ITC BUSINESS SURVEY ON NON-TARIFF MEASURES IN THE PHILIPPINES

SUMMARY FINDINGS AND PRELIMINARY RECOMMENDATIONS

DISCUSSION PAPER FOR THE NATIONAL ROUND TABLE ON NTMS
IN MANILA, PHILIPPINES, 29 JUNE 2016

International Trade Centre

TRADE IMPACT FOR GOOD

Foreword

The following synthesis presents a summary of the report “Philippines: Company Perspectives on Non-tariff Measures (NTMs)”. The final version of the report is being drafted and will be finalized pending the results of the ITC stakeholders’ workshop on 29 June 2016 in Manila, Philippines. The report is the outcome of a business survey on NTMs conducted by the International Trade Centre (ITC) in the Philippines. This survey was implemented in partnership with Nielsen Ltd. and local experts, with the support of the Export Management Bureau (EMB) of the Department of Trade and Industry (DTI) and the Philippine Exporters Confederation (PhilExport). The report was prepared with the collaboration of Ms. Pamela Anne Bayona, ITC consultant. The report aims to shed light on NTMs issues faced by the private sector in the Philippines, towards the improvement of the business sector in the country.

Contents

Introduction

With the advent of the regionalization of supply chains and the widespread reduction of global tariff levels, non-tariff measures (NTMs) have emerged as growing obstacles to international trade for importers and exporters.

Although the sound use of NTMs to ensure consumer health, environmental protection or national security is legitimate, evidence suggests that countries are resorting to NTMs as alternative mechanisms to protect domestic industries. They are increasingly being dealt with when negotiating regional and bilateral trade agreements and many practitioners consider them as having surpassed tariffs in their trade-impeding effect.

NTMs particularly concern exporters and importers in developing and least developed countries (LDCs), who struggle with complex requirements. Firms in these countries often have inadequate domestic trade-related infrastructure and face administrative obstacles. Therefore, NTMs that would not normally be considered as very restrictive can represent major burdens in LDCs. In addition, the lack of export-support services and insufficient access to information on NTMs put pressure on the international competitiveness of firms. Hence, both NTMs applied by partner countries as well as domestic burdens have an impact on market access and keep firms from seizing the opportunities created by globalization.

The ITC survey reports present results from large-scale company surveys on NTMs and related procedural obstacles (POs). They provide detailed qualitative impact analysis to address key stakeholders' concerns, evaluating all major export sectors and trading partners, and covering around 30 developing countries in scope.

The ITC survey allows companies to directly report the most burdensome NTMs and the way in which these impact their business. Exporters and importers deal with NTMs and other obstacles on a day-to-day basis. Therefore, they know best the challenges they face, rendering a business perspective on NTMs indispensable. At the government level, an understanding of companies' key concerns with regard to NTMs and POs can help define national strategies geared to overcome obstacles to trade.

1. Survey methodology and implementation in the Philippines

1.1. Survey methodology

The International Trade Centre (ITC), in collaboration with the Export Marketing Bureau (EMB) of the Department of Trade and Industry (DTI), implemented a survey from August 2014 to April 2016 in order to assess the Filipino business community's perspectives on NTMs. The aim of the survey is to provide a better understanding of the trade obstacles experienced by Filipino companies and to identify potential bottlenecks related to trade procedures and cross-border operations. This information will assist both the private sector and government in creating an enabling environment for private-sector development and improved export competitiveness for the Philippines and the region.

Prior to the start of the survey, ITC compiled a business registry of exporting and importing companies in the Philippines, based on information provided by the DTI and the Bureau of Customs (BOC). This registry contains information such as contact details, location and major export or import products of over 5,000 Filipino companies participating in international trade. This registry is used to calculate the sample size and to contact the companies for an interview.

The interview process itself consists of two steps. The first step involves screening of exporting and importing companies through a basic telephone interview (phone screening). The aim of this interview is to confirm the main sector of activity, the direction of trade and whether the company experienced difficulties with NTMs. Companies interviewed in the phone screening phase are selected based on stratified random sampling. As per NTM survey sampling methodology, phone screen interviews are designed to cover a representative share of Philippine export sectors (excluding arms and minerals).

The second step involves a detailed face-to-face interview with those companies that reported having experienced obstacles to trade and are willing to participate. In this more detailed interview session, these

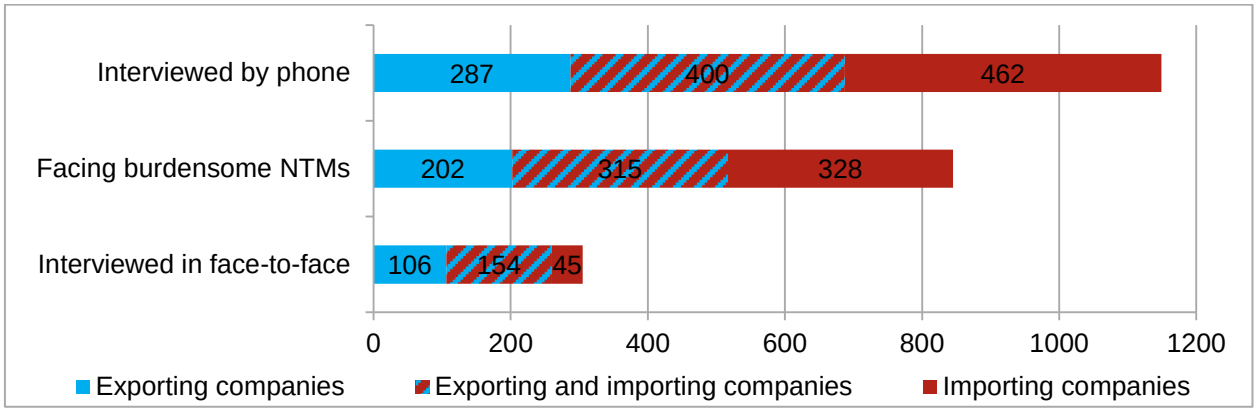
companies are questioned about the specific nature of the problems they faced. Typically, survey respondents are general managers or the company's employee responsible for the export and import process. All responses from the companies are treated with utmost confidentiality, and only synthesized information on survey results is thus shared with the Department of Trade and Industry.

1.2. Survey implementation in the Philippines

The Manila-based company Nielsen Ltd. and a smaller group of local experts implemented the survey on behalf of and under the guidance of ITC. Project managers and interviewers underwent an in-depth 5-day training on the survey methodology, the questionnaires and the interview process.

Out of a registry of over 5,000 companies, 1,149 were interviewed for the telephone screening phase. Of these, approximately three-fourths (845 companies or 74%) reported to having faced difficulties dealing with Filipino or partner countries' regulations in the past year (figure 1). Among the affected companies, 305 companies (around a quarter) participated in a detailed face-to-face interview, signifying a 36% participation rate for all companies that cited burdensome NTMs.

Figure 1. Overview of surveyed companies



Source: ITC NTM Survey in the Philippines, 2014-2015.

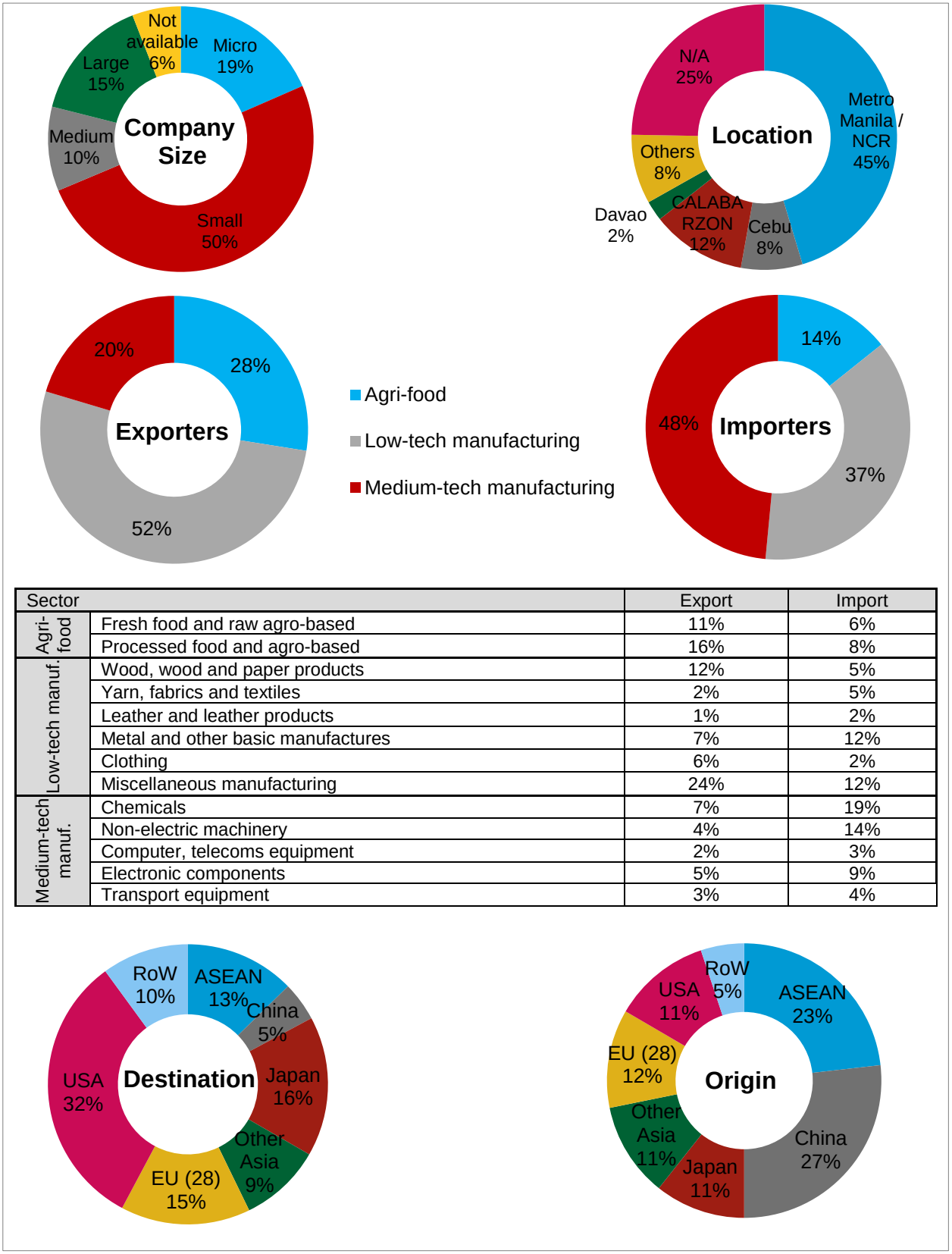
The next few figures detail the characteristics of phone-interviewed companies by company size, location, sector, and destination/origin markets (figure 2). Sectors are divided into agri-food, low-tech and medium-tech classifications. Low-tech manufacturing sectors comprised half (52%) of all exporters interviewed, while the agri-food sectors made up a third (28%) and medium-tech [mostly assembly] manufacturing sectors made up a fifth (20%) of interviewees. On the other hand for importers, almost half of all respondents were medium-tech sectors (48%), closely followed by low-tech manufacturing firms (37%) and trailed by agri-food sectors (14%).

