

Enikeeva, Zalina

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Non-tariff measures and sustainable development in Kazakhstan and Kyrgyzstan

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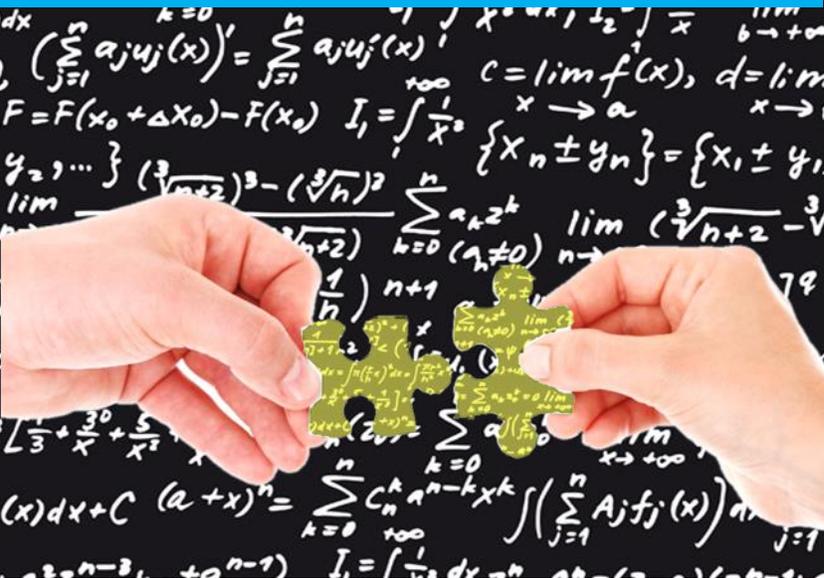
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Non-tariff measures and sustainable development in Kazakhstan and Kyrgyzstan



Zalina Enikeeva

ASIA-PACIFIC RESEARCH AND TRAINING NETWORK ON TRADE

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ASIA-PACIFIC RESEARCH AND TRAINING NETWORK ON TRADE

WORKING PAPER

Non-tariff measures and sustainable development in Kazakhstan and Kyrgyzstan

Zalina Enikeeva¹

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¹ Research Fellow at Institute of Public Policy and Administration, University of Central Asia (UCA), Kyrgyzstan, e-mail: zalina.enikeeva@ucentralasia.org. This study received funding from ESCAP’s Russian-Federation-funded project titled “Examining the impact of non-tariff measures (NTMs) on subregional trade among countries in North and Central Asia”, and as part of post-workshop ARTNeT research studies on evaluating the impact of NTMs on sustainable development. The author expresses thanks to anonymous peer reviewers for the suggestions and comments on the previous versions of the paper, Alexey Kravchenko and Trevor Thorburn for the valuable comments and guidance and to ARTNeT secretariat for assistance in disseminating this work.

Abstract

This study analyses the relationship between non-tariff measures (NTMs) applicable in the agricultural sector of Kazakhstan and Kyrgyzstan and the sustainable development goals (SDGs). Kazakhstan and Kyrgyzstan, as newer members of the Eurasian Economic Union (EAEU), first established by Belarus, Kazakhstan and the Russian Federation in 2010, have the intention of eliminating intra-block barriers in the trade of goods, services, capital and labour. Elimination of barriers, as envisaged by the EAEU Treaty, specifically includes non-tariff regulation. However, the scope of non-tariff regulation, as defined in the Treaty, only includes traditional commercial instruments, such as licencing and quotas. Other regulations which are considered as NTMs by WTO, UNCTAD and other international organizations, such as sanitary and phytosanitary measures and technical barriers to trade, are addressed by other chapters in the Treaty and are not subject to elimination. As such, there is sometimes confusion in discussions about NTMs within the scope of the EAEU due to such varying definitions. Many NTMs (in broader sense) in Kazakhstan and Kyrgyzstan are found to have legitimate and necessary objectives, such as protection of human, animal and plant health or, protection of the environment. At the same time, there seems to have been instances in the region of NTMs being overtly used with a protectionist intent. The bulk of the measures examined affecting agricultural trade, however, showed that the most frequent NTMs might be addressing health-related Sustainable Development Goals. Data on NTMs remain incomplete in many countries of the region. This is evident by the varying level of completeness of measures notified by EAEU member States to the WTO that are based on ratified EAEU regulations. As such, further efforts are needed to increase transparency in this area to ensure the measures do not create unnecessary barriers to trade and sustainable development.

Keywords: Non-tariff measures, EAEU, Kyrgyzstan, Kazakhstan, trade in agricultural products, sustainable development

JEL codes: F1, F13, O24

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1. Introduction

Central Asia is represented by five former Soviet Union countries: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. Each of these countries were at one time members of the Union of Soviet Socialist Republics. After the Soviet Union collapsed in 1991, all five Central Asian countries took divergent approaches to development, and consequently each country boasts substantially variant levels of growth and development. In present times, all differ from each other culturally, economically, and socially.

While all countries are valuable for the analysis of non-tariff measures in the agricultural sector, the case study includes only Kazakhstan and Kyrgyzstan, as these Central Asian countries are both members of the recently established and growing Eurasian Economic Union (EAEU).

The purpose of this study is to analyse the relationship between non-tariff measures and Sustainable Development Goals applicable in the agricultural sector of Kazakhstan and Kyrgyzstan. Agricultural sector in both countries is a priority sector, which is subsidized from state budget by allocation of agricultural equipment, petroleum, support of export-oriented agricultural production, provision of preferential loans etc.

The findings of the study show an increased incidence of non-tariff measures applied by the two Central Asian EAEU member States towards third countries, as well as in respect to other members of the EAEU. Justification of NTMs usage is often related to ensuring healthy lives and promotion of well-being for all at all ages (SDG 3). However, there are some measures that obviously indicate countries' intentions to support local producers and protect internal markets.

2. General information about Kazakhstan and Kyrgyzstan

2.1 Kazakhstan

Kazakhstan is the largest landlocked country in the world and is very rich in natural mineral deposits – 90 out of the 94 naturally occurring elements in the periodic table can be found in Kazakhstan (Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan, 2019). The country has huge deposits of oil, gas, coal, non-ferrous and ferrous metals. The surface area of Kazakhstan is 2,724,900 square kilometres, and represents 1.8% of the world's total landmass. Despite its huge size, it has a relatively small population of only 18 million people. The largest territory of the country is comprised of the Kazakh Steppe, a grassland ecoregion. The country neighbours with China, Kyrgyzstan, the Russian Federation, Turkmenistan, and Uzbekistan.

