreign products), nor intended to be trade restrictive.

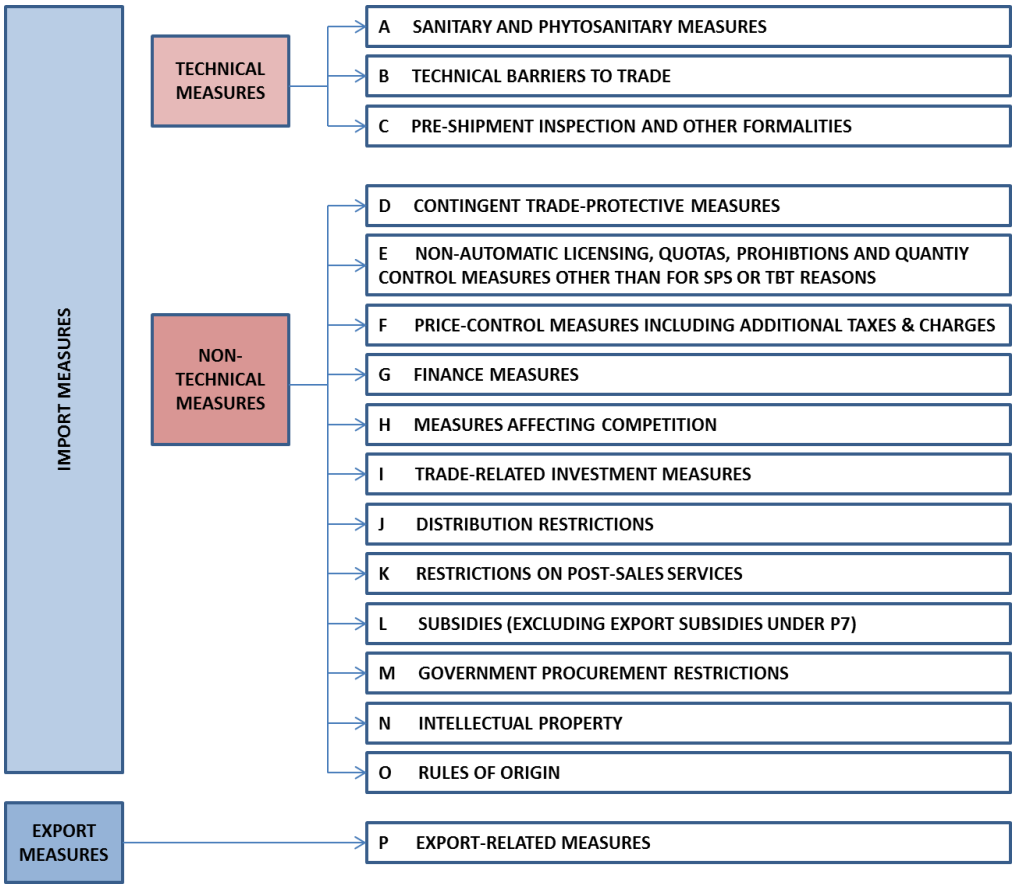
In general, NTMs may be broadly categorized as technical measures (e.g. SPS measures, TBTs and pre-shipment inspections) or as non-technical measures. **Figure 1** shows the detailed classification of the NTMs as categorized by the UNCTAD (2013).

While a formal distinction between NTMs and NTBs can be made in this classification scheme, in practice, it would still be difficult to identify (and quantify) instances in which NTMs would have the effect of 'protectionist' policies which inadvertently (or deliberately) affect the flow of trade. How NTMs could become trade obstacles and their impact on the business environment could come from two major sources: (1) the overly strict or complex requirements of the NTM, and (2) the procedural obstacles (practical administrative hurdles. Either or both of these could be too costly or difficult to comply with which may not be commensurate with the objectives the NTM is attempting to address (e. g. environmental costs). See **Figure 2** for a graphical presentation and summary, adopted from the ITC business

[2] This section used some parts of a rough draft prepared by Ma. Kristina Ortiz, with inputs from E. Medalla and M. Mantaring, submitted to the ERIA project.

survey graph. The degree of the impact could vary, depending on the severity of the requirements, technical or procedural.

