

## Non-Tariff Measures: Not All that Bad

By OLIVIER CADOT *and* LILI YAN ING

### Key Issues :

- *Non-tariff measures (NTMs) can play a role of check and balance for the quality of goods.*
- *Drive for transparency of NTMs*
- *Cooperation in conformity assessment procedures*
- *ASEAN's dynamic deep integration*

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While tariffs have been reduced, the number of non-tariff measures (NTMs) is increasing, and is often blamed to be one source of the lack of integration in ASEAN. Yet, the discovery of Volkswagen's large-scale attempt to seemingly go around US emissions tests serves as a reminder of a stark truth. NTMs can play a role of check and balance for the quality of goods. To make NTMs work for the common good, ASEAN should break from the 'trade negotiation' approach and strive instead for three objectives: (1) a drive for transparency, (2) cooperation in conformity assessment procedures, and (3) dynamic disciplines. Such 'dynamic deep integration' would largely eliminate the high-visibility political friction, poorly designed—or those captured by special interests—NTMs.

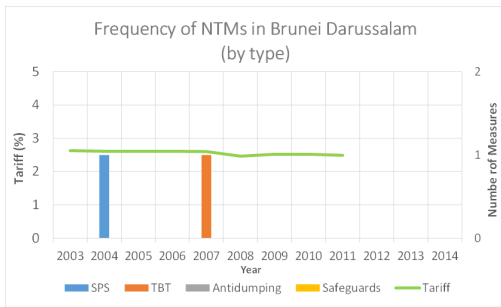
While import tariffs have been successfully reduced through World Trade Organization (WTO) negotiations, we would expect to see an increasing number of non-tariff measures (NTMs). This trend is quite visible in ASEAN, one of the fastest-growing regions in terms of economic growth and trade (Figure 1). NTMs are often blamed for the lack of integration of ASEAN markets. Thus, economists routinely calculate how many imports are effected by NTMs and point finger at countries with the largest numbers, branding them 'protectionists' as if fewer regulations were always better.

Yet, the discovery of Volkswagen's large-scale attempt to seemingly go around US emissions tests serves as a reminder of a stark truth: The 'invisible hand' does not work. Shareholders appoint managers to do well, not to do good; without checks and balances, companies would just serve their own interests whatever the costs to the larger community. In democracy, society's collective will is expressed by the State, whose responsibility is to impose regulations to prevent one's actions from hurting others. NTMs are there, in the majority of cases, to play just that role.

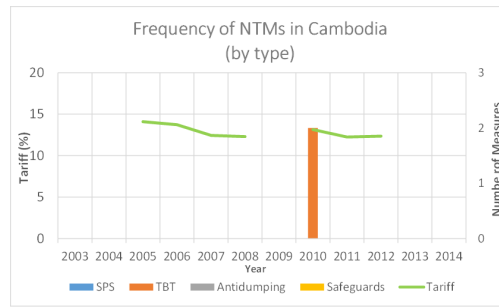
The belief widely shared in the trade community that trade negotiations can somehow 'reduce' NTMs is futile. Most NTMs are not

### Figure I. Trends of Tariffs and Non-tariff Measures in ASEAN Countries

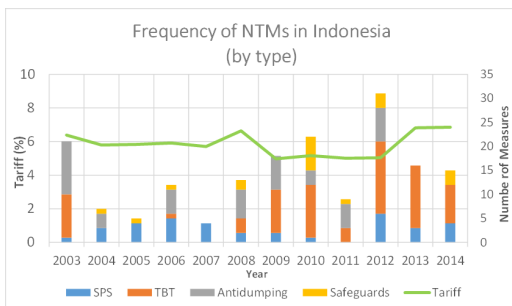
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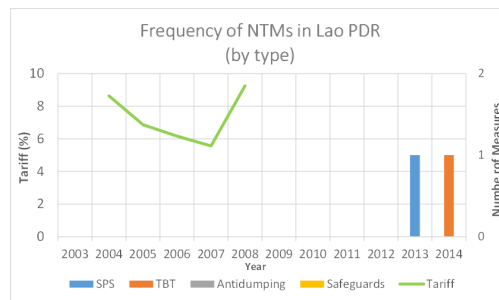
#### Cambodia