Kazakhstan has transitioned from lower-middle to upper-middle income status since its independence in 1991. It enjoyed stable gross domestic product (GDP) growth for many years after independence, although it experienced a general economic slowdown since 2014, which was caused by the fall in global oil prices (GDP decreased by 8.9% and 4% in 2007 and 2017, respectively – see table 1). GDP per capita (constant 2010 United States dollars) represents slight growth: it was \$8,523 in 2007 and \$10,857 in 2017 (see table 1).²

Kazakhstan has maintained a stable, positive trade surplus since gaining independence. The main exports of the country are mineral products (56%), metals (22%), chemical products (8.6%) and vegetable products (5%). The main imports of the country are machines (27%), metals (12%), chemical products (10%), transportation (9.2%), mineral products (8.3%), foodstuffs (6%), plastics and rubbers (5.3%), textiles (4%) and vegetable products (3.1%) (The Observatory of Economic Complexity, 2007, 2017).

² Data is taken from the World Development Indicators and National Statistic Committee of the Kyrgyz Republic

Table 1. Main economic indicators of Kazakhstan and Kyrgyzstan

	Kazakhstan		Kyrgyzstan	
	2007	2017	2007	2017
GDP growth (per cent)	8.9	4	8.5	4.6
GDP per capita (constant 2010 United States dollars)	8,523	10,857	819	1,070
Trade turnover (United States dollars, millions)	80,512	77,647	4,110	6,259
Exports (United States dollars, millions)	47,755	48,342	1,321	1,764
Imports (United States dollars, millions)	32,756	29,305	2,788	4,495

Source: World Development Indicators, National Statistic Committees

2.2 Kyrgyzstan

Kyrgyzstan, conversely, is a small land-locked country, with a surface area of only 199,999 square kilometres, and a population of just over 6 million people. The country's neighbours are China, Kazakhstan, Tajikistan and Uzbekistan.

In 1998, the Kyrgyzstan became the first Commonwealth of Independent States country to join the World Trade Organization (WTO). The economy of the country is relatively vulnerable to external shocks; one can observe its GDP growth drop in the last years: the growth rate was 8.5% in 2007 and only 4.6% in 2017. GDP per capita also recorded a moderate growth – it increased from \$819 in 2007 to \$1,070 in 2017.

For the last decade, the country has been dependent on remittances from Kyrgyz labour migrants, and approximately one-quarter of Kyrgyzstan's workforce is employed abroad (USAID, 2017). The share of worker remittances was equivalent to about 27% of GDP in 2017 (World Bank, 2017).

The balance of trade in Kyrgyzstan has been predominantly negative since its independence. In 2017, the country imported \$4.5 billion worth of goods, while it exported only \$1.8 billion. Kyrgyzstan exports mineral products (22%), precious metals (16%), transportation (11%), textiles (9.9%), vegetable products (9.4%), machines (8.1%), metals (5.5%) and animal products (2.7%). The country imports textiles (24%), footwear

and headwear (14%), machines (13%), mineral products (9.2%), chemical products (6.6%), metals (6.2%), foodstuffs (5.8%), transportation (4.7%) and vegetable products (2.4%) (The Observatory of Economic Complexity, 2017).

Kyrgyzstan is rich in mineral resources such as gold, coal, antimony, and it boasts large hydropower capacity.

3. Agricultural sectors in Kazakhstan and Kyrgyzstan

Traditionally, the agricultural sector has been very important across all the Central Asian countries. Historically, the people living on the territory of Kyrgyzstan and Kazakhstan were nomads, and cattle breeding was their main occupation and method of subsistence. During the Soviet times, agricultural sector was highly valued in both countries.

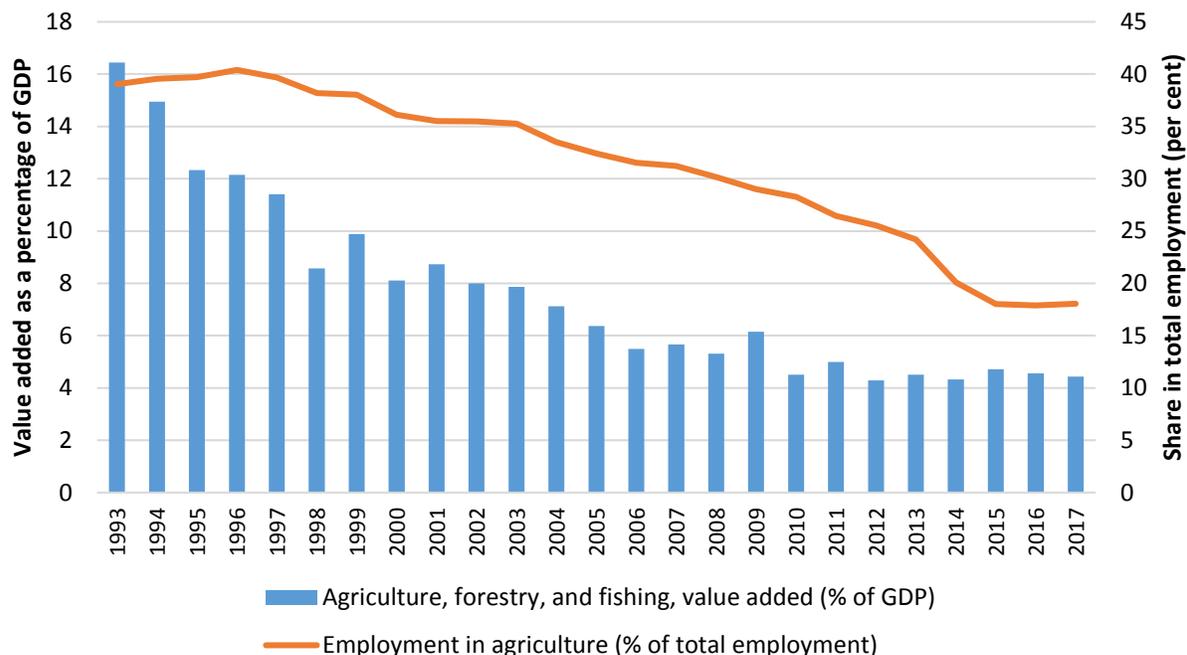
3.1. Kazakhstan

Kazakhstan was one of the main producers of meat, wool and grain in the Soviet Union. Livestock provided 58% of the value of gross agricultural output. In agriculture, large-scale mechanized grain farming was carried out on non-irrigated and irrigated lands, as well as meat and wool sheep and meat cattle breeding. After becoming independent in 1991, Kazakhstan's output of livestock production fell dramatically; the number of sheep and goats was reduced from 35.5 million heads in 1991 to 13 million heads in 1997.³

