

Application of Non-tariff Measures in the Eurasian Economic Union²

Abstract

The paper covers a range of NTMs applied in the EAEU countries. Opportunities and risks in the light of EAEU-Vietnam FTA are analyzed using statistical data and regulations introduced during the last years.

Keywords: EAEU, NTM, TBT, SPS, Vietnam, agricultural products.

JEL: F13

Introduction

On 8 October 2018 the Chief State Veterinary Inspector of the Kyrgyz Republic issued the Decree “On the Implementation of a Temporary Restriction on the Import of Poultry and Poultry Products into the Kyrgyz Republic from Almaty and North Kazakhstan Regions of the Republic of Kazakhstan” (see Picture 1). Due to the suspicion of highly pathogenic avian influenza in the south of the Republic of Kazakhstan, namely in the Almaty region poultry farms (Altyn Kus, Alsad), and the outbreak of Newcastle disease among birds in the Yeletsk, Ayyrtau region of Northern Kazakhstan, and in order to prevent the introduction of the bird flu virus on the territory of the Kyrgyz Republic, in accordance with section 2 "Risk Analysis", subsection 2.1. "Import Risk Analysis" of the Terrestrial Animal Health

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² The article was submitted in September 2018.

Code, Law on Veterinary Medicine, paragraph 1, paragraph 2.3. Decree of the Government of the Kyrgyz Republic of 25 April 2006 No. 297 "On measures to protect the territory from the introduction of pathogens of highly pathogenic avian influenza", it was decided to implement a temporary restriction on import of poultry into the Kyrgyz Republic:

- Live poultry, hatching eggs, wild, zoo and circus susceptible animals;
- Poultry meat, egg powder, albumen and other food products processed from hen's eggs;
- Down and feather, hunting trophy;
- Fodder and feed additives from poultry;
- Used equipment for the maintenance and transportation, slaughter and cutting of bird.

As a counter measure, the Ministry of Agriculture of the Republic of Kazakhstan imposed a temporary ban on the import of meat from Kyrgyzstan, stating that this measure was accepted because of unfavorable situation on particularly dangerous animal diseases in Kyrgyzstan.³ Five Kyrgyz enterprises eligible for export of meat and meat products under the veterinary control and product supervision to Kazakhstan now were restricted to do it.

In five days after imposing the restriction on the import of poultry and poultry products from Kazakhstan, Kyrgyzstan lifted it based on receiving results of laboratory tests conducted by the Republic State Enterprise by Right of Economic Management "National Veterinary Reference Center" from Kazakhstan on the stabilization of the epizootic situation of highly pathogenic avian influenza

³ Kudryavtseva T. Response. Kazakhstan imposed a ban on the import of meat from Kyrgyzstan // Information Agency "24.kg". 12.10.2018. URL: https://24.kg/ekonomika/98629_otvetnyie_meryi_kazahstan_vvel_zapret_nanbspvvoz_myasa_iz_nbspkyrgyzstana/

in the south of the republic, in poultry farms of Almaty region (Altyn Kus, Alsad), and Newcastle disease among birds in Yelets, Aiyrtau district of the North Kazakhstan region.⁴ The same counter measure was done by Kazakhstan and on 19 October 2018 the ban on import of meat and meat products from Kyrgyzstan was lifted too.

These events might be remained with little notice by the rest of the countries, and indeed in the countries themselves, Kyrgyzstan and Kazakhstan, because these bans did not have time to exert any essential influence on trade. However, it is worth recalling that these two states are members of one union, Eurasian Economic Union (EAEU), which also includes Armenia, Belarus and Kazakhstan. And the main purpose of the Union is to provide for free movement of goods, services, capital and labor, pursues coordinated, harmonized and single policy in the sectors determined by the Treaty and international agreements within the Union⁵.

In the meanwhile, Russia, who has common borders with the North Kazakhstan, did not impose any ban on import of poultry from Kazakhstan and meat/meat products from Kyrgyzstan during this short period, and it leads to thoughts that the real reasons of bans were others than official.

The more the EAEU gathers pace, the oftener such kind of cases appears. And there is the instrument which might be very helpful in the analysis where violation of legislation is, where domestic industry support is, and where the care of human and animal health is.

