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SOME ASPECTS OF NON-TARIFF MEASURES WITHIN EURASIAN ECONOMIC UNION¹

During the past few decades in contrast to declining significance of tariffs as traditional form of trade policy the role of non-tariff measures has grown. First of all, provisions of the General Agreement on Tariffs and Trade (GATT) and later rules of the World Trade Organization, that was established in 1995, reduced tariff trade barriers among member-countries.

Additionally to the WTO efforts, countries tend to sign different regional trade agreements (RTAs). The most RTAs in the world are Free Trade Agreements (FTAs) that are aimed at decrease or elimination of tariffs in mutual trade between two or more parties. All in all, simple mean of applied tariffs in the World has decreased from 9.68% in 2001 to 6.8% in 2015 (World Bank Open Data, 2017).

Logically this situation with tariffs led to the rise in NTMs applied by countries that participate in FTAs and/or the WTO. In (Cadot et al., 2016) authors have illustrated the increase of the cumulative number of applied NTMs within Association of Southeast Asian Nations (ASEAN)² during the period from 2000 to 2015. As tariffs decreased in the same time period³, number of NTMs has increased approximately from 1700 to 6000.

Most theoretical works conclude that adoption of NTMs may be explained by two main arguments. Firstly, NTMs are applied in order to protect domestic business that cannot compete with foreign producers (WTO, 2012; New Zealand Institute of Economic Research, 2016). Secondly, governments try to provide consumers with good quality products and prevent them from dangerous goods (Orefice, 2015; WTO, 2012; UNCTAD, 2013).

In addition, most of empirical literature analyses ad valorem equivalents (Kee, Nicita, 2016) or the determinants of the adoption of NTMs (Hergheliegiu, 2016). Therefore one of the crucial parts of the research is estimation of the effects of application of NTMs on trade flows between countries.

Nevertheless, these works indicate (at least indirectly) that one of the main constrains in the NTM analysis is the absence of high-quality data within country⁴ and time dimensions. In case of post-soviet countries the absence of high-quality data results in lack of researches on NTMs used in trade policy of the Eurasian Economic Union and its members.

Legal framework for NTMs within the Eurasian Economic Union

Since January 1, 2010 Customs Union among Republic of Belarus, Republic of Kazakhstan and Russian Federation was established. This Customs Union meant free

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² Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam.

³ Still empirical works on this matter do not come to one conclusion whether tariffs and NTMs are complements or substitutes.

⁴ Currently some organizations and researchers (e.g. the UNCTAD and Global Trade Alert) gather data on NTMs. Nevertheless, there are some nuances to the gathered data: e.g. in some cases the data is outdated, selected data collection techniques can be different.

movement of goods among member-states. On January 1, 2015 the Customs Union transformed into Eurasian Economic Union (Union) (Eurasian Economic Commission, 2015). EAEU integration means free movement of goods, services, capital and labor among member-states. Initially three countries were members of EAEU (Belarus, Kazakhstan and Russia). Later Armenia and Kyrgyz Republic joined the EAEU on January 2, 2015 and August 12, 2015 correspondingly.

The legal basis of the Eurasian Economic Union includes the Agreement on Eurasian Economic Union (Agreement on Eurasian Economic Union, 2014). In turn its article 6, point 1 defines that the legal system of the Union is composed of international agreements within the Union (e.g. Customs code of EAEU¹), international agreements of the Union with the third parties (e.g. Free Trade Agreement between the Eurasian Economic Union and Vietnam²) and decisions of the Supreme Eurasian Economic Council, Eurasian Intergovernmental Council and Eurasian Economic Commission (e.g. Decision of the Board of the Eurasian Economic Commission of April 21, 2015 No. 30 “About non-tariff regulating measures³”).

Agreement on EAEU contains some basics of NTM application. Generally non-tariff measures that are introduced within EAEU legislation are common among all EAEU members⁴. However there may be specifics of NTM implementation only in case of imports to one of the member-state.