**Figure 1. Classification of non-tariff measures**



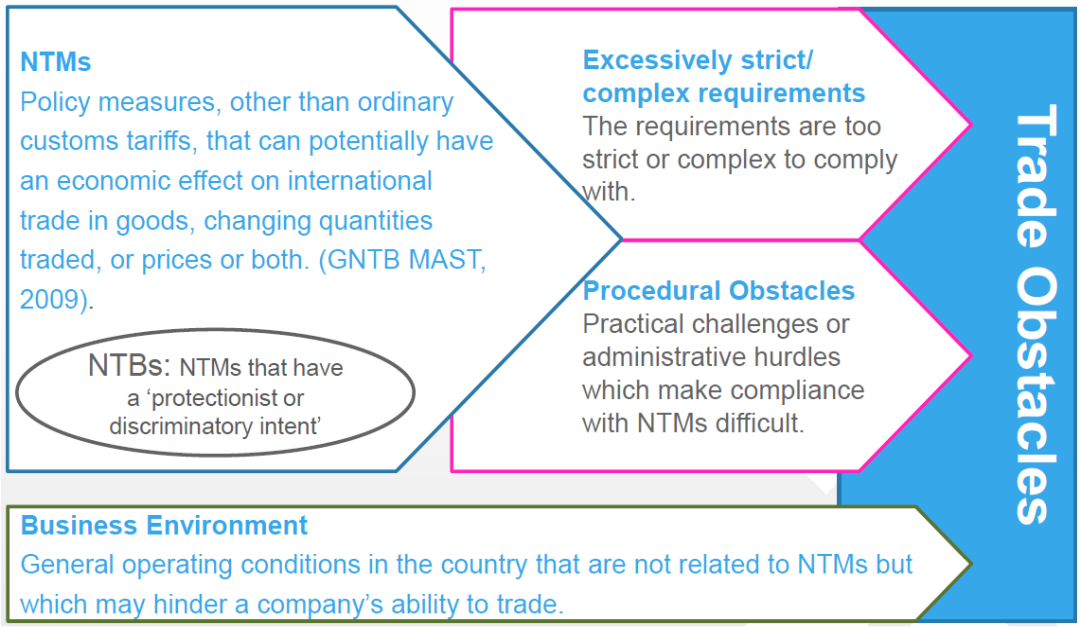

*Source: UNCTAD (2013)*

### *2.a NTMs in ASEAN region*

In the AEC Mid-Term Review (MTR) report published by the ERIA in 2012, the 'tariffs and non-tariff measures' has been identified as one of the ten priority measures that need to be achieved as these serve as the "central and foundational elements" of the AEC economic integration and connectivity in 2015. However, as mentioned earlier, despite the major progress in the reduction of tariffs to near zero in the region, questions remain about the implementation of NTBs and / or NTMs with NTB effects that may affect, in the same way as with tariffs, the volume and prices of the goods and services traded among ASEAN member states. ASEAN would need to address the possible problems related to these potential adverse effects of NTMs. It should at least make sure that NTMs are transparent and monitor trends and possible unintended effects. This becomes more urgent as some findings, including Ing et al (2016), show a rising trend in NTMs in ASEAN. (See **Figure 3**) While this may

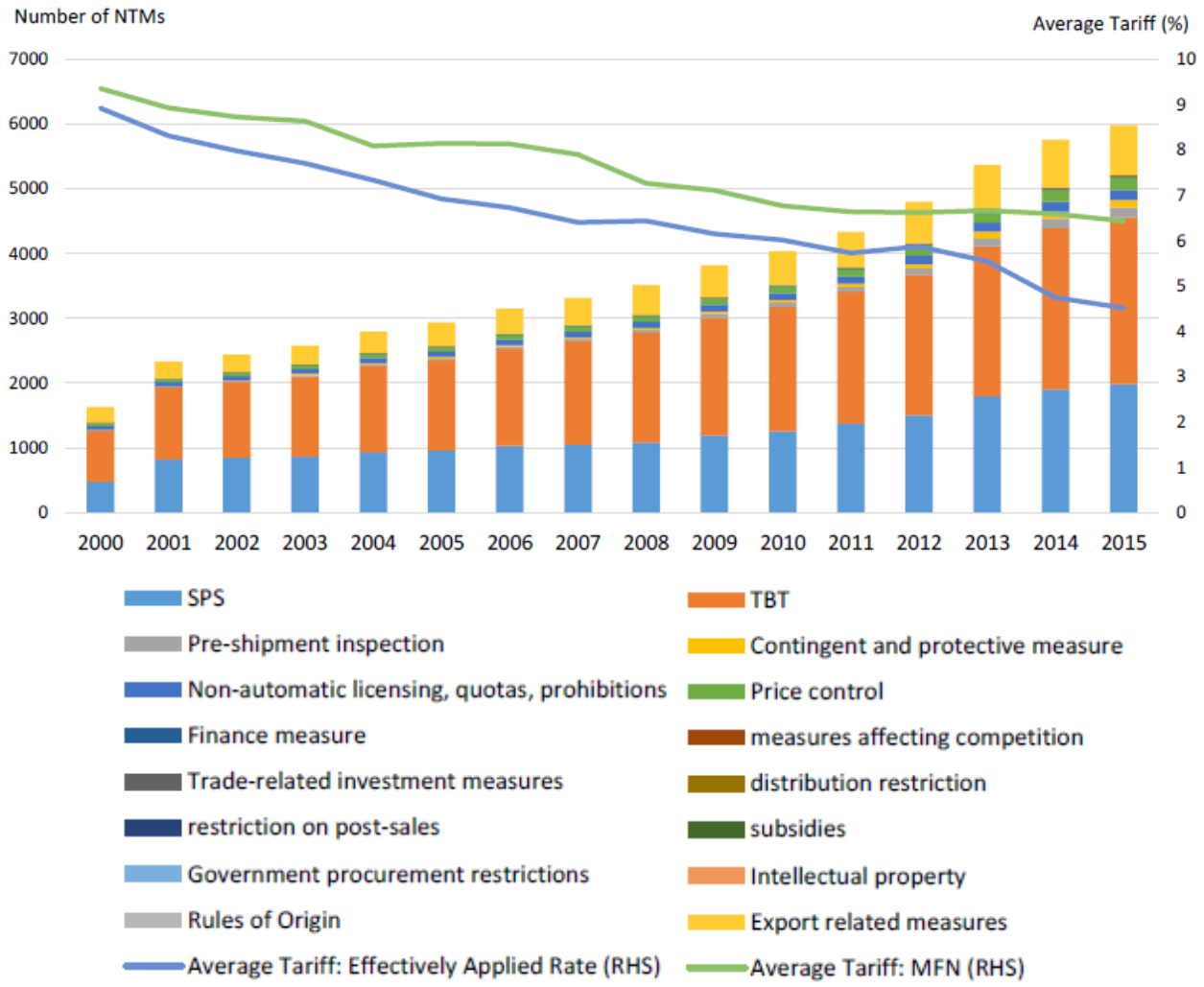
be the result of greater commitments by ASEAN member countries on notification, and while the numbers cannot show the degree of restrictiveness of these NTMs, the findings nonetheless show a need to study NTMs more closely.

