

Chapter 4

Classification of Non-tariff Measures in Cambodia

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CHAPTER 4

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1. Overview of Cambodia

Cambodia has achieved national reconciliation and political stability after the first democratic election in 1993 resulted in forming a new coalition government. After overcoming hardship including a protracted civil war, political strife, genocide, and international isolation, the country has transformed from a centrally planned economy to a free market economy with the main tasks to implement macroeconomic and structural reforms and to alleviate poverty. As a result, Cambodia has achieved significant success in stabilizing the macroeconomic foundation with rapid economic growth and low inflation.

In line with peace, political stability, and social order, Cambodia can maintain a stable economic growth with an average of about 7 percent per year as planned in its National Strategic Development Plan. The highest record of growth was 12.3 percent in 2005 and the lowest record of growth was 0.1 percent in 2009 due to the global financial crisis.

It is estimated in 2015 that the growth rate reached 6.9 percent, the gross domestic product (GDP) reached \$18,502 million, and the per capita GDP reached \$1,228. The sectoral growth is 1 percent for agriculture, 8.7 percent for industry, and 9.0 percent for services (Ministry of Economy and Finance). The leading sectors in Cambodia are garment, agriculture, tourism, and construction. The poverty rate has been reduced about 1 percent per year.

Currently, trade is an important instrument for economic development and poverty reduction in Cambodia. In order to implement the World Trade Organization (WTO) and the

Association of Southeast Asian Nations (ASEAN) trade agreements, Cambodia has conducted many reforms, especially legal and institutional reforms and trade facilitation. In reforming its tariff structure, Cambodia had reduced the number of tariff bands from 12 to 4 before joining the WTO, and the highest tariff rates of 40 percent, 50 percent, 90 percent, and 120 percent were abolished. At present, the tariff comprises four tiers: 0 percent, 7 percent, 15 percent, and 35 percent.

While the trade balance of Cambodia is in deficit, both exports and imports have been expanding as a result of economic growth. As of 31 July 2015, the value of exports was about \$5.35 billion, which is an increase of more than 20.5 percent compared to the same period of 2014, while the value of imports reached a record of \$6.70 billion marking an increase of 17.2 percent compared to 2014 in the same period.

The major destination countries of exports are the United States, Hong Kong, China, the European Union, Canada, and Viet Nam. The major importing countries are Hong Kong, China, Taiwan, Thailand, and Viet Nam. The primary export product is apparel, which accounted for more than 80 percent of the total exports. The major import products are textiles, petroleum products, and vehicles. Cambodia is significantly depending on the imports for industrial input products and daily commodities. Certainly, with the integration of ASEAN and the liberalization of international trade, non-tariff measures (NTMs) are an important component in a country's trade activity.

2. Hierarchy of laws and regulations

Cambodia's Constitutional Assembly adopted the Constitution on 21 September 1993. It is the supreme law of the Kingdom of Cambodia and organizes Cambodia's government and institutions. All laws and regulations derive from the Constitution's provisions and must conform to it (Open Development Cambodia website). The Constitution addresses questions of sovereignty, the role and status of the king, the fundamental rights of the Khmer citizens, the economy, education, culture, and social affairs, the functioning of the National Assembly, the Senate, congress and the government, and the functioning of the judiciary, the Constitutional Council, and the administration.

Laws and regulations are classified in order of importance. There are numerous legal norms adopted by the legislative and executive powers: the Constitution, laws, decrees, decisions, among others. There is a strict hierarchy between them, so that each norm of a lower level must conform to those of a higher value.

- Constitution: The supreme law of the Kingdom of Cambodia.
- International treaties: The king signs and ratifies international treaties and conventions after their approval by the National Assembly and the Senate. After such ratification, international treaties and conventions become laws and may be used as the basis for judicial decisions (Article 26 of the Constitution).
- Chbab/law: Laws adopted by the National Assembly.
- Kram and kret (royal kram and royal decree): Decrees issued under the name of the king in execution of his constitutional powers.
- Anukret/sub-decrees are signed by the prime minister after adoption at a cabinet meeting. In case the cabinet meeting has not adopted the sub-decree, countersignature by the minister(s) in charge is required. The prime minister can use this in execution of his own regulatory powers.
- Prakas/proclamations are issued by members of the government in execution of their own regulatory powers.
- Sechdei samrech/decision: Individual decision(s) made by the prime minister, minister, or governor (prakas-deika), which are made in execution of his own regulatory powers.
- Sarachor/circular: Issued by the prime minister as the head of government, and by a minister as an official of the relevant ministry either to explain or clarify legal regulatory measures or to provide instructions.
- Dekka/provincial ordinance: Orders issued by a governor within the territorial limits of his province.