According to company size, small enterprises (50%) made up most of the respondents, followed by micro-sized companies (19%) and large companies (15%).1 By location, the majority (45%) of all surveyed companies were based in Metro Manila as the national centre of commerce. However, there were pockets of sectoral representation from key regional locations such as CALABARZON in Luzon, Cebu in the Visayas, and Davao in Mindanao.

Meanwhile the most frequent destination market for exporting companies interviewed was the United States (32%), followed by Japan (16%) and the EU (15%). In contrast, China (27%) was the most common source of imports, followed by ASEAN (23%) and the EU (12%).

[1]The Philippines classifies micro enterprises as having employees of 10 or less; small enterprises as having 11 to 100; medium enterprises as having 101 to 200; and large enterprises as having above 200 employees.

Figure 2. Characteristics of interviewed companies



Sector		Export	Import
Agri-food	Fresh food and raw agro-based	11%	6%
	Processed food and agro-based	16%	8%
Low-tech manuf.	Wood, wood and paper products	12%	5%
	Yarn, fabrics and textiles	2%	5%
	Leather and leather products	1%	2%
	Metal and other basic manufactures	7%	12%
	Clothing	6%	2%
	Miscellaneous manufacturing	24%	12%
Medium-tech manuf.	Chemicals	7%	19%
	Non-electric machinery	4%	14%
	Computer, telecoms equipment	2%	3%
	Electronic components	5%	9%
	Transport equipment	3%	4%

Source: ITC NTM Survey in the Philippines, 2014-2015.

2. Challenges related to non-tariff measures

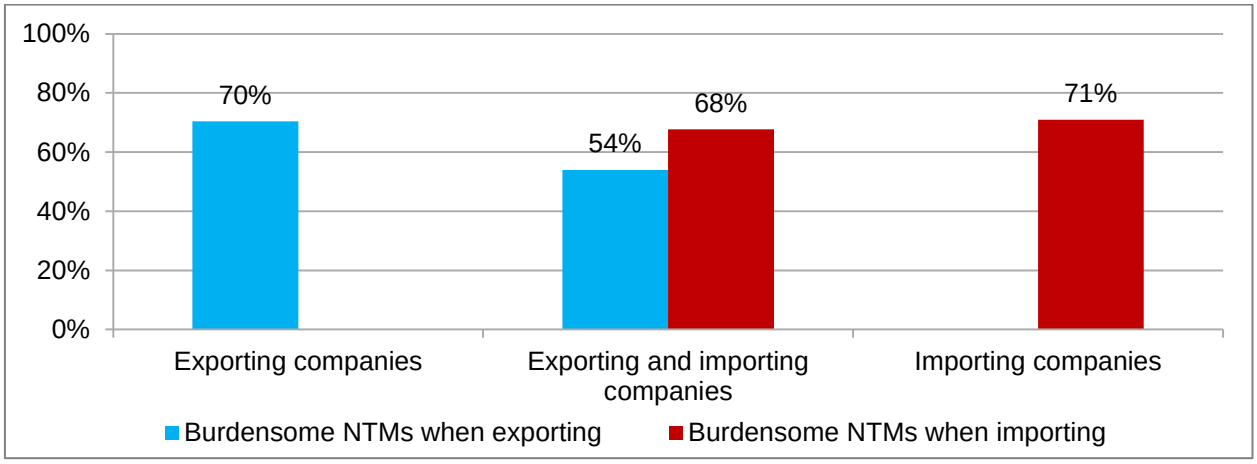
This section gives an aggregate overview results from the phone screen (PS) interviews, while the next sections narrow down the discussion to the results of the face-to-face (FTF) interviews for both exporters (section 3.1) and importers (section 3.2). While PS interviews broadly indicate the presence or absence of NTMs-related obstacles to trade, FTF interviews discuss these issues in detail.

3.1. Companies' perspectives of NTMs

The phone screen survey results show that **approximately 70% of all companies – regardless of being either exporters or importers – are confronted by obstacles to trade related to NTMs.** For companies that are both exporting and importing, the rate is slightly lower (figure 3).

Interestingly, among ASEAN countries where the survey has been implemented, this figure is closer to the affectedness rate of Cambodia (69%) rather than the more developed economies of Thailand (38%) or Indonesia (37%).

Figure 3. Share of surveyed companies affected by burdensome NTMs, by activity



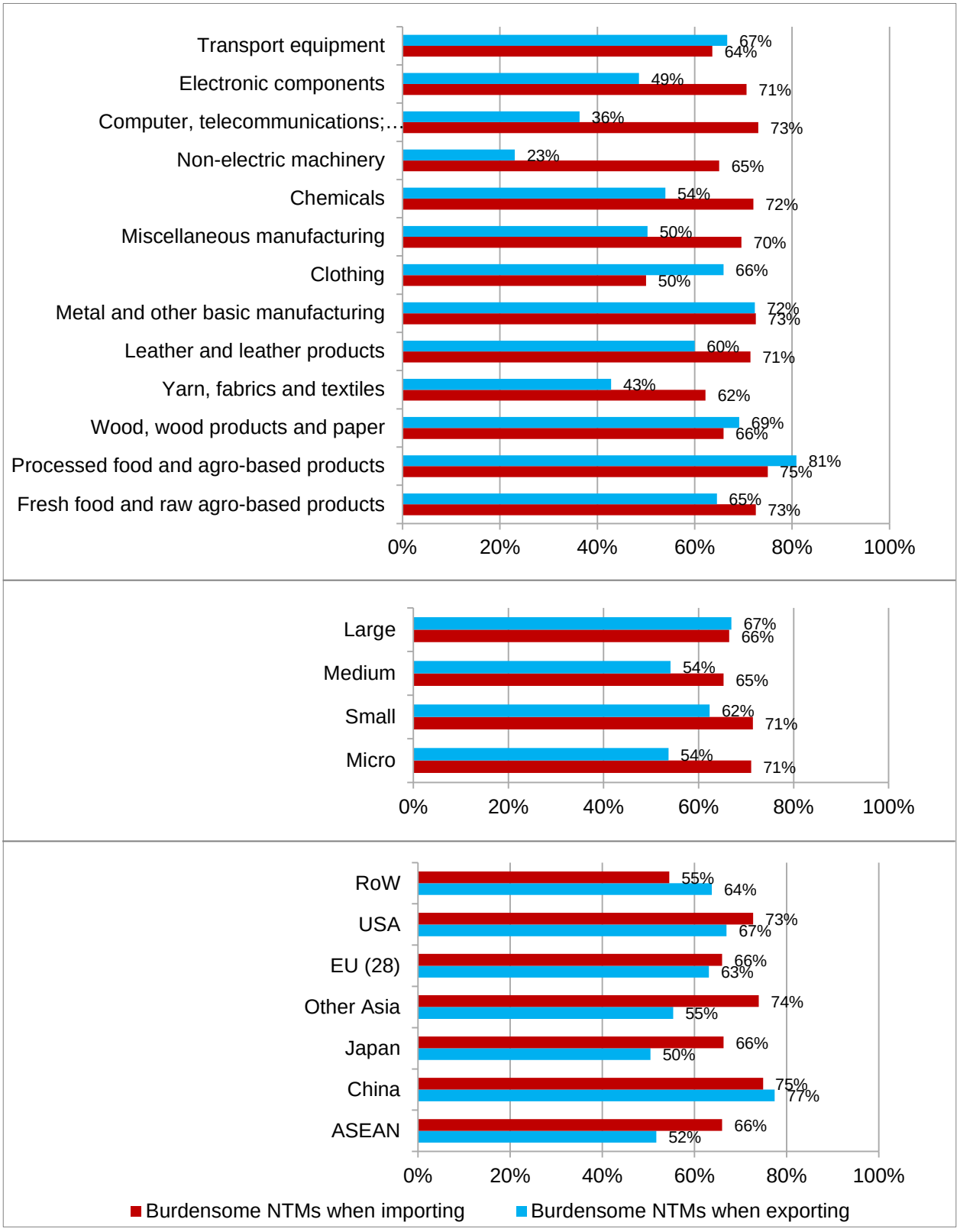
Source: ITC NTM Survey in the Philippines, 2014-2015.

Figure 4 unsurprisingly shows that **the agri-food sectors are the most affected by NTMs-related obstacles,** with 81% of exporters and 75% of importers of processed food and agro-based products signifying difficulties in dealing with regulations. In general, these products are the most regulated for reasons of public health, making this sector highly sensitive and protected by both tariffs and NTMs.