Despite the stable state support of agricultural sector and constant statements from Kazakhstani state authorities that agriculture is the main sphere of human activity nowadays, its share of GDP continues to decline significantly. Kazakhstan's employment share in agriculture is getting smaller from year to year and was estimated to be at around 18% in 2017, while the share of GDP of agriculture, forestry and fishing was estimated to be at around 4% of GDP in 2017 (see figure 1).

³ Kazakhstan's Educational Website. 'Ekonomicheskoye razvitiye Kazakhstana v 1991 -2006 gg.' (Economic Development of Kazakhstan during 1991-2006). <http://testent.ru/index/0-89>

Figure 1. Kazakhstan’s agriculture, forestry and fishing value added and employment in agriculture, 1993-2017



Source: World Development Indicators

Within Kazakhstan’s agricultural production, crops represent 55.1% of the total, livestock 44.6% and agricultural services 0.3% in 2017 (Ministry of National Economy, 2017). The most significant crops are wheat, fruits and vegetables, barley, cotton, sugar beets, sunflowers, flax, and rice. Beef cattle, chicken, wool, cow milk, and eggs are the other major animal products of the country.

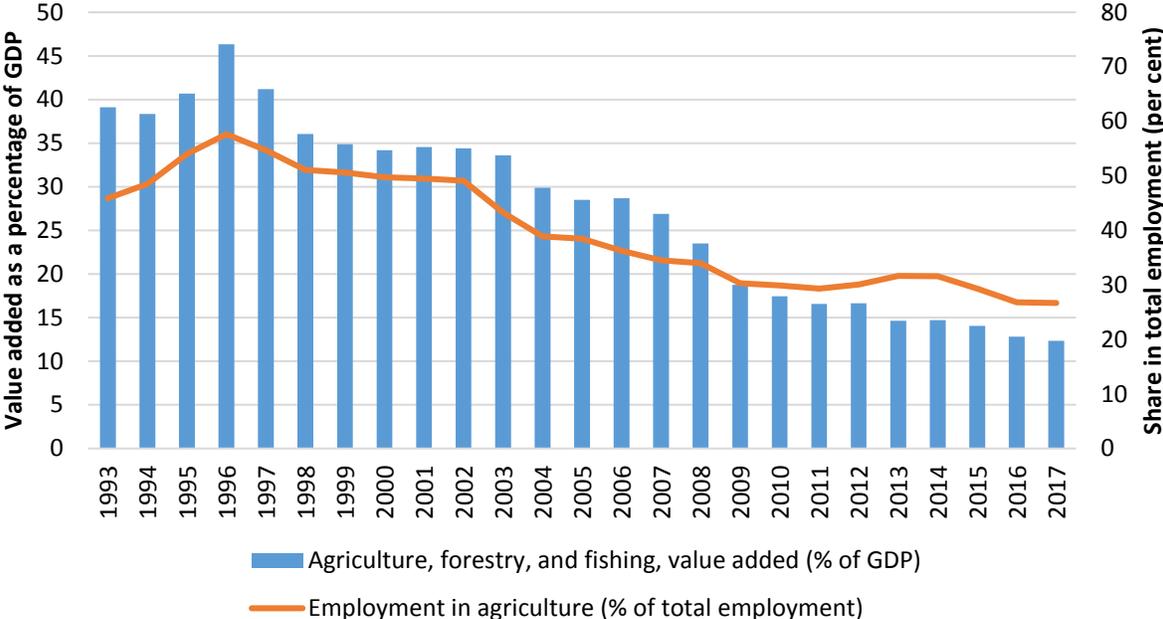
3.2. Kyrgyzstan

During the Soviet times, Kyrgyzstan’s main agricultural output was livestock breeding; predominantly fine-wool and semi-fine sheep breeding, dairy and meat cattle breeding, with the additional development of horse breeding. Crop farming provided about 45% of gross agricultural output; of which the cultivation of industrial crops such as cotton, tobacco, essential oils bearing was the most significant.

After the collapse of the Soviet Union, the agricultural sector continued to be one of the most important sectors in Kyrgyzstan, despite its gradual decline in the share of GDP and

employment. Thus, the share of employment in agricultural sector was estimated to be around 27% of total employment in Kyrgyzstan in 2017, while the share of agriculture, forestry and fishing was estimated to be around 12% of GDP in 2017 (see figure 2).

Figure 2. Kyrgyzstan’s agriculture, forestry and fishing value added and employment in agriculture, 1993-2017



Source: World Development Indicators

Within Kyrgyzstan’s agricultural production, crops represent 50.26% of the total, livestock production 47.6%, and services 2.11% in 2017 (National Statistic Committee, 2018). Kyrgyz farmers produce wheat, barley, potatoes, vegetables and fruits, fodder and technical (cotton, tobacco, sugar beet) crops; among animal husbandry the breeding of dairy and beef cattle, sheep and goats, horses, and poultry are central practices.

Most agriculture is family-based on small plots of land, which arose out of agrarian reforms after the Soviet Union collapsed. It is widely accepted that this reform had a significant role in poverty reduction, which was very common, especially in rural areas.

4. The Eurasian Economic Union

4.1 General information

The Eurasian Economic Union (EAEU) is an international organization for regional economic integration with five member-states: Armenia, Belarus, Kazakhstan, Kyrgyzstan and the Russian Federation. The Customs Union (CU) of Belarus, Kazakhstan and Russia, the predecessor of EAEU, was established in 2010. On January 1, 2012 the three states formed a Single Economic Space to promote further economic integration. The CU was turned into the EAEU on 1 January 2015. Armenia and Kyrgyzstan became the fourth and the fifth members of the Union consequently when they joined it in 2015. The EAEU includes an aggregate population of 182.7 million people, and 14% of the world's landmass.