3. Approach to obtain legal comprehensiveness

To analyse NTMs in Cambodia, 100 percent legal comprehensiveness is of prime importance. Thus we obtain comprehensive data as well as detailed and complete analysis. To achieve 100 percent legal comprehensiveness, we took several approaches in collecting regulations.

First, we needed to find out official sources of Cambodia, for example searching for regulations in each of the issuing institution (ministry).

Second, through Cambodia's National Trade Repository website we obtained the laws, anukret, and prakas relating to trade. As a member state of ASEAN, Cambodia is committed to the development of a National Trade Repository, which is integrated with the ASEAN Trade Repository (atr.asean.org). The National Trade Repository website (<http://cambodiantr.gov.kh>)

is the official source for all regulatory information relevant to traders who wish to import goods into Cambodia or export to other countries.

Third, we also checked the WTO notifications to complete the comprehensiveness of data. In fact, since 2010, Cambodia only notified three regulations relating to food standards and labelling.

The comprehensiveness of Cambodia's NTMs is shown in Table 4.1. There are 52 regulations containing NTMs, but only three that have been notified to the WTO: the Law on Bio-Safety & Protected Areas, Anukret No. 42 on Industrial Standards of Cambodia, and the Law on the Management of Quality and Safety of Products and Service. The total number of coded NTMs is 243, affecting 9,558 products (Harmonized System [HS] code), or 100 percent of the total products traded in Cambodia.

Table 4.1. Comprehensiveness of Non-tariff Measures in Cambodia

Number	Comprehensiveness	Number
1	Total number of coded regulations	52
2	Total number of coded regulations reported to the WTO	3
3	Total number of coded NTMs	243
4	Total affected products (HS lines, national tariff lines)	
	Total number of affected products ^{a/} .	9,558
	Share of the number of affected products to the number of total products (%) ^{b/} .	100%
5	Total number of issuing institutions	14

Notes:

^{a/} One product may be affected by more than one measure, but the same HS-coded product will be counted as one product, e.g., HS 840731 has three NTMs, so it is it will be counted as one affected product.

^{b/} Cambodia adopts the HS-8 digit code at national tariff lines and it has 9,558 tariff lines. All 9,558 products are affected by NTMs, so the share of the affected products to the number of total products is 100 percent.

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data.

4. Issuing institutions

As shown in Table 4.2, 49 percent of the NTM regulations were issued by the Ministry of Agriculture, Forestry and Fishery, followed by the Ministry of Health (13 percent), and the Ministry of Industry, Mines and Energy (10 percent). There are 114 NTMs issued jointly by more than one institution. Table 4.3 shows the NTM regulations issued by single and joint institutions.

Table 4.2. Proportion of Non-tariff Measures by Issuing Institution (Single Institution)

Number	Issuing Institution	Number of NTMs	Total Number of NTMs (%)
1	Ministry of Agriculture, Forestry and Fishery	174	49
2	Ministry of Health	46	13
3	Ministry of Industry, Mines and Energy	34	10
4	Ministry of Economic and Finance	23	6
5	Ministry of Industry and Handicraft	21	6
6	Ministry of Interior	12	3
7	Ministry of Commerce	11	3
8	Ministry of Environment	11	3
9	National Steering Committee for Biosafety	7	2
10	National Bank of Cambodia	5	1
11	Other institutions	13	4
	Total	357*	100

Note: * There are 114 NTMs issued by joint institutions.

