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What Can Free Trade Agreements Do to Contain the Growth of Non-Tariff Measures? The View of Business

Submitted by: ABAC New Zealand



**Capacity Building Workshop on
Addressing Non-Tariff Measures in
Free Trade Agreements and Regional
Trade Agreements
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What can FTAs do to contain the growth of NTMs?
The view of business

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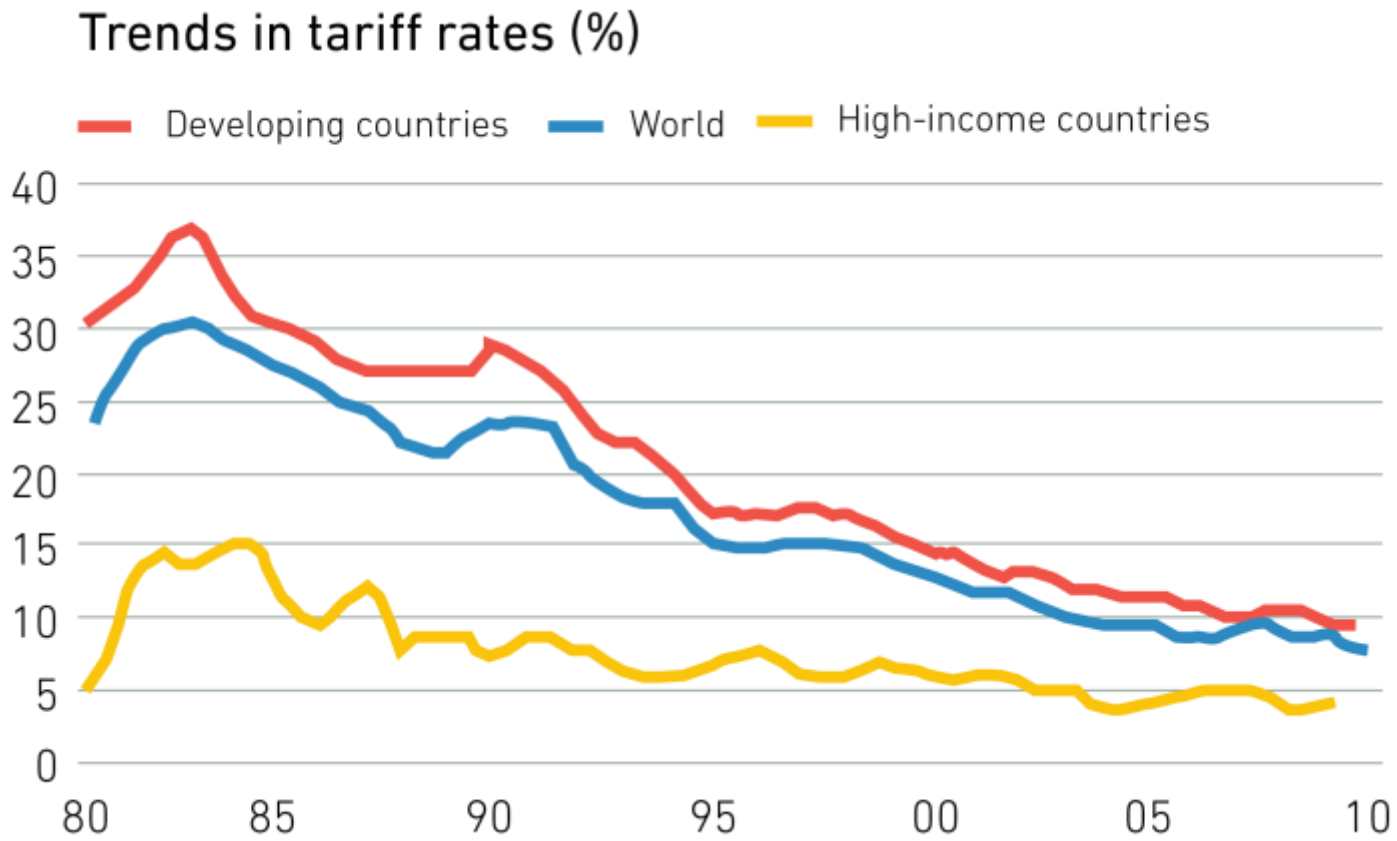
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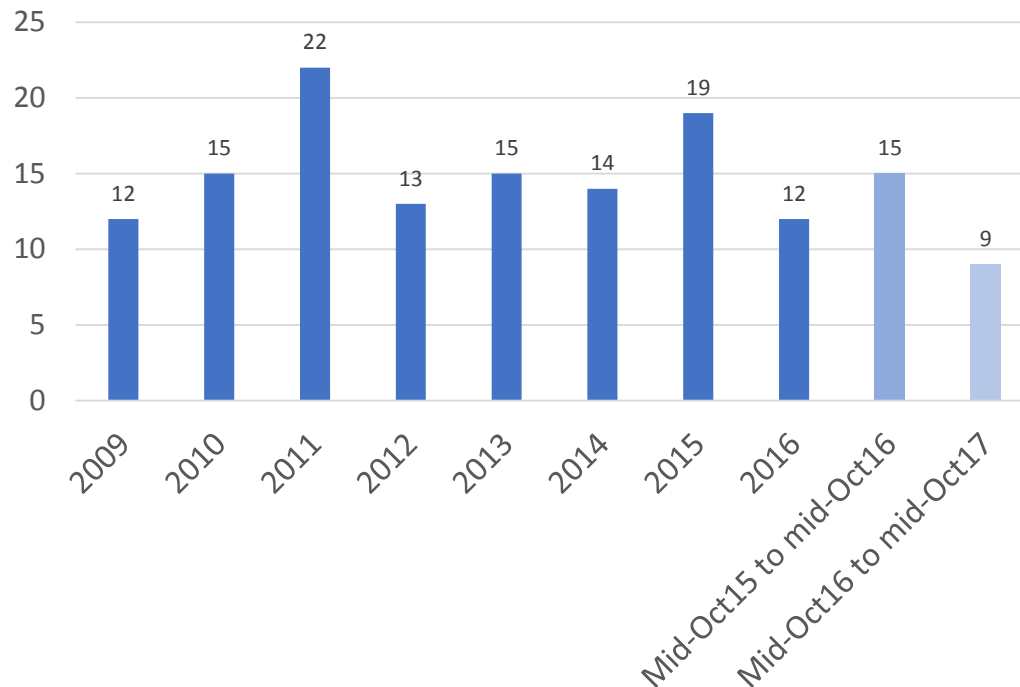
www.globaltradeinsights.net