⁴ Mokrenko A. Kyrgyzstan lifted restrictions on the import of poultry from Kazakhstan // Information Agency “24.kg”. 13.10.2018. URL: https://24.kg/obschestvo/98699_kyrgyzstan_snyal_ogranicheniya_navvoz_ptitsyi_izkazahstana

⁵ Eurasian Economic Commission, General Information URL: <http://www.eaeunion.org/?lang=en#about>

EAEU Non-tariff measures: General outline

During the last meeting of vice-primer- ministers of the EAEU country-members in July 2018 discussed about elimination of the following barriers: absence of mutual recognition of electronic digital signatures; ban on the admission of a number of goods produced by their enterprises to the state purchases; appliance by Kyrgyzstan a minimum level of control prices for individual goods imported from the countries of the EAEU; preservation of veterinary control on the Kyrgyz-Kazakh border; and appliance of security deposit in respect of alcohol products imported from the states of the Union.⁶

According to the latest UNCTAD research, tariffs have become less restrictive as a result of tariff liberalization taking place multilaterally, via bilateral and regional trade agreements, or unilaterally. In 2014, between 60 and 70 per cent of agricultural and manufacturing goods in world trade were imported duty-free (UNCTAD, 2016). However, the use of non-tariff measures (NTMs) has a steady growth.

Under non-tariff measures are understood policy measures, other than ordinary customs tariffs, that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both” (UNCTAD, 2010). The main difference between non-tariffs barriers and non-tariff measures is that measures can *potentially* have an economic effect, while barriers are put for *definite* economic effect (UNCTAD, 2010).

⁶ The removal of the most significant obstacles for the EAEU countries has been launched // Eurasian Economic Commission. 13.07.2018. URL: <http://www.eurasiancommission.org/ru/nae/news/Pages/13-07-2018-4.aspx>

In 2006, UNCTAD established a Group of Eminent Persons and a Multi-Agency Support Team (MAST)⁷. An essential goal was development of an international classification for NTMs with the final objective to increase transparency and understanding about NTMs (UNCTAD, 2014).

The UNCTAD-MAST classification of NTMs has 16 chapters of different measure categories (See Table 1). There are technical measures (chapters A, B and C), non-technical measure (from chapters D to O) and export-related measure (chapter P).

Table 1. UNCTAD-MAST classification of non-tariff measures

Import-related measures	Technical measures	A	Sanitary and Phytosanitary (SPS) measures
		B	Technical Barriers to Trade (TBT)
		C	Pre-shipment inspections and other formalities
	Non-technical measures	D	Contingent trade-protective measures
		E	Non-automatic licensing, quotas, prohibitions and quantity-control measures
		F	Price-control measures, including additional taxes and charges
		G	Finance measures

⁷ Food and Agriculture Organization of the United Nations, International Monetary Fund, International Trade Centre, Organization for Economic Cooperation and Development, United Nations Conference on Trade and Development, United Nations Industrial Development Organization, World Bank, World Trade Organization.

		H	Measures affecting competition
		I	Trade-related investment measures
		J	Distribution restrictions
		K	Restrictions on post-sales services
		L	Subsidies (excluding export subsidies)
		M	Government procurement restrictions
		N	Intellectual property
		O	Rules of origin
Export-related measures		P	Export-related measure

Source: International Classification of Non-Tariff Measures. 2012. UNCTAD. URL: https://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf

Each chapter has sub-chapters with more detailed classification. Table 2 illustrates examples of description of technical barriers to trade sub-chapters.

Table 2. Sub-chapters of technical barriers to trade classification⁸

B1	Prohibitions/restrictions of imports for objectives set out in the TBT agreement	B11 Prohibition for TBT reasons
		B14 Authorization requirement for TBT reasons
		B15 Registration requirement for importers for TBT reasons
B2	Tolerance limits for residues and restricted use of substances	B21 Tolerance limits for residues of or contamination by certain substances

⁸ International Classification of Non-Tariff Measures. 2012. UNCTAD. URL: https://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf

		B22 Restricted use of certain substances
B3	Labelling, marking and packaging requirements	B31 Labelling requirements
		B32 Marking requirements
		B33 Packaging requirements
B4	Production or post-production requirements	B41 TBT regulations on production processes
		B42 TBT regulations on transport and storage
		B49 Production or post-production requirements, n.e.s.
B6	Product identity requirement	
B7	Product-quality or performance requirement	
B8	Conformity assessment related to TBT	B81 Product registration requirement
		B82 Testing requirement
		B83 Certification requirement
		B84 Inspection requirement
		B85 Traceability information requirements: <ul style="list-style-type: none"> • B851 Origin of materials and parts • B852 Processing history • B853 Distribution and location of products after delivery • B859 Traceability requirements,

		n.e.s
		B89 Conformity assessment related to TBT, n.e.s.
B9	TBT measures, n.e.s	

Source: International Classification of Non-Tariff Measures. 2012. UNCTAD. URL: https://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf

The most frequently observed are measures related to technical measures: sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT) and pre-shipment inspections and other formalities. According to the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures, SPS measures are those that are applied, among others, to protect human, animal or plant life or health from pests or diseases within the territory of a country (i.e. a WTO member State) or protect human or animal life or health from harmful substances in food or drink. By nature, SPS measures are applicable largely to agrifood products. TBT measures are standards or mandatory requirements on product characteristics or their related processes or production methods, including technical regulations, testing and certification procedures.⁹