Among exporters, the next most affected are low-and medium-tech manufacturing sectors such as metals, wood, leather, clothing, and transport equipment. Notably the majority of medium-tech companies for the electronics, chemicals and transport companies are located in economic zones that are tariff-free and enjoy special trade facilitation privileges from the government – this is perhaps a reason why these sectors indicate both lower levels of exporting issues, as well as overall lower participation rates in the survey (see figure 2). **Meanwhile for imports, the rate is roughly the same across most sectors at 70%, indicating that the problem for importers is cross-cutting rather than sector-specific.**

In terms of size, small and micro companies are the most affected among importers (71%) – this is expected given their more limited capabilities in dealing with obstacles to trade – while among exporters large companies are surprisingly the most affected at 67%. To check if age and experience compensate for size, a closer look at micro firms interviewed shows that more than half (53%) of them have been in operation for 10 years or more, while for small and medium-sized firms this figure is 72% and 88% respectively, perhaps indicating that being a seasoned importer or exporter predicates participation in the survey [and skewing the response rate].

Figure 4. Share of surveyed companies affected by burdensome NTMs, by sector, size and destination/origin markets



Source: ITC NTM Survey in the Philippines, 2014-2015.

The perception of NTMs and related trade obstacles also depends on the origin and destination of traded products. For instance, 77% of all Filipino exporters and 75% of importers doing business with China complain of NTMs-related obstacles, making it the most affected trading partner overall. The second most problematic market for exports is the United States, with 67% of Filipino exporters to the US citing obstacles. Interestingly, Japan as the single biggest market for Philippine exports also has the lowest incidence of NTMs-related obstacles for exporters at 50%.

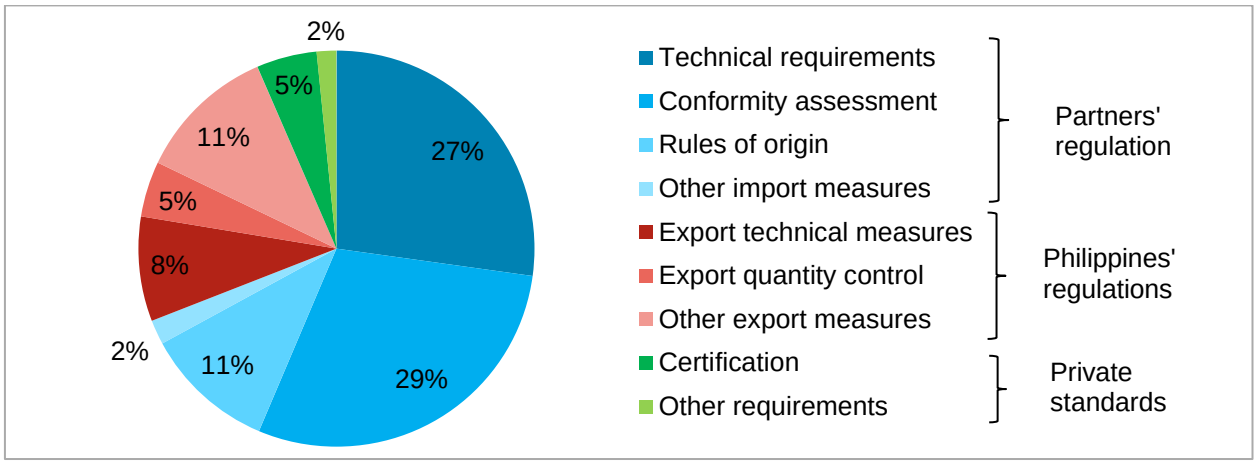
2.1. Burdensome NTMs to export

This section presents results of the FTF interviews done with Filipino exporters and importers, summarizing their key NTM-related obstacles, the products and markets affected, the [technical and administrative] reasons why they are found to be burdensome, and the government agencies charged with their regulation [that can be tapped for policy recommendations].

What NTMs are burdensome?

Figure 5 presents the breakdown of major NTM-related obstacles to trade for Filipino exporters. Table 1 complements this by summarizing NTMs according to ranking of prevalence, subchapter (and their percentage breakdown) and NTM classification. Very broadly, it can be seen that the majority (69% of 750 cases) of NTM-related obstacles for exporters are applied by partner countries. In contrast, one exporting obstacle in every four (24%) is applied by the Philippines [as export-related measures]. However, it should be noted that while the NTM regulations themselves may originate in partner countries, the associated POs causing issues for them may either be domestic or foreign in origin.

Figure 5. Type of NTM-related obstacles for exporters



Source: ITC NTM Survey in the Philippines, 2014-2015.

Before proceeding further in the analysis, it should be noted that these results should be interpreted with a grain of salt. Importantly, for the preponderant majority of interviewed Filipino exporters, the general perception is that anything "required" by the client – such as certifications, testing, or even labelling & packaging and fumigation requirements, difficult as they may be to procure – is something that is non-negotiable and should generally not be considered a "burdensome regulation". The mindset is that any exporter who is unable to either comply with such basic requirements or find some [informal] way to surmount them should simply not be in the business of exporting. It is only with some degree of extraction, by outlining for instance that "burdensome" regulations may entail difficulties such as exorbitant costs, too much paperwork, or informal payments that some exporters begin to express that they find issue with some regulations. Likewise, it

> *EU has many product labelling requirements such as font and layout formatting, product specification, ingredients used, and must be translated to local language. My entire packaging is covered in sticker labels.*
>
> An exporter of sauces

should be reiterated that the sample size includes only successfully exporting firms, for whom exporting procedures may have become both routine and unproblematic.

Table 1. Principal categories of NTM-related trade obstacles for exporters

Key NTMs, ranked	Specific NTMs, by subchapter	Breakdown	Classification
1. Conformity assessments	Product certification	16%	**Technical measures**
	Testing	10%	
	Others (inspection, quarantine, traceability, registration)	3%	
2. Technical requirements	Fumigation	13%	
	Labelling	9.5%	
	Registration due to food borne risks, diseases and pests	2%	
	Others (tolerance limits, production procedures, prohibitions)	2.5%	
3. Rules of origin	Rules of origin and related certificate	11%	**Non-Technical measures**
4. Other import measures	Pre-shipment inspection and other formalities, consular invoice fee, tariff rate quotas, prohibitions and others	2%	
5. Other export measures	Export clearance procedure, cargo logistics clearance, etc.	11%	**Export-related Measures**
6. Export technical measures	Certification required by exporting country	3%	
	Others [export technical measures unique to specific government agencies]	5%	
7. Export quantity control	Licensing or permit to export	3%	
	Registration and others	2%	
7. Private standards	Product certification	5%	**Private standards**
	Other private requirements	2%	

Source: ITC NTM Survey in the Philippines, 2014-2015.

Having established this caveat, it appears that almost 60% of exporters' NTM-related obstacles come from product-specific measures: conformity assessments (29%) that include product certification and testing, and technical requirements (27%) that include fumigation and labelling (figure 5). Fumigation is considered a necessary and expensive evil, with costs reaching between Php 5,000 to 10,000 for each shipment. Labelling and/or packaging requirements are often subsidized or provided by clients, but the effort required to develop/translate, produce and apply them can be taxing for smaller enterprises, especially in the agri-foods sector. Meanwhile, almost a quarter (24%) of issues stem from domestic export-related regulations such as other export measures (especially export clearance procedures)[2] (11%), export technical measures (8%), and export quantity control (5%). Of the remaining obstacles, rules of origin come out as the only non-technical measure with the biggest share (11%), while private standards round out the biggest obstacles to trade with 7% of issues.

> *Import requires fumigation costing Php 5,000 per container. Local fumigation is still needed even when imported wood is already treated.*
>
> An exporter of furnitures

> *The Middle East has very strict content and packaging requirements for food imports, including alcohol content. My shipment of "root beer" was once rejected because they detected a very tiny percentage of alcohol in it (the same amount as in carbon fruit drinks).*
>
> An exporter of beverages

Testing for SPS and TBT requirements and certifications are usually cited as costly in terms of time, effort and money.

[2] These involve "unclassifiable" export regulations such as the general export clearance procedure, the automated processing of export forms, or the movement of shipments for export including the Terminal Appointment Booking System (TABS) to relieve port congestion. For easier context, these measures will henceforth be referred to "export clearance and related procedures".

These originate both from partner countries importing the goods, and from Philippine regulating agencies exerting their mandates for public health and safety through complex technical export clearance documentation and testing (discussed further in sectoral and destination market discussions). Importantly, for these requirements, most exporters **do not appear to differentiate between private standards (recorded as 7% of obstacles) or NTMs** in their depiction of trade obstacles; for them, these two are largely the same. For instance, exporters will specify that certifications for food[3] or industrial goods[4] are mandated by a partner country [since in their experience all of their clients specific to that market require these certifications]. For most exporters, private industry standards function almost like a required stamp of approval – not unlike official NTMs – as buyers (for both agri-foods and manufacturing products) will not accept goods that do not comply with their chosen private standard. This bias among interviewees was noticed after the majority of interviews were concluded and is documented here to provide context for the results.

Which sectors are affected?

Comparing burdensome NTMs by sector **(figure 6)** shows that partner countries' regulations cause 63% of all NTMs for agri-food sectors and 74% of all NTMs for manufacturing sectors. Conformity assessments and rules of origin (ROO) are slightly more prevalent in manufacturing than in agri-food sectors, centring on the electronics, chemicals, metals and machinery sectors.

Meanwhile, technical requirements are slightly more prevalent in agri-food sectors, being highest in leather and textiles and wood products. On the other hand, export-related measures are slightly more prevalent in agri-foods sectors (28%) than in manufacturing sectors (22%). This is likely due to the high number of SPS regulations imposed by public health regulating agencies on agriculture-related exports, while most of the manufacturing sector is sequestered in export processing zones. For export-related NTMs, export technical measures (14%) are more common in agri-food sectors while issues with export clearance and related procedures (similarly 14%) are more frequently encountered in manufacturing sectors. Across all sectors, export-related regulations appear to account for an average of 15% of NTMs, except for manufacturing sectors such as electronics, transport and chemicals which are largely ecozone locators.