According to the Treaty on the Eurasian Economic Union, the EAEU provides for **free movement of goods, services, capital and labour**, and pursues coordinated, harmonized and single policy in the sectors determined by the Treaty and international agreements within the Union (Eurasian Economic Commission, 2015). The Eurasian Economic Commission (EEC) is the permanent regulatory body of the Eurasian Economic Union; it started its work on 2 February 2012. The main purpose of EEC is to ensure the functioning and development of EAEU and the development of proposals for further integration (Eurasian Economic Commission, 2015). The most important feature of the Commission lies in the fact that all decisions are made on a collegial basis. The Board of EEC consists of 10 members (2 Members (Ministers) from each member State), one of whom is the Chairman of the Commission Board.

The Eurasian Economic Commission has ambitious plans and by 2025 it plans to regulate the following policies of member-states:

1. assignment and distribution of import customs duties;
2. establishment of trade regimes for third parties;
3. statistics of foreign and mutual trade;
4. macroeconomic policy;
5. competition policy;

6. industrial and agricultural subsidies;
7. energy policy;
8. natural monopolies;
9. state and/or municipal procurement;
10. mutual trade in services and investments;
11. transport and transportation;
12. monetary policy;
13. security and protection of intellectual property and the means of branding goods, works and services;
14. labour migration;
15. financial markets (banking, insurance, the currency market, the securities market);
16. customs tariff and non-tariff regulations;
17. customs administration;
18. informatization;
19. information and communication technologies;
20. others.

4.2 Tariff regulation

Among the five EAEU member States, four are members of WTO: Armenia, Kazakhstan, Kyrgyzstan and the Russian Federation (see table 2). At time of writing this report Belarus was in process of negotiating to join the WTO. According to the Agreement on the Functioning of the Customs Union within a Multilateral Trade System, “in case of subsequent accession to the WTO of another Party, its commitments made as a condition of accession to the WTO and pertaining to the legal relations, the powers to regulate which in the Customs Union have been delegated by the Parties to the bodies of the Customs Union, as well as to the legal relations governed by international agreements that form the legal and regulatory framework of the Customs Union, shall also become a part of the legal system of the Customs Union. In this case, the Party that joins the WTO shall notify the other Parties and coordinate its actions with them to the extent of the commitments made as a condition of its accession, whenever such commitments require

amendments to the legal system of the Customs Union” (Eurasian Economic Commission, 2014).

After accession to WTO of one of CU and the CES States — the Russian Federation — the Treaty on Functioning of the Customs Union was concluded as part of multilateral trading system stipulating for the guarantee of compliance by the Union with both the basic WTO principles and obligations of the association’s separate participating countries. Thus, the Common Customs Tariff of the Customs Union (CCT CU) was brought into compliance with tariff obligations of the Russian Federation that arose from its joining WTO (Eurasian Economic Commission, 2018).

Table 2. WTO status of EAEU members States

State	WTO membership
Republic of Armenia	5 February 2003
Republic of Belarus	under negotiation
Republic of Kazakhstan	30 November 2015
Kyrgyz Republic	20 December 1998
Russian Federation	22 August 2012

Source: World Trade Organization website (www.wto.org)

The Common Customs Tariffs (CCT) is a set of customs duties applied to goods imported into the customs territory of the Union from third countries. After accession to the EAEU, Kyrgyzstan’s customs tariffs increased 1.7 times. Thus, before the EAEU membership the average import customs tariff was 5.3%, and after it became 9% (Sputnik Kyrgyzstan, 2015).

Among the EAEU member States, Kazakhstan is the most recent WTO member. While WTO imposed many of the same rules when the Russian Federation joined, Kazakhstan had significant tariff concessions, which were much lower than those stipulated by the Russian Federation. After mutual discussions, it was decided not to integrate the Kazakhstani obligations into the Common Customs Tariff and to provide for exceptions from it from Kazakhstan’s side. As result of such discussions, the Protocol on Certain Issues of Import and Circulation of Goods on the Customs Territory of the Eurasian Economic Union was issued and signed in October 2015. The Protocol specifies conditions for the treatment of imported goods and services into Kazakhstan by third parties, applying either the tariff obligations of WTO or the CCT. At the same time, goods

imported at WTO rates should be used solely for consumption in Kazakhstan and may not freely circulate around the territory of the entire Union (Eurasian Economic Commission, 2018).

4.3 NTMs and the EAEU

According to the Treaty on the Eurasian Economic Union, common and binding quality requirements for products and related processes are demanded. The development of technical regulations, sanitary, phytosanitary and veterinary measures, as well as their adaptation and application are key elements of common market integration.

Under technical regulation, the Eurasian Economic Commission implies the “establishment of appropriate conditions to secure safety of products at the market of the EAEU States, which increase competitive ability of businesses and raise living standards of the citizens of participating countries” (Eurasian Economic Commission, 2018).

Addendum #7 to the treaty on the EAEU regulates appliance of non-tariff regulation measures towards third countries (Eurasian Economic Commission, 2014). There is the single list of commodities in respect to which these measures are applied. Under measures there are import/export restrictions, quantitative restrictions, exclusive rights on import/export of commodities etc.

Members of the EAEU do not apply non-tariff regulation measures in mutual trade in a way they do it towards third countries; however, each state may apply such regulation on national level. Thus, EAEU does not have empowerment in establishment of quotas, subsidies for domestic producers.

Non-tariff measures are defined by UNCTAD as the following: “Non-tariff measures (NTMs) are policy measures — other than ordinary customs tariffs — that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both” (UNCTAD, 2012). Such NTMs might be sanitary and phytosanitary measures which are applied to protect human or animal life from risks arising from additives, contaminants, toxins or disease-causing organisms in food, or they might be technical barriers to trade, which refer to technical regulations, and procedures for the

assessment of conformity with technical regulations and standards and etc. Thus, the definition of NTMs by UNCTAD differs to “non-tariff regulation” of the EAEU, which covers only import/export restrictions, quantitative restrictions, exclusive rights on import/export of commodities etc. Sanitary and phytosanitary measures, as well as technical barriers to trade are treated under separate articles of the Treaty.