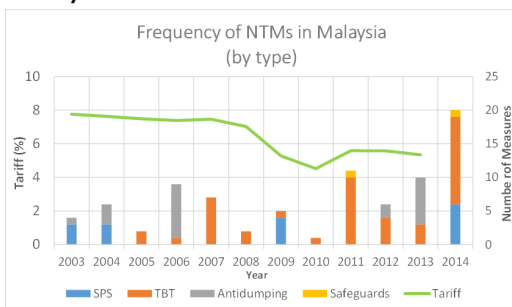
#### Indonesia



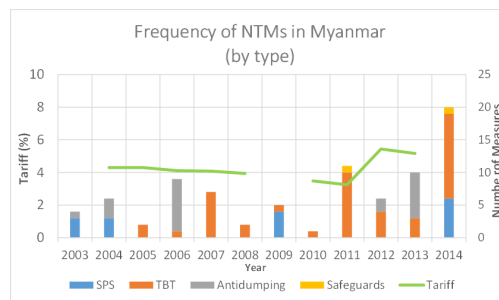
#### Lao PDR



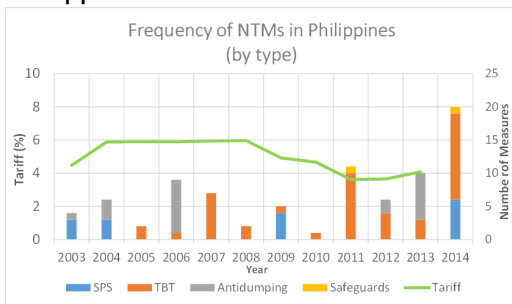
#### Malaysia



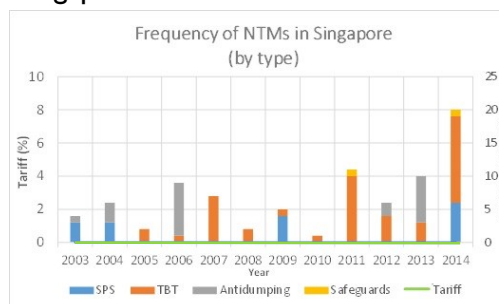
#### Myanmar



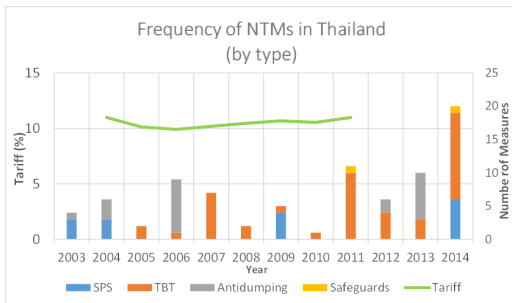
#### Philippines



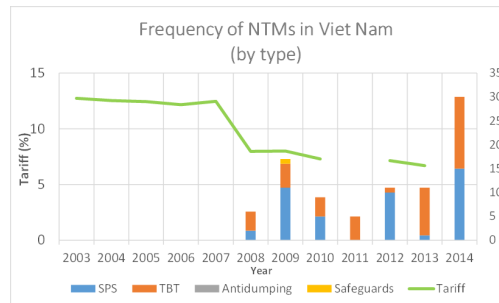
#### Singapore



#### Thailand



#### Viet Nam



Note: LHS = tariff (%), RHS = number of NTMs, SPS = Sanitary and Phytosanitary, TBT = Technical Barriers to Trade  
 Source: Author's calculation based on Integrated Trade Intelligence Portal (I-TIP) and Integrated Data Base (IDB), WTO

primarily trade instruments—notwithstanding the analogy with tariffs that is implicit in their name. It is also doomed. Regulatory systems are becoming increasingly risk-averse all over the world, as sanitary and environmental crises get ever larger media resonance. Not only will NTMs not be reduced—they will keep on proliferating. As to the finger-pointing, it is squarely counterproductive, as NTM reforms are held back by the perception that they would be concessions to trade partners, like tariff reductions, and should therefore be done only as part of a negotiated quid pro quo.