All in all, the following provisions of the Agreement on EAEU cover the issues of adoption of NTMs: Article 44 and Annex 6 (Article III), Article 46 and Annex 7, Articles 48–50 and Annex 8, Articles 51–55 and Annex 9, Articles 56–59 and Annex 12 (see table 1).

Table 1

Description of different NTM-related articles in Agreement on EAEU

Place in Agreement on EAEU	Description (name of article/section)	Example of a legal act
Article 44, Annex 6 (Part III)	Tariff-rate quotas	Decision of August 18, 2017 No. 97 “On establishing the tariff-rate quotas for certain agricultural goods imported in 2018 into the EEU”
Article 46, 47, Annex 7	Non-tariff regulating measures	Decision of April 21, 2015 No. 30 “About Non-tariff regulating measures”
Articles 48–50, Annex 8	Measures on protecting internal markets	Decision of January 26, 2016 No. 6 “About implementation of antidumping measure through antidumping duty in relation to seamless pipes from noncorrosive (stainless) steel, originating from Ukraine and imported to the customs territory of Eurasian Economic Union”

¹ It came in force since January 1, 2018. Text of Customs code of EAEU is available here: https://docs.eaeunion.org/docs/ru-ru/01413569/itia_12042017.

² Available here: https://docs.eaeunion.org/docs/ru-ru/0147849/itot_02062015.

³ It must be noted that technically in Russian language this legal act is called “About non-tariff measures”. This text translates these “non-tariff measures” as “non-tariff regulating measures” because the definition of this term differs from UNCTAD’s interpretation of non-tariff measures and does not include some types of measures like price-control measures. From the point of view of Eurasian Economic Commission and of this legal act, non-tariff regulating measures are import or export authorization measures as well as import or export prohibition measures (mostly this applies to sensitive products, like ozone-depleting products, hazardous wastes, etc.). Nevertheless current text uses the term “non-tariff measures” in the same meaning as it is defined by UNCTAD. For the sake of simplicity, Decree of April 21, 2015 No. 30 was translated as “About Non-tariff Measures”.

⁴ Though there may be specifics of NTM implementation for each country. E.g. Decision of June 18, 2010 No. 317 “On implementation of veterinary-sanitary measures in Eurasian Economic Union” in part of uniform requirements states that imports of natural honey (HS 0409 00 000 0) is subject to authorization only in case of imports to Republic of Belarus.

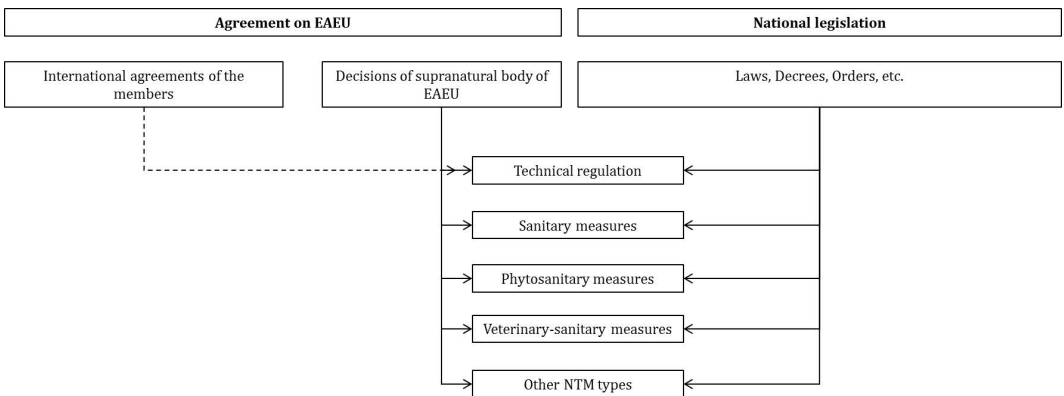
End of table 1

Place in Agreement on EAEU	Description (name of article/section)	Example of a legal act
Articles 51–55, Annex 9	Technical regulation	Technical regulation of Customs Union “On safety of toys” confirmed by Decision of September 23 2011 (TR CU 008/2011)
Articles 56–59, Annex 12	Sanitary, veterinary-sanitary and quarantine phytosanitary measures	Uniform Sanitary Epidemiological and Hygienic Requirements for the Goods Subject to Sanitary and Epidemiological Supervision (Control) confirmed by Decision of May 28, 2010 No. 299

Source: compiled by author based on information from Agreement on EAEU (Agreement on Eurasian Economic Union, 2014).