Those technical documents include requirements surrounding labelling, packaging, transportation, storing of products, minimal residual level requirements, and etc. Here is an example of the technical regulation of mineral drinking water, which could be easily classified as non-tariff measure: *“There are product identity requirements for water. E.g. water can be identified as natural drinking water when it is underground water with mineralization up to 1 gram per cubic decimeter, etc.”*

There are 48 EAEU approved technical regulations, of which 43 are in force (Eurasian Economic Commission, 2020). These regulations are applied to different sectors, including: toys, grains, mineral water, carrousel, wheels, transport vehicles and etc. The number of standards in the lists to the EAEU technical regulations exceeds 11,000 (Eurasian Economic Commission, 2018).

According to the UNCTAD classification, technical regulations could be classified as non-tariff measures which “lay[s] down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory” (UNCTAD, 2012).

4.4 Trade barriers in the EAEU

The Eurasian Economic Union acknowledges the existence of barriers within its Union. It publishes annual reports on barriers, derogations and restrictions that member States meet and elaborates on further steps for the elimination of barriers. To ease the process of trade within the internal market, a special electronic portal was developed by the EEC (Eurasian Economic Commission, 2020). If any person or organization from the EAEU member States met with an obstacle or barrier during mutual trade with other EAEU member State(s), they can notify EEC about this case. After that, an investigation process is initiated by the EEC and the final decision is accepted.

An example of such case was the appeal of the Republic of Kazakhstan on the implementation by the Kyrgyz Republic of measures to limit the importation of flour from Kazakhstan (Eurasian Economic Commission, 2018). According to a statement by the Republic of Kazakhstan, at the checkpoints of the Kazakh-Kyrgyz border, the authorities of the Kyrgyz Republic imposed restrictions on the import of flour in the form of quotas. In addition, the issue of the illegal collection of funds for transportation of goods across the border was raised. EEC conducted a series of consultations with different authorities, and after a number of meetings and discussions, it determined an absence of any restrictions on the import of flour from the territory of Kazakhstan to the territory of the Kyrgyzstan. To facilitate the export of a product to an EAEU member State, the following documents are required at the border:

- Compliance statement
- Phytosanitary certificate (fruits and vegetables)
- Veterinary certificate (products of animal origin)
- Contract with the buyer / receiver of products (if any)
- “EAC” labelling
- Invoice
- Cargo transportation way bill

If any document or item from the listed above is absent when importing goods, the truck with all commodities will be sent back to the exporting country with an order to complete all the necessary documents.

Despite regular announcements from EEC regarding removal of obstacles at the internal market of the EAEU, these barriers appear very often in mutual trade between Kazakhstan and Kyrgyzstan, but frequently they are regulated individually.

Thus, on October 8th, 2018 the Chief State Veterinary Inspector of the Kyrgyz Republic issued the Decree “On the Implementation of a Temporary Restriction on the Import of Poultry and Poultry Products into the Kyrgyz Republic from Almaty and North Kazakhstan Regions of the Republic of Kazakhstan”. Due to the suspicion of highly pathogenic avian influenza in the south of the Republic of Kazakhstan, namely in the Almaty region poultry farms (Altyn Kus, Alsad), and the outbreak of Newcastle disease among birds in the

Yelets, Ayyrtau region of Northern Kazakhstan, and in order to prevent the introduction of the bird flu virus on the territory of the Kyrgyzstan, in accordance with section 2 "Risk Analysis", subsection 2.1. "Import Risk Analysis" of the Terrestrial Animal Health Code, Law on Veterinary Medicine, paragraph 1, paragraph 2.3. Decree of the Government of the Kyrgyz Republic of April 25, 2006 No. 297 "On measures to protect the territory from the introduction of pathogens of highly pathogenic avian influenza", it was decided to implement a temporary restriction on import of poultry into Kyrgyzstan:

- Live poultry, hatching eggs, wild, zoo and circus susceptible animals;
- Poultry meat, egg powder, albumen and other food products processed from hen's eggs;
- Down and feather, hunting trophy;
- Fodder and feed additives from poultry;
- Used equipment for the maintenance and transportation, slaughter and cutting of bird.

As a counter measure, the Ministry of Agriculture of the Republic of Kazakhstan imposed a temporary ban on the import of meat from Kyrgyzstan, stating that this measure was accepted because of unfavourable situation on particularly dangerous animal diseases in Kyrgyzstan (Information Agency "24.kg", 2018). Five Kyrgyz enterprises eligible for export of meat and meat products under the veterinary control and product supervision to Kazakhstan were now restricted from doing it.

In five days after imposing the restriction on the import of poultry and poultry products from Kazakhstan, Kyrgyzstan lifted the restriction based on receiving results of laboratory tests conducted by the Republic State Enterprise by Right of Economic Management "National Veterinary Reference Center" from Kazakhstan on the stabilization of the epizootic situation of highly pathogenic avian influenza in the south of the republic, in poultry farms of Almaty region (Altyn Kus, Alsad), and Newcastle disease among birds in Yelets, Aiyrtau district of the North Kazakhstan region (Information Agency "24.kg", 2018). The same counter measure was done by Kazakhstan and on 19 October 2018 the ban on import of meat and meat products from Kyrgyzstan was lifted too.

This case is not found in the list of cases of dispute resolutions between member states of the EAEU. As likely as probably not be published on the website of the EAEU on barriers elimination the fact that on 19 February 2019, the Kazakhstan introduced temporary quarantine phytosanitary measures to ban the import of products from Kyrgyzstan (food and seed potatoes, apples and persimmon) and Uzbekistan (pomegranate). (Information Agency “24.kg”, 2019).

In accordance with the Eurasian Economic Commission Council decision from 16 May 2016, point #8, authorized agency should notify related authorities of other countries regarding the measure no later than one working day. However, the Ministry of Agriculture of the Republic of Kazakhstan notified Kyrgyz authorities only on 21 February 2019. Justification of the ban is systematic identification in quarantine products supplied from Kyrgyzstan and Uzbekistan, the Comstock worm - *Pseudococcus comstocki* (Kuwana) - in apples, persimmon and pomegranates and the golden potato nematode - *Globodera rostochiensis* (Wollenweber) Behrens - in potatoes (Information Agency “24.kg”, 2019). It is worth noting that during 2018 year and the period of January – February 2019, 465 cases of violations of common quarantine phytosanitary requirements were educed, and among of them only 59 cases belong to those commodities that are under restriction now (Information Agency “24.kg”, 2019).