**Figure 2. NTMs, Trade Obstacles and the Business Environment**




***Source:*** *ITC business survey on NTMs in the Philippines, 2015-2016*

**Figure 3. Trends in tariffs and non-tariff measures in ASEAN**




*Source: Ing, L. et al (2016), Non-Tariff Measures in ASEAN: A Simple Proposal, in Ing, L.Y., S. F. de Cordoba and. O. Cadot (eds.), Non-Tariff Measures in ASEAN. ERIA Research Project Report 2015-1, Jakarta: ERIA, pp.13-36*

The ERIA (2012) MTR project reported that there have been initiatives to address the said issues on NTMs. However, important challenges still persist, such as: (i) having a complete and updated database of NTMs in the region; (ii) regular submission of notifications of new NTMs, not only to the WTO, but also to the ASEAN Secretariat (ASEC); and (iii) the need to establish a robust mechanism that will address the NTB effects of the NTMs since its proliferation may be easily justified for 'legitimate reasons' or scientific basis. **Table 1** shows the prevalence and coverage rates of the core NTMs and the corresponding restrictiveness index for each ASEAN member state. Core NTMs, in the ERIA study, refer to those trade measures that are characterized "by non-automatic licensing; quantitative restrictions; prohibitions; enterprise-specific; single-channel for imports; and foreign exchange market

restrictions." They are also described as the likely candidates for being NTBs (ERIA 2012). In contrast, non-core NTMs are those which are less likely to be considered as NTBs, e. g. technical measures such as SPS and TBTs.

**Table 1. Core-NTM Prevalence Rate, Coverage Rate, and Restrictiveness Index**

| Country | Total Tariff Lines | Prevalence Rate | Coverage Rate | Core-NTM Restrictiveness Index |
|---|---|---|---|---|
| 1 – Brunei | 5224 | 0.17 | 0.15 | 0.16 |
| 2 – Cambodia | 5224 | 0.05 | 0.04 | 0.05 |
| 3 – Indonesia | 5224 | 0.90 | 0.44 | 0.67 |
| 4 – Lao PDR | 5224 | 0.05 | 0.05 | 0.05 |
| 5 – Malaysia | 5224 | 0.61 | 0.42 | 0.52 |
| 6 – Myanmar (A) | 5224 | 0.08 | 0.07 | 0.07 |
| 6 – Myanmar (B) | 5224 | 0.17 | 0.10 | 0.14 |
| 7 – Philippines | 5224 | 0.03 | 0.03 | 0.03 |
| 8 – Singapore | 5224 | 0.04 | 0.04 | 0.04 |
| 9 – Thailand | 5224 | 0.03 | 0.03 | 0.03 |
| 10 – Viet Nam | 5224 | 0.24 | 0.22 | 0.23 |

Notes:

1. Myanmar B (Myanmar A) includes (does not include) use of multiple exchange rates as reported in the 2009 ASEAN NTM database.
2. Prevalence rate is the number of core NTMs as a ratio of total tariff lines.
3. Coverage rate is the number of tariff lines with core NTMs as a ratio of tariff lines.
4. Core NTM restrictive index is the simple average of the prevalence rate and the coverage rate.

*Source: Quoted in ERIA (2012)*

As shown, Indonesia and Malaysia got the two highest restrictiveness indices in the region which was recorded at 0.67 and 0.52, respectively.

Overall, the MTR Report indicated that necessary actions must be undertaken to lessen or phase out, if possible, core NTMs and NTBs in each ASEAN member state. Apart from addressing the aforementioned issues, the Report further suggests the need for: (i) "deeper but more productive private sector participation" in the decision making process on NTMs; (ii) intensive regulatory reform efforts; (iii) creation of a "third part monitor and technical resource" to oversee the progress of the ASEAN member-states in mitigating the effects of NTMs on trade; and (iv) "minimize the NTB effects of 'core NTMs' in agriculture products" (ERIA 2012).

A study conducted by Okabe (2012) showed that there are major differences in the NTMs implemented across AMS and products. In particular, based on the residuals of the gravity

model used, the author estimated[3] that the Philippines, along with Cambodia, Thailand, and Indonesia, had the highest residual levels in the cases of HS87 (automobile) which suggest that NTMs in these countries have more effect on imports in the automobile industry. In particular, the country was reported to have relatively high residual values in the cases of HS 8713 (invalid carriages and wheelchair) and HS 8715 (baby carriages and parts), further reporting that the Philippines notified import permit on both products. In the case of HS85 (electrical equipment) products, results of the study showed that the Philippines, as well as Indonesia, Thailand, and Vietnam, had the highest residual levels in the cases of HS 8510 (electric shavers and hair clippers) and HS8520 (electronic sound recording equipment) in the region. For those products, the Philippines notified to the ASEAN NTMs database the use of import permit and technical measure testing. Overall, the study found that the newer members of the ASEAN (i.e. Cambodia, Vietnam) have higher residual levels in many products compared to other AMS supporting the notion that newly developing countries tend to be more protective of their domestic industries using NTBs. Moreover, the author concluded that the frequency of NTMs does not necessarily coincide with the effects of NTMs on import value.

The study also explored the determinants of NTMs by performing a simple regression analysis using the variables that reflect the level of tariff protection (i.e. measured by the variable, tariff rate) and competitiveness level of the industry (i.e. export competitiveness index). In the first case wherein the 'estimated residuals' was used as the dependent variable, results showed that there is a positive correlation between the estimated residuals and the tariff rate and export competition. Contrary to the hypothesis of the author, this suggests that higher tariff rates are even complemented with higher degree of NTMs in the case of HS85 (electrical equipment); and more NTMs are imposed on products in competitive industries compared to those less competitive / developed. Meanwhile, the results of the second case, wherein the 'frequency ratio' of NTMs was used as the dependent variable, showed a negative correlation with the tariffs variable in the case of HS87 (automobile) imports. This suggests that, in general, the quantity of NTMs serve as substitute to tariff protection. According to Okabe (2012), the results of the two regression analyses imply that the ASEAN governments seem to be more "focused on the quantitative aspect of NTMs... instead of eliminated/reduced tariff protection" when imposing NTMs. That is, they are likely more concerned about removing NTMs than reducing or removing tariff protection.