Industry-specific insights on NTMs: results of focused group discussions

To complement the interviewing process, there was some opportunity to hold several focused group discussions (FGDs) with key sectors in the Philippines. Major results are summarized below:

The **chemicals and handicrafts sectors** have an issue with the import regulation on 41 chemicals including household chemicals such as the cleaning agent hydrochloric (muriatic) acid and the bleaching agent hydrogen peroxide. The regulation is a result of the Philippine Drug Enforcement Agency's (PDEA's) reclassification of these products as hazardous chemicals used make both bombs and drugs. This has led to the Philippine National Police (PNP) having to require a permit for their import and sale, requiring security escorts for individuals buying the chemicals, and requiring the storage of these chemicals to be in locations with the same security level as ammunitions supplies. This regulation has been present for a long time but has only been enforced [and abused by certain agencies] in recent years, with reports of astronomical informal payments exchanging hands between large MNCs and counterpart government officials. The chemicals sector is largely a net importer (for domestic consumption) of these chemicals and the handicrafts sector requires them for shell cleaning and

> *It is difficult to procure and process Certificate of Origin forms, since signatories or forms are often unavailable, and I have to pay informal fees of Php 150 per document. This is also very difficult since my personnel are based far from Manila (in Cagayan de Oro).*
>
> An exporter of chemicals

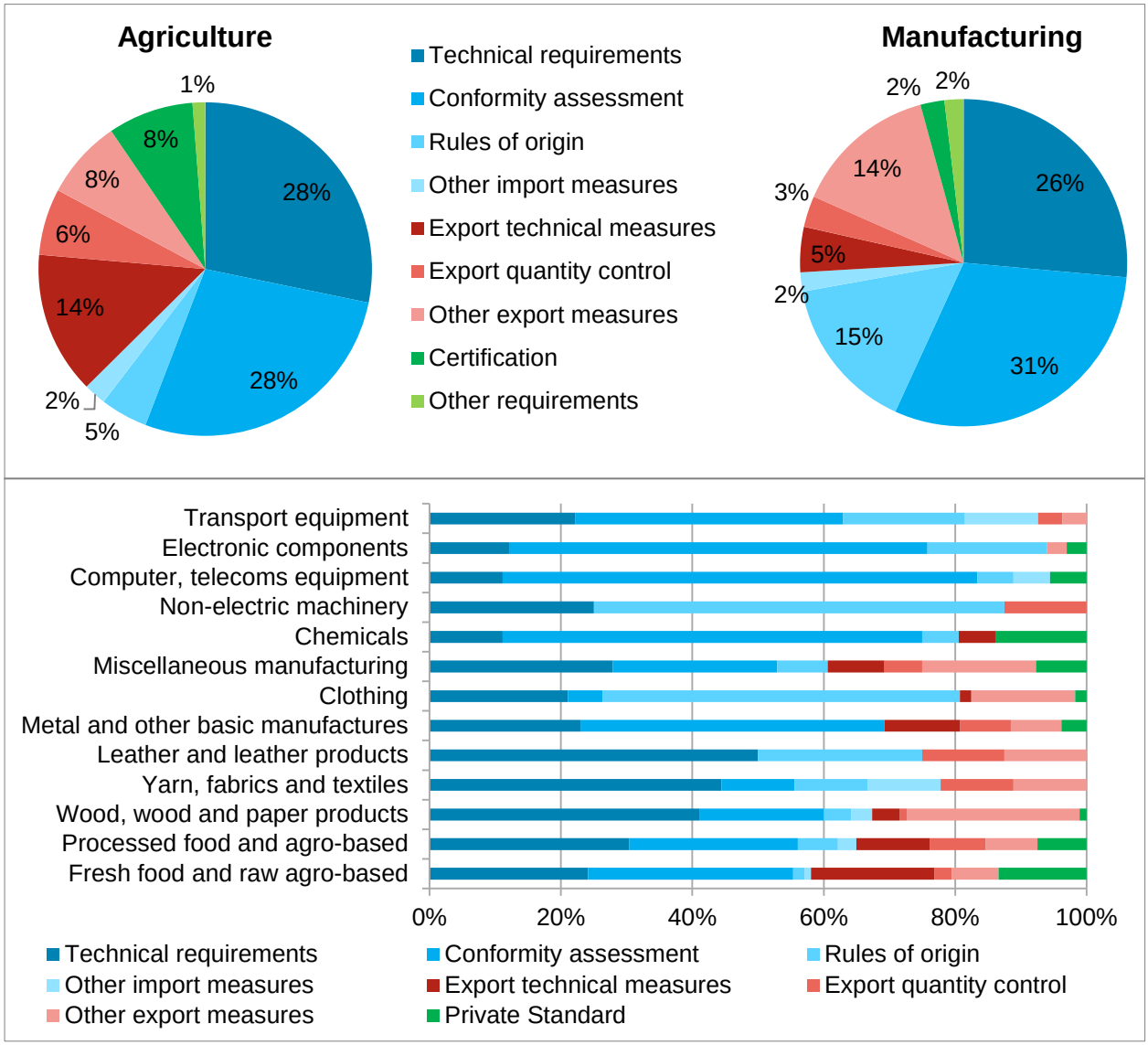
> *Because of the PNP regulation several companies have already close shop; some have had to decline big orders for shell cleaning, and two companies have since outsourced shell cleaning Indonesia and China. Nationally, there is also a lack of coordination between PNP Manila and Cebu in implementing the regulation, which is already creating pockets of corruption and red tape.*
>
> An exporter of shellcrafts

[3] HACCP, GMP, GAP, Kosher, Halal

[4] product safety, ISO or related product/sector-specific standards

bleaching wood. Other highly affected sectors are electronics and automotives, which either directly or indirectly import these.

Figure 6. Type of burdensome NTMs to export by sector



Source: ITC NTM Survey in the Philippines, 2014-2015.

The main concern for the **garments sector** is complying with local content for CO requirements to fulfill Rules of Origin under the recently renewed GSP+ agreement with the EU, and the prevailing GSP agreement with the USA (due to expire in Dec 2017). A future concern is the looming TPP agreement, which the Philippines has not signed but is joined by Viet Nam which dominates garments exports in the region. Export to the US for products that have leather, shell, or endangered wildlife components requires an Exporter's Commodity Clearance (ECC) certificate from the Bureau of Animal Industry or the Bureau of Fisheries and Aquatic Resources.

Australia requires Australian Fumigation Accreditation Scheme (AFAS)-approved fumigation treatment of methyl bromide for exported products. I pay around Php 30,000 for testing, marking and supervision of the fumigation treatment.

An exporter of hats

The **agri-foods sector** mainly laments the lack of local testing facilities and product certification available in the Philippines, requiring them to ship their goods to accredited testing companies abroad. They also cited Halal certification, the usual Customs ordeal, FDA accreditation and export clearance, and health certification under BFAR as highly bureaucratic and subject to frequent delays (from 3 months to a year). Exporters in the regions such as Cebu or Davao cite additional layers of administrative red tape for regulating agencies based in Manila such as FDA and BFAR when services in the provinces are not adequate. Another issue is the need to translate documents to European or East Asian languages, and the need to notarize documents at Middle Eastern embassies. For plant products, the Bureau of Plant Industry asks for unreceipted "inspection fees" and overtime pay during product inspections.

Obtaining FDA product certification clearance (Certificate of Product Registration and License to Operate) for export is very difficult. I am based in Region 11, and there are only 2 people handling the processing which takes up to 3 years.

An exporter of chocolates

The **furniture sector** mainly cites DENR requirements for suppliers' contracts from exporters for the raw materials they use, which are very difficult for suppliers to provide and need to be notarized. Likewise, they experience a wide variety of testing requirements for product properties, safety, quality, and traceability certifications (e.g. EU Timber Regulation and US Lacey Act).

Export requires numerous tests for product quality and performance through Intertek, which costs $100-$200 per item. This used to be available from the Forest Products Research and Development Institute (FPRDI) for Php10-15,000 but this is closed now and there are no local testing facilities. Other tests include flammability, TBS 117, and prohibited chemicals, which can cost up to $5000.

An exporter of furnitures

The **electronics sector,** while largely insulated in ecozones, maintains that it still contends with trade facilitation issues, primarily with regard to Customs' inefficient implementation of its recent infrastructure and procedural reforms. For instance, BOC's E2M electronization of import-export documents still requires manual submission of paper copies even though these should already be available online in Customs' database, and too often there is no internet connection in BOC offices or the E2M server is offline.

I cannot access markets in the US and EU because of the lack of local testing and certifying facilities with CE (for the EU) and UL (for the US) standards in the Philippines. The volume of demand is not enough to pay for certification. Products have to be sent to Singapore or Hong Kong where facilities are available.

An exporter of lighting

Likewise, there is the prevalence of informal payments for inspection of goods, inconsistently applied depending on officials dealt with in Customs, along with the very expensive warehousing costs for BOC accredited partners (600php / cbm/day). On a more general scale, there are too many delays for the numerous permit requirements from agencies such as PNP / DENR / PNRI. For rules of origin (ROO) and certificate of origin (CO) issues, Form D, A and E requirements are difficult to comply with, hampering availment of FTA rates. Also, product certification for UL / FCC / CE / CCC and similar certificates in Japan and Korea is difficult to obtain in the country and requires shipment out to Singapore or Taiwan, creating delays in lead time. Lastly, product testing for electromagnetic compatibility and interference (EMC / EMI) is not available with local companies such as SGS and Intertek.