It should be noted that SPS or TBT measures applied by an importing country do not always result in trade reduction. An SPS or a TBT measure on a particular product can increase the competitiveness of a certain exporter against others if the former can comply with the technical requirements with little costs. SPS measures and TBT cannot be eliminated because they are so important for

⁹ Non-Tariff Measures: Economic Assessment and Policy Options for Development. 2018. UNCTAD URL: https://unctad.org/en/PublicationsLibrary/ditctab2018d3_en.pdf

sustainable development by protecting health, safety and the environment. But at the same time, NTMs affect smaller countries and producers disproportionately and negatively. Costs can be reduced through regulatory convergence, such as harmonization, equivalence and mutual recognition.¹⁰

The EAEU member states continue harmonization of their legislation in a number of important positions. Besides Common Customs Tariffs (CCT) applied by all members, it concerns the organization of interaction of state control bodies at all stages of the product life cycle, including joint inspections with the possibility of participating in them as observers and experts of the Eurasian Economic Commission. Thus, the Eurasian Economic Commission Council approves single lists of SPS measures, technical regulations and other standards: quarantine harmful organisms, common quarantine phytosanitary requirements for regulated products and regulated objects at the customs border and in the customs territory of the Eurasian Economic Union, procedures for laboratory support of quarantine phytosanitary measures and many others.

NTMs Regulation in the Customs Union

There are developed and approved 46 technical regulations, of them 39 had come into force by November 2018.¹¹ They regulate about 85% of all products being traded. These are technical regulations in the field of food safety, consumer goods, safety equipment, electrical engineering and mechanical engineering,

¹⁰ African Development Bank (ADB), United Nations Conference on Trade and Development (UNCTAD). Regional Integration and Non-Tariff Measures in the Economic Community of West African States (ECOWAS). 2018

¹¹ The EAEU should have a unified policy on the use of sanitary and phytosanitary measures // Eurasian Economic Commission. URL: <http://www.eurasiancommission.org/ru/nae/news/Pages/25-10-2018-1v.aspx>

energy resources. On 17 November, another technical regulation of the Union on the safety of equipment for children's playgrounds entered into force.

The development of 12 technical regulations of the Union is in progress, five of which are at the final stage of readiness. These are technical regulations that establish requirements for the energy efficiency of household electrical appliances, main pipelines, civil defense products, alcoholic beverages, poultry meat and products of its processing.

The technical regulation of the Eurasian Economic Union is a document adopted by the Eurasian Economic Commission which establishes binding requirements for technical regulation on the territory of Union.¹²

According to the EEC, standard is the main tool for the implementation of technical regulations; a document that specifies product characteristics, implementation rules and characteristics of design processes (including surveys), production, construction, installation, commissioning, operation, storage, transportation, sale and disposal, performance of works or services, rules and methods for multiple use research (testing) and measurements, rules for sampling, requirements for terminology, symbols, packaging, labeling or labels and rules for their application.¹³

On 23 September 2011 back then the Customs Union¹⁴ accepted technical regulation “On Toy Safety” (CU TR 008/2011), which contains detailed

¹² Technical Regulation and Standardization Chapter // Eurasian Economic Commission. URL: <http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Pages/default.aspx>

¹³ Ibid.

¹⁴ The Agreement on creation of the Customs Union came into force on 1 January 2010; it was founded by Belarus, Kazakhstan and Russia. The original treaty establishing the Customs Union was terminated by the agreement establishing the Eurasian Economic Union, signed in 2014, which incorporated the Customs Union into the EAEU's legal framework.

description of standards, conformity assessment procedures, etc. However, in 2016 the EEC designed the draft of amendment to add to the initial technical regulation. The main proposed change was the establishment of requirements aimed at ensuring the protection of children from possible negative impact on their development and mental health, preventing aggressive behavior, fear and anxiety: conduction of pedagogical and psychological expertise of every imported toy.¹⁵ The suggested measure was considered to save children from commodities containing indecent images, which propagating violence, inhumanity, anti-social and unlawful behavior. And because toy commodities are direct tool of nurturing and physical and psychological child mental health forming, requirements of psychological and pedagogical expertise seemed to be a good preventive measure for technical regulation amendment's initiators.¹⁶

There were conducted several public discussions related to these amendments, during which there were gathered comments and opinions from representatives of private companies from Russia, European Commission, Association of Toy Producers of the USA, Kazakh Association of Kids Commodities Industry, Ministry of Health of Republic of Belarus and other state authorities from Belarus, Russia and Kazakhstan. Among gathered comments from Russian toy companies who import toys the main persuasive idea was that this expertise will impose additional costs for a range of commodities and as consequence the higher price for a final consumer.