In their more recent study, Urata and Okabe (2013) using a gravity model, it was shown that indeed, AFTA has created positive and significant trade creation effects for a wide range of export and import products in the region. Nonetheless, the authors also emphasized that reduction of the NTMs with NTB effects (i.e. customs procedures, harmonization of product standards and others), accompanied by increasing AFTA utilization, and would further create

[3] The process of estimating NTMs referred to in the study by Okabe (2012) refers to the mean of ration of residuals to import value.

positive trade creation effect in the ASEAN. Hence, the challenge is how to incorporate efficiency and facilitative measures in implementation and administration of NTMs.

### *2.b NTMs in the Philippines*

The ERIA (2012) MTR project finds that compared to the other ASEAN countries, the Philippines had a relatively low prevalence rate, coverage rate, and hence, restrictiveness index. Refer back to **Table 1**. But while the Philippines has remained relatively less restrictive in terms of the NTB effects, there have been previous studies which suggested that there are many remaining issues that need to be addressed in terms of implementing NTMs in the country. See **Table 2**.

Based on the constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data, De Dios (2016) counted the number of total coded number of NTMs to be as high as 854. (See **Table 2**.) Of the total, round 70% are SPS (27.3%) and TBT (42.1%) measures. Core NTMs covering non-automatic, licensing, quotas, prohibitions, and quality control measures other than TBT and SPS account for around 6.5 %.[4] The low number supports the earlier reported low prevalence of core-NTMs in the Philippines. Nonetheless, this also shows potential additional transactions costs for NTM compliance. This could come from how restrictive (strict) the requirement is, and the procedural obstacles mentioned earlier. It also presents more challenges to trade facilitation efforts, thru streamlining procedures and controlling corruption (as permitting and licensing are often prone to).

***Table 2. Number of Regulations and Non-tariff Measures: Philippines***

| Code | NTM Type | Number of NTMs | Total NTMs (%) |
|---|---|---|---|
| A | Sanitary and phytosanitary (SPS) measures | 233 | 27.3 |
| B | Technical barriers to trade (TBT) | 360 | 42.1 |
| C | Pre-shipment inspection and other formalities | 24 | 2.8 |
| E | Non-automatic licensing, quotas, prohibitions, and quantity control measures other than SPS or TBT reasons | 56 | 6.5 |
| F | Price control measures including additional taxes and charges | 23 | 2.7 |
| G | Finance measures | 11 | 1.3 |
| H | Measures affecting competition | 1 | 0.1 |
| I | Trade-related investment measures | – | |
| P | Export related measures | 146 | 17.1 |
| Total coded NTMs | | 854 | 100 |

*Source: de Dios (2016) based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data*

[4] This is different from the prevalence reported in Table 1 which is based on 6-digit HS coverage.

The official count based on notified NTMs to ASEAN shows a smaller figure of 523, which is still very considerable. (See Table 3.) The table also provides comparison with other ASEAN countries which shows that Thailand has the most number of notified NTMs in ASEAN (at 869), followed by the Philippines. For this table, almost all NTMs notified to ASEAN by the Philippines are for TBT and SPS reasons. This is similarly the case for the other ASEAN countries.

**Table 3. Number of Notified NTMs**

| | ADP | | CV | | QR | SG | | SPS | | SSG | TBT | | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | I | F | I | F | F | I | F | I | F | F | I | F | |
| BRN | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 0 | 2 | 0 | **5** |
| CAM | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1 | **3** |
| IDN | 20 | 15 | 0 | 0 | 0 | 10 | 16 | 53 | 42 | 0 | 78 | 14 | **248** |
| LAO | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | **2** |
| MYS | 8 | 19 | 0 | 0 | 0 | 2 | 0 | 27 | 6 | 0 | 205 | 6 | **273** |
| MMR | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | **1** |
| PHL | 1 | 0 | 0 | 0 | 0 | 4 | 7 | 119 | 142 | 7 | 242 | 1 | **523** |
| SGP | 0 | 0 | 0 | 0 | 43 | 0 | 0 | 36 | 17 | 0 | 28 | 11 | **135** |
| THA | 4 | 34 | 0 | 0 | 59 | 2 | 2 | 205 | 18 | 0 | 523 | 22 | **869** |
| VNM | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 43 | 23 | 0 | 44 | 7 | **119** |
| **Total** | **33** | **68** | **0** | **0** | **102** | **19** | **26** | **486** | **249** | **7** | **1,126** | **62** | **2,178** |

Note:
I = initiated; F = in force.

*Source: ASEAN Integration Report 2015 (AIR 2015), ASEAN Secretariat*

What is also important to note is that both Tables (2 and 3) are consistent with the findings of other earlier studies that TBT and SPS are the most prevalent NTMs by the Philippines.

A notable example is the 2010 survey report published by the UNCTAD. The survey covered 303 companies of which 235 (77.5%) are involved in manufacturing, 16 (5.3%) in trading, and 37 (12.2%) in agricultural and agro-food, ten (3.3%) in joint activities in manufacturing and trading, three (1%) in both manufacturing and agri/agro food, one (0.33%) in both trading and agro-food, and one (0.33%) in either manufacturing or trading. Of these companies, 299 consider themselves as exporters although they import as well. These exporters were also found to be exporting mostly to the United States, Japan, and EU, reporting that these had the most reported cases relating to NTMs.

