In-Country Training for Non-tariff Measures in ASEAN

Bandung, Indonesia

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ERIA – UNCTAD
In-Country Training for Non-tariff Measures in ASEAN

Good Regulatory Practices

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**What means
Good Regulatory Practice**

What are Good Regulatory Practices?

Good regulatory practices are recognized processes, systems, tools and methods

- to improve the quality of regulations and
- ensure that regulatory outcomes are effective, transparent, inclusive and sustained

Example: GRP on SPS measures

- strengthen the effectiveness of regulatory interventions
- improve compliance with international standards and the WTO SPS Agreement
- ensure health protection while facilitating trade

Scope for GRP approaches

National approach
- New regulations
  - Process
  - Principles
- Review of existing regulations
  - Streamlining

Regional approaches
- GRP in RTAs

Three main Principles

GRP includes a commitment to:

1. Provide information on regulatory agendas

2. Consult stakeholders and the public

3. Impact Assessment

   – assess potential impacts of future regulation before issuing regulations, and,

   – after regulations have been in place for some time, evaluate their performance in delivering the intended outcomes.

Good regulatory practices are internationally recognizes processes, systems, tools and methods for improving the quality of regulations

Example: OECD Approach

2012 OECD Recommendation of the Council on Regulatory Policy and Governance

1. Commit to whole-of-government policy for regulatory quality	2. Adhere to principles of open government	3. Provide oversight of regulatory policy
4. Integrate Regulatory Impact Assessment	5. Conduct systematic programme reviews of regulatory stock	6. Regularly publish reports on performance of regulatory policy
7. Develop a consistent policy covering the role of regulatory agencies	8. Ensure effectiveness of systems for review of legality and procedural fairness	9. As appropriate apply risk assessment, risk management, and risk communication strategies
10. Where appropriate promote regulatory coherence through coordination mechanisms between all levels of government	11. Foster the development of regulatory management capacity at sub-national levels of government	12. Give consideration to all relevant international standards and frameworks for cooperation

2 Cost-Effectiveness Toolkit for NTMs

GRP is about promoting progress and development through reducing the distortionary impact of NTMs