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Table 4.3. Proportion of Non-tariff Measures by Issuing Institution (Single and Joint Institution)

Number	Issuing Institution	Number of NTMs	Total Number of NTMs (%)
1	Ministry of Agriculture, Forestry and Fisheries	74	30
2	Ministry of Industry, Mines and Energy	34	14
3	Ministry of Health	29	12
4	Ministry of Industry and Handicraft	21	9
5	Ministry of Health, Ministry of Agriculture, Forestry, Hunting and Fishing,	17	7
6	Ministry of Economy and Finance	11	5
7	Ministry of Agriculture, Forestry and Fishery, Ministry of Economic and Finance	9	4
8	Ministry of Commerce	8	3
9	Ministry of Interior	8	3
10	National Steering Committee for Biosafety, Ministry of Environment	7	3
11	Other institutions	25	10
	Total	243	100

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

5. Non-tariff measure classification by type

The most commonly identified type of NTMs are technical barriers to trade (TBT) (Type B), export-related measures (Type P), and sanitary and phytosanitary (SPS) measures (Type A) (Table 4.4). TBT measures accounted for 49.8 percent of total NTMs.

Figure 4.1 show that 12 percent of the TBT measures originated from Anukret No.69 on the Standards and Management of Agricultural Materials Regulations, 9 percent originated from the Law on Management of Pesticides and Fertilizer 2012, and 6 percent originated from Anukret No. 48 on Formalities and Conditions for Strong Acid Control. Meanwhile, regulations concerning chemical products, forestry, and medicine each contributed around 5 percent to TBT measures. Out of 121 TBT measures, 25 percent were B15, followed by B31 (15 percent).

Table 4.4. Non-tariff Measure Classification by Type

Code	NTM by Type	Number of NTMs	%
A	Sanitary and phytosanitary (SPS) measures	36	14.8
B	Technical barriers to trade (TBT)	121	49.8
C	Pre-shipment inspection and other formalities	1	0.4
D	Contingent trade protective measures	0	0.0
E	Non-automatic licensing, quotas, prohibitions, and quantity control measures other than SPS or TBT reasons	3	1.2
F	Price control measures including additional taxes and charges	12	4.9
G	Finance measures	0	0.0
H	Measures affecting competition	0	0.0
I	Trade-related investment measures	0	0.0
J	Distribution restrictions	0	0.0
K	Restriction on post-sales services	0	0.0
L	Subsidies (excluding export subsidies under P7)	0	0.0
M	Government procurement restrictions	0	0.0
N	Intellectual property	0	0.0
O	Rules of origin	0	0.0
P	Export-related measures	70	28.8
	Total coded NTMs	243	100

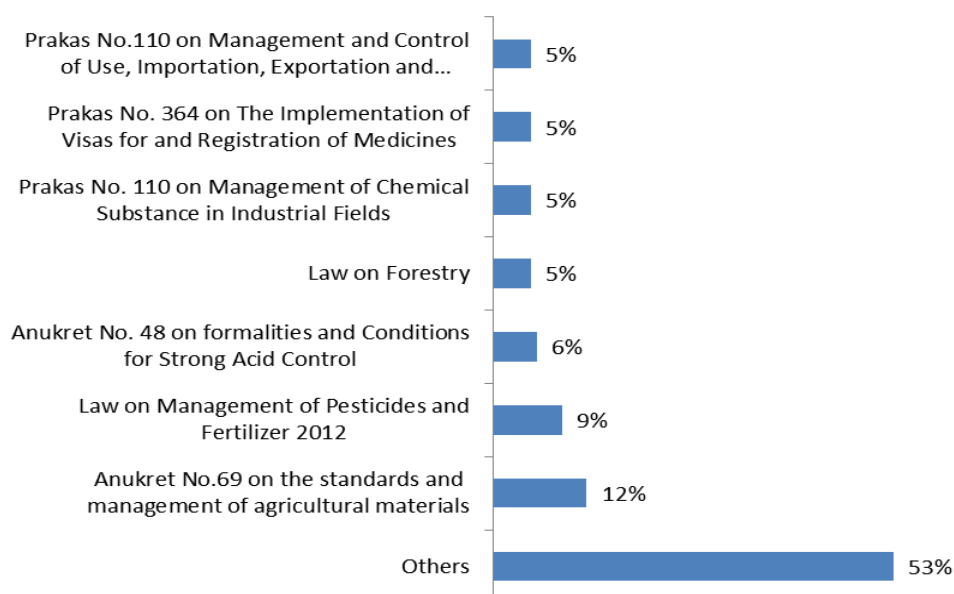
Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