Tariffs have gone down...



...but trade restrictions have gone up

**New Trade-Restrictive Measures
(average per month)**



Since the GFC...

3,200

new trade-restrictive measures in total

NTMs and NTBs

- Legitimate NTMs are an important part of the trading system
- They can be welfare-enhancing (e.g. by protecting or informing consumers, preserving the environment or safeguarding animal and plant health)

That said:

- *Even legitimate NTMs can have an impact on trade (by adding costs, delays etc.)*
- *The overall “regulatory burden” can have an impact*

NTBs

- But NTMs can also become NTBs
- NTBs can be subtle and hard to identify
- Diverse across sectors, products, markets
- The impacts can be hard to measure
- A source of huge frustration for business



When does an NTM become an NTB?



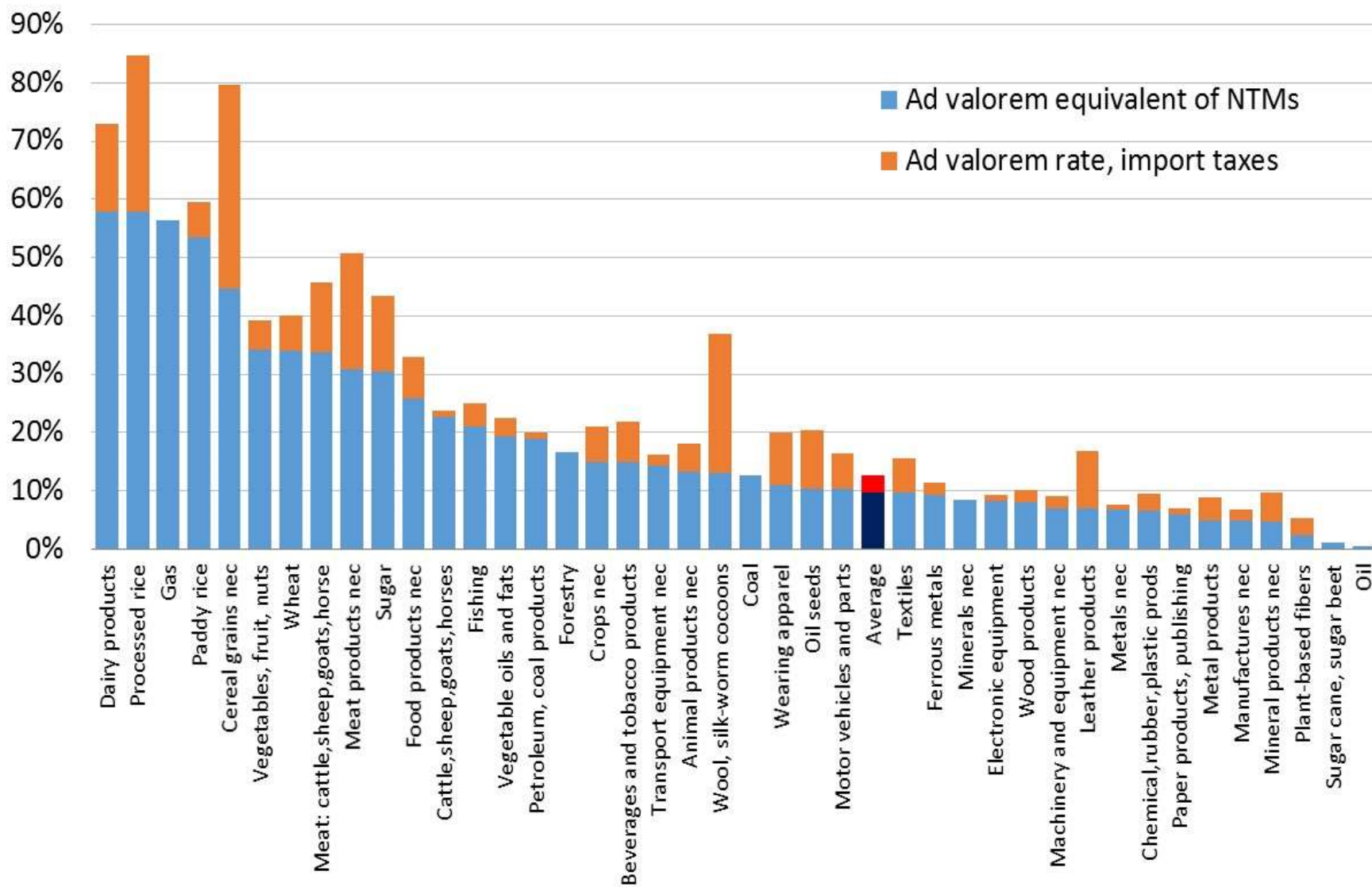
When...

- it adds unwarranted costs to trade
- it does not have a legitimate objective
- it is more restrictive than necessary
- it discriminates among or against imports
- it not based in science, or international norms
- it is designed to be protectionist

Why does business care about NTBs?

NTBs...