At the same time, in general, UNCTAD classifies 16 types of NTMs. Among them there are, for example, measures called “Price-control measures, including additional taxes and charges” (UNCTAD, 2012). Particularly, in this section there is value added tax (VAT). In turn, the application of this measure is stipulated in separate articles of the Treaty on the EAEU (in this case in articles 71–72). However, in general, tax regulation is more prerogative of the national legislation of the EAEU member-countries than the aspect of the supranational legislation of the EAEU).

Fig. 1 demonstrates the peculiarities of adoption and implementation of NTMs by EAEU member-countries.



Source: compiled by author.

Fig. 1. Simplified representation of NTM- and trade-related legal architecture of EAEU

In short, each member of the Union introduces NTMs either by national or supranational legislation. Thus NTMs may be implemented in the following ways:

- 1 Measure is implemented by national legislation only.
- 2 Measure is implemented only by the EAEU legislation (e.g. measures from EAEU technical regulations).
- 3 Measure is implemented both by EAEU and national legislation (e.g. measures on tariff-rate quotas (TRQs)).

According to TRAINS/WITS database, all in all, 385 EAEU NTMs are in force as of March 2018¹. All in all, Russia has approximately 246 measures², which are implemented by national legislation. In Kazakhstan this figure is about 233, in Kyrgyz Republic – 215

¹ The author used separate data on Russia, Kazakhstan and Kyrgyzstan in order to analyze EAEU supranational measures. UNCTAD’s country-specific datasets do not differentiate between national and supranational NTMs.

² For Russia the data has been gathered in the period of 2016 – early 2017 and has not been updated since.

applied NTMs as of September 14, 2018 (WITS/TRAINS Database, 2018). So it means that the level of harmonization of applied NTMs in EAEU is still relatively low.

In this article EAEU measures are defined as measures adopted only by EAEU legislation and (i.e. together with) as measures that are reflected both in EAEU legislation and national legislation.

This approach is based on specific cases within EAEU. For example, there is EAEU legislation on tariff-rate quotas for 2017, i.e. these quotas (and specifics of their application) are defined in Decision of the Board of the Eurasian Economic Commission of August 30, 2016 No. 97 “About setting tariff-rate quotas for certain types of agricultural goods imported into the customs territory of the Eurasian Economic Union in 2017, as well as about the volume of tariff-rate quotas for these goods imported into the territory of the member states of the Eurasian Economic Union” (Board of the Eurasian Economic Commission, 2016a). The legal act establishes volumes of TRQs for all EAEU member-countries, including Kyrgyz Republic and Republic of Kazakhstan (TRQs are different among countries and are applied to a different sets of products). National legislation of these countries (in this case Kyrgyz Republic and Republic of Kazakhstan) also has corresponding national legal acts for setting TRQs in 2017. But the point is that for the Kyrgyz Republic there are no analogous (to EAEU) national legal acts that specify and set the same and concrete amount of TRQs as in EAEU legislation – there is a separate decree on the rules of distribution of TRQs (“Rules on distribution of tariff-rate quotas among the participants of foreign trade activity on imports of certain types of meat to the Kyrgyz Republic, approved by Decree of the Government of the Kyrgyz Republic of December 29, 2015 No. 889” (Government of the Kyrgyz Republic, 2015) and separate documents from Ministry of Agriculture, Food sector and Amelioration on the list of documents required for distribution of TRQs¹.