NTM ≠ NTB

Cost or burden ➡️ Not synonym of NTB, to be eliminated
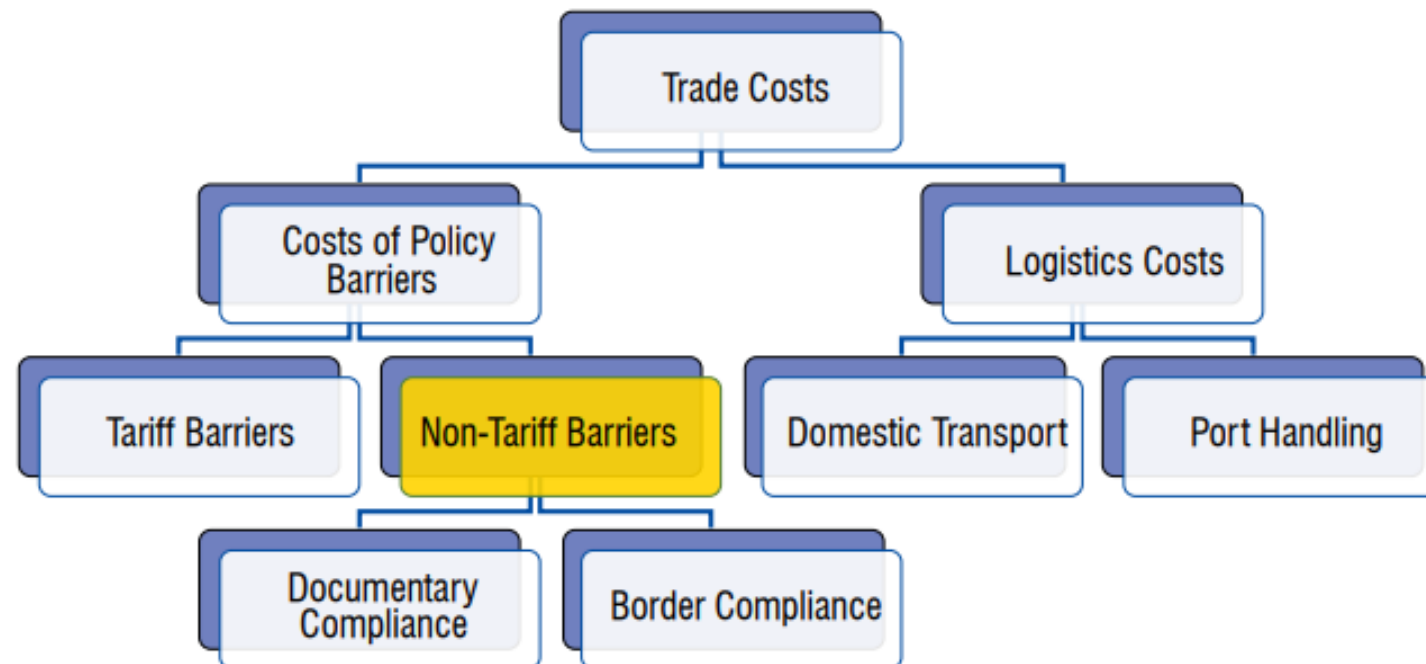
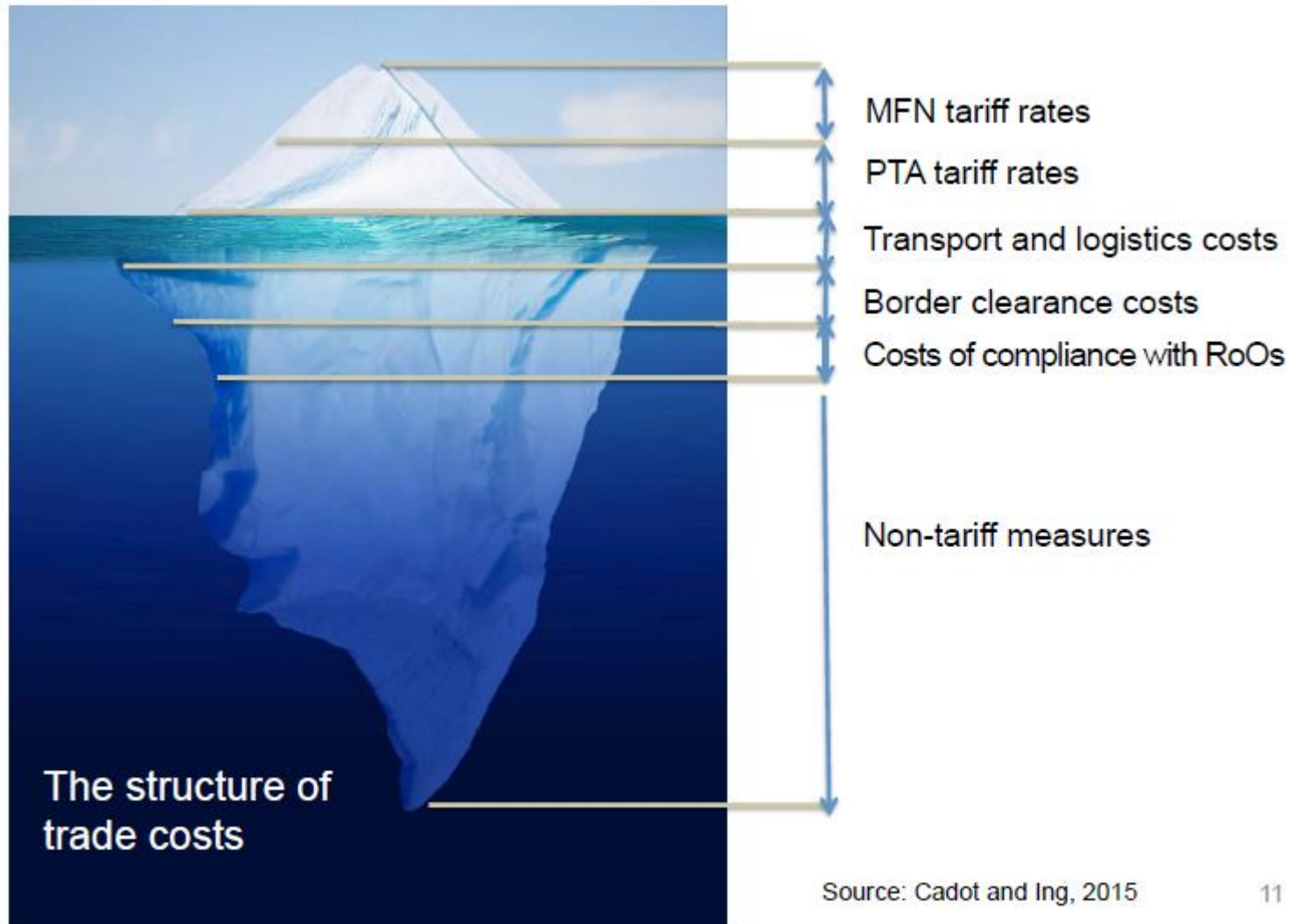Should it be reduced as much as possible ?

