

TARIFF AND NON-TARIFF MEASURES TRADE FACILITATION

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DEFINITIONS

- **Tariff measures** – ordinary customs (import) tariffs applicable to imported goods
- **Non-tariff measures (NTMs)** – policy measures, other than ordinary custom tariffs, that can potentially have an economic effect on international trade in goods, changing the quantities traded, or prices, or both
 - Legitimate – when used to ensure quality of products or protect life and health of humans, animals and plants, and the environment
 - Illegitimate – when used as protectionist measures or measures to achieve other goals, including political
- **Trade facilitation** – activities pertaining to removal of illegitimate non-tariff measures or those intended to streamline and facilitate application of legitimate ones

SOME HISTORY

- For a long time tariff measures used to be the only measures to regulate international trade
- High tariffs used to protect domestic market and local manufacturers
- After the World War II there was an idea to establish the International Trade Organization as the third Bretton Woods institution (in addition to the World Bank and the International Monetary Fund)
- The idea never materialized, but the trade rules and procedures agreed in the process have led to creation of the General Agreement on Tariffs and Trade- GATT 1947
- Initially signed by 23 countries
- Protocol on temporary implementation of GATT came into effect on 1 January 1948
- Eight rounds of multilateral trade negotiations
- Tokyo round in the 1970ties was the first serious attempt to resolve the issue of non-tariff trade barriers

SOME HISTORY

- 31 December 1994 – GATT1994 – unchanged GATT1947 became integral part of the Marrakesh Agreement establishing WTO
- 1 January 1995 – World Trade Organization (WTO)
- Agreements of the Uruguay round (1986-1994), which has lead to establishing of the WTO, introduced significant change in regulation of international trade
- New agreements, including those regulating non-tariff measures:
 - Agreement on Technical Barriers to Trade (TBT)
 - Agreement on Sanitary and Phytosanitary Measures (SPS)
 - Agreement on Import Licensing Procedures
- WTO Agreements establish rules for legitimate use of not-tariff measures

NON-TARIFF MEASURES

- Often applied as alternative trade policy instruments, as multilateral trade agreements impose limits on the use of traditional trade policy instruments
- As the result, NTMs are rapidly gaining importance in regulating trade, and have almost replaced tariff barriers
- Steady decline of tariff rates as the result of GATT rounds of multilateral trade negotiations raised the relative importance of NTMs as both protection and regulatory trade instruments
- As levels of tariffs were constantly falling, non-tariff barriers were becoming increasingly “popular” and have taken centre-stage in market-access concerns

NTMs CLASIFFICATION

- United Nations Conference on Trade and Development (UNCTAD) began in 1994 to collect and classify non-tariff measures according to a customized Coding System of Trade Control Measures (TCMCS). Concurrently, a Trade Analysis and Information System (TRAINS) database was developed by UNCTAD, which over time became the most complete collection of publicly available information on NTMs
- In 2006 the Group of Eminent Persons on Non-Tariff Measures (GNTM) within UNCTAD established to propose improvements to the system – including definition and classification of NTMs
- On 5 November 2009 at the meeting in Geneva, GNTM adopted the new definition of non tariff measures and the new Coding System of Trade Control Measures (available at http://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf)

THE CLASSIFICATION

The new classification comprises:

- **Technical measures** (e.g. technical regulations, standards, sanitary, environmental protection measures)
- **Other traditionally used as instruments** of commercial policy (, e.g. quotas, price control, exports restrictions, trade protective measures)
- **Other behind-the-border measures** (e.g. competition, trade-related investment measures, government procurement, distribution restrictions)

PROCEDURAL OBSTACLES IN IMPLEMENTATION OF LEGITIMATE NTMs

Practical challenges and processes that makes compliance with the measures difficult:

- **Administrative burdens** - difficulties in filling out documents, the need to submit too many documents, problems with translating official documents, and the need to deal with many administrative windows
- **Information/transparency issues** – when there is no adequate information on a given regulation, regulations change frequently, and actual requirements differ from the ones that are published
- **Inconsistent or discriminatory behavior of officials** - when officials in charge exhibit arbitrary behavior with regard to a given regulation, classification or valuation of a product
- **Time constraints** - delays related to a given regulation (e.g. delays in inspection or the issuance of permits) or when deadlines set for completion of requirements are too short
- **Informal or unusually high payments** - obstacles related to demands for informal payments by officials or those related to high cost of complying with a given regulation
- **Lack of sector-specific facilities** - when there is a lack of adequate facilities such as testing agencies or appropriate storage which are required to comply with a given regulation
- **Lack of recognition or accreditation** - when the facilities available to businesses lack international recognition or when national certificates are not recognized internationally

SOME EXAMPLES OF ILLEGITIMATE USE OF NTMs

- Prohibition of import of certain goods to Russian Federation, most notably the following:
 - Vine and mineral water from Georgia in 2006
 - Vine from Moldavia
 - Dairy products from Lithuania
 - Chocolate from Ukraine
 - Flowers and milk from the Netherlands
- Recycle tax payable on all motor vehicles imported to Russian Federation (upon the pressure from WTO members to be abolished)
- *De facto* prohibition of import of flour to Former Yugoslav Republic of Macedonia

NTMs IN CENTRAL ASIAN COUNTRIES

- Excessive border control procedures
- Burdensome visa requirements
- Soviet era based TBT and SPS measures and certification procedures
- *De facto* non-recognition of TIR carnet by a country member of TIR Convention
- Prohibition for vehicles registered in one country to travel in the territory of another country (entirely or beyond certain point)
- Closing borders for the movement of goods for no reason at all, including closing border crossings sometimes building walls across roads
- Designation of border posts as local, thus impeding international transit
- Reluctance of customs authorities to fully cooperate and exchange information

WTO STATUS OF CENTRAL ASIAN COUNTRIES

- **WTO Members:**

- Kirgizstan – 20 December 1998

- Tajikistan – 2 March 2013

- **In the process of accession:**

- Kazakhstan – completion of the accession process foreseen in 2014

- Uzbekistan – application in 1994, accession process in an early stage, no activities since 2005

- Turkmenistan – considering application for membership

BROADER REGION

- Pakistan – WTO member since 1 January 1995

- Afghanistan – completion of the accession process foreseen in 2014

- Iran – application in 2006, process at an early stage

WTO ACCESSION PROCESS AND TRADE FACILIATATION

- In the process of accession to the WTO the acceding country must bring its trade regime into full compliance with WTO rules and disciplines
- Reforms needed for WTO accession include both legal framework and implementation practices
- Proper administration of NTMs in accordance with WTO rules and best international practices facilitates trade
- WTO accession process is an excellent vehicle for the reform of the trade regime of the acceding country, which consequently facilitates trade
- WTO membership is kind of a “seal of approval” that the country’s trade regime, both in terms of legal framework and implementation practices, fully complies with WTO rules and practices

RESULTS OF TAJIKISTAN'S WTO ACCESSION

- 12 years of negotiations
- 9 Working Party meetings
- More than 100 laws and regulations have been either amended or replaced to comply with WTO rules and disciplines, including the following:
 - Law on Foreign Trade
 - Law on Food Safety
 - Law on Technical Regulations
 - Law on Standardization
 - Law on Conformity Assessment
- Trade regime of Tajikistan complies with trade regimes of 158 WTO members

CONCLUSIONS & RECCOMENDATIONS

- Non-tariff measures and their application are serious obstacle to unimpeded trade in Central Asia
- A lot of work has to be done on both legal framework for non-tariff measures and their implementation in order to improve the situation
- Better regional cooperation should be encouraged and supported
- Countries in the process of accession to the WTO should intensify their efforts and complete their respective accession processes as soon as possible
- Countries which are not in the accession process should initiate one and start working towards the WTO membership
- Central Asian countries should use the technical support provided by foreign donor countries and organizations to accelerate their reform efforts

THANK YOU FOR YOUR ATTENTION

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