The situation with Kyrgyz potato is worsened by the fact that during the planting season in 2018, the Ministry of Agriculture recommended to plant more potatoes, because neighbouring Uzbekistan “is ready to buy half a million tons of root vegetables”. However, export volumes were small, and some of the unsold potatoes began to rot. Potato harvest amounted to 1.4 million tons in 2018. About 1.25 million tons covered domestic needs of the country, and the surplus, intended for export, is equal to 150 thousand tons. So far, only 50 thousand tons of potato have been exported (Sputnik Kyrgyzstan, 2019). Thereby, Kyrgyz farmers had significant losses due to extra harvesting of potato.

Surprisingly, Kazakh farmers met with the same problem – they do not know to whom sell their extra potato harvest of 2018 year. The harvest of this root crop gathered last year was so high that the price for it fell below the cost of production (Information Agency “KazakhZerno”, 2019). Due to recommendation of the Ministry of Agriculture of the Republic of Kazakhstan, Kazakh farmers increased cultivated area for potato even at the

expense of wheat cropped lands. Now, Kazakh farmers complain about their losses because of extra production of potato in 2018 (Information Agency “KazakhZerno”, 2019). Are these restrictions looking like a coincidence?

Besides the point, Kazakhstan lifted the ban on the import of food and seed potatoes, apples and persimmons from Kyrgyzstan only in May 2019, after three months of restrictions, and only after discussions and signing of the developed roadmap on strengthening phytosanitary quarantine control in Kyrgyzstan by July 2019 (Sputnik Kyrgyzstan, 2019).

5. NTMs and SDG linkages in Kazakhstan and Kyrgyzstan

Besides the EAEU technical regulations, member States develop (or developed earlier) and apply national technical regulations. Some of national regulations concern other EAEU member States too. In this section, we analyse NTMs in the agricultural sector applied by Kazakhstan and Kyrgyzstan in respect to the third countries (non-EAEU members) and to the EAEU member-states and to justify possible reasons of those NTMs in the context of the Sustainable Development Goals (SDGs). The analysis of non-tariff in use is based on information gathered and issued in the database by TRAINS UNCTAD.⁴

According to the TRAINS UNCTAD, Kyrgyzstan and Kazakhstan have two sources of NTMs. The first source is based on technical regulations, decisions and laws applied by EAEU, and the second one is based on the respective national legislations of each of the Central Asian countries. Thus, after the analysis of sources, it was indicated that Kazakhstan has 393 (of 629 total) measures related to the EAEU, while Kyrgyzstan has 392 (of 596 total) measures related to the EAEU.

Because the study refers only to the agricultural sector, those NTMs that are not related to agricultural commodities were excluded – the subsequent analysis is based on commodities within the harmonized system 1 – 24 classification. NTM codes was taken

⁴ UNCTAD. TRAINS database. <https://trains.unctad.org/>

from the UNCTAD database, which is based on International Classification of non-tariff measures (ICNTM).⁵

Besides the analysis of NTMs, the study includes the topic of the Sustainable Development Goals. In 2015, at a UN summit 17 Sustainable Development Goals (SDGs) of the 2030 Agenda for Sustainable Development were adopted, which came into force on January 1, 2016. These Goals are directed on all forms of poverty elimination, gender equation, environmental protection – generally, to support the idea of sustainable development across the globe.

Kazakhstan and Kyrgyzstan both joined the Agenda 2030. Each country established its own national SDG coordination structures, adopted SDG targets, and work under the promotion of national indicators and corresponding SDG targets.

Despite the possible negative effect of NTMs on trade, some of measures might have a positive influence on sustainable development, e.g. prevent people from being sick, protect people from consuming products with dangerous components, etc (for a detailed discussion, see ESCAP & UNCTAD (2019)). For example, all EAEU member States apply the requirement for the safe storage and transportation of grain, and it is prohibited to store toxic products next to grain. Furthermore, transportation means for grain should provide necessary levels of safety. The requirement is classified as a sanitary and phytosanitary (SPS) NTM, with a ICNTM code classification A64 (see table 3). This requirement is applied to grains for food and feed (grain – products of grain varieties, pulse crops, oilseeds used for food or feed) and in respect to all countries. The technical regulation of Customs Union "On grain safety" (CU TR 015/2011) confirmed by Decision of December 9, 2011 No. 874 regulates this requirement and is developed and accepted in purpose to protect human life and health, property, the environment, the life and health of animals and plants, as well as to prevent actions that mislead grain consumers (Eurasian Economic Commission, 2011). This NTM's justification can be fully applied to the SDG 3 (Good health and well-being).

⁵ Ibid.

Table 3. Example of NTMs applied by the EAEU and linkage to SDGs

Affected partners	NTM code	Measure description	Products	SDG
All members	A41 (SPS)	There are requirements on total bacterial count and presence of salmonella in non-edible raw materials of animal origin used for production of fodder (e.g. CFU/G is 5×10^6)	Non-edible raw materials of animal origin used for production of fodder for pets and fur-bearing animals	Goal 3 (Good health and well-being).
All members	B31 (TBT)	There are certain labelling requirements for fish and fish products. E.g. labels for fish and fish products must contain the following information: name of the product, type of processing, etc.	Fish and fish products (fishery products)	Goal 3 (Good health and well-being).
All members	A64 (SPS)	Requirements for storage and transportation of grain includes requirements on safety of barns (grain storages) - it is restricted to store toxic products next to grain; transportation means for grain should provide necessary levels of safety	Grain for food and feed (grain – products of grain varieties, pulse crops, oilseeds used for food or feed)	Goal 3 (Good health and well-being).