In turn, TRQs for Kazakhstan that are set by EAEU legislation find their reflection in national legislation. For example, concrete volumes of TRQs (as in EAEU legislation) for 2017 are set in the following national legal acts: Order of January 25, 2017 No. 20 “About some questions in relation to distribution of tariff-rate quotas for imports of certain types of meat” (Ministry of national economy of Republic of Kazakhstan, 2017a), Order of December 6, 2016 No. 509 “About distributing among meat processes of tariff-rate quotas in 2017” (Ministry of agriculture of Republic of Kazakhstan, 2016), Order of May 11, 2017 No. 196 “About distributing tariff-rate quotas among historical suppliers in 2017 (2nd stage)” (Ministry of National Economy of Republic of Kazakhstan, 2017b).

Another example on concordance between measures defined in EAEU legislation and same measures defined in national legislation is requirement to have phytosanitary certificate in order to import quarantinable products² of high phytosanitary³ risk to the territory of EAEU member-states (i.e. movement to the customs border of EAEU and movement within the customs territory of EAEU).

EAEU measures as trade barriers

About 96% of EAEU measures are technical measures applied to imports, in other words TBT and SPS NTMs. Among them most popular measures include labelling requirements, quality requirements and requirements in the sphere of conformity assessment (testing,

¹ Can be found here: http://www.agroprod.kg/index.php?aux_page=aux27.

² Concrete list of products (with HS codes) for example can be found here: <https://www.fsvps.ru/fsvps-docs/ru/usefulinf/files/quarantineprodlist.pdf>.

³ The same applies to measures on inspection of quarantinable products of low phytosanitary risk and testing of quarantinable products of high phytosanitary risk.

certification and declaration of conformity). As for exports, 7 measures out of 11 export-related measures belong either to export-prohibition requirements (5 measures) or to export-authorization (licensing, permits) requirements (3 measures).

In terms of HS coding most affected by EAEU NTMs products are from the following HS groups: “Electrical machinery and equipment” (HS 85), “Plastics and articles thereof” (HS 39), “Articles of iron or steel” (HS 73), “Nuclear reactors, boilers, machinery and mechanical appliances” (HS 84) and “Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus” (HS 90). It is important to add that alcohol products will be highly affected by supranational NTMs as soon as technical regulation on alcohol products is adopted on EAEU level. Most of the measures are technical measures applied to imports.

We should not consider all EAEU NTMs as trade barriers. They do not always limit trade and welfare of the consumers. Economic effect depends on different factors like the type of measure or its harmonization with the regulations of partner countries and others. NTMs very often are not countable. It means that researchers have to use different econometric and mathematical methods (e.g. partial and general equilibrium models) in order to estimate costs of such trade policy instruments. However we can preliminary suppose that a non-tariff measure seems to be a trade barrier if we analyze a country and purpose factor. In other words, we can check affected countries for the consistency of NTM application in terms of correspondence to Articles I (Most-Favoured-Nation Treatment) and III (National treatment) of General Agreement on Tariffs and Trade (GATT). Additional option is to figure out and analyze procedural obstacles related to the NTM implementation.

EAEU NTMs and WTO rules

From the point of view of EAEU NTM analysis in terms of correspondence to Article I of GATT it should be noted that 352 EAEU measures (observations) out of 385 are implemented to all countries equally (without making exceptions to EAEU members). It accounts for about 94% of the total number of EAEU NTMs.

However, the EAEU member-states apply 8 measures (2%) to the third countries (i.e. to all countries beyond the EAEU). Further, we will consider legal acts that contain such measures:

1 Uniform veterinary (veterinary and sanitary) requirements imposed on the goods subject to veterinary control (supervision) confirmed by Decision of June 18, 2010 No. 317¹ (Commission of Customs Union, 2010c).

2 Decision of April 21, 2015 No. 30 “About Non-tariff regulating measures” (Board of the Eurasian Economic Commission, 2015).

3 Decision of November 30, 2016 No 157 “About uniform quarantine phytosanitary requirements to quarantinable products and objects applied at the customs border and on customs territory of Eurasian Economic Union” (Council of Eurasian Economic Union, 2016).

4 Regulations of quarantine phytosanitary control (supervision) at the customs border of the EEU approved by the Decision of the CU Commission on 18 of June 2010 No. 318 (Commission of Customs Union, 2010a).