¹⁵ Notification on the development of draft amendments No. 2 introduced to the Technical Regulations of the Customs Union "On the safety of toys" (CU TR 008/2011) // Eurasian Economic Commission. URL: http://www.eurasiancommission.org/ru/act/tehnreg/deptexreg/tr/Documents/Уведомление%20и%20изменения%20в%20игрушки_2_игрушки.pdf

¹⁶ Ibid.

The American Association of Toy Producers argued that the regulation does not comply with the World Trade Organization (WTO) Agreement on technical barriers to trade (TBT), since this amendment does not promote the safety of children, and there is no scientific evidence to support the determination that a toy is detrimental to a child's psychological well-being. Moreover, upon to Association's opinion, "ultimately parents play the most important role in choosing appropriate game for your children whether for security reasons or reflecting the interests and abilities of the child".¹⁷

As a consequence, the EEC accepted the decision not to obligate the EAEU member states to expose import toys to psychological and pedagogical expertise and developed psychological and pedagogical criteria for importing toys:

- Dolls should give a true image of a person, corresponding to kid's different age stages;
- Dolls should be attractive in appearance and represent the image of a physically healthy person;
- It is prohibited reproduction of violations of the external form of the human body, namely the absence of some of its parts (upper and/or lower extremities, etc.),
- Image of the appearance of a person testifying to violations of the state of human health (distorted eyes, mouth, lack of pupils in the eyes, the presence of prosthetic arms and legs, etc.), death (traces of wounds inflicted, sewn body parts, etc.);

¹⁷ Summary of Comments Technical Regulation Project of the Customs Union "On Safety of Toys" // Eurasian Economic Commission. URL: <http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Documents/СВОДКА%20отзы%20ВОВ%20Игрушки%202%20%20ИТОГ.pdf>

- Image of parts of the human body that do not correspond to reality (the presence of more than two arms, legs, eyes, the presence of the second head, etc.).¹⁸

According to the UNCTAD classification, the proposed measure on expertise if it was accepted and entered into force, could be classified as **B9: TBT measures, not elsewhere specified (n. e. s.)**.

NTMs within the EAEU

There are several sources of non-tariff measures databases. One of them is WTO notions. The Integrated Trade Intelligence Portal (I-TIP) provides a single entry point for information compiled by the WTO on trade policy measures. It covers as tariff measures, as non-tariff measures which affect trade in goods and services. The I-TIP database includes members' notifications of NTMs as well as information on "specific trade concerns" raised by members at WTO committee meetings.¹⁹

The main disadvantage of this database is that it is based on WTO notifications by WTO members. As of November 2018, there are 164 members and 23 observer states. Moreover, this I-TIP Goods database includes information on some NTMs: Anti-dumping (ADP), Countervailing (CV), Quantitative Restrictions (QR), Safeguards (SG), Sanitary and Phytosanitary (SPS), Special Safeguards (SSG), Technical Barriers to Trade (TBT), Tariff-rate quotas (TRQ), Export Subsidies (XS).

¹⁸ Technical Regulation "On Safety of Toys" // Eurasian Economic Commission. URL: <http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Pages/bezopToys.aspx>

¹⁹ Integrated Trade Intelligence Portal. URL: <https://i-tip.wto.org>

According to notifications, among EAEU and WTO members, Kyrgyzstan imposes the fewest NTMs: only 9 SPS and 48 TBTs; the highest number of NTMs is imposed by Russia: 21 ADPs, 93 QRs, 150 SPSs, 88 TBTs and 4 TRQs. Because Belarus is not WTO member yet and has negotiating process for becoming a WTO member, there is no data on NTMs imposed by this state (see Fig. 1)

Table 3. Data on non-tariff measures

EAEU state	ADP	CV	QR	SG	SPS	SSG	TBT	TRQ	XS
Armenia	-	-	-	-	27	-	83	-	-
Kazakhstan	-	-	29	-	14	-	21	-	-
Kyrgyzstan	-	-	-	-	9	-	48	-	-
Russia	21	-	93	-	150	-	88	4	-