Source: TRAINS UNCTAD database; author's analysis

5.1 Kazakhstan

According to the TRAINS UNCTAD database, the Kazakhstan applies 272 NTMs for agricultural commodities, that were adopted by the EAEU, or by national authorities. Almost all NTMs applied in respect to agricultural commodities can be related to SDG 3 (Good health and well-being). Thus, the SPS measure with NTM code A51 “Imported dairy products coming from Turkey need to undergo heat treatment,” affecting imported Turkish dairy products, has a strong intention to ensure healthy lives and promote well-being for all at all ages. But could the measure applied to alcohol products “Imports of ethanol and alcohol products can only be done by legal entities registered in Kazakhstan (residents of Kazakhstan)”, which affects all trade partners, be related to the same SDG? Comparing regulation of import and export of alcohol production in/out the EAEU members states, the requirement of residence is applied almost only in Kazakhstan. Belarus government has exclusive rights on import of alcohol products. This monopoly does not apply to exhibition samples, duty-free shops and some alcoholic beverages (champagne, vermouth, brandy, whiskey, rum, gin), the list of which is annually determined by the Government of the Republic of Belarus (Ministry of Economy, 2017).

Requirement of Kazakhstani legislation on residential type of legal entities when importing alcohol beverages might be kind of support of local enterprises rather than care about health of Kazakhstan’s population.

Table 4. NTMs based on Kazakh national legislation and linkage to SDGs

Affected partners	NTM code	Measure description	Products	SDG
Turkey	A51 (SPS)	Imported dairy products coming from Turkey need to undergo heat treatment	Dairy products	Goal 3 (Good health and well-being).
All members	H9 (OTH)	Imports of ethanol and alcohol products can only be done by legal entities registered in Kazakhstan (residents of Kazakhstan)	Alcohol products (including ethanol)	Goal 3 (Good health and well-being).
Armenia, Turkey, Kyrgyzstan, Mongolia, Tunisia	A11 (SPS)	It is temporary restricted to import live animals that are prone to foot-and-mouth disease, meat and dairy products, raw materials obtained from animals that are prone to foot-and-mouth disease, used equipment intended for storage or slaughter of animals prone to foot-and-mouth disease from Armenia, Turkey, Kyrgyzstan, Mongolia, Tunisia	Live animals that prone to foot-and-mouth; - Meat and dairy products; - Raw materials obtained from animals that are prone to foot-and-mouth disease; - Used equipment intended for storage or slaughter of animals prone to foot-and-mouth disease; - Feed;	Goal 3 (Good health and well-being).

Source: TRAINS UNCTAD database; author’s analysis

There are some measures that might be related not only to the SDG 3, but to the SDG 14 (“Life below water” - Conserve and sustainably use the oceans, seas and marine resources for sustainable development), SDG 8 (“Decent work and economic growth” - Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all), and SDG 17 (“Partnerships for the Goals” - Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development). For example, the decision of 9 October 2014 No 94 "The Regulation on the uniform procedure of joint inspections of objects and sampling of the goods (products), subject to veterinary control (supervision)" applied to fish and fish products, milk and dairy products, meat (fresh, frozen, chilled) is intended to regulate “the uniform procedure of joint inspections of objects and sampling of the goods (products), subject to veterinary control (supervision) that has requirements on certain products in

terms of food and feed processing. E.g. chapter A of annex 3 on live fish says that boats for catching live fish must be constructed in a such a way that they must not mix the flows of fish with the wastes of fish, factories for processing fish must have necessary equipment for washing that hands of personnel, etc. Subchapter XI of Chapter A of annex 3 says that fish that just came to the factory must be immediately moved to the places of cool storage. The same chapter has subchapter XIV on the process of fish freezing”.⁶

The SDG 17 might be questionable in respect to the measure on labelling with the united circulation symbol of the Eurasian Economic Union (table 5). However, it might be related to the sub-target on trade and finance arrangement: “Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection” (United Nations, 2015). According to the Eurasian Economic Commission, labelling of commodities is the best measure to fight with “grey import” and illegal trafficking. In other words, labelling might assist in tax and other revenue collection throughout export and import control.

Table 5. NTMs in Kazakh national legislation and linkage to SDGs

Affected partners	NTM code	Measure description	Products	SDG
All members	B31 (TBT)	Labelling with the united circulation symbol of Eurasian Economic Union	Tobacco products. Technical regulation does not cover the following products: - samples of tobacco products for the purposes of quality control; - samples of tobacco products for exhibitions; - tobacco products for exports; - non-smoking tobacco products.	Goal 3 (Good health and well-being); Goal 17 (Partnership for the Goals)

Source: TRAINS UNCTAD database; author’s analysis

5.2 Kyrgyzstan

Kyrgyzstan has the same picture in respect to NTMs in agricultural sector on national legal basis with the same justification and SDG attribution. The country has 273 NTMs in agro-food and agro-processing products, according to the analysis of the TRAINS

⁶ TRAINS UNCTAD database

UNCTAD database. Mostly, Kyrgyzstan’s NTMs are related to the SDG 3 (Good health and well-being) – see table 6.

Besides the Sustainable Development Goal 3, there are NTMs that might be related to other SDGs. With the measure “In order to keep receiving full amount of indirect taxes”, Kyrgyzstan defined minimum level of control prices for certain goods, applied to only EAEU member States. This measure might have a Goal which is related to SDG 8 (Decent work and economic growth). According to the Ministry of Economy of the Kyrgyz Republic, this measure was imposed due to cases of unreported transportation of goods to the territory of the Kyrgyzstan without relevant documents and taxes or inaccurate data with an underestimation of the price and volume of imported goods after the accession of the Kyrgyzstan to the EAEU and the removal of customs control at the Kyrgyz-Kazakh border. These cases led to concerns that such situation might impact strategic and economic security of Kyrgyzstan. However, the Ministry of Economy of the Kyrgyz Republic developed a draft legislation which is aimed to remove discrepancies with EEC and the member States of EAEU regarding the recognition of the mechanism of the minimum level of control prices in mutual trade, as well as the preservation of fair competition conditions (Ministry of Economy, 2018). Since the draft legislation, removal of minimum level of control prices has not been occurred yet.