Uniform veterinary requirements (Commission of Customs Union, 2010c) contain two measures applied to imports from countries outside EAEU: import authorization requirement for imports of products subject to veterinary control and imports of

¹ Uniform veterinary requirements.

laboratory animals, embryos and zygote. The EAEU members do not have to meet these requirements.

According to Decision of April 21, 2015 No. 30 “About Non-tariff regulating measures” (Board of the Eurasian Economic Commission, 2015) imports and exports of precious stones and metals from/to the third countries must have an act of public control. Actually, these requirements (i.e. import-related) can’t be considered as discriminatory as they are adopted for public policy goals of regulating the distribution of precious stones and metals on the territory of EAEU¹.

Decision of November 30, 2016 No. 157 “About uniform quarantine phytosanitary requirements to quarantinable products and objects applied at the customs border and on customs territory of Eurasian Economic Union” (Council of Eurasian Economic Union, 2016) allows imports of live quarantine objects for research purposes from third countries with the presence of authorization. This measure is clearly implemented for the purpose of protection of life and health of animals and plants. So basically on an intuitive level taking into account the purpose of measure and its semi-commercial basis, it can’t be considered as discriminatory.

Regulations on quarantine phytosanitary control (supervision) at the customs border of the EEU approved by the Decision of the CU Commission on 18 of June 2010 No. 318 (Commission of Customs Union, 2010a) introduce another measure that is applied to the third countries only. Imports of quarantinable products of high phytosanitary risk to the customs territory of EAEU have to be certified. However, the same measures are applied against EAEU member-countries (see, Regulations of quarantine phytosanitary control (supervision) on the territory of the EEU approved by the Decision of the CU Commission on 18 of June 2010 No. 318; Commission of Customs Union, 2010a). So this measure is not discriminatory to the third countries and does not contradict to the MFN regime.

Sometimes temporary restrictions on import of some goods can be applied to certain third countries. If they are introduced for example protecting human life and health or protecting the environment and are based on international agreements, they also can’t be considered as barriers to trade.

In terms of national treatment clause there are 63 EAEU measures (17% of total amount of EAEU measures) that are not applied to domestic producers (see table 2).

Table 2

Number of EAEU NTMs that are not applied to domestic producers, as of March 2018

EAEU legal act	Total number of NTMs	Number of import-related NTMs	Description
Decision of April 21, 2015 No. 30 “About Non-tariff regulating Measures”	31	19	Measures are mostly applied to products covered by international agreements/conventions, and also cover specifics of only import/export operations.
Decision of August 30, 2016 No. 97 “On establishing the tariff-rate quotas for certain agricultural goods imported in 2017 into the EAEU”	1	1	-
Decision of November 30, 2016 No. 157 “About uniform quarantine phytosanitary	4	4	—

¹ EAEU members have single customs territory and there is no customs control within EAEU. But there is phytosanitary control within EAEU.

End of table 2

EAEU legal act	Total number of NTMs	Number of import-related NTMs	Description
requirements to quarantinable products and objects applied at the customs border and on customs territory of Eurasian Economic Union”			
Uniform veterinary (veterinary and sanitary) requirements imposed on the goods subject to veterinary control (supervision) confirmed by Decision of June 18, 2010 No. 317	27	27	Legal act mostly covers import operations, while it seems that measures may be applied to domestic producers as well (e.g. requirements on the level of bacteria in fish meal, feed and feed additives, requirement on inspection of animals before slaughter)
Total	63	51	–

Source: compiled by author on the basis of WITS/TRAINS database (WITS/TRAINS Database, 2018).

Analysis of national treatment provision within EAEU legal acts led to the following conclusions. Supranational and national legislation within EAEU sometimes include measures simultaneously listed in EAEU legislation and legislation of member-countries. Moreover, duplications are also possible within one type of legal act (e.g. different EAEU legal acts may cover specific certification requirement).