Majority of the reported cases were related to technical barriers to trade (TBTs) which consisted of 393 and 7 export and import cases, respectively. More specifically, under the

TBTs, the issues on certification requirements dominated (both from the origin and destination country), followed by the testing and inspection and clearance, and some were related to environment specific requirements. The second most reported case of NTMs among the surveyed companies consisted of issues on sanitary and phytosanitary (SPS) measures wherein 258 cases were related to exports and one case on imports. Majority of the reported SPS cases were also related to certification requirements (both from origin and destination market); other cases involved product characteristic standards, labelling and packaging, quarantine and testing requirements, and traceability (i.e. "origin or raw materials and parts, and on tolerance limits on residues and restricted use of particular substances). NTM measures related to exports ranked as the third most reported case (i.e. 100 cases) by the respondents. Measures related to such include exporting prerequisites, i.e. product certification and export licensing requirements,

In terms of the NTM incidence by sector, the UNCTAD (2010) reported that majority of the NTM cases affected the manufacturing companies (75%); whereas the rest were reported by companies involved in agricultures and unprocessed agriculture products. In particular, the manufacturing companies seemed to have dealt with all the reported TBT cases and about 27% of the SPS cases; the remaining 73% of the reported SPS cases involved agriculture products. Notably, 61% of the respondents found that their compliance to the foreign technical regulations had been beneficial (i.e. reduced entry barriers, increased market penetration) to their overall operations.

In terms of the NTMs that are applied by the Philippines, UNCTAD (2010) found the dominance of SPS measures and then followed by TBT measures. These measures were applied on agriculture products, namely live animals and meat products, fruits, and dairy products. Overall, the survey showed that the NTM regulations imposed by the Philippine government is compliant with the WTO rules; however, it seemed that the more important concern lies on the implementation of the NTMs which causes, for instance, long delays due to the need to be inspected by various agencies.

The survey conducted by UNCTAD in 2010 provided significant insights and information with regard to the experience of Philippine exporters and importers on NTM regulations here and abroad. Nonetheless, several challenges had surfaced concerning the gathering of information related to domestic NTM regulations. These concerned the identification of sources of NTM information, cooperation from other agencies, cost of access to information, and "difficulties in gathering or classifying the measures in the database". Moreover, qualitative analysis of the results showed that the domestic NTM regulations (i.e. certification, licensing, testing and inspection) had been burdensome for both the exporters and importers (UNCTAD 2010).

The UNCTAD (2010) supports the results of other local studies conducted on Philippine NTMs. These were mostly focused on agriculture sector which may be partly because the incidence of NTMs mostly falls on agricultural products relative to manufacturing (Pasadilla 2007) and

other products. According to Pasadilla (2007), the EU imposes highly stringent rules regarding "health and sanitation standards, veterinary checks, and plant regulations for disease and pesticide control, among others". Based on the 1999 Trade Analysis and Information System (TRAINS) data, the EU regulations had affected 6.6% of the Philippine agricultural exports which amounted to around USD 34 million in trade value. Meanwhile, in the case of China, "7 out of 102 commodities or 5.3% of the Philippine agricultural exports" to China were affected by its NTM regulations in 2001, which is equivalent to USD 2.9 million (Pasadilla 2006). As with the case of Japan, NTMs affected 21.7% (USD 92 million) of the agricultural exports in 2001. And lastly, for Korea, the 1996 data reported that NTMs affected 1.96% (USD 3.4 million) of the agricultural products. **Table 4**, on the other hand, shows the types of NTMs that were faced by the Philippine agriculture and fish exporters as reported by Pasadilla (2007).

**Table 4. NTMs faced by Philippine Agriculture and Fish Exports**

| | |
|---|---|
| European Union (EU) | • Authorization to protect wildlife<br>• Labeling requirements to protect human health<br>• Non-automatic license<br>• Prior surveillance<br>• Prohibition for human health protection<br>• Product characteristic requirements for human health<br>• Technical requirements<br>• Testing, inspection, and quarantine requirements |
| East Asia (China, Japan, Korea) | • Authorization<br>• Authorization for wildlife protection<br>• Global quotas<br>• Product characteristics<br>• Quotas to control drug abuse<br>• Tariff quotas<br>• Test for human health<br>• Test for animal health<br>• Test for plant health |

*Source: UNCTAD TRAINS Database as quoted in Pasadilla (2007)*

An earlier study conducted by Pasadilla and Liao in 2007 looked into the market access limitations of the Philippine agricultures in the EU market which receives 19.5% of the Philippine agriculture and fisheries exports. One of the significant challenges that were faced by Philippine agricultural exporters concerns the lack of infrastructure which can be subcategorized to technical and legal issues. In the case of technical matters, Pasadilla and Liao (2007) reported that the laboratories were used inefficiently as not all the regional

branches of National Pesticide Analytical Laboratory (NPAL) and National Meat Inspection Service (NMIS)[5] laboratory divisions meet the ISO standards or are accredited by the country's trading partners. On legal matters, the Philippine laws and regulations and the references of the country were deemed to be outdated in the context of the major developments in the international trade rules (Pasadilla and Liao 2007). Hence, the following policy actions were recommended: (i) crafting and implementation of clear mandates (i.e. role and function) of concerned agencies as they may contribute to the negative impact of NTM regulations in the county; and (ii) improvement of infrastructure in terms of electronic certification, accreditation of laboratories, development of satellite laboratories.

Studies relating to the effects of NTMs to the Philippine exporters to ASEAN market seem to be very limited, especially in the context of the upcoming AEC integration in 2015. Hopefully, the ERIA project on NTMs, on the whole, and the survey of firms done for this project in particular, could shed more light on prevalence, costs and impacts of NTMs.

## 3. Survey Results

The survey results presented in this section verify some of these problems (and anecdotal accounts) on the existing barriers to trade affecting ASEAN members. PIDS, as a member Institute of ERIA, was requested to do a quick survey (i.e. at least 15 respondents for the period April-May 2014) and prepare summary of existing reports/surveys on NTBs in the ASEAN. The survey aims to identify and analyze existing barriers to trade affecting ASEAN members and to observe the importance of NTBs between each trading country for each industry. The results of the survey will provide insights into whether NTMs and regulatory divergence exist within the ASEAN countries and how large or diverse they are both on trade and FDI. Likewise, it will provide insights into the costs to firms operating across ASEAN, and the scope for reducing these costs by changing rules and regulations that impact intra-ASEAN trade.