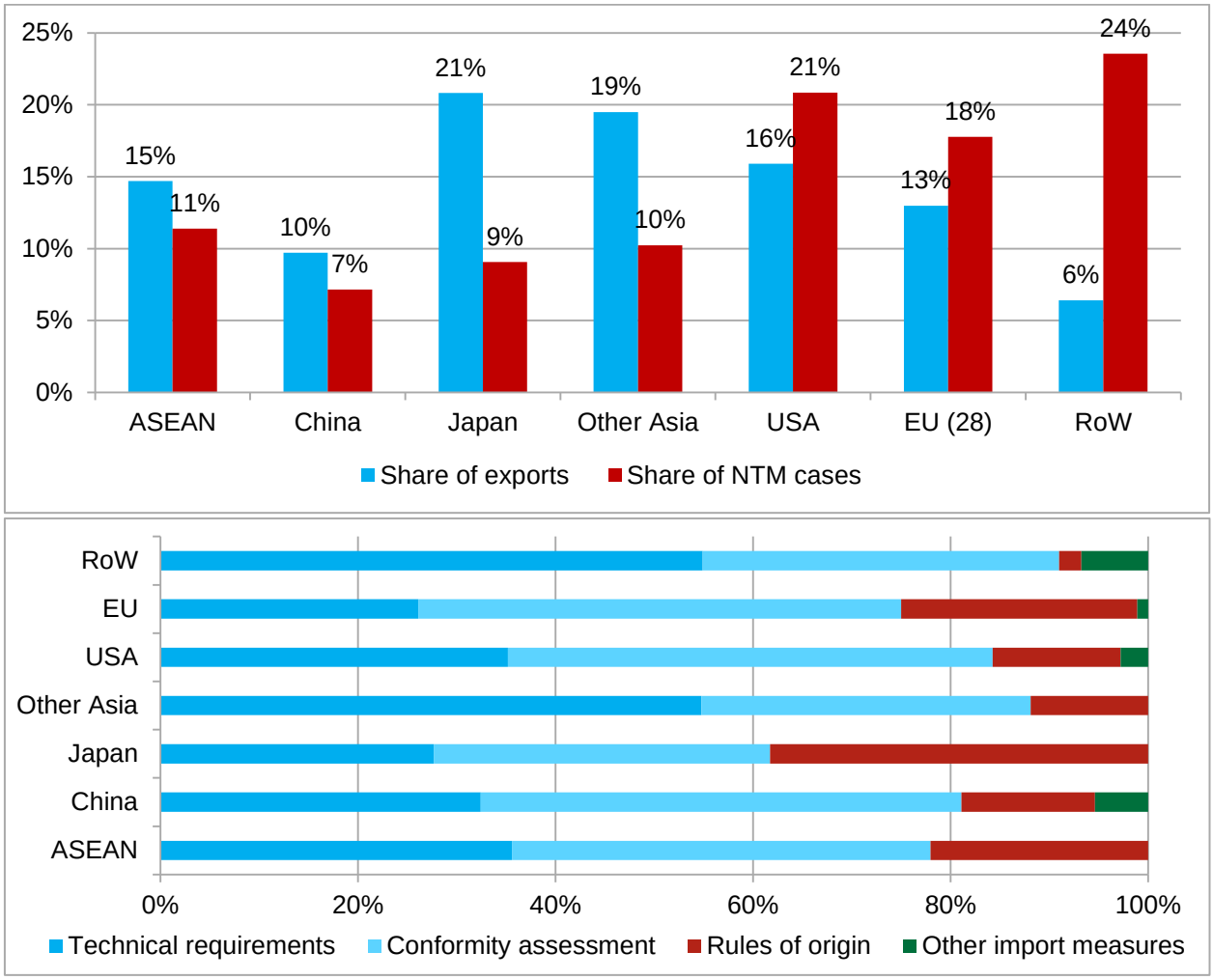
Which export markets are affected?

A look at the incidence of burdensome NTMs by export share **(figure 7)** shows that Japan and Other Asian markets (Chinese Taipei, Hong Kong and South Korea)[5] constitute the bulk (40%) of export shares but collectively only account for a fifth of NTMs cases. The opposite is true for the United States and the EU, which make up about 30% of all exports but are responsible for a cumulative 40% of NTMs cases. As the biggest markets, the US entails difficulties with fumigation, certificate of origin (CO) and HACCP

[5] Note: when considering that a good portion of Philippine trade with "Other Asian markets" such as Hong Kong and Chinese Taipei are likely to be goods in transit to and from the mainland, it is important not to discount China's role in Philippine trade.

certification requirements while the EU has very high standards on testing and certification requirements for especially agri-food products. By type of NTM, the Australian market is the most affected by technical requirements (mostly specially-accredited and more costly fumigation requirements), while conformity assessments appear to account for roughly 20% of all NTMs in every market. Meanwhile the Middle East has the largest share of "other import measures", which typically comprise embassy notarizations and consular fee requirements specific to these markets.

Figure 7. Burdensome NTM cases by export market



Source: ITC NTM Survey in the Philippines, 2014-2015.

Why are NTM measures perceived as obstacles?

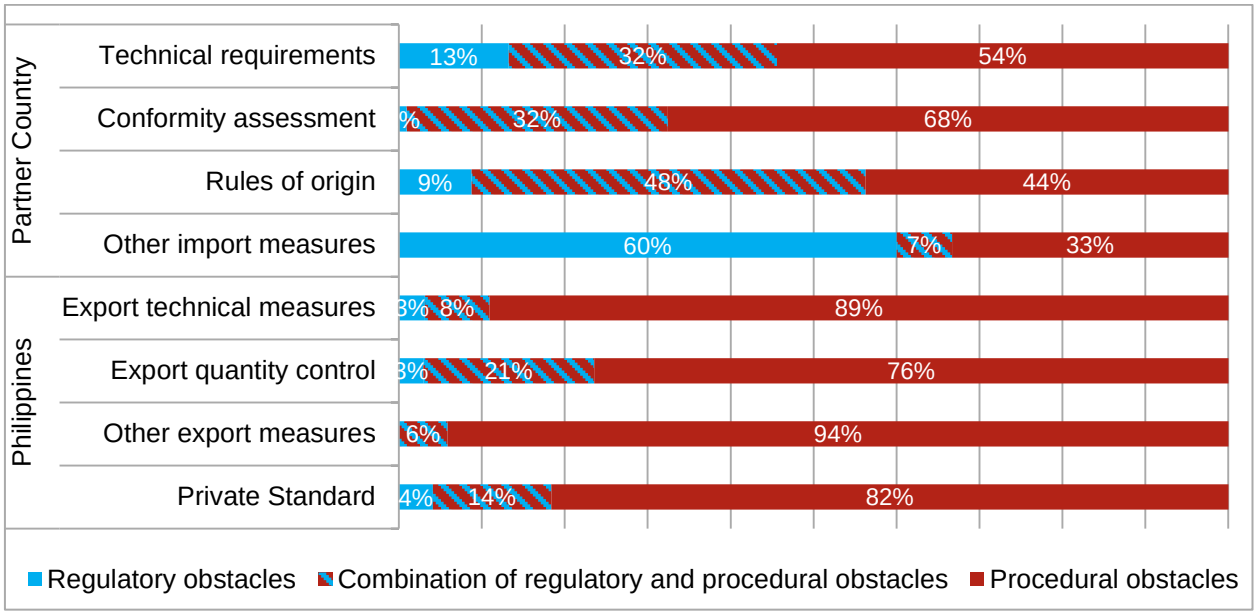
The NTMs survey gathers information on the reasons why NTMs are perceived as obstacles, both for official NTMs and their associated Procedural Obstacles (POs).[6] For Filipino exporters, the vast majority of NTMs applied by both partner countries and the Philippine government are perceived to be caused by POs or a combination of an official NTM and POs **(figure 8), implying that the difficulty is in the implementation of NTMs rather than the regulation itself. This ratio is much higher for export-related measures implemented by the Philippine government domestically (between 76% to 94%) rather than import-related measures implemented by partner country governments on Filipino**

[6] While NTMs are government-mandated regulations that are either too strict or difficult to comply with (e.g. testing or certification requirements, quotas, quality controls or packaging requirements), POs are practical challenges in administration or transportation that prevent or hinder trade compliance with NTMs (e.g. long delays in testing or certification, inappropriate facilities, or lack of adequate information).

exports (between 33% and 68%). The rate of difficulty with official NTMs per se only ranges between 0% for export clearance procedures – primarily consisting of informal payments demanded for various stages of the export process – and 13% for technical requirements, which are expected to be high as they usually comprise SPS and TBTs.

The main exception is "other import measures" (60%), which are usually recorded as obstacles when an exporter cites [non-usual] additional export documentation, procedures or fees specific to a partner country.[7] However, these only comprise 2% of 750 recorded exporter NTMs (15 cases). Interestingly, private standards also receive very high rates of difficulties with POs (82%); this is likely mostly due to clients' requirements for testing or certification in adherence to industry standards or best practices, which can be subject to numerous POs such as the lack of available testing facilities or the prohibitive cost of certification.

Figure 8. Reasons making NTMs burdensome to exports



Source: ITC NTM Survey in the Philippines, 2014-2015.