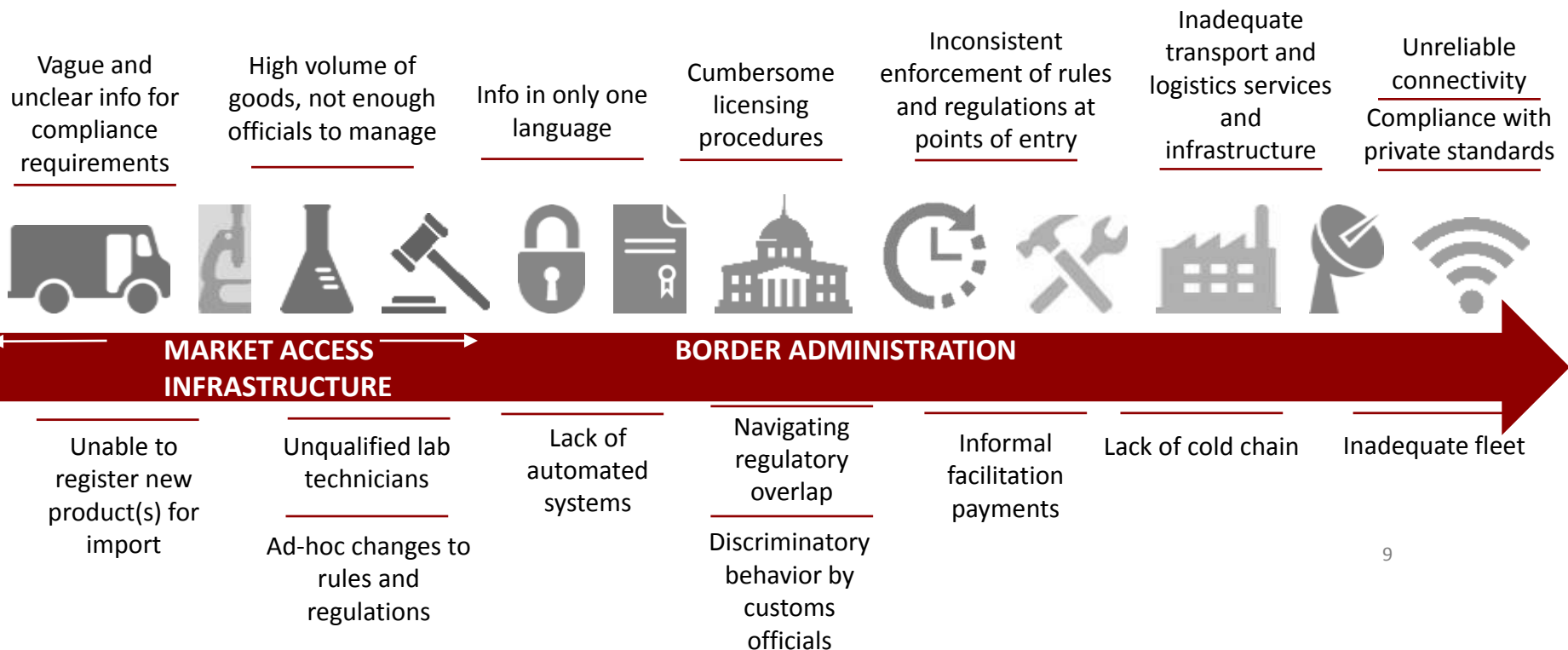
- can be more significant than tariffs – sometimes much more
- affect the volume or value of trade
- add costs and erode margins
- worsen the competitive position
- reduce benefits for consumers
- undermine negotiated access



Source: NZIER, 2016

NTBs occur along the supply chain

Adapted from the World Economic Forum's Enabling Trade report, we have created a visual representation of some of the chokepoints along the supply chain faced by food traders. Understanding the intricacies of supply chains which vary by economy and food category is necessary to streamline NTMs and to eliminate NTBs.



NTBs are magnified along GVCs

- As products cross borders multiple times through global value chain production processes, the impact of NTBs (for goods and services inputs) can be magnified
- By the time the product reaches the final consumer, the margins for business may be significantly eroded

US\$5.9 billion

additional costs for NZ exports to APEC



'Quantifying the costs of non-tariff measures in the Asia-Pacific region'