As earlier stated, the survey has a small (non-random) sample size, comprised of only 20 firms that have been willing and able to spend time with our interviewers. The questions did not aim to go beyond respondents perceptions. Nonetheless it provides some insights and interesting results that are consistent with earlier findings/studies on NTBs as well as recent ITC business survey results. In addition, this was intended to be part of a bigger survey among the 10 ASEAN countries.[6] For the Philippine case, PIDS was tasked to provide a complete survey

[5] The said laboratory is the country's sole national controlling authority on all matters pertaining to meat inspection and hygiene.

[6] The ERIA project on ASEAN NTMs aimed to identify and analyze existing NTMs and regulatory divergence at the sectoral level in the ASEAN countries. The survey and the report will focus on at-the-border and behind-the-border costs that emerge from regulatory divergence. The results of this survey will provide insights into whether NTMs and regulatory divergence exist within the ASEAN countries and how large or diverse they are both on trade and FDI. Three sets of NTM survey questionnaires were used for firms: 1) engaged in Trade in Goods, Services Exports and

dataset together with a summary of existing surveys on the NTMs in the ASEAN region. This paper discusses only the results of the ASEAN NTB Survey in Trade in Goods. Respondents were to rank the ASEAN member states (AMS) as well as selected countries outside ASEAN on the different factors which served as NTBs on the scale of 0 to 10.

**Table 5** shows the profile of the firm respondents[7] according to its industry classification then by location and size of employment. Majority (14 out of 20 or 70%) of the firms are located outside the National Capital Region (NCR), mostly in Cavite area where there are a number of industrial or economic zones. Of which, six firms are in Clothing (Garments) manufacturing. It is notable that within the small (non-random) sampled survey, half (10 out of 20) of the firm respondents are SMEs, while 30% (6) are large.

**Table 5. Profile of Respondents: Location and Size (Employment)**

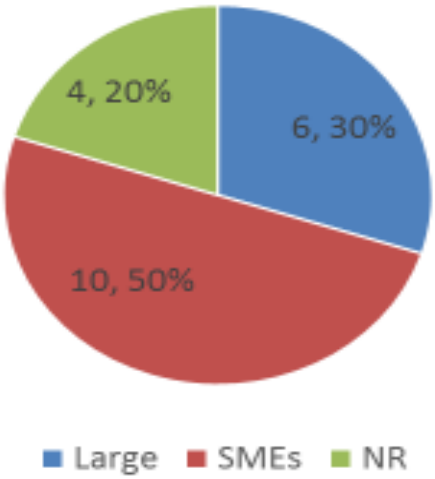
**Table 5. Profile of Respondents, Location and Sector**

| Industry Classification (ISIC-3) | NCR | Outside NCR | Total |
|---|---|---|---|
| Beverage | 0 | 1 | 1 |
| Chemicals, rubber and plastics | 0 | 1 | 1 |
| Clothing | 0 | 6 | 6 |
| Fabricated metal products | 1 | 0 | 1 |
| Mechanical machinery | 1 | 1 | 2 |
| Motor vehicles and parts | 2 | 1 | 3 |
| Non-metallic minerals | 0 | 1 | 1 |
| Other mfg goods-semicon/electronics | 1 | 2 | 3 |
| Processed foods | 0 | 1 | 1 |
| Wood products | 1 | 0 | 1 |
| ***Grand Total*** | ***6*** | ***14*** | ***20*** |

*NCR: Makati (1), Manila (4), Quezon City (1); Outside NCR: Baguio (1), Cavite (13)*

Affiliate operations as well as those engaged in goods FDI. Integration of the results has not been completed as of the writing of this report.

[7] Firms included in the survey are either local exporting firms or multinational firms. Considered as local exporting firms if they export goods and services from the ASEAN six countries (Indonesia, Singapore, Thailand, the Philippine, Malaysia Vietnam) while multinational firms when they operate an affiliate in the six ASEAN countries, but also in Brunei, Cambodia, Laos and Myanmar.




Results of the study survey show that indeed, NTMs/NTBs in ASEAN pose additional costs to exporters. However, the perceived costs are non-uniform across ASEAN. NTBs/NTMs impact is minimal in Singapore for operating costs in complying with NTMs (slightly more in terms of overhead costs). The impact of NTBs/NTMs in Thailand and Malaysia are also perceived to be on the low side (for both operating and overhead costs). The impact for the Philippines is perceived as moderate. Myanmar is perceived to have the highest impact of NTMs/NTBs on costs. See **Table 6**.

**Table 6. Impact of NTBs in ASEAN**

| Operating Cost * | | Overhead Cost ** | |
|---|---|---|---|
| AMS | Ave Rating | AMS | Ave Rating |
| Singapore | 2 | Thailand | 3 |
| Malaysia | 3 | Singapore | 3 |
| Thailand | 3 | Indonesia | 3 |
| Indonesia | 4 | Malaysia | 3 |
| Philippines | 5 | Vietnam | 4 |
| Brunei | 5 | Philippines | 5 |
| Cambodia | 6 | Cambodia | 5 |
| Laos | 6 | Laos | 5 |
| Vietnam | 6 | Brunei | 5 |
| Myanmar | 8 | Myanmar | 6 |

* Overall, on a scale of 0 to 10, where 0 is easiest to export to the market and 10 is prohibitively costly to export to the market, how would you rank each of these markets in terms of variable costs for exports?

** Overall, on a scale of 0 to 10, where 0 is easiest to export to and 10 is prohibitively costly to export to due to regulations and access restrictions, how would you rank each of these markets in terms of overhead/fixed costs for exports?