Source: Integrated Trade Intelligence Portal. URL: <https://i-tip.wto.org>

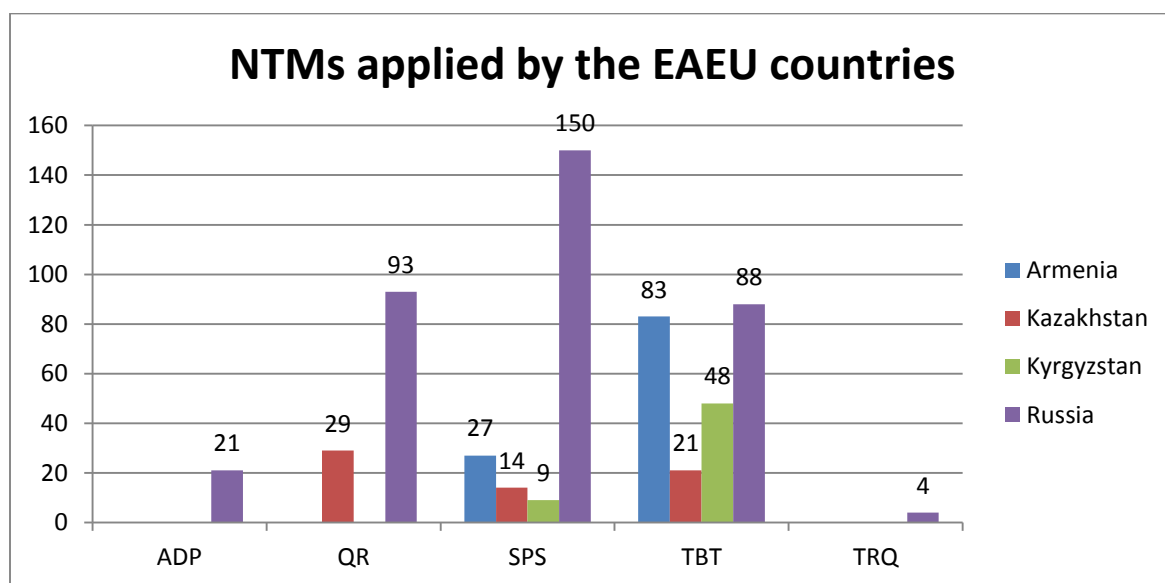


Figure 1. Comparison of NTMs in respect to WTO notifications.

Source: Integrated Trade Intelligence Portal. URL: <https://i-tip.wto.org>

The most fully fledged and extensive database on non-tariff measures is TRAINS database developed by UNCTAD. It provides comprehensive and systematic information on a broad range of policy instruments that can have an effect on international trade in goods. The information includes traditional trade policy instruments, such as quotas or price controls, as well as regulatory and technical measures that stem from important non-trade objectives related to health and environmental protection. The objective of the database is to increase transparency and understanding about trade regulations and trade control measures. Measures, recollected from official sources, national trade regulations, laws and documents, are classified according to the International Classification of NTMs.

Data collection on non-tariff measures for the TRAINS database is still in progress and it does not include information on NTMs in Armenia despite it has been the WTO member since 2003; among Central Asian countries there are presented only Kyrgyzstan and Kazakhstan, while Tajikistan which has been the WTO member since 2013, Uzbekistan which has observing status and Turkmenistan, which does not have any negotiations with WTO for becoming its member, are absent in this portal.

In the meanwhile, the database entangles all countries affected by NTMs, including Armenia, Belarus and the rest countries of the world. Because data collection on NTMs is being gathered, in the nearest future one might expect observation of the full NTMs database with all countries that impose these measures.

Classification of NTMs is based on UNCTAD's classification: Sanitary and Phytosanitary (SPS), Technical Barriers to Trade (TBT), Pre-shipment inspection

(INSP), Contingent trade protective measures (CTPM), Quantity control measures (QC), Price control measures (PC), Other measures (OTH) [from chapters G,H,I,J,K,L,M,N,O] and Export-related measures (EXP).

Table 4. Non-tariff measures.

State	CTPM	EXP	INSP	OTH	PC	QC	SPS	TBT
Kazakhstan	-	47	5	3	5	3	165	401
Kyrgyzstan	-	54	6	4	4	3	160	365
Russia	19	46	15	1	4	6	206	335

Source: TRAINS UNCTAD. URL: <http://trains.unctad.org>

Among three EAEU member states, the biggest number of NTMs is imposed by Russian Federation, 632 measures, while Kazakhstan imposed by 3 measures less, 629 measures and Kyrgyzstan imposed 596 measures (see Fig. 2).