Working Paper 2016/4, Nov 2016

But it's not just about the dollars

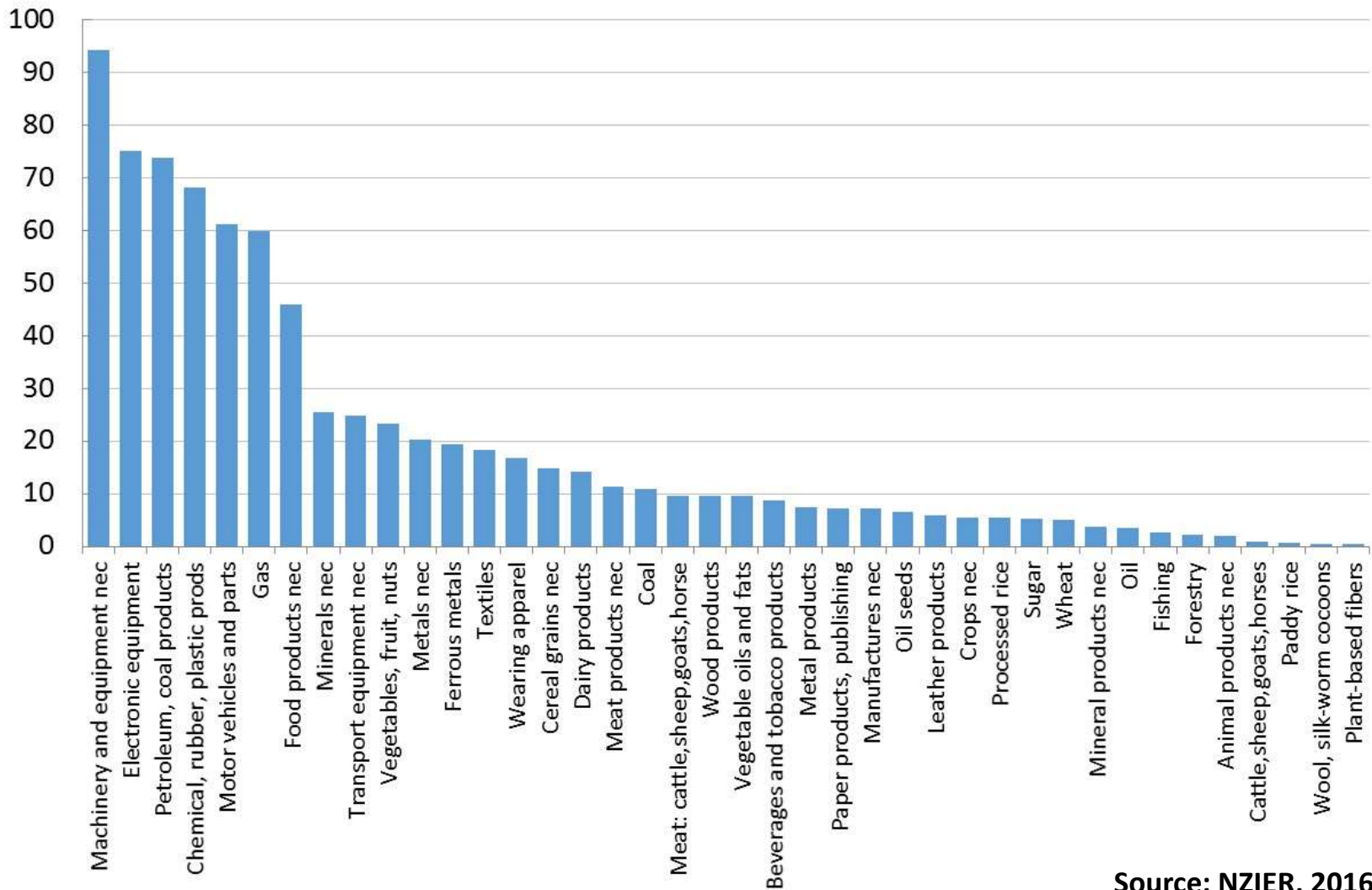
- Increased uncertainty for trade inhibits investment (with implications for productivity, innovation, infrastructure)
- Increased risks in new markets
- A disproportionate burden for SMEs

The biggest impacts

- NZIER has found that the highest absolute costs in the APEC region are in industrial goods (e.g. machinery, equipment, petroleum products, chemicals)
 - But these happen to be the most traded goods
- ABAC has also looked in detail at food
 - AVEs in food are much higher than tariff levels – relatively less traded than agriculture goods
- Services and digital NTBs are also significant

