



Is the Implementation of Non-Tariff Measures under the AANZFTA Agreement Transparent and Predictable?

**Myrna S. Austria, Ph.D.
School of Economics, De La Salle University**

**AEC Public Symposium
22 September 2017**





Outline of Presentation

1. Objectives of the study
2. What does transparency mean?
3. AANZFTA Agreement on NTMs
4. Methodology
5. Findings
6. Recommendations





Objectives of the paper

1. To determine actual practices in the implementation of NTMs in ANZ based on the experience of AMS business sector;
1. To identify issues & problems in NTM implementation that are perceived as barriers to trade;
1. To identify areas for improvement of the Agreement concerning the implementation of NTMs and of the regulatory framework of the FTA members.





What are NTMs?

Measures, other than tariff, that distort trade; most common are sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT).

In general, NTMs include border and behind-the-border measures that arise from government regulatory policies, procedures and administrative requirements which are imposed to serve a particular purpose.

WTO trade disciplines to ensure transparency in implementation





What Does Transparency Mean?

“degree to which trade policies and practices, and the process by which they are established, are open and predictable” (WTO Glossary).

Transparency requires that information are available & accessible in a systematic manner.

Availability - content & quality of information made public by the government.

Accessibility - ease of finding & understanding the information.

Benefits of Transparency

- Predictability of the business environment
- Reduced business costs





AANZFTA Agreement on NTMs

Areas of Transparency

1. Publications of regulations

- Prompt publications of all SPS regulations
- Reasonable time interval between the publication of a regulation & its entry into force

1. Enquiry points

- One (1) enquiry point responsible for responding to questions & providing relevant documents
- Documents requested be provided at the same price for both nationals and foreigners

1. Notification procedures

- Publication of notification when an international standard or guidelines does not exist or a proposed standard or guidelines is not substantially the same as the international standard,





Methodology

Survey through interview

Respondents: producers, exporters, traders, manufacturers, industry associations in Ams

SPS: 76 respondents

TBT: 75 respondents





Results of the Survey: SPS measures

23 SPS measures encountered, the most common are:

- Special authorization requirement for SPS reasons (A14)
- Certification requirements (A83)
- Storage and transport conditions (A64)
- Packaging requirements (A33)
- Labelling requirements (A31)

Food & food processing - industry with the most number of SPS measures (20 SPS measures)





Results of the Survey: SPS measures

Publication of regulations

- Government laws and regulations in ANZ are published & accessible to the public (**74%** of respondents)
 - Top 3: government websites, government regulatory portal & websites of conformity assessment bodies
- Publication is prompt, enabling the business sector to be acquainted with them (**88%**); they are comprehensive, clear & easy to understand (**80%**)
- Time interval between the publication & date of enforcement
 - Between 3-4 months (**36%**)
 - Between 5 months –1 year (**32%**)

Time interval sufficient to adapt the product or production methods to the requirements of regulations (**78%**)





Results of the Survey: SPS measures

Conformity Assessment

- Duration of processing period for conformity assessment is published **(61%)**.
- Actual duration to complete the assessment procedure is within the period published **(63%)**.
- When assessment is delayed, the reasons for delay are explained **(61%)**.
- Companies are informed of deficiencies in case documents required for assessment are incomplete **(78%)**.
- Fees for conformity assessment reasonable compared to fees charged for similar products in ANZ **(59%)**.
- Discrimination between the ANZ businessmen and exporters from the AMSs **(24%)**





Results of the Survey: SPS measures

Notification Procedures

- Publication of notice when an international standard, guideline or recommendation does not exist or the content of a proposed SPS regulation is not substantially the same as the content of an international standard or guideline (**63%**).
- Notification is done in English (**82%**) & includes the necessary information such as the products to be covered, objectives and rationale of proposed regulation(**86%**).





Results of the Survey: SPS measures

Enquiry Points

- A government agency or office in ANZ is designated as Enquiry Point that can respond to questions or clarification **(50%)**.
- If there is more than one enquiry point, complete information on the contact details and scope of responsibilities of each agency/office is provided **(46%)**.
 - Scope of responsibilities of each agency is clear **(50%)**
 - Can create confusion & entail more time than is necessary in knowing & complying with government regulations.
- Price of documents or forms the same for both local and foreign suppliers **(45%)**.





Results of the Survey: TBT measures

18 TBT measures, the most common are:

- labelling requirements (B31)
- testing requirements (B82)
- packaging requirements (B33)
- TBT regulations on production processes (B41)
- processing history (B852)

Chemical and allied industries has the most number of TBT measures (11)





Results of the Survey: TBT measures

Publication of regulations

Government regulations & administrative guidelines are published **(71%)** & publication is prompt **(81%)**:

➤ Top 3: government websites, government regulatory portals and websites of CABs

They are comprehensive, clear and easy to understand **(84%)**

Time interval of either 3-4 months or 5 months-1 year between the publication of regulations and their enforcement.

➤ Time interval considered sufficient to adapt to the requirements **(69%)**





Results of the Survey: TBT measures

Conformity assessment

- Duration of processing period for conformity assessment is published **(63%)**
- Actual duration is within the period published **(76%)**
- When there is delay in assessment, reasons for delay are explained **(55%)**
- When documents for assessment are incomplete, companies are informed of the deficiencies **(71%)**
- Fees for conformity assessment are reasonable compared to fees charged for similar products in ANZ **(45%)**.
- Discrimination between the locals and exporters from the AMS **(43%)**





Results of the Survey: TBT measures

Notification procedure

- When a relevant international standard does not exist, a notice is published at an early stage (**59%**).
- Notification done in English (76%) and includes the products covered, objectives and rationale of the proposed standard (**81%**)





Results of the Survey: TBT measures

Enquiry points

There is a government agency in ANZ which can respond to questions or clarifications on the regulations or when they need documents or forms **(55%)**

If there is more than 1 enquiry point, complete information on the contact details & responsibilities of each agency is provided **(65%)**

➤ Scope of responsibilities of each agency is clear **(47%)**

Price of documents & forms is the same for both the locals and exporters from the AMSs **(49%)**





SPS & TBT as Barriers to Trade

1. Different regulations in different markets increase business costs.
1. Regulations too general, unclear & difficult to understand; make compliance difficult
1. Gap in standards between ANZ and AMSs significantly affects export volume.
1. Lack of enforcement; implementation of regulations not clear; discrimination in implementation
1. Cost of compliance too high; prevents small producers from exporting
1. Complex bureaucratic procedures





Recommendations

Quality of regulations

- Simplification of standards, regulations and documents required.
- Harmonization of standards and regulations among FTA members
- Evidence-based review of SPS/TBT measures

Regulatory practice

- Equal treatment of between ANZ and AMS businessmen
- Use of technology to enhance accessibility of regulations
 - Portals & websites of government regulatory agencies.
 - Online application & submission of requirements
- Clear scope of responsibilities of each enquiry point to avoid confusion

Capacity building

- Capacity building for producers/traders/exporters in AMSs through seminars/workshops to create greater awareness on SPS/TBT measures.
- Legal support or assistance to small exporters/producers to enable them to understand and adapt SPS/TBT measures.





Thank you

the future begins here.