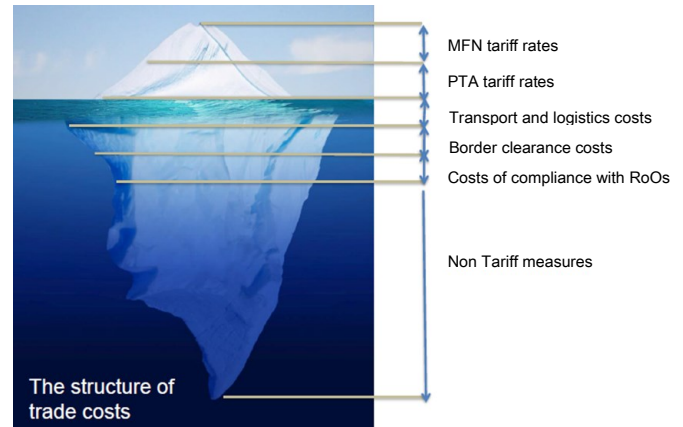
Does this mean that all NTMs are benign? Not quite (Figure 2). Many regulations are poorly designed, failing to protect the public while unnecessarily complicating business. For instance, many countries have complicated rules for pharmaceutical imports that nevertheless fail to prevent widespread traffic of counterfeits. There are several reasons for this. First, bureaucrats know little about incentives and even less about how to design market-based regulations, confusing effective with cumbersome. Second, regulations are often enforced in punitive ways, reflecting the anti-business culture of many administrations. Third, NTMs typically span the competencies of several ministries, with no coordination mechanisms to make the necessary trade-offs. For instance, regulations aimed at consumer safety may hurt competitiveness. Yet, each ministry makes decisions based on a narrow mandate without regard to broader societal interests. As a result, trade-offs are often political, with the most powerful ministry winning in lieu of society's overall interests.

Disciplines exist in the form of the World Trade Organization's agreements on technical barriers to trade (TBT) and sanitary and phytosanitary (SPS). These agreements are useful in reminding governments that regulations should be science-based and transparent, and that they should be neither discriminatory nor disproportionate. However, these guidelines are loose and many absurd regulations manage to pass through the net.

To make NTMs work for the common good, ASEAN should break from the 'trade negotiation'

approach and strive instead for three objectives. First, a drive for transparency. NTMs are complex, and whereas large firms easily get the information, it is much harder for smaller ones. Lack of transparency works against free markets and competition. Second, cooperation in conformity assessment procedures (CAP). Recent research shows that the mutual recognition of CAP substantially reduces NTM compliance costs, while the Volkswagen incident highlighted the need to tighten up verification tests. Both point to benefits in regional cooperation to make CAP effective and standardised. Third, 'dynamic disciplines', meaning, a quality-control process internal to each government, ensuring that important regulations are examined from a broad, cost-benefit perspective (what is called a 'regulatory impact assessment') before being imposed.

### Figure 2. How much do we know about Trade Costs?



Source: Ing, Lili Yan.

All three objectives could be achieved by blending regional and multilateral approaches. At the multilateral level, the WTO's Trade Facilitation Agreement mandates that each country set up a trade portal and a trade facilitation committee. An ambitious reading of the agreement would make the trade portal an open-access repository of all NTMs, in local language and in English. This would be a

tremendous step toward transparency, and it would be politically acceptable if it were clear that posting was *not* the first step towards negotiated elimination.

Likewise, trade facilitation committees could be entry points for the creation of supervisory bodies for trade-relevant regulations, with the analytical capabilities to do meaningful reviews. This could prove difficult for member countries with limited capabilities; which is where the ASEAN Secretariat could have a role to play, providing technical and financial support while sharing and publicising best practices in a regional ‘beauty contest’.

In the long run, one could even consider merging such bodies with competition authorities, as the issues at stake are similar (bad regulations are those that stifle competition) and the skills required for antitrust and regulatory reviews are the same. An agency enforcing disciplines on both the private and

the public sectors would have a balanced perspective of the economy and the clout that goes with impartiality.

The vision proposed here is one where all ASEAN countries would set up regulatory supervisory bodies with competent technical staff that could cooperate with each other, ensuring that regulatory systems naturally converge at the regional level towards common best practices. Such ‘dynamic deep integration’ would largely eliminate the high-visibility political friction that goes with poorly designed NTMs (or those captured by special interests). It would also be fully consistent with the objectives of ASEAN integration and would put the region at the forefront of regional innovation.

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