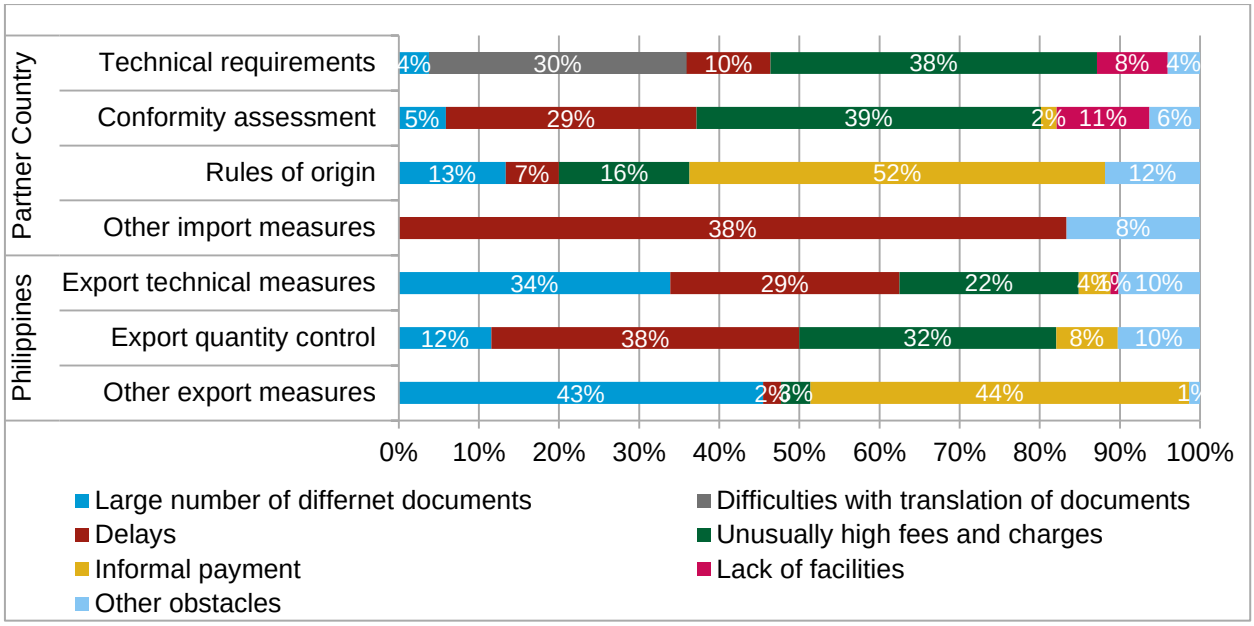
Looking further at the reasons for burdensome NTMs from a sectoral perspective, we observe that when the regulation is applied by the Philippines, POs by themselves appear to contribute up to an almost overwhelming 90% of all NTM-related issues. When the regulation is applied by the partner country, this figure is reduced to only 40% in manufacturing sectors and 80% in agri-food sectors. Additionally, adjusting this figure to include difficulties from both complying with the regulation and its associated POs shows that fully 99% of NTMs issues in the Philippines are somehow attributable to POs, while in partner countries this figure is 89% for manufacturing sectors and 96% for agri-food sectors. Breaking down NTMs further by type shows that export clearance and related procedures are by far the most beleaguered by POs, while for agri-food sectors "other import measures" are the most affected by NTMs.

Thusly, the next few figures and analyses focus on [especially domestic] POs as a major cause for concern to Filipino exporters. A more detailed look at the most problematic POs for exporters shows a large variety in the type of complaints **(figure 9).** For instance, unusually high fees and charges (~45%) [for testing and certification] are what plague technical requirements and conformity assessments as the most prevalent NTM-related trade obstacles. Additionally, difficulties with document translation (30%) – typically related to labelling requirements – are an issue for technical requirements, while the lack of locally-available testing facilities (29%) is another problem for conformity assessments. On the other hand, for

[7] Specific cases include: The Turkish embassy requiring an additional Customs Registry Form; Qatar and Saudi Arabia requiring invoices and invoice fees of 500 USD; the Unites States requiring advanced Importer Security Filing (ISF) to the US Customs and Border Protection CBP) before cargo can be loaded.

Rules of Origin (ROOs)-related cases, it is the incidence of informal payments (52%) to expedite the approval of these forms that are a cause for complaint.

Figure 9. Type of procedural obstacles faced in the Philippines



Where procedural obstacles take place?

Overall, the disparity between the prevalence POs experienced in the Philippines in contrast to partner countries is disconcerting **(figure 10).** Breaking down POs by country of occurrence and type shows that the vast majority of perceptions of unusually high fees (30%), delays (20%), too much paperwork (15%) and informal payments (11%) occur internally in the Philippines, as opposed to just 0%-3% in partner countries.

Figure 10. Types of procedural obstacles faced by exporters

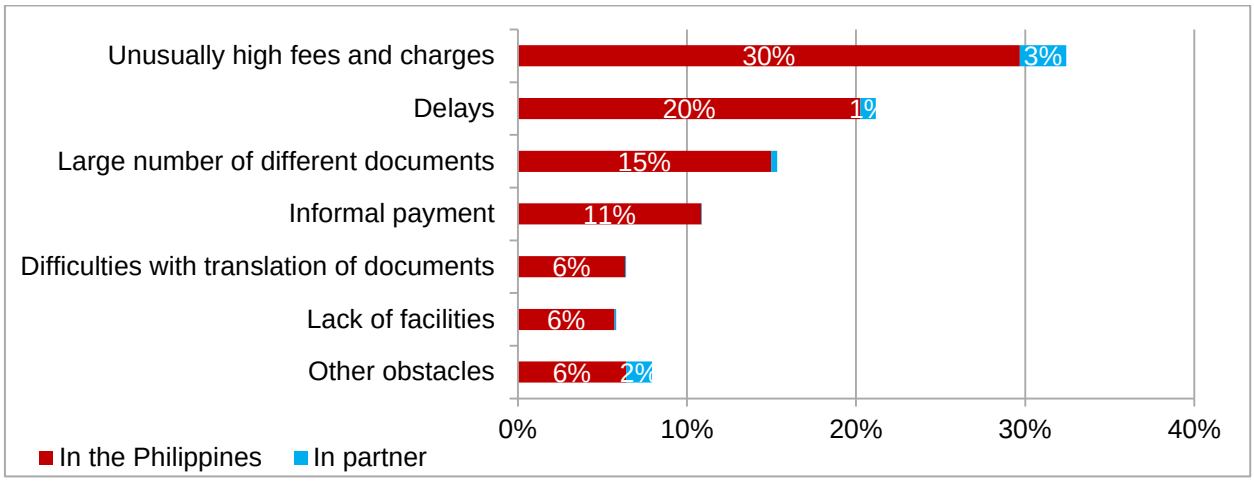


Table 2 clearly shows the relevant government agencies for each PO, as well as the incidence of NTMs attributed to being under their jurisdiction. The most problematic areas are highlighted in red as being (1) unusually – interpreted as "too" – high fees and charges, (2) informal payments, (3) too much paperwork, and (4) delays.

Table 2. Agencies involved in domestic POs experienced by Filipino exporters

Agency \ Procedural obstacles	Unusually high fees and charges	Delays	Large number of differnet documents	Informal payment	Difficulties with translation of documents	Lack of facilities	Other obstacles
Bureau of Customs (BOC)							
Accredited third-party							
Food and Drug Administration							
Private standards							
Department of Health (DOH)							
Bureau of Plant Industry (BPI)							
Department of Trade and Industry (DTI)							
Bureau of Product Standards							
Bureau of Fisheries and Aquatic Resources							
Department of Science and Technology (DOST)							
Department of Environment and Natural Resources							
Other public institutions							
Other private institutions							
Not specified							

Source: ITC NTM Survey in the Philippines, 2014-2015.
Legend: The different intensities of red, yellow and green indicate the frequency of a procedural obstacle occurrence at a particular public institution. Red indicates highest frequency while green indicates the lowest frequency. Blank cells indicate non-occurrence of such combinations.

The perception of **high fees and charges and prevalence of delays** are cross-cutting for accredited third-party entities, private standards and NTM-regulating agencies and directly corresponds to compliance with conformity assessments and technical requirements as the perceived overall biggest issues for exporters. Although most of these issues have been discussed in the sectoral and market analysis above, it should be emphasized that the FDA, BPI, BFAR, and DENR are government agencies particularly associated with their regulation. **What appears common across agencies is the focus on implementing regulations aimed at safeguarding individual turfing mandates that disregards both the cost impact to exporters and PO redundancies dealt to other regulating agencies.**

Getting an SPS certificate for export requires fumigation treatment, which costs around P5,000 / shipment. The Department of Agriculture's policy to require additional accreditation and certification is redundant, given that we are already dealing with accredited private fumigators. We also have to give additional overtime pay and meals allowance to DA officials at P800/shipment.

An exporter of furniture

The other red issue is **informal payments,** which – while a mainstay of import regulations – are also prevalent to varying degrees of severity along the export process, particularly for the export clearance procedure of the Bureau of Customs (BOC). In general, the sentiment is that BOC officials demand numerous and oftentimes unnecessary documents [not listed in the official list of requirements] to issue export or import clearance documents, primarily because it allows them a window to demand "facilitation fees" when these documents are unavailable and the company is in a hurry. If they

do not wish to pay informal fees, the firm is forced to secure all these additional permits, often at the cost of penalties and additional 2fees on their shipments which cannot be released.

Exacerbating BOC's administrative issues is the recent spurt of Manila port congestion events and logistics issues, including the implementation of the new Terminal Appointment Booking System (TABS) to organize the inflow of trucking, which exporters claim to be problematic and expensive, as well as already being used as an avenue for informal rent-seeking.

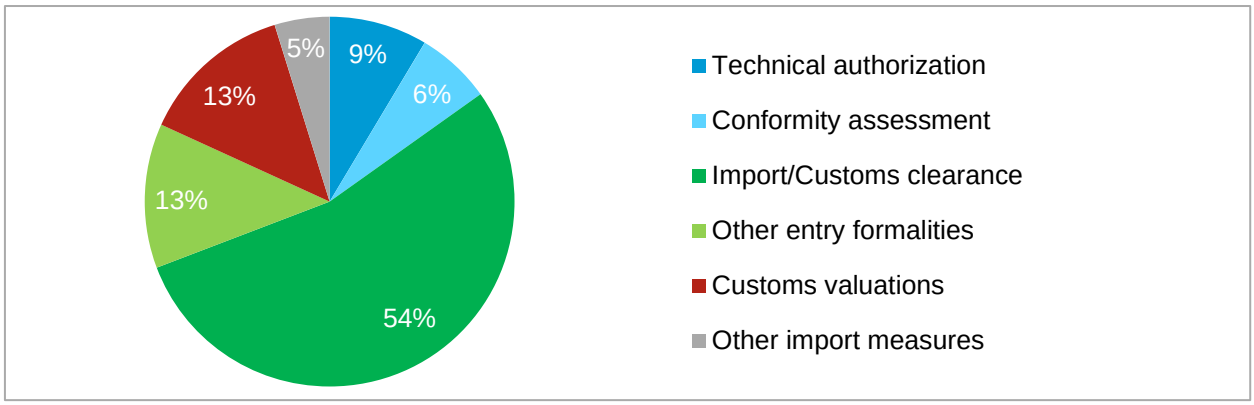
> *The Bureau of Customs' new Terminal Appointment Booking System (TABS) to pre-book shipment slots at the Manila Pier recently now requires informal payments at multiple levels of interaction with BOC and port officials (e.g. Php50 to security guards, Php100 to container yard operators).*
>
> An exporter of metals

The 2015 World Bank Enterprise Survey (WBES)[8] corroborates this data, citing that 31.5% of Filipino exporters identify customs and trade regulations as a major constraint to the business environment as opposed to a global average of 22%. Meanwhile, 35% consider corruption a major constraint compared to 32% globally.