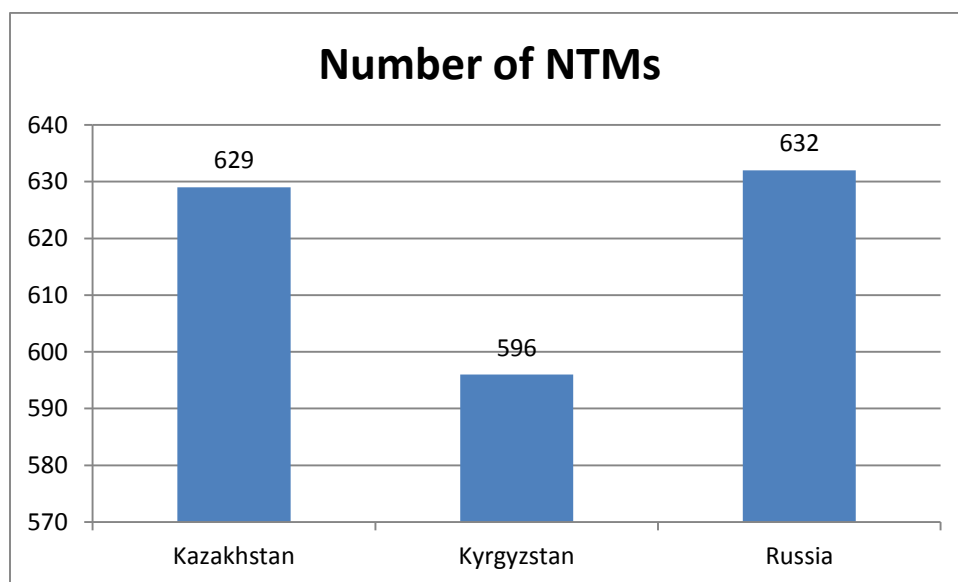


Figure 2. Number of non-tariff measures.

Source: TRAINS UNCTAD. URL: <http://trains.unctad.org>

As Kazakhstan, Kyrgyzstan and Russia are members of one union and try to unify technical regulations, standards and label requirements, types of non-tariff measures are the same as in other EAEU member-states and it is seen in the Table 4, where amount of SPS measures and TBTs is relatively the same. The same relates to price control measures, quantity control, export-related measures and other measures, with the exception of contingent trade protective measures, imposed only by Russia.

But for all that there is some dissimilarity in non-tariff measures imposed by each country, even in respect to each other. Some of these dissimilarities are being discussed within the Eurasian Economic Union itself.

One such NTM imposed by the Kyrgyz Republic is classified as Price Control measure (F9- Price-control measures, n.e.s) with implementation date from 05/01/2017. In order to keep receiving full amount of indirect taxes, the Kyrgyz Republic defined minimum level of control prices for certain goods. The meaning of this measure is to define minimum prices that will be used in the calculation of indirect taxes and it is applied against EAEU members. The following products are affected by this measure: Portland cement grade M400D20, sugar, coal, wheat flour from durum wheat, wheat flour from soft wheat and spelt, timber, rice and eggs. The price control measure is not spread out on domestic products. This measure was extracted from the national legal basis: "Procedure for the determination, application and monitor of the minimum level of control prices for goods imported into the territory of the Kyrgyz Republic from the member states of the Eurasian Economic Union" approved by the Decree of the Government of the Kyrgyz Republic of 12 October 2016 No. 537.

Among NTMs imposed by Russia, there is export-oriented measure which affects all members with unclear position whether this measure impedes domestic companies as well because it give preferences to the limited number of domestic companies. According to the Order of 14 July 2014 No. 1277-p: List of organizations that are granted an exclusive right to export LNG, several companies like OJSC "Gazprom", OJSC "Rosneft", LLC "Yamal LNG", LLC "Arctic LNG 1", LLC "Arctic LNG 2", LLC "Arctic LNG 3" have exclusive right to export liquefied natural gas (LNG) from the territory of Russia with the presence of export license issued by the Ministry of Energy of Russian Federation. This measure is classified as export-oriented measure (EXP), P21 - State-trading enterprises, for exporting.

There are measures imposed by Russia in relation to separate states, including the EAEU member-states. Since 13 February 2017 Russian, importers have been required to have a permit on imports of certain products from Belarus. This measure is classified as SPS measure (A14 - Special authorization requirement for SPS reasons) and is about adoption of special and additional control measures with respect to Belarus products that bear a risk of African Swine Fever spread. This list entangles 33 products, and all of them are related to agro food products.²⁰

²⁰ Live swine; Meat of swine, fresh, chilled or frozen; Edible offal of swine fresh, chilled or frozen; Pig fat, free of lean meat not rendered or otherwise extracted, fresh, chilled, frozen, salted, in brine, dried or smoked; Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal; Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; waste of such bristles or hair; Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked; Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised; powder and waste of these products; Animal products not

elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption; Hunting trophies, stuffed animals including those that underwent taxidermy treatment or were preserved; Flinty wheat (only feed grain); Soft wheat (only feed grain); Rye (only feed grain); Barley (only feed grain); Oats (only feed grain); Other corn (only feed grain); Soya bean (only feed grain); Flours and meals of oil seeds or oleaginous fruits, other than those of mustard used as feed; Pig fat (including lard), other than that of heading 02.09 or 15.03; Sausages and similar products, of meat, meat offal or blood; food preparations based on these products; Other prepared or preserved meat, meat offal or blood;

22. Extracts and juices of meat; Stuffed (with sausages, meat or meat by-products, blood or with any combination of these products) pasta, whether or not cooked or otherwise prepared; Processed/melted cheese and food preparations not elsewhere specified or included containing sausages, meat, meat by-products, blood or any combination of these products; Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption; greaves; Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants used as feed for animals; Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets used as feed for animals; Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soyabean oil used as feed for animals; Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, other than those of heading 23.04 or 23.05 used as feed for animals; Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included; Other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split, other than those excluded by Note 1 (b) or 1 (c) to this Chapter; Articles of gut (other than silk-worm gut), of goldbeater's skin, of bladders or of tendons; Used equipment intended for transportation, reproduction/breeding, temporary storage of animals of all kinds; used equipment intended for transportation of materials (products) of animal origin.