According to the UNCTAD classification of NTMs technical measures of EAEU mostly are divided into two types of regulation: “Technical regulation” and “Sanitary, phytosanitary, veterinary-sanitary regulations”. Basically the purposes of these EAEU measures do not contradict the WTO Agreement on Technical Barriers to Trade (WTO, 1995a) and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) (WTO, 1995b), because in accordance to articles 52 and 56 of Agreement on EAEU (Agreement on Eurasian Economic Union, 2014) all technical measures that are adopted within aforementioned two types of regulation are introduced for the purpose of protection of human life and health, property, environment, life and health of animals and plants, prevention of the deceptive practices (for technical regulations).

Procedural aspect of EAEU measures

Most of EAEU measures are import-related technical measures, in other words, SPS and TBT in accordance with UNCTAD classification. About 77% of total classified EAEU legal acts are technical regulations (Board of Eurasian Economic Commission, 2016c; Eurasian Economic Commission, 2018).

Generally technical regulations are about quality requirement measures that are complemented by conformity assessment measures. Cadot and Ing have argued (Cadot O. et al., 2015) that there is relationship between introduction of technical measures and increased costs for firms. Sourcing costs¹ and enforcement costs² can be result of the adoption of NTMs. So sourcing costs are directly related to quality requirement measures. Enforcement costs are associated with conformity assessment measures.

For analysis of quality requirement measures we need detailed data on production costs of companies, so a separate research can be devoted to this type of NTMs. As for conformity assessment measures, their analysis requires revealing of procedural obstacles that are related to the implementation of the NTMs.

¹ Variable costs that represent the necessity to correspond to certain quality standards.

² Fixed costs representing resources required to comply with the “quality” NTMs themselves.

Analysis of procedural obstacles associated with NTM implementation is crucial to preliminary analyze specifics of technical regulations' implementation within EAEU, because procedural obstacles may lead to new trade barriers.

Conformity assessment within EAEU takes several forms: conformity approval¹ (certificate or declaration of conformity), registration (including public registration), testing, etc. (Commission of Customs Union, 2011b). Talking about conformity assessment within EAEU in general it should be noted that basic conformity approval scheme (receiving certificate or declaration of conformity) consists of several elements like analysis of technical documentation, testing of products, etc. (Commission of Customs Union, 2011b).

EAEU conformity approval measures can be divided into following categories of NTMs:

- Testing.
- Certificate of conformity.
- Declaration of conformity.
- Labelling with the United circulation symbol of EAEU.

Certificate and declaration of conformity that are received for conformity assessment purposes differ from each other. In order to receive certificate of conformity testing needs to be done by accredited laboratory, for declaration of conformity the producer run tests himself (or with the help of the third party – i.e. accredited laboratory).

So both types of documents represent different costs for companies and also they affect different products.

Products that are subject to obligatory requirements can be found in Decision of Commission of Customs Union of January 28, 2011 No. 526² (Commission of Customs Union, 2011c). Obligatory conformity approval requirements to products from the list are covered in either EAEU (Customs Union) technical regulations, national technical regulations (if currently there are no analogous technical regulations that are in force on the territory of EAEU), EAEU list of obligatory conformity assessment (Decision of April 7, 2011 No. 620 (Commission of Customs Union, 2011a) or national list of obligatory conformity assessment. For those products falling under EAEU legislation obligatory conformity approval takes form of issuing Customs Union/EAEU certificate or declaration of conformity, for products covered by national legislation – national conformity approval documents.

Actually the data on requirements of certificates and declarations of conformity is fragmented. This happens due to the lack of harmonization within the EAEU: some supranational technical regulations are under development and country-members still use their domestic technical requirements. Additionally, data fragmentation happens because list of products subject to obligatory conformity assessment (Decision 620) is shortened whenever a new EAEU technical regulation is introduced.

EAEU certificates and declarations of conformity issued for products that are subject to EAEU obligatory conformity assessment requirements (EAEU technical regulations and Decision 620) are valid on the whole territory of EAEU. These certificates are issued by national certification bodies.

Decision of the Board of EEC of December 25, 2012 No. 293 “About uniform forms of certificate and declaration of conformity issued in relation to products subject to technical regulations of Eurasian Economic Union and rules on filling them out” (Board of Eurasian Economic Commission, 2016b) defines details of issuing EAEU conformity documents.