Outside ASEAN, UK is perceived to be costly to export both in terms of operating and overhead cost. (Refer to **Table 7**). This rank is followed by China or Korea but China is perceived to be easier to export when it comes to Overhead cost.

**Table 7. Impact of NTBs outside ASEAN**

| Operating Cost * | | Overhead Cost ** | |
|---|---|---|---|
| Partner | Ave Rating | Partner | Ave Rating |
| Korea | 4 | China | 3 |
| USA | 4 | Japan | 4 |
| Japan | 4 | USA | 4 |
| China | 5 | Korea | 5 |
| UK | 6 | UK | 7 |

* Overall, on a scale of 0 to 10, where 0 is easiest to export to the market and 10 is prohibitively costly to export to the market, how would you rank each of these markets in terms of variable costs for exports?

** Overall, on a scale of 0 to 10, where 0 is easiest to export to and 10 is prohibitively costly to export to due to regulations and access restrictions, how would you rank each of these markets in terms of overhead/fixed costs for exports?

On identifying the important NTBs that affects the operations of their respective businesses either in or outside ASEAN, three (3) NTBs were common: Customs formalities, ROOs, TBTs. Table 8 summarizes these important NTBs.

**Table 8. Impact of NTBs in and outside ASEAN**

- **Customs formalities (e.g. delays in clearing customs, Pre-shipment inspection)**
- **Rules of origin (e.g. compliance costs to prove origin)**
- Contingent trade-protective measures (e.g. antidumping measures)
- Trade-related investment measures (e.g. export requirements)
- **Technical barriers to trade (e.g. product certification requirements)**
- **Customs formalities (e.g. delays in clearing customs, Pre-shipment inspection)**
- **Rules of origin (e.g. compliance costs to prove origin)**
- **Technical barriers to trade (e.g. product certification requirements)**
- Export-related measures (e.g. licensing restrictions)
- Price-control measures, including additional taxes and charges (e.g. minimum prices)

With respect to transparency and ease of understanding of regulations, the perception is varied as well. Some AMS are more transparent than others. As expected, Singapore is perceived as clear and transparent (perfect rating of 1 in the scale of 1-10). Thailand (with a rate of 2) also performed well in terms of transparency and ease of understanding of regulations. Malaysia and the Philippines have similar ratings in the mid-range. While better than Cambodia, Laos and Myanmar, which are perceived to have most unclear regulations, the results still indicate a lot of room for improvement. The perception on stability and risks

to profitability from changes in regulations in this market follows the rating on transparency closely. Refer to **Table 9**.

**Table 9. Transparency, Stability and Risk in ASEAN**

| Transparency * | | Stability and Risk ** | |
|---|---|---|---|
| AMS | Ave Rating | AMS | Ave Rating |
| Singapore | 1 | Singapore | 1 |
| Thailand | 2 | Malaysia | 3 |
| Malaysia | 5 | Thailand | 4 |
| Indonesia | 5 | Indonesia | 5 |
| Vietnam | 6 | Philippines | 6 |
| Philippines | 6 | Vietnam | 7 |
| Brunei | 7 | Brunei | 7 |
| Cambodia | 8 | Laos | 8 |
| Laos | 9 | Cambodia | 9 |
| Myanmar | 10 | Myanmar | 10 |

* On a scale from 1 to 10, where 1 is clear and transparent and 10 is unclear and very expensive, rank the ease with which you are able to understand and conform to regulations in each market

** On a scale from 1 to 10, where 1 is risk free and stable and 10 is extremely risky, rank your assessment of the risk to profitability from changes in regulations in this market

Outside ASEAN, UK is perceived to be on the side of clear and more transparent while Korea is viewed on the aspect of risk free and stable. Among the countries listed outside ASEAN, China ranks lowest in transparency, stability and risk. This is shown in **Table 10**.

**Table 10. Transparency, Stability and Risk outside ASEAN**

| Transparency | | Stability and Risk | |
|---|---|---|---|
| Partner | Ave Rank | Partner | Ave Rank |
| UK | 4 | Korea | 3 |
| Korea | 4 | USA | 4 |
| Japan | 4 | Japan | 4 |
| USA | 4 | UK | 4 |
| China | 5 | China | 5 |

* On a scale from 1 to 10, where 1 is clear and transparent and 10 is unclear and very expensive, rank the ease with which you are able to understand and conform to regulations in each market

** On a scale from 1 to 10, where 1 is risk free and stable and 10 is extremely risky, rank your assessment of the risk to profitability from changes in regulations in this market

Finally, the firms were asked to identify the specific rules and regulations/policies that they think are barriers to their sales/presence in that particular country/market. Results were presented in **Table 11**.

**Table 11. Identified Specific Rules and Regulations: Barriers to Sales/presence in the Market**

| Country | Regulations |
|---|---|
| Indonesia | Export non-tariff measure, Absence of anti-dumping law |
| Philippines | Technical measures and product characteristic requirements, Monopolistic measures, Customs Overtime Charges, No accredited suppliers (chicken) in Asia, Truck ban in Manila |
| Malaysia | Standards conformance, Absence of anti-dumping law |
| Thailand | Distribution restriction |
| Singapore | Taxes |
| | |
| Japan | JIS Standards (compliance); Product classification, Quality Standards/conditions; Language, additional trade documents |
| US | Lacey Act; Fumigation Law; Bioterrorism Act for wood pollutes, Quality Standards, Third-party testing for enclosures: National Electrical Manufacturers' Association (NEMA), Underwriters' Laboratories Inc. (UL), Double certification-extra cost (requirement to secure Phyto sanitary Certificate inspite of the Certification of Non GMO), Certificate of Free Sale |
| Korea | Language, Quality Standards, CoOs |
| China | Quality Standards, Certificate of Conformity (toys), Double Certification (Ceramic Porcelain Tiles: PNS 13006: 2007 standard inspite of the Certification from the country of origin), Quarantine and invoice value: extra documents (i.e. PO and Proof pf payment) |