As well, Rosselkhoznadzor²¹ suspects companies from the Minsk region of Belarus in fraud: meat (beef and beef by-products) originating from Ukraine and European countries (its imports is prohibited to Russia by the means of product embargo) is being supplied by Belarus companies to Russia as meat produced (originating) in Belarus. This is done by re-packing, re-labelling of products. That is why Rosselkhoznadzor decided to temporary ban beef and beef by-products coming from Belarus. This measure is classified as SPS (A11 - Temporary geographic prohibitions for SPS reasons) and came into force on 6 February 2017 and still is in progress.

Many NTMs imposed by Kazakhstan are similar to those imposed by Russia with some differences. For 2018 Kazakhstan enforced quantity control measures in respect to numerous countries²². Thus, there is a tariff rate quota for

²¹ Federal Service for Veterinarian and Vegetation Sanitary Supervision, Russian Federation

²² Afghanistan, Åland Islands, Albania, Algeria, American Samoa, Andorra, Angola, Anguilla, Antarctica, Antigua and Barbuda, Argentina, Aruba, the Netherlands with respect to, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Kingdom of, Bangladesh, Barbados, Belgium, Belize, Benin, Bermuda, Bhutan, Bolivia, Plurinational State of, Bonaire, Sint Eustatius and Saba, Bosnia and Herzegovina, Botswana, Bouvet Island, Brazil, British Indian Ocean Territory, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Canada, Cayman Islands, Central African Republic, Chad, Channel Islands, Chile, China, Chinese Taipei, Christmas Island, Cocos (Keeling) Islands, Colombia, Comoros, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Curacao, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, European Union, Faeroe Islands, Falkland Islands (Islas Malvinas), Fiji, Finland, France, French Polynesia, French Southern Territories, Gabon, Georgia, Germany, Ghana, Gibraltar, Greece, Greenland, Grenada, Guam, Guatemala, Guernsey, Guinea, Guinea-Bissau, Guyana, Haiti, Heard Island and McDonald Islands, Holy See, Honduras, Hong Kong, China, Hungary, Iceland, India, Indonesia, Iran, Iraq,

duty free imports of cane raw sugar to the territory of Kazakhstan in 2018 in the amount of 370000 tonnes (QC – E621) and the established tariff-rate quotas for certain agricultural goods (meat of bovine animals (fresh, chilled or frozen), poultry) imported in 2018 into the EEU by Kazakhstan QC measure (E611 - Global allocation). The last measure was adopted by the EAEU, Decision of 18 August 2017 N 97 "On establishing the tariff-rate quotas for certain agricultural goods imported in 2018 into the EEU".

Ireland, Israel, Italy, Jamaica, Japan, Jersey, Jordan, Kenya, Kiribati, Korea, Democratic People's Republic of, Korea, Republic of, Kosovo, Kuwait, the State of, Kyrgyz Republic, Lao People's Democratic Republic, Latvia, Lebanese Republic, Lesotho, Liberia, Republic of, Libya, Liechtenstein, Lithuania, Luxembourg, Macao, China, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mayotte, Mexico, Micronesia, Federated States of, Moldova, Republic of, Monaco, Mongolia, Montenegro, Montserrat, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, Netherlands Antilles, New Caledonia, New Zealand, Nicaragua, Niger, Nigeria, Niue, Norfolk Island, Northern Mariana Islands, Norway, Oman, Pakistan, Palau, Palestine, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Pitcairn, Poland, Portugal, Puerto Rico, Qatar, Romania, Rwanda, Saint Barthélemy, Saint Helena, Saint Kitts and Nevis, Saint Lucia, Saint Martin, Saint Pierre and Miquelon, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Sark, Saudi Arabia, Kingdom of, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovak Republic, Slovenia, Solomon Islands, Somalia, South Africa, South Georgia and the South Sandwich Islands, South Sudan, Spain, Sri Lanka, Sudan, Suriname, Svalbard and Jan Mayen, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Tanzania, Thailand, The former Yugoslav Republic of Macedonia, The Gambia, Timor-Leste, Togo, Tokelau, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Turks and Caicos Islands, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States Minor Outlying Islands, United States of America, Uruguay, Uzbekistan, Vanuatu, Venezuela, Bolivarian Republic of, Vietnam, Virgin Islands, British, Virgin Islands, US, Wallis and Futuna Islands, Western Sahara, Yemen, Zambia, Zimbabwe

