# EXECUTIVE SUMMARY

Whilst tariffs have declined following disciplines instituted by the World Trade Organization (WTO), the use of non-tariff measures (NTMs) is on the rise worldwide. This trend is also reflected in the updated NTM database of the Economic Research Institute for ASEAN and East Asia (ERIA) and the United Nations Conference on Trade and Development (UNCTAD), where the number of NTMs in ASEAN has increased over time. Since NTMs have the potential to restrict trade, the increase has raised concerns about returning to protectionism, which could hamper the integration efforts of the Association of Southeast Asian Nations (ASEAN).

This report documents the trend and pattern of NTMs utilisation in ASEAN based on the updated ERIA–UNCTAD NTMs in ASEAN database, and discusses ongoing regional and national efforts in addressing NTMs. The database is a collective effort of ERIA, UNCTAD, and teams of national consultants, with continuous support from government officials and ASEAN bodies. The data were collected in all 10 ASEAN countries at the reporter-year-partner-product-NTM level. The data reflect all trade regulations that were in force up to 30 March 2018, providing a snapshot of each country. Data include bilateral NTMs, recording measures applied to the world and bilaterally to one or more countries. Products are defined for all ASEAN countries using the 8-digit ASEAN Harmonized Tariff Nomenclature 2017. Conversely, NTMs are defined in the 3-digit Multi-Agency Support Team Classification M4.

The new data shows an increase in NTMs across all 10 countries. Within 3 years, the total number of NTMs has risen by approximately 15%. On the one hand, this trend reflects how ASEAN Member States respond to various policy needs, including protecting consumers and enhancing competitiveness by improving product standards. As a country becomes more integrated into the global economy, it needs more and appropriate trade regulations. Having just a few NTMs could reflect gaps in consumer and environmental protection and potential under-regulation. On the other hand, the rise of NTMs in the context of tariff reduction suggests that NTMs are sometimes used as an additional tool to protect domestic producers. Regardless of the objectives, however, an increase in NTMs could raise trade costs, inhibiting trade expansion.

Amongst NTMs, technical measures account for the lion's share of NTMs, which is in line with the pattern observed in developed countries. Sanitary and phytosanitary measures (SPS) measures are highly targeted at agricultural and food products, whilst technical barriers to trade (TBT) are often used for non-food manufacturing products. TBT is particularly prevalent on chemicals, machinery and electrical machinery, and mineral products. Export-related measures, especially conformity assessment, and quantity and price controls also contribute a significant fraction of NTMs.

We observe notable cross-country heterogeneity in the structure of NTMs. Although on the rise in all 10 countries, the numbers of NTMs are substantially different across countries. Thailand has the largest number of NTMs, accounting for about one-third of all NTMs in ASEAN. The Philippines has the second largest but falls far behind, while Cambodia and Myanmar have the fewest. SPS measures are particularly popular in Thailand, Malaysia, Brunei Darussalam, and Myanmar, where over 30% of NTMs are SPS measures. The share of SPS measures is significantly lower than that of TBT in Cambodia, Indonesia, Lao People's Democratic Republic (Lao PDR), Singapore, and Viet Nam. Hard measures on price and quantity restrictions, and export-related measures are widely used amongst ASEAN Member States, notably Cambodia, Lao PDR, Myanmar, and Viet Nam, where these NTMs constitute around 40% of total NTMs. In Lao PDR, approximately 60% of NTMs are under these categories. The heavy use of these measures highlights the need for smooth and effective implementation.

Imports tend to be more heavily regulated in less developed economies. NTMs regulated more than 80% of imports – measured by number of products and import value – in Cambodia, Lao PDR, Myanmar, the Philippines, and Viet Nam in 2018. Myanmar exhibits a remarkable surge. Within 3 years, the ratio of import products and of import value covered by NTMs increased by approximately 50 and 20 percentage points, respectively, partly reflecting the country's effort to reintegrate into the global market after decades-long political turmoil. In Singapore, Brunei Darussalam, and Malaysia, in contrast, NTMs are more concentrated in trade-intensive products.

By product group, animal, vegetable, and food products are the most regulated sectors, with NTMs affecting more than 80% of their imports and exports. The average number of NTMs per product in these sectors is substantially higher than average – exceeding 10 measures each on the import side and three measures on the export side. The NTMs on agriculture and food products address health and safety concerns. In addition, trade-intensive manufacturing sectors, including those with deeper participation in global value chains, such as machinery and electrical machinery, and transportation, are heavily

regulated. As the impact of NTMs is compounded when a semi-finished product moves back and forth across borders, the high incidence of NTMs in these sectors could raise trade costs for exporters and importers at different stages along the supply chain. NTMs are less prevalent in resource-based sectors such as stone and glass, minerals, and metals, which are relatively homogeneous and require fewer specific standards.

The difference in the structure and prevalence of NTM should be interpreted with caution. First, a large NTM count does not imply stricter protection. Two countries may apply the same technical NTM to the same product. Yet, more often than not, there is a gap in the strictness of NTMs. Second, NTM count statistics reflect important sources of discrepancy in the way countries issue their regulations. For example, a country that promulgates product- or partner-specific regulations will see more NTMs than a country that uses a single regulation to regulate broad product categories. Third, a single import restriction can be significantly more restrictive than several transparent labelling and packaging requirements.

This report does not aim to distinguish between NTMs and non-tariff barriers, as it is impossible to do so. Such assessment requires comprehensive review and consultations with related stakeholders, including the issuing agencies and the private sector. Given ASEAN's ongoing efforts to enhance trade, the increasing use of NTMs is not necessarily alarming. Nevertheless, as poor design and implementation could incur significant costs, good regulatory practice should be taken seriously.

ASEAN, through various frameworks, principles, and agreements, has taken steps to address and manage NTMs. Although initiatives are region-wide, harmonisation and enforcement of NTMs require strong institutional commitment at the national level. Whilst significant progress is not yet observed, effective implementation of existing initiatives could produce promising results.

Several areas are identified to help address or manage NTMs.

First, **enhance the capacity of issuing and enforcement agencies.** For issuing agencies, technical assistance includes collecting NTMs, classifying them using an internationally comparable classification, validating NTM data, and uploading new NTMs to a public database. The technical knowledge of enforcement agencies, particularly those in charge of technical inspection and accreditation, will be improved by good education and training. The development of testing and accreditation facilities would contribute significantly to

enhancing the overall efficiency of NTM management, given the prevalence of conformity assessment for both SPS and TBT purposes.

Second, **establish an institutional mechanism similar to the National Trade Facilitation Committees (NTFCs)** to oversee and manage the implementation of NTMs to ensure consistency of regulations and avoid overlapping amongst enforcement authorities. A dedicated national institution to validate regulatory impact analyses or regulatory impact statements could accelerate public access to them and ensure they are updated on NTRs. The institution, supported by a competent workforce, could also carry out NTM regulatory review and stocktaking.

Third, **strengthen engagement with the private sector and research institutions** on possible approaches to managing NTMs. NTMs are neutral and, more often than not, eliminating them is not an option. A pragmatic approach should consider the costs and effectiveness of NTMs from the perspective of governments and producers, with evidence-based support from academia.

Fourth, **apply Good Regulatory Practice (GRP) core principles to ensure good regulatory management**. Some ASEAN Member States have made good progress in institutionalising GRP principles in their regulatory management system by adopting regulatory stocktake tools such as regulatory impact analysis or regulatory impact statement before new laws or regulations are adopted or implemented.