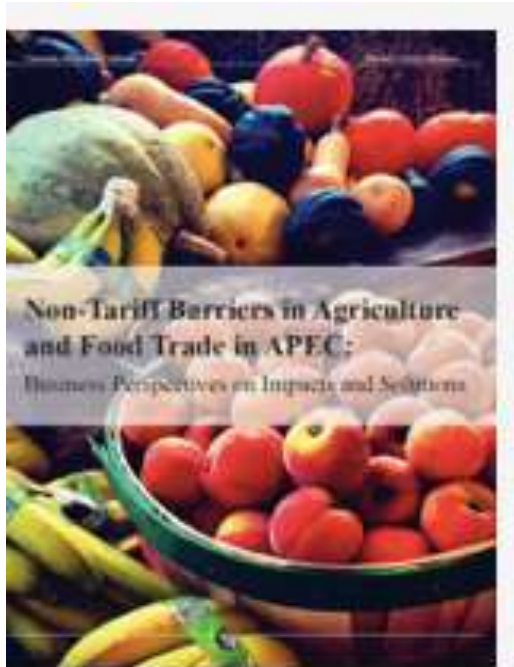
Cost of APEC NTMs by sector

US\$ billions, 2011



Source: NZIER, 2016

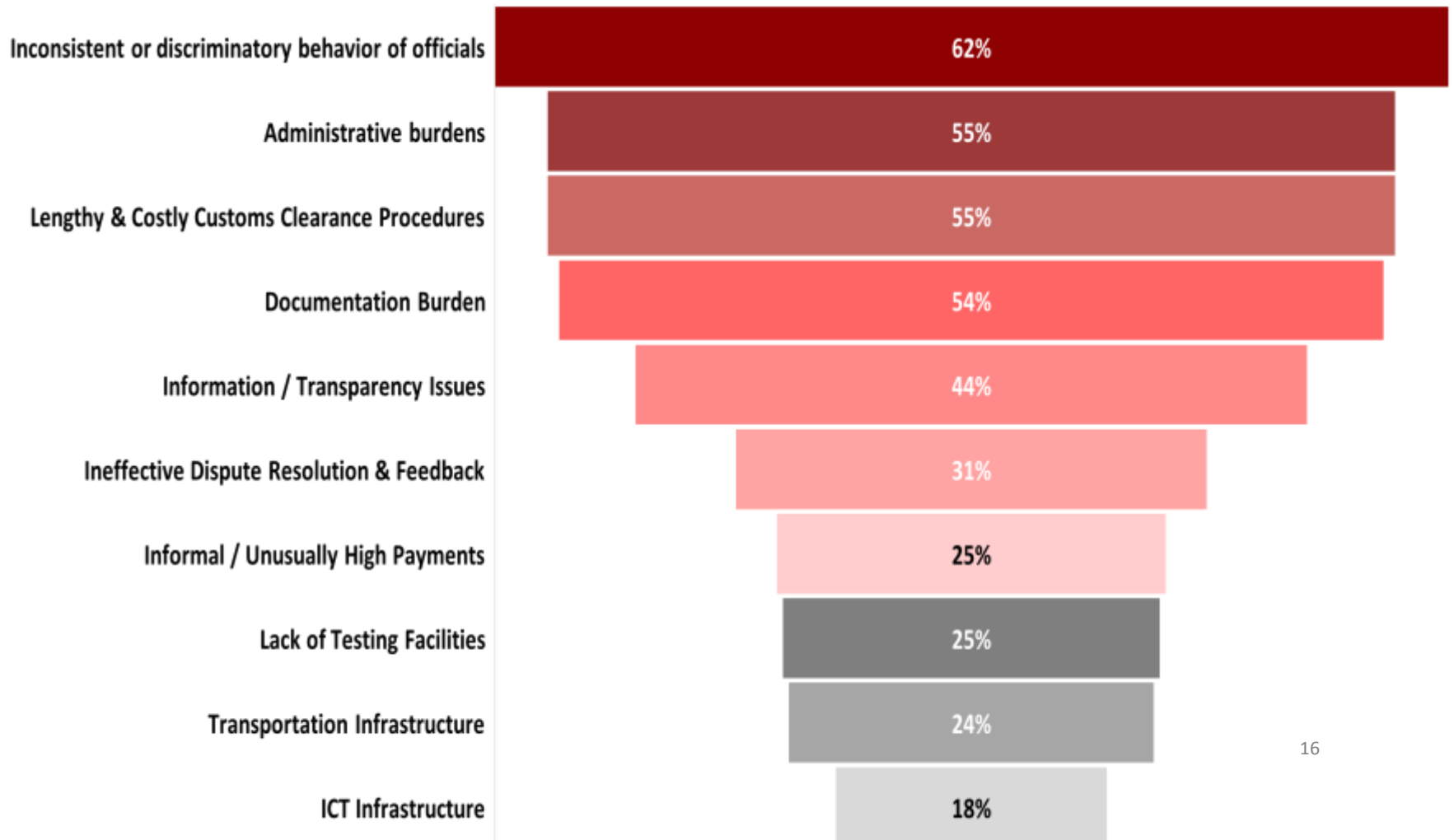
NTBs on food



ABAC/Marshall School study 2016 found that:

- NTBs are increasing in prominence and complexity
- Procedural obstacles are the most frequent – but SPS and TBT are also common
- TBT are the most burdensome (in terms of time and cost) – but SPS and procedural obstacles are also onerous

Procedural obstacles are common



Services & digital “NTBs”

Typical “NTBs” on services/digital

- Opaque domestic regulations
- Slow or unpredictable administration e.g. licensing procedures, approvals
- Discriminatory limits on the kinds of services able to be offered
- Discriminatory tax treatment, corporate governance or financial structures, Visa and other entry restrictions, nationality or residence requirements for foreign services suppliers
- Restrictions on data flows

AVEs for services are high:

- Around the APEC region, AVEs in financial services estimated at 60%, business-related trade services 50%



What can trade agreements do?

- Help create a predictable and streamlined business environment
- Bigger FTAs (especially mega-regionals) can reduce the impact of NTMs across multiple markets by imposing a single rules framework
- Some NTBs (especially in the area of procedural obstacles) are hard to address effectively in a trade agreement – but it is a start



Case study: CPTPP

Tackle NTBs at source...

- Regulatory coherence, emphasis on good regulatory practices

Robust SPS & TBT approaches – NTBs are common in this area

- SPS & TBT: emphasis on importance of enhancing transparency and eliminating unnecessary obstacles to trade, encouraging regulatory cooperation
- Sectoral annexes on pharmaceuticals, medical devices, ICT and cosmetics

CPTPP: procedural obstacles

Try to deal with procedural obstacles

- Trade facilitation, Customs procedures
 - Reduce time that goods spend waiting to clear Customs (48-hour Customs clearance, 6-hour clearance for express consignments)