YES !

This is __NOT__ our approach

- Quote from a report in found internet from an important and respected institution
  - December 2018

Figure II.1: Trade costs structure

Efficiency, effectiveness, coherence, and transparency

MFN tariff rates

PTA tariff rates

Transport and logistics costs

Border clearance costs

Costs of compliance with RoOs

Non-tariff measures

The structure of trade costs

Source: Cadot and Ing, 2015

- Trade costs indeed can be reduced whenever possible

- but not possible always to eliminate the regulations that originate them

The number of documents, issued by different agencies, could lead to overlaps
This increases the compliance cost

Project Objectives

1. To adapt and implement a cost-effectiveness toolkit for NTMs, ultimately to strengthen good regulatory practices and policy coherence

2. To evaluate the cost of compliance and benefits of risk aversion

3. To build local capacity to review effectiveness of existing regulations

Approach to evaluate whether laws and regulations do achieve their objectives in practice, with minimal possible cost

Sustainable development Goals of Focus

Outcomes

- **National stakeholders gain increased awareness of the cost-effectiveness of NTMs in the pilot sector**

- **Promote National stakeholders to conduct NTM reform following recommendations emerging as priorities from the study to increase its cost-effectiveness in the pilot sector**

- **National stakeholders adapt NTM cost-effectiveness toolkit to review other products and regulations**

Activity 1 – Inception Workshop

Bring together government focal points from key ministries and importing firms to align expectations

Activity 2 – Preparation of NTM Cost-Effectiveness Toolkit

Estimate costs (direct and indirect) and effectiveness of NTMs to prepare a user-friendly fact sheet)

Activity 3 – Validation Workshop

Present findings of the work to relevant private and public stakeholders and discuss potential ways ahead

Key Activities

Inception Workshop

1. Bring together government focal points from different key ministries and importing firms

2. Explain the project, its scope and align expectations

3. Understand the ministries' & importing firms' view on NTMs

4. Clearly communicate the expected end results of the exercise

NTM Cost-Effectiveness Toolkit

1. Estimate Compliance Costs of NTMs

3. Estimate effectiveness of NTMs

4. Preparation of a user-friendly fact-sheet

Validation Workshop

1. Present findings of the work to relevant private and public stakeholders

2. Discuss potential ways ahead
   a. Reform. Commitment and/or a clear mandate for change is needed

Methodology – Overview

1. Product Selection:

- Identify a relevant value chain and a single tradable intermediate input at HS6-digit level, and applicable NTMs within the value chain

2. Stakeholder Identification:

- (i) One neutral coordinating agency,
- (ii) Government agencies that impose NTMs, and
- (iii) Importers who face the NTMs

3. Data Collection:

- Firm and ministry level surveys to understand information, procedural and compliance costs as well as effectiveness of NTMs

4. Data Analysis:

- Analysis of survey results to prepare a list of recommendations and suggestions

5. Data Dissemination

- Presentation of findings to stakeholders
- Exploring potential for NTM reform

1. Methodology – Product Selection

Value Chain Identification

- Economic Factors
  - Export Relevance
  - Industry Relevance

- Political Factors
  - Political interest by government in sector
  - Need to have neutral government agency to coordinate project

- Share in total exports, intra-regional importance
- The country's share in global exports
- Contribution to export earnings

- Contribution to GDP
- Contribution to employment (with a gender perspective)
- Growth rate of production in value chain
- Past and projected global growth rates of value chain

Intermediate Input Selection

- Intermediate input must be tradable and imported in substantial quantity
- Intermediate tradeable input is subject to multiple NTMs by multiple agencies (with priority to vertical measures)
- Need to validate desk research with in-country value chain experts to discern question of attribution: Is this intermediate input the most critical, tradeable, one?

2. Methodology – Stakeholder Identification

Coordinating Ministry

- A neutral actor that helps identify "NTM focal point" in NTM issuing agencies
- Or inter-agency committee with a clear mandate, accountability, and strong political support

NTM Focal-Point in Government Agencies

- Qualification: technical understanding about how NTM came into effect; and nature of NTM
- Helps understand policy adequacy of given NTM: problem diagnosis, regulation design and regulation enforcement
- Aids the estimation of benefits and costs of given NTMs

Importing Firms of Selected Intermediate Input

- Aids the estimate costs (and benefits) of each NTM

Consumers?