In respect to Kyrgyzstan, Kazakhstan imposed the SPS measure A11, a temporary restriction to import live animals that are prone to foot-and-mouth disease, meat and dairy products, raw materials obtained from animals that are prone to foot-and-mouth disease, used equipment intended for storage or slaughter of animals prone to foot-and-mouth disease from Kyrgyz Republic, which came into force on 19 October 2011. The same temporary restrictions are dispersed on Mongolia, Tunisia, Armenia and Turkey.²³

On 29 May 2015 the Eurasian Economic Union and the Socialist Republic of Vietnam signed a Free Trade Agreement which became the first international document on the FTA between the EAEU and a third party. Upon this Agreement it was decided to regulate the procedure for applying trigger protective measures and bilateral protective measures.²⁴ The trigger protective measure is applied in the form of customs duty, equivalent to the rate of customs duty applied of the most favoured nation treatment in relation to concerned goods at the date of enter force. These measures are related to the sensitive commodities such as furniture, footwear, light industry commodities, etc. Regarding bilateral protective measure, it can be applied if, as a result of a reduction or cancellation of import customs duties in trade with Vietnam and/or increased imports from Vietnam harm the producers of the EAEU or create the threat of causing such damage.

According to the TRAIND database, Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia imposed TBT – B7 on Vietnam based upon the Technical regulation of Customs Union for "Juices from fruits and vegetables" (CU TR

²³ TRAINS UNCTAD. URL: <http://trains.unctad.org>

²⁴ On Trigger Protective Measures and Bilateral Protective Measures Appliance within the Agreement on Free Trade between the Eurasian Economic Union and its Member-States and the Socialist Republic of Vietnam // Eurasian Economic Commission Council. 18.10.2016. URL: https://docs.eaeunion.org/docs/ru-ru/01412369/cncd_23122016_115

023/2011) confirmed by Decision of 9 December 2011 No. 882, referring to requirements on the minimum levels of dry substances (fruit juice) in certain types of juice drinks Vietnam products covered by technical measure are the following:

1. Juices from fruits and (or) from vegetables (besides tomato juice).
2. Fruit and (or) vegetable nectars.
3. Fruit and (or) vegetable juice drinks.
4. Fruit and (or) vegetable puree (besides tomato puree), concentrated fruit and (or) vegetable puree (besides tomato concentrated puree).
5. Tomato juices, tomato puree, concentrated tomato puree (pastes).

Besides Vietnam, this technical regulation on requirements of the minimum levels of dry substances as fruit juice is applied to all WTO members as well.

In addition to the described requirement, Kazakhstan imposed a temporary restriction to import feed for birds and used equipment intended for bird storage or slaughter (avian influenza) from Vietnam; this NTMs is classified as SPS measure, A11 - Temporary geographic prohibitions for SPS reasons.

Conclusion

The conducted analysis is just the first effort to investigate non-tariff measures in all of the former Soviet countries. Special interest of NTMs appliance generates the Eurasian Economic Union, as it is kind of unique union after Soviet Union collapse, young enough and ambitious.

The analysis of non-tariff measures applied by members of the Eurasian Economic Union in respect to as other countries as to each other shows that sometimes these measures are imposed for protection of health, environment and safety and they are necessary, like prohibition of import ban on ozone-depleting substances and products containing ozone-depleting substances prohibited for import and export, instruments of extraction (fishing) of aquatic biological

resources prohibited for import, plant protection products and other persistent organic pollutants prohibited from being imported and others²⁵. In other cases, like implementation of pedagogical and psychological expertise of every importing toy, quantity control of cane raw sugar and others are imposed by other reasons: protection of domestic industry, elimination of the amount of imported goods, especially when imported commodities are more popular than domestic ones and other defensive reasons.

The work on NTMs gathering and analysis should be continued as it might help us to make these measures more transparent, see the cases of rude violation of legislation and commitments like WTO, EAEU, and some kind of “success” measures, which are helpful in sustainable development achievement: protection of health, safety and environment.

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Практика применения нетарифных мер в ЕАЭС²⁷

Аннотация

В работе освещается ряд нетарифных мер, применяемых в Евразийском экономическом союзе. На основе статистических данных и регулятивных механизмов, введенных в последние годы, проанализированы возможности и риски с учетом функционирования зоны свободной торговли ЕАЭС-Вьетнам.

Ключевые слова: ЕАЭС, нетарифные меры, технические барьеры, санитарные меры, Вьетнам, сельскохозяйственная продукция.

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²⁷ Статья поступила в редакцию в сентябре 2018 г.