¹ Obligatory conformity approval.

² For details see: <http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Documents/Ed%20perech%20new.pdf>. Products not included in this list can't be subject to additional national technical regulations and conformity assessment measures.

It is possible to figure out from this document the form of certificate and declaration of conformity and the instructions on the filling out them. Issues of time and costs are not covered by the Decision. Regulation on registration of declarations of conformity in relation to products subject to requirements of technical regulations of Customs Union (Board of Eurasian Economic Commission, 2013) reveals that certification authority must register EAEU declaration of conformity during the period of maximum 5 days.

There are some problems of receiving documents of conformity. In particular, testing laboratories in Kazakhstan use old facilities and rely on the outdated testing methods. For instance, national laboratories are not able to identify genetically modified sources, etc. (UNECE, ITC, 2014). Besides, Kyrgyz Republic can't for several EAEU (Customs Union) technical regulations¹ provide necessary procedures required to receive certificate of conformity or register declaration of conformity (Government of the Kyrgyz Republic, 2017). As a result importers as well as domestic producers can receive conformity approval documents only with the help of testing laboratories located on the territory of other EAEU member-states² (Sputnik, 2017).

Decision of the Board of EEC of June 30, 2017 No. 80 "About certificates of public registration of products" (Board of Eurasian Economic Commission, 2017) defines another form of conformity assessment in EAEU for products. It is called public registration for products that have not been imported before. Certificate of public registration requires a set of documents for products made in EAEU and products made in the third countries (see table 3).

Table 3

Documents required for public registration of products in EAEU

Products from EAEU Customs territory	Products from the third countries
Application	Application
Signed copies of documents which are used to produce products (e.g. technological instructions)	Signed copies of documents which are used to produce products (e.g. technological instructions)
Signed copy of quality certificate or passport of quality, etc.	Signed copy of quality certificate or passport of quality, etc.
Signed copy of manufacturer's document on the use of product	Signed copy of manufacturer's document on the use of product
Signed copies of labels	Signed copies of labels
Sample collection report	(In case of imports of disinfectants and disinfestations) Notarized copy of document issued by healthcare authority of exporting country (i.e. where product was produced) that the product is safe and allowed for the distribution on the territory of exporting country (or manufacturer's document proving the absence of need to present such document on free distribution)
Protocols of laboratory testing	Protocols of laboratory testing
Information on registration number of applicant (received during registration of company)	Notarized copies of documents proving imports of samples to the customs territory of the Union
—	Information on registration number of applicant (received during registration of company)

Source: based on information from (Board of the Eurasian Economic Commission, 2017).

¹ 13 technical regulations, including CU TRs 018/2011, 026/2012, 032/2013, 002/2011, 035/2016, 012/2011, 031/2012, 006/2011, 011/2011, 028/2012, 001/2011, 003/2011, 027/2012.

² This case is also applicable to agricultural goods.

List of products that are required public registration certificates is defined by section II of Decision of Commission of Customs Union of May 28, 2010 No. 299 “About application of sanitary measures in Eurasian Economic Union” (Commission of Customs Union, 2010b):

1. Food products for kids of HS group 03.
2. Sanitizers, insecticides and exterminating substances (for household use, for medical use, besides their use in veterinary organizations)¹.
3. Household products.
4. Potentially dangerous chemical and biological substances and products made of them that represent potential harm for human (besides drugs), personal substances (compounds) of natural or artificial origin, that can have negative influence on people or environment during production, application or transportation.
5. Materials, equipment for domestic water supply systems.
6. Products of personal hygiene for adults.
7. Products intended for contact with food products (besides plates, forks, spoons, technological equipment and packaging).

Besides, the following goods are also subject to public registration:

1. Specialized products: food products for kids, excluding from HS 03 (including drinking water for childhood nutrition), diet food products, mineral water (mineralization of 1 mg/dm³ or above and in cases when lower with biologically active substances), food products for athletes, pregnant and feeding women, dietary food supplements.
2. Food products of new type.
3. Cosmetic products.