 - Self-certify – lower compliance costs
 - Advanced rulings – increased predictability around border processes
- ROO
 - Allow for trans-shipment and streamlined procedures to claim tariff preferences
- SPS
 - Facilitative rules for audits and import checks

CPTPP: new business models

Address NTBs in services and digital trade

- Services trade liberalisation
- Digital trade provisions including on cross-border data flows

Minimise NTBs in global value chains

- Regulatory coherence, SPS and TBT Chapters
- Trade facilitation, Customs procedures
- Liberal region-wide ROO, cumulation
- SME Chapter – greater information and capacity-building

FTAAP

- As the region integrates further, it will be critical to address NTBs – for GVCs, for services/digital trade, for food security and for overall prosperity
- ABAC has urged APEC Leaders to adopt the ABAC WTO-consistent cross-cutting principles on NTMs/NTBs
- The CPTPP approach is a good starting point

ABAC Cross-Cutting Principles for NTMs/NTBs



Information

- Business needs information about import and other regulations **that is clear and readily available**, preferably through an online portal;

Processes

- Processes for the development of non-tariff measures should be **transparent & timely**;
- Business should be able to participate in **consultation on the development of standards**;

Measures

- Measures should be **transparent, coherent and non-discriminatory**;
- Measures should be **based on sound science or closely aligned with international norms** such as Codex, ISO and APEC;
- Measures must **not discriminate against imported goods or services**;
- The application of non-tariff measures should be **timely, predictable and coherent**;

Underpinning philosophy

- Measures must be developed consistent with **the principle of “least-trade restrictive”**;
- The emphasis should be on desired or **equivalent outcomes** rather than prescriptive processes or production methods.