These survey outcomes on NTBs are still valid and relevant in the present times. In June 2016, the findings of International Trade Center (ITC) Business Survey on NTMs in the Philippines 2015-2016[8] were presented at the national stakeholder meeting attended by representatives of various public agencies, business associations, experts and other stakeholders. The report stated that almost three-quarters of the interviewed companies were affected by NTMs. The top 3 key obstacles are as follows:

- Product requirements and conformity (exports): Technical compliance and expense
- Customs clearance and control (imports and exports): border transparency and clean up
- Rules of origin and other trade rules (exports and imports): overcoming domestic POs

Further, the survey found out that trade within the region seemed less restrictive than with partners belonging to the Organisation for Economic Cooperation and Development (OECD),

[8] ITC in collaboration with the Department of Trade and Industry (DTI) interviewed around 1,150 Filipino exporters and importers about their experiences with NTMs. The survey, implemented between 2015 and April 2016, aims to shed light on regulatory and procedural obstacles to trade faced by Filipino firms. Insights from the survey will allow the public and private sectors to better understand the current business environment and to identify concrete actions to promote the development of Filipino firms and the competitiveness of exports.

such as the United States and the European Union. One reason is that most exporting and importing companies in the Philippines face difficulties in complying with foreign technical requirements and conformity assessment procedures – such as fumigation and labelling regulations or product certification and testing – which are often stricter in developed countries.

Indeed, PIDS survey in 2014 and the ITC Survey 2015-2016 confirm and are consistent in its findings on NTMs/NTBs. The later report identifies some of the main challenges include insufficient private sector capacity to comply with technical regulations, high cost of local procedures, inadequate testing and certification facilities and procedures, lack of transparency: standards and conformity assessment procedures, trade regulations and other related procedures, insufficient coordination between the different agencies involved in the export/import process, frequently changing procedures and inadequate dissemination of information, customs valuation and tariff classification, among others.

## 4. Summary and Recommendations

As has been well documented, there has been major progress in the reduction of tariffs, across the globe, and to near zero in ASEAN. However, a rising trend has been noted in the use of NTMs (Ing et al, 2016). To be sure, majority of these NTMs are intended for justified reasons such as sanitary and health, environment, security and consumer protection. Moreover, the rising trend may be more the result of greater commitments by ASEAN member countries on notification, and the numbers do not categorically indicate the degree of restrictiveness of these NTMs. However, there are also legitimate concerns that these NTMs are effectively mainly NTBs which are more protectionist in nature. And as the upward trend suggests, this could be intensifying as well. Hence, a closer scrutiny about the motives and the implementation and administration of these NTMs are needed, especially those with likely NTB effects.

Results of the study survey show that indeed, NTMs/NTBs in ASEAN matter. However, the perceived costs vary across ASEAN. They are minimal for Singapore, moderate for the Philippines and very high for Myanmar. In addition, not all AMS have clear and transparent rules on NTBs/NTMs. Again, Singapore is perceived as clear and transparent. The Philippines is in the mid-range. While better than Cambodia, Laos and Myanmar, which are perceived to have most unclear regulations, the results still indicate a lot of room for improvement. In addition, there is some negative perception of stability and risks to profitability from changes in regulations in ASEAN. Again, the results vary across countries, following the pattern on transparency closely.

Such NTB impact could prove significant to ASEAN. In particular, Urata and Okabe (2013) find potential positive impact of NTB reduction. They noted that while AFTA, arising from

reduction in tariffs, has created positive and significant trade creation effects in ASEAN, reduction of the NTMs with NTB effects would further enhance these positive impact. Hence, the challenge for ASEAN countries including the Philippines is how to incorporate efficiency and facilitative measures in the implementation and administration of NTMs. In this regard, improvements are needed to address at least two issues: transparency and regulatory reforms- both for removing unnecessary restrictions and for streamlining procedures for NTMs. Along these lines, a number of recommendations are worth reiterating and highlighting:

1. Promoting transparency in NTMs: creating a comprehensive and updated database of NTMs in the region; published and easy to access database; building up the Philippine National Trade Repository
2. Regular submission of notifications of new NTMs, not only to the WTO, but also to the ASEAN Secretariat (ASEC)
3. Establishing a robust mechanism that will address the NTM issues, including harmonization of standards
4. Continuing intensive reforms to streamline NTM procedures: the importance of Customs Modernization and establishment of the NSW, including an efficient Risk Assessment Mechanism cannot be over emphasized
5. To reinforce the above recommendations, creating a "third party monitor and technical resource" to oversee the progress of the ASEAN member-states in mitigating the negative effects of NTMs on trade

On 1, a useful initiative is the I-TIP Goods: Integrated analysis and retrieval of notified non-tariff measures. I-TIP Goods provides comprehensive information on non-tariff measures (NTMs) applied by WTO members in merchandise trade. The information includes members' notifications of NTMs as well as information on "specific trade concerns" raised by members at WTO committee meetings. Its aim is to serve the needs of those seeking detailed information on trade policy measures as well as those looking for summary information. It includes links to the WTO's extensive tariff and trade databases, and to DocsOnLine system.

On 4, the Customs Modernization and Tariffs Act (CMTA) has been passed and a number of Implementing Rules and Regulations (IRR) are either being threshed out or already put in place. In the process, this would pave the way for the completion of the Philippine National Single Window (PNSW) which should greatly move forward the trade facilitation measures in licensing and permitting system for NTMs.

Finally, there is a need for capacity building to help firms, especially SMEs to comply with SPS and TBT measures. For exporters, the first step is awareness of what the applicable SPS and TBTs are, the next is understanding how to comply with these requirements and the third is

where and how to proceed to comply. Capacity building should thus include improvements in testing laboratories and facilities, accreditation and certification.

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