SPS measures were the third largest group of NTMs, accounting for 14.8 percent of total NTMs. As shown in Figure 4.2, around 45 percent of SPS measures were concerned with sanitation of animals and animal products. Those NTMs originated from three regulations:

Anukret No. 16 on Sanitary Inspection of Animals and Animal Products, Prakas No. 178 on Procedure of Animal Sanitation Control and Animal Origin Products, and Anukret No. 014 on the Inspection of Animal Sanitary and Animal Originated Products. Other significant sources were regulations on vinegar, chilli sauce, and phytosanitary inspection.

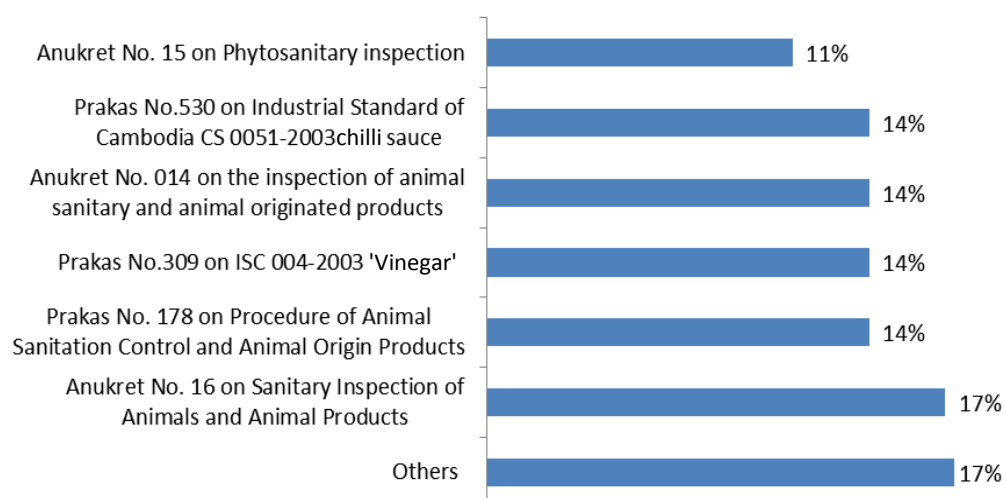
Out of 36 SPS NTMs, the most frequently applied NTM was A83 (certification requirement), which accounted for 17 percent, followed by A31 (11 percent), A82 (11 percent) and A84 (11 percent).

Figure 4.1. Technical Barriers to Trade Measures by Regulation



Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Figure 4.2. Sanitary and Phytosanitary Measures by Regulation



Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Overall, NTM Types A, B, and C (so-called technical measures) were the most commonly applied NTMs in Cambodia, accounting for 65 percent of total NTMs. Non-technical measures accounted for 6.2 percent of total NTMs. The non-technical measures most applied in Cambodia were Type F (price control measures including additional taxes and charges) accounting for 4.90 percent of total NTMs. Even though Type E (non-automatic licensing, quotas, prohibitions, and quantity control measures other than SPS or TBT reasons) only accounted 1.2 percent of total NTM, this type of NTM affected 31.3 percent of total products.

Meanwhile, export measures is the second largest type of NTM, covering 28.8 percent of total NTMs and 31.3 percent of total affected products. Export measures are imposed on all exported goods in Cambodia.

Based on the sub-chapter classification, 49 types of NTMs were applied in Cambodia (Table 4.5). Among these, B14 (authorization requirement for TBT reasons) was the most frequently applied NTM in Cambodia, accounting for 12 percent, followed by P13 (8 percent) and B31 (7 percent).