- Consumer agencies/interest groups may help understand consumer's willingness to pay extra for a given product
- May be hard to execute

3. Methodology – Data Collection

Ministry-Level Survey

- Which is the Public policy objectives
- Which is the market failure the measure seeks to address
- Cost of issuance and enforcement
- Discuss potential alternatives to address the given market failure

Firm-Level Survey

- Compliance costs
- Information costs
- Procedural Costs

Survey Design

- OECD Literature on Regulatory Impact Assessment
- ITC Surveys

Responsibility

- Senior Local Consultant

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Questions to be shared with firms & ministries in advance

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. Methodology – Data Analysis

Cost-Benefit Analysis

- Aggregate quantitative & qualitative costs & benefits for each identified NTM
- to prepare a user-friendly fact-sheet

NTM Implementation Analysis

- Analyze the step-by-step implementation for each NTM to assess other potential issues such as red tape

Assess Overlap Between NTMs

Assess Potential NTM Reform

- Use other countries as reference points   to assess alternatives to the NTMs in question
- Use international standards as reference points   to assess alternatives to the NTMs in question
- Comparative analysis with other

Reform is meant to be a regular process to gradually increase effectiveness and efficiency

Evidence based

. Methodology – Data Dissemination

Presentation & Discussion of Findings

- Present of the user-friendly factsheet to all stakeholders
- Discuss findings with importing firms and government agencies
- Open discussion with importing firms, seeking their suggestions

Way Ahead

- **Reform !** Discuss what government agencies can do to address importing firms' concerns
- **International Cooperation !** Conduct session with other countries who have exhibited good practices in similar product categories to brainstorm potential alternatives
- **Regional Cooperation !** Involve other countries from the region to discuss potential avenues for regulatory convergence

Post-Project Work

Conduct follow-up meetings with ministries

to understand how they are proceeding
with reform

Prepare a checklist/report

to provide an overview of the
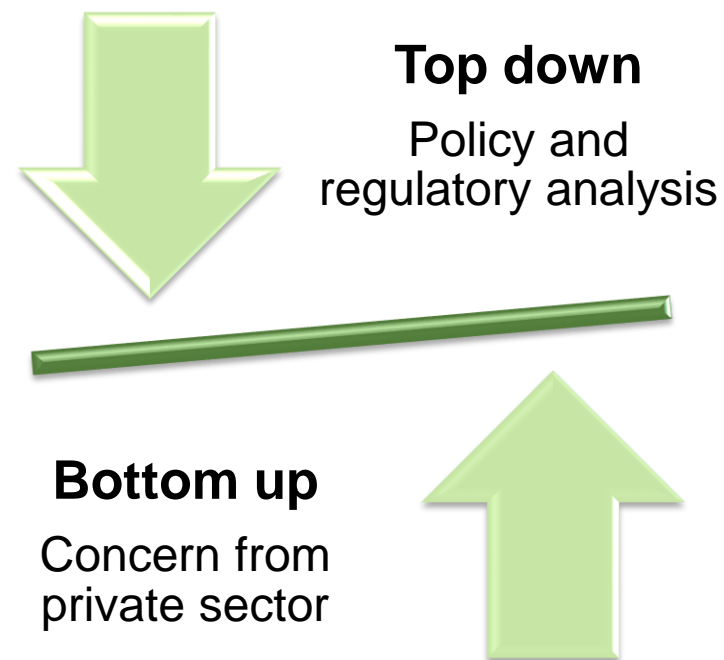methodology piloted and developed

Project Timeline (Example)

Output	7/19	8/19	9/19	10/19	11/19	12/19	1/20	2/20	3/20	4/20
Output 1 and associated activities: Preparation and implementation of inception workshop	■	■	■	■						
Output 2 and associated activities: Developing NTM cost-effectiveness toolkit and synthesis of findings				■	■	■	■			
Output 3 and associated activities: Validation and dissemination of findings during a national workshop								■	■	■

Project approach

- Integrated **trade facilitation and NTM** approach: before, at and behind the border measures

- **Bottom up approach:** from private sector concerns to policy and regulations

- **Sector-specific approach:** beverages and auto-parts sector

- **Regional**

Top down
Policy and regulatory analysis

Bottom up
Concern from private sector

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