2.2. Burdensome NTMs to imports

In contrast to the more balanced blueness of the graph for exports (see figure 6), **Figure 11** shows that the NTM-related obstacles to imports are a starkly grey affair. Table 3 complements this with a listing of NTMs according to ranking of prevalence, subchapter (and their percentage breakdown) and UN classification. Notably, "other import measures" may be classified as either technical or non-technical measures.

Figure 11. Type of NTM-related obstacles for importers



Source: ITC NTM Survey in the Philippines, 2014-2015.

More than half (54%) of NTM-related obstacles to trade for importers occur for import / Customs clearance procedures, while 13% come from Customs valuation – notably two measures that are very prone to rent-seeking behaviour [such as "facilitation fees"]. Secondary obstacles come from entry formalities such as import monitoring mechanisms (usually BOC import permits or licenses) (7.5%) and pre-shipment inspections (PSI) (5%), while technical authorizations9 (8.5%) round out the major NTMs for importers. This makes non-technical measures the predominant type of issue for imports as opposed to exports, which mostly dealt with technical measures.

[8] http://www.enterprisesurveys.org/.Note: scores chosen are for exporters (direct exports are 10% or more of sales).

[9] These include specific permits from agencies that regulate the import of goods that may harm public safety or the environment, such as such as the Food and Drug Authority, Department of Environment and Natural Resources, Philippine Drug Enforcement Agency, Commission on Elections and the Philippine National Police.

Table 3. Principal categories of NTM-related trade obstacles for importers

Key NTMs, ranked	Specific NTMs, by subchapter	Breakdown	Classification
1. Import/ Customs clearance	--	54%	**Non-technical measures**
2. Customs valuation	--	13%	
3. Other entry formalities	Import monitoring and surveillance	7.5%	
	Pre-shipment inspection	5%	
4. Technical authorization	--	8.5%	**Technical measures**
5. Conformity assessment	Product registration	2%	
	Product certification	2%	
	Others (inspection, testing, traceability	3%	
6. Other import measures	e.g. fumigation, rules of origin, storage conditions, registration, other fees, licenses, prohibitions	5%	**various**

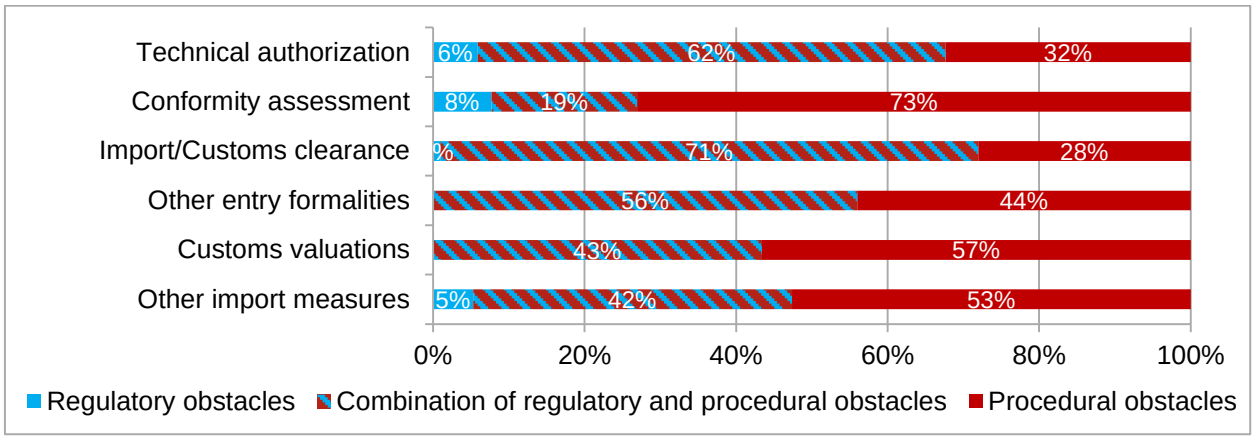
Source: ITC NTM Survey in the Philippines, 2014-2015.

Why are NTM measures perceived as obstacles?

While exporters largely perceive POs to be the main reason for their NTM-related obstacles to trade (see figure 9) **Figure 12** shows several import-regulating measures – namely Customs clearance procedures (71%), technical authorizations (62%),and other import monitoring mechanisms (56%) – that **consider NTMs themselves to be as much of a factor as associated POs for notably domestic-originating NTMs**. This is perhaps because the first issue for Customs clearance involves the newly-implemented Importer Clearance Certificate (ICC) requirement of the Bureau of Internal Revenue (BIR), which was issued in 2014. The ICC entails numerous documents to process, needs to be renewed yearly and causes a great deal of inconvenience, including monetary penalties up to Php100,000 and time delays of 2 to 6 months for importers. Although it was intended to curb smuggling and "streamline" the importing process by connecting all of the BIR's internal departments together, it has instead created more red tape because each department (for instance, Legal, Collections, and the Revenue District Office) now requires importers to submit additional [previously unnecessary] reports such as summaries of sales and former penalties before the BIR can approve the company for the certification. For the second measure, the issue with technical authorizations can also be largely attributed to the recent controversial implementation of a PNP regulation on chemicals importation **(discussed in section 3.1).** Lastly, for "other import monitoring mechanisms"**,** these mostly refer to BIR import permits that can be linked to the ICC.

> *At the Bureau of Customs (BOC), import declarations valuations can be arbitrarily imposed sometimes, and additional payments of up to Php 2,000-3,000 per BOC inspector (who come in pairs or trios) sometimes required to process shipments.*
>
> An exporter of tobacco

Figure 12. Reasons making NTMs burdensome to imports

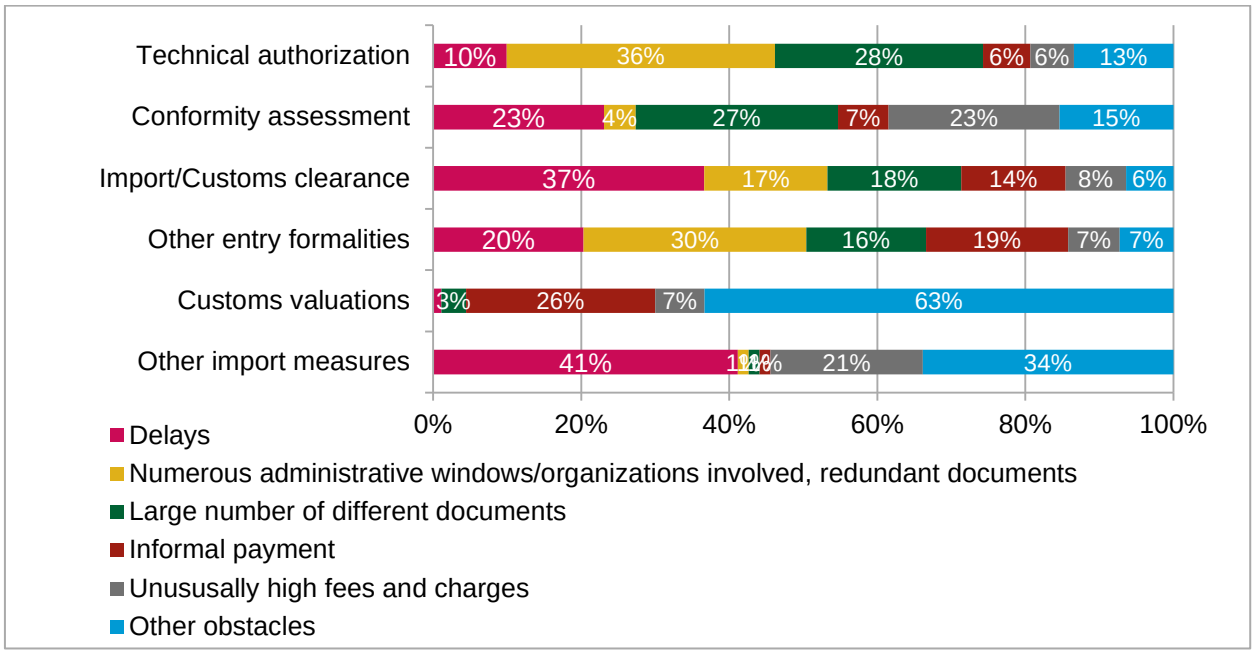


Source: ITC NTM Survey in the Philippines, 2014-2015.

Similar to exporters though, NTMs by themselves are rarely cited as the main reason for burdensome obstacles to trade by Filipino importers, and indeed POs (on their own or combined with NTMs) constitute anywhere from 28%-100% of their NTMs obstacles. Importantly, what differentiates importers from exporters however is the increased need for expedience in "facilitating" trade procedures to avoid the demurrage and storage fees incurred by having arrived cargo sit idly at the port.

Figure 13 breaks down the types of POs encountered by importers. Import clearance, other entry formalities and technical authorizations as the most challenging NTMs by rank involve a mixed array of all types of POs led by delays, too much paperwork, red tape, and informal payments. The Philippine WBES estimates 16.4 days to clear imports in the country compared to a global average of 10.7 days.

Figure 13. Types of procedural obstacles faced by importers



Source: ITC NTM Survey in the Philippines, 2014-2015.