Table 6. Kyrgyzstan’s NTMs based on EAEU legislation and linkage to SDGs

Affected partners	NTM code	Measure description	Products covered	SDG
Angola, Cabo Verde, Falkland Islands, Fiji, Grenada, Niue, San Marino, Sierra Leone, Solomon Islands, South Sudan, Tajikistan, Timor-Leste, Vanuatu, Western Sahara	B11 (TBT)	Imports of hazardous wastes included in chapter 2.3 from countries that are not members of Basel convention is prohibited	Hazardous wastes included in chapter 2.3 of the list of affected products	Goal 3 (Good health and well-being)
All Members	B7 (TBT)	There are quality requirements for wine products. For example the are requirements for the content of radionuclides (cesium 137 not more than 70 Bq per liter)	Wine products	Goal 3 (Good health and well-being)
All members	H9 (OTH)	Foreign legal entities can't import ethyl alcohol	Ethyl alcohol	Goal 3 (Good health and well-being)

Kazakhstan	A84 (SPS)	Imported (food) products of animal and plant origin are subject to documentary and physical inspection/control	Food products of animal and plant origin	Goal 3 (Good health and well-being)
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Source: TRAINS UNCTAD database; author's analysis

Another measure with NTM code classification P7, which is stated as “Document sets the basis for soft lending of export-oriented agricultural companies” and affects all members and covers export-oriented agricultural products, might be related to several SDGs, namely: Goal 8 (Decent work and economic growth), Goal 12 (Responsible production and consumption), and Goal 17 (Partnership for the Goals).

Agriculture is almost the only sector with substantial state support in Kyrgyzstan. One and the most significant measure is provision of soft lending to entrepreneurship entities engaged in the production of products, goods and services of export-oriented nature in the manufacturing industry and export-oriented and import-substituting nature - in light industry and the processing of agricultural products, including the agricultural services sector, as well as the production of finished products that have no analogues in the country. This measure might be linked to SDG 8 (Decent work and economic growth) due to assistance to the local population to produce more commodities and sell them for export.

Table 7. NTMs based on Kyrgyz national legislations and SDGs

Affected partners	NTM code	Measure description	Products covered	SDG
All members	P7 (EXP)	Document sets the basis for soft lending of export-oriented agricultural companies	Export-oriented agricultural products	Goal 8 (Decent work and economic growth); Goal 12 (Responsible production and consumption); Goal 17 (Partnership for the Goals).
Applied against EEU members	F9 (PC)	In order to keep receiving full amount of indirect taxes, Kyrgyz Republic defined minimum level of control prices for certain goods. The meaning of this measure is to define minimum prices that will be used in the calculation of indirect taxes.	Sugar; Wheat flour from durum wheat; Wheat flour from soft wheat and spelt; Timber; Rice; Eggs; Beer	Goal 8 (Decent work and economic growth),

Source: TRAINS UNCTAD database; author's analysis

The full list of NTMs in agricultural sector and SDGs in the Republic of Kazakhstan and the Kyrgyz Republic are listed in the Annex.⁷

Besides UNCTAD database on non-tariff measures, there is the Integrated Trade Intelligence Portal (I-TIP), which provides comprehensive information on NTMs, applied by WTO members. It is based on members' notifications of NTMs such as sanitary and phytosanitary measures, technical barriers to trade, anti-dumping measures, quantitative restrictions, as well as information on specific trade concerns raised at WTO committee meetings.⁸

5.3 Measures notified to WTO

Comparing these notifications' numbers, Kazakhstan notified 79 measures to WTO; Kyrgyzstan notified on 58 measures. According to this database, Kazakhstan has already imposed temporary restriction on import of potatoes from the Kyrgyz Republic to the territory of Kazakhstan due to systematic detection of pests in quarantine products and notified WTO of this measure. The Order was issued by the Committee of State Inspection in Agroindustrial Complex of the Ministry of Agriculture # 33 on May 4, 2016 with justification that since the beginning of 2016, the number of potatoes infected by Nematode disease stepped up and to protect domestic potato from invasion, this measure was applied.⁹ Anxiety from Kazakhstan was explained that at that time there was period of potatoes planting and the infected products might be used as seed material. After one month, on June 4, 2016 the restriction on import of potato from Kyrgyzstan was lifted.

It is worth to note that information on this restriction of potato import from Kyrgyzstan on the territory of Kazakhstan in 2016 is absent as in TRAINS UNCTAD database, as in the list of barriers cases of EAEU that emphasizes the necessity to continue work on NTM data collection and analysis.

⁷ Available separately accompanying this document.

⁸ World Trade Organization. Integrated Trade Intelligence Portal (I-TIP).
https://www.wto.org/english/res_e/statis_e/itip_e.htm

⁹ World Trade Organization. Integrated Trade Intelligence Portal (I-TIP).
https://www.wto.org/english/res_e/statis_e/itip_e.htm

WTO's I-TIP database on Kyrgyzstan contains mostly notifications related to technical regulations and commitments that the country started to apply when joined WTO and then EAEU. For example, notification from October 2, 2008 states that the Ministry of Economic Development and Trade of the Kyrgyz Republic (now the Ministry of Economy of the Kyrgyz Republic) drafted the law on requirements for the safety of food raw materials and foodstuff during their processing and circulation/distribution.¹⁰ It is also worth noting that SPS and TBT measures notified by Kazakhstan and Kyrgyzstan that are based on the EAEU regulations do not match, suggesting more efforts should be accorded to harmonizing the Union's notifications efforts to the WTO.

6. Conclusion

The topic of non-tariff measures of the member-states of the EAEU is relatively innovative. EAEU declares the principle of free movement of goods, services, labour and capital as central to its founding, and as a result a department was tasked on the elimination of barriers. However, the analysis shows the existence of NTMs spread over the EAEU member States and third countries, and the analysis shows that not all NTMs are included in existing databases: some of these measures are applied and then lifted quickly. The investigation is based on the study of agricultural commodities in the Republic of Kazakhstan and the Kyrgyz Republic, and the application of NTMs in this sector could be justified by willingness to protect from dangerous disease and damages own population, animals and environment, which are referred to Sustainable Development Goals targets. Besides health protection, NTMs are brought up to SDGs' objectives to boost economic production, and consequently, growth or to ensure sustainable consumption and production patterns. The investigation of NTMs applied by and within EAEU should be continued, as the Union is newly formed and the earlier barriers in trade will be eliminated, the faster the objective of free movement in commodities, capital and labor will be achieved.

¹⁰ Ibid.

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ARTNeT Group



artnetontrade@un.org

ARTNeT Secretariat, United Nations ESCAP

Rajadamnern Nok Avenue

Bangkok 10200, Thailand

Tel: +66(0) 22881410

Fax: +66(0) 22881027