Table 4.5. NTM Classification by Sub-Chapter

Number	NTM Type	Number of NTMs	%	Number	NTM Type	Number of NTMs	%
1	A14	3	1	26	B82	8	3
2	A15	1	0	27	B83	8	3
3	A19	1	0	28	B84	8	3
4	A22	2	1	29	B85	7	3
5	A31	4	2	30	B853	2	1
6	A32	2	1	31	C3	1	0
7	A33	3	1	32	E111	1	0
8	A42	1	0	33	E23	1	0
9	A64	1	0	34	E231	1	0
10	A82	4	2	35	F6	1	0
11	A83	6	2	36	F61	4	2
12	A84	4	2	37	F65	3	1
13	A85	1	0	38	F69	3	1
14	A851	1	0	39	F71	1	0
15	A86	2	1	40	P11	2	1
16	B11	3	1	41	P12	1	0
17	B14	30	12	42	P13	20	8
18	B15	6	2	43	P14	9	4
19	B22	2	1	44	P5	10	4
20	B31	18	7	45	P61	10	4
21	B32	6	2	46	P62	8	3
22	B33	6	2	47	P69	8	3
23	B42	4	2	48	P7	1	0
24	B7	6	2	49	P9	1	0
25	B81	7	3	Total		243	100

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

As shown in Table 4.6, among the top 10 NTMs, five were TBT and another five were export-related measures.

Table 4.6. Top 10 Non-tariff Measure Codes

Number	NTM Type	Number of NTMs	%
1	B14	30	12
2	P13	20	8
3	B31	18	7
4	P5	10	4
5	P61	10	4
6	P14	9	4
7	B82	8	3
8	B83	8	3
9	B84	8	3
10	P62	8	3
	Others	114	47

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

6. Non-tariff measure classification by affected product

Furthermore, to identify the intensity of NTMs on products, we classified the number of NTMs applied. The results are shown in Tables 4.7 and 4.8 and Figure 4.3. From those tables and figure we found that all products traded in Cambodia were affected by at least three NTMs.

The groups of products mostly affected by NTMs are machinery (21.6 percent), chemicals (12.1 percent), textiles (11.3 percent) and metals (9.5 percent). More than half of NTMs (54.5 percent) were imposed on those products groups. Textile products (apparel) are the primary export product of Cambodia.

Meanwhile, NTMs imposed on vegetable and animal products and foodstuff is below 7 percent, 6.6 percent imposed on vegetable products, 5.5 percent imposed on animal products, and 4.6 percent imposed on foodstuff. Most NTMs imposed on those products are SPS, TBT, and export-related measures.

Table 4.7. Non-tariff Measure Classification by Affected Product

HS Code	Product Group	1 NTM	2 NTMs	3 NTMs or more
01-05	Animal & animal products	0	0	521
06-15	Vegetable products	0	0	630
16-24	Foodstuffs	0	0	443
25-27	Mineral products	0	0	204
28-38	Chemicals & allied industries	0	0	1,157
39-40	Plastics/rubbers	0	0	480
41-43	Raw hides, skins, leather, & furs	0	0	100
44-49	Wood & wood products	0	0	426
50-63	Textiles	0	0	1,079
64-67	Footwear/headgear	0	0	74
68-71	Stone/glass	0	0	296
72-83	Metals	0	0	909
84-85	Machinery/electrical	0	0	2,067
86-89	Transportation	0	0	565
90-99	Miscellaneous	0	0	607
	Total	0	0	9,558