What else could be useful?

ABAC/Marshall School study on agriculture and food:

- Communication among stakeholders is key
- Expand the scope of the APEC Trade Repository to include all agriculture and food requirements
- Establish a single point of contact for trade
- Adopt digital channels and automated processes
- Accredite third-party labs for conformity assessment

Possible approaches on services

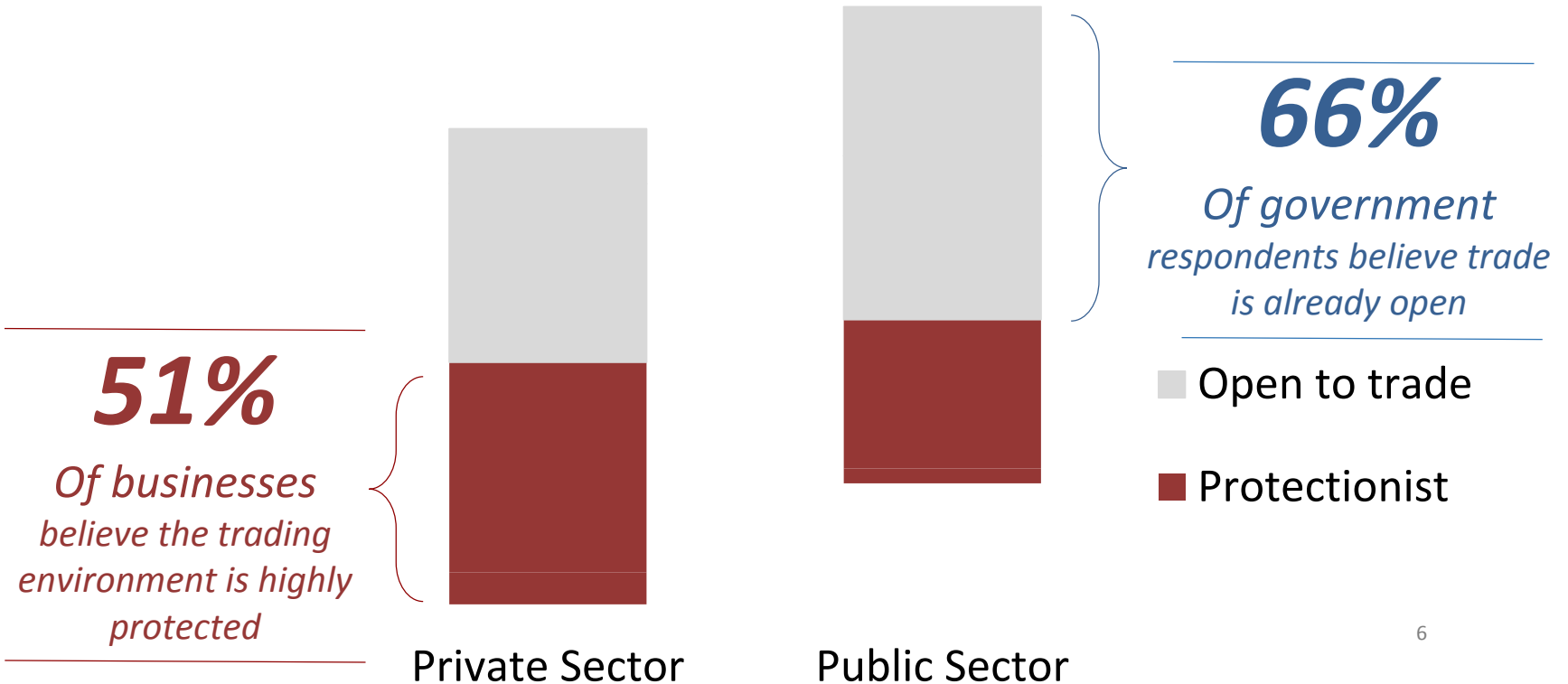
A similar approach to the Marshall School food 'action agenda' could be explored:

- mutual recognition of standards, licensing, qualifications
- designating a single point of contact for services trade information
- greater use of digital channels and tools, including region-wide rules on cross-border data flows