EAEU member authorities must issue the certificate of public registration in the period no longer than 30 days since the day of receiving of the documents from applicant.

Additionally EAEU rules require authorizations (or licenses) for imports or exports of certain products² and veterinary and phytosanitary certificates for imports of certain products (e.g. of animal origin and quarantinable products of high risk).

Mostly licenses issued in accordance to the requirements of Decision of the Board of the Eurasian Economic Commission of April 21, 2015 No. 30 “About non-tariff regulating measures” (Board of the Eurasian Economic Commission, 2015) can be received either online, or by going to specified body.

Special bodies of exporting countries issue veterinary and phytosanitary certificates for imported goods, so in this case it would be analysis of procedural obstacles of foreign countries instead of the EAEU. Nevertheless, still requirements for veterinary and phytosanitary certificate may represent costs associated with the implementation of the measures.

To conclude, process of receiving of these documents may be inconvenient for both exporters and importers. For instance, in order to receive license on exports of ozone-depleting substances, exporter must also have insurance policy (UNECE, ITC, 2014). So, overall the procedure may take up to 15 working days to receive both insurance policy and the license for exports of ozone-depleting substances.

Conclusion

To sum up, as a result of our preliminary analysis we can argue that there is no reason to consider all EAEU NTMs as trade barriers. Basically the purposes of EAEU non-tariff measures do not contradict the WTO agreements, do not obligatory limit trade and

¹ Disinfectants and disinfestations.

² The full list can be found in Decision of the Board of the Eurasian Economic Commission of April 21, 2015 No. 30 “About non-tariff regulating measures” (Board of the Eurasian Economic Commission, 2015).

welfare of the consumers. Nevertheless EAEU NTMs may lead to quite high procedural obstacles. So it is highly possible that they may limit cross-border trade, in other words, become barriers.

To be more precise, the following findings lead to this conclusion.

1. The EAEU technical regulations are still under development in order to make harmonized supranational legislation instead of separate national technical regulations. This leads to the fact that the list of products subject to EAEU obligatory conformity assessment is being shortened when EAEU introduces new technical regulation. Therefore, we get fragmented data on the conformity approval measures of the EAEU.

2. Small amount of certification bodies and testing laboratories (in case of Kyrgyz Republic), inability of some laboratories to conduct necessary testing procedures (applicable to Republic of Kazakhstan).

3. Data scarcity on the level of costs associated with receiving necessary NTM-related documents, data scarcity and absence of uniform source of information (in case of Kyrgyz Republic) on the specifics of issue of certain documents (licenses, veterinary and phytosanitary certificates).

4. Excessive amount of documents and time costs associated with receiving of licenses (authorizations) and certificates (veterinary and phytosanitary certificates).

Nevertheless, in order to make definite conclusions on the nature of EAEU measures further research on ad valorem equivalents of the measures and analysis of the procedural obstacles is required.

Nevertheless, as noted earlier by well-known economists application of protectionist policies is justified in rare cases under certain conditions¹ (Melitz, 2005). In turn, excessive regulatory policies lead to economic and welfare losses (along with losing competitive abilities of national firms) of the countries in case if policies are adopted on a voluntary basis. Therefore, in order for policy to be sound it must be to a greater degree directed at correcting market failures and aimed at efficient, Pareto optimal allocation of resources. Only in such case countries will be able to experience benefits of free trade, welfare increase and economic growth.

Our analysis also revealed that member-states still use their national NTMs. Bright illustration of this is food embargo that Russia introduced in August 2014 against goods from certain countries. Other partners within the EAEU didn't joined Russia's embargo, which is actually a non-tariff measure. The lack of harmonization in legal basis for application of NTMs within the EAEU doesn't contribute to development of the Eurasian integration.

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¹ E.g. protection may be granted to infant industries under conditions requiring that there should be dynamic learning effects external to firms, measures must be temporary in such a way that newly born industries will be able to survive in the future without the protection, costs of granting the protection should be less than cumulative benefits received due to granting protection.

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