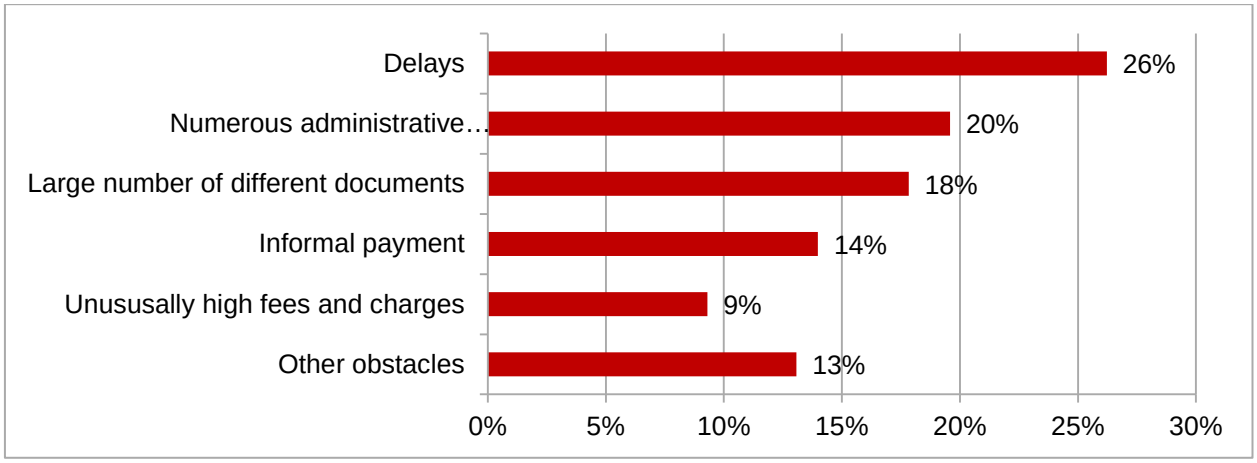
Meanwhile Customs valuation involves primarily unclassifiable "other obstacles" (63%), that mostly fall under either the improper assessment of goods (such as the perceived unfair implementation of BOC's "3-month rolling period" pricing methodology to value goods based on domestic prices) or the frequent lack of domestic recognition of valuations from partner countries – both of which significantly overvalue the traded

products as international prices are usually much cheaper. This prompts importers to seek "facilitative" means (26%) by which to address the issue.[10]

Where procedural obstacles take place?

Figure 14 tabulates the overall frequency of occurrence of import-related POs, citing that delays (26%) are the biggest complaint. This is followed by the large number of administrative windows (20%) and paperwork (18%) involved, informal payments (14%), and incidence of high fees and charges (9%).

Figure 14. What are the procedural obstacles faced in the Philippines



Source: ITC NTM Survey in the Philippines, 2014-2015.

Table 4 highlights the centrality of the BOC and the BIR in importer's procedural obstacles to trade, amassing between themselves fully 73% of all documented POs. While most of the general issues for BOC have already been discussed previously, the uncomfortable degree to which POs significantly and regularly affect importers in comparison to exports should be noted **(table 4 vs table 2).**

Apart from BOC, BIR is seen to be beset by an unprecedented volume of delays and red tape for importers primarily because of its new Importer Clearance Certification regulation, while the PNP and PDEA obtain their fair share of complaints from the prevailing regulation issue on the import and sale of household chemicals. **The WBES reinforces this by noting that it takes more than twice as long (47.8 days) to obtain an import license in the Philippines as opposed to an average of only 17.5 days in all countries surveyed.** Interestingly when considering the cultural milieu, this figure is countered by the very low expectancy to give gifts to get an import license locally (7%) as opposed to the rest of Asia & the Pacific (47%), indicating that while the incidence of delays at the BIR is remarkably high, their efforts are well-intentioned. When compared to the national context of (70%) of firms expecting to give gifts to public officials to "get things done" versus a regional average of 52%, this figure is indeed laudable.

Notably, prior to setting out policy options for the NTM obstacles set out in **table 5**, the primary policy recommendation is to ensure the prompt and effective implementation of a **functional inter-agency National Committee on Trade Facilitation (NCTF)** as mandated by Philippine commitments to the WTO Trade Facilitation Agreement, and charged with coordinating and aligning national trade facilitation efforts and ensure their sustainability. This unit should be headed by the Department of Trade and Industry and allowed to exercise policy sway over relevant [or reluctant] NTM-regulating government agencies, as well as accelerate and support the implementation of related policy regulations such as the Customs Modernization and Tariff Act and the Philippine Export Development Plan. While this body currently appears to be nominally extant, it has yet to exert much effort into trade facilitation initiatives in the Philippines **(Appendix 1).**

[10] Even with the anonymity assured by the surveys, firms appear very reluctant to share that they regularly pay informal facilitative fees to expedite import procedures, though all indicators show that this is standard operating procedure for the vast majority.

Table 4. Agencies involved in domestic POs experienced by Filipino importers

Agency \ Procedural obstacles	Delays	Numerous administrative windows/organizations involved, redundant documents	Large number of different documents	Informal payment	Unusually high fees and charges	Other obstacles
Bureau of Customs (BOC)						
Bureau of Internal Revenue (BIR)						
Philippine National Police (PNP)						
Philippine Drug Enforcement Agency (PDEA)						
Securities and Exchange Commission (SEC)						
Commission on Elections						
Food and Drug Administration						
Department of Environment and Natural Resources						
Department of Trade and Industry (DTI)						
Other public institutions						
Other private institutions						

Source: ITC NTM Survey in the Philippines, 2014-2015.
Legend: The different intensities of red, yellow and green indicate the frequency of a procedural obstacle occurrence at a particular public institution. Red indicates highest frequency while green indicates the lowest frequency. Blank cells indicate non-occurrence of such combinations.

The next section condenses the salient points of the discussions above in a single format (Table 5) and indicates preliminary recommendations to address them. These major issues and their proposed solutions are intended to be discussed thoroughly during the stakeholder workshop.

3. Preliminary recommendations

Table 5. Matrix of preliminary recommendations

Types of burdensome NTMs	Obstacles	Products, agencies and markets affected	Recommendations / Policy options
1. Product requirements and conformity (exports): Technical compliance and expense How to improve the conformity of exported products? How to overcome the lack of recognition of Filipino's certificates in international markets? How to make local conformity assessment procedures more efficient and less expensive? How to ensure businesses have better access to product standards and conformity assessment procedures?			
Conformity assessments (product certification and testing) by partner countries, private standards and regulating agencies Technical requirements (fumigation and labelling) by partner countries Private standards certifications	• High costs and delays for testing and certification requirements for both Agri-food (SPS) and manufacturing (TBTs) • Lack of staff and facilities in FDA and BFAR regional offices to facilitate permits • Fumigation as a necessary and expensive requirement for all cargo shipments • Labelling and related packaging requirements difficult for agri-food exporters • Client insistence for private standards certification becoming a "requirement" in addition to official NTMs	Cross cutting, concern all products, usually for US and EU markets Agrifood – FDA, BFAR, BPI, DTI Manufacturing – BPS, DOST, DTI Fumigation – usually Australia and US markets	Technical assistance, capacity upgrading and shared service facilities for exporters to comply with testing and certification requirements. More focus on providing adequate facilities and technical staff in government testing and certification offices in key regional export zones such as in Cebu or Davao.

2. Customs clearance and control (imports and exports): border transparency and clean up How to improve the transparency of border inspection procedures? How to streamline border clearance and control procedures?			
Import/export clearance Import monitoring mechanisms (e.g. BIR ICC and PNP/PDEA regulation on chemicals importation) Customs valuation	• BOC affected by the majority of domestic POs, including informal payments, delays, too much paperwork and red tape for import and export clearance • The E2M electronization system is frequently offline and still requires manual interactions, leading to informal payments. • Port congestion and related logistics issues for cargo shipments including the new Terminal Advanced Booking System • BIR implementation of its new Importer Clearance Certificate requirements subject to frequent delays and too much paperwork and red tape • PNP/PDEA regulation on the import and sale of chemicals • Customs valuation subject to improper assessments and lack of recognition for foreign valuations	Cross cutting, concern all products and markets BOC, BIR, PNP, PDEA, Comelec	Effective and sustainable implementation of full customs automation.* This should be benchmarked on the Customs Modernization and Tariff Act to improve transparency and reduce rent-seeking behaviour. Improved port and road infrastructure to address congestion and logistics issues.* Inter-agency mechanism under NCTF to properly review new agency regulations that affect trade, and provide avenues for stakeholders to be consulted prior to implementation. Focal points for trade facilitation should be appointed in each agency to coordinate and harmonize regulations and reforms. Clear guidelines on product valuation to reduce ambiguity and misuse of authority by field officials during imports are needed. The Philippines should follow the WTO Customs Valuation Agreement and accept the transaction value as specified in Article VII, provided importers present the invoice documenting the price paid for the product.

3. Rules of origin and other trade rules (exports and imports): overcoming domestic POs What are the roles and responsibilities of each institution involved in issuing of trade documents (licenses, permits, certificates of origin)? How to simplify the procedures for granting these documents? How to improve transparency on regulations governing such procedures including the eligibility criteria for companies, costs and time?			
Rules of origin (ROO) by partner countries Technical authorization by Philippine regulating agencies	• Requirements for ROO Certificates of Origin (COs) difficult to comply with, leading to informal payments or underutilization of ROO privileges • NTM-regulating agencies (FDA, BFAR, BPI, DENR, PNP, PDEA, Comelec, among others) require individual technical authorizations for export clearance that are subject to high charges, delays, paperwork and red tape, and lack technical staff or facilities.	Manufacturing sectors – ROO and CO issues from BOC Agri-food sectors – technical authorization from FDA, BFAR, BPI, and DENR Manufacturing sectors – DENR (furniture), PNP, PDEA, Comelec (chemicals)	Improvement of BOC implementation of CO-related procedures. Simplification and expedition of export technical authorization procedures (e.g. issuance of export licenses and permits) towards streamlining them and reducing redundancies. * The DTI may wish to go through ITC's raw database of surveyed Philippine NTMs for a full listing of major and minor issues for their internal analysis and prioritization.

*Included in Philippine Export Development Plan.

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