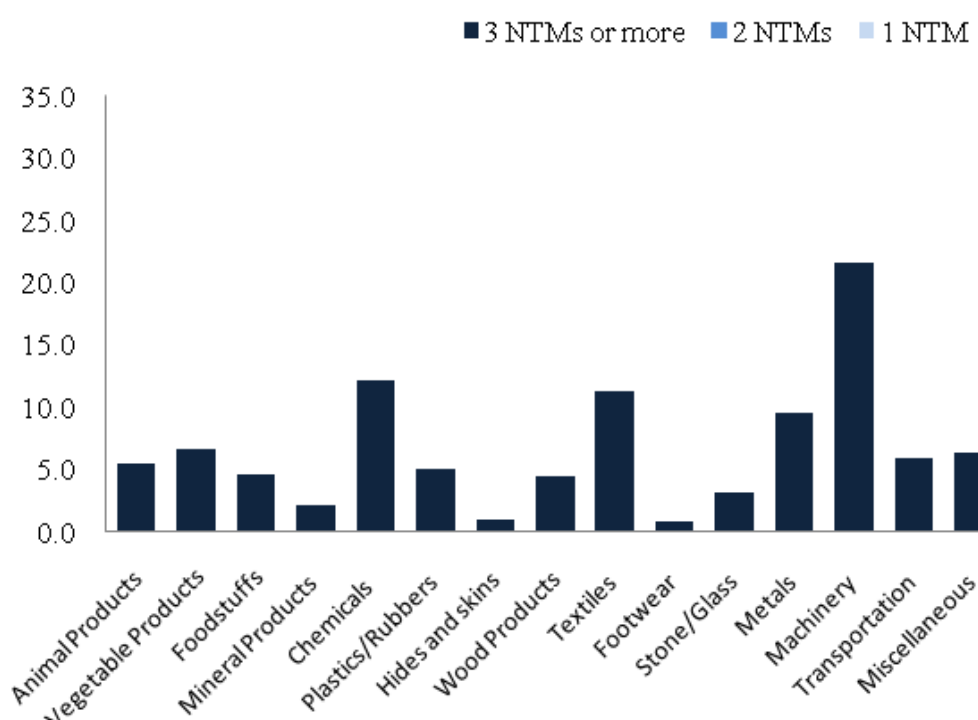
Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Table 4.8. Non-tariff Measure Classification by Affected Product (%)

HS Code	Product Group	1 NTM	2 NTMs	3 NTMs or more
01-05	Animal products	0.0	0.0	5.5
06-15	Vegetable products	0.0	0.0	6.6
16-24	Foodstuffs	0.0	0.0	4.6
25-27	Mineral products	0.0	0.0	2.1
28-38	Chemicals	0.0	0.0	12.1
39-40	Plastics/rubbers	0.0	0.0	5.0
41-43	Hides and skins	0.0	0.0	1.0
44-49	Wood products	0.0	0.0	4.5
50-63	Textiles	0.0	0.0	11.3
64-67	Footwear	0.0	0.0	0.8
68-71	Stone/glass	0.0	0.0	3.1
72-83	Metals	0.0	0.0	9.5
84-85	Machinery	0.0	0.0	21.6
86-89	Transportation	0.0	0.0	5.9
90-99	Miscellaneous	0.0	0.0	6.4
	Total	0.0	0.0	100

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Figure 4.3. Non-tariff Measure Classification by Affected Product



Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

7. Main findings

- From 52 regulations, 243 NTMs affect 9,558 products (HS codes). This is 100 percent of the total products traded in Cambodia.
- Most NTM regulations are issued by the Ministry of Agriculture, Forestry and Fishery.
- Technical measures are the most frequently applied NTMs in Cambodia, accounting for 65 percent of total NTMs. From these numbers, TBT measures accounted for 49.8 percent of total NTMs.
- Authorization requirement for TBT reasons (B14) is the most frequent NTM.
- Export-related measures covered 28.8 percent of total NTMs and affected all product traded in Cambodia.
- Products that were most affected by three or more NTMs were machinery (21.6 percent), chemicals (12.1 percent), textiles (11.3 percent), and metals (9.5 percent).

8. Policy recommendations

- The NTM database in the Cambodia Trade Repository should be reviewed and updated every year. There are many regulations in English that are not updated. All

legal documents including laws, anukrets, and prakas should be translated into English by relevant ministries and establishments.

- Official websites of all government ministries and establishments are only in the Khmer language and are often outdated. The ministry whose published regulation is related to NTMs should update the website regularly and add English pages.
- In the process of making laws or regulations related to NTMs, representatives from relevant stakeholders, especially the NTMs National Committee and the relevant private sector, should be invited to participate and provide input.
- Capacity building should be supported for government officials at the secretariat of the NTMs National Committee.
- Awareness of NTMs and changes in laws and regulations should be disseminated through press releases and announcements in official websites of relevant ministries.
- Relevant agencies should regularly monitor regulations that might affect NTM changes while some regulations may be amended or nullified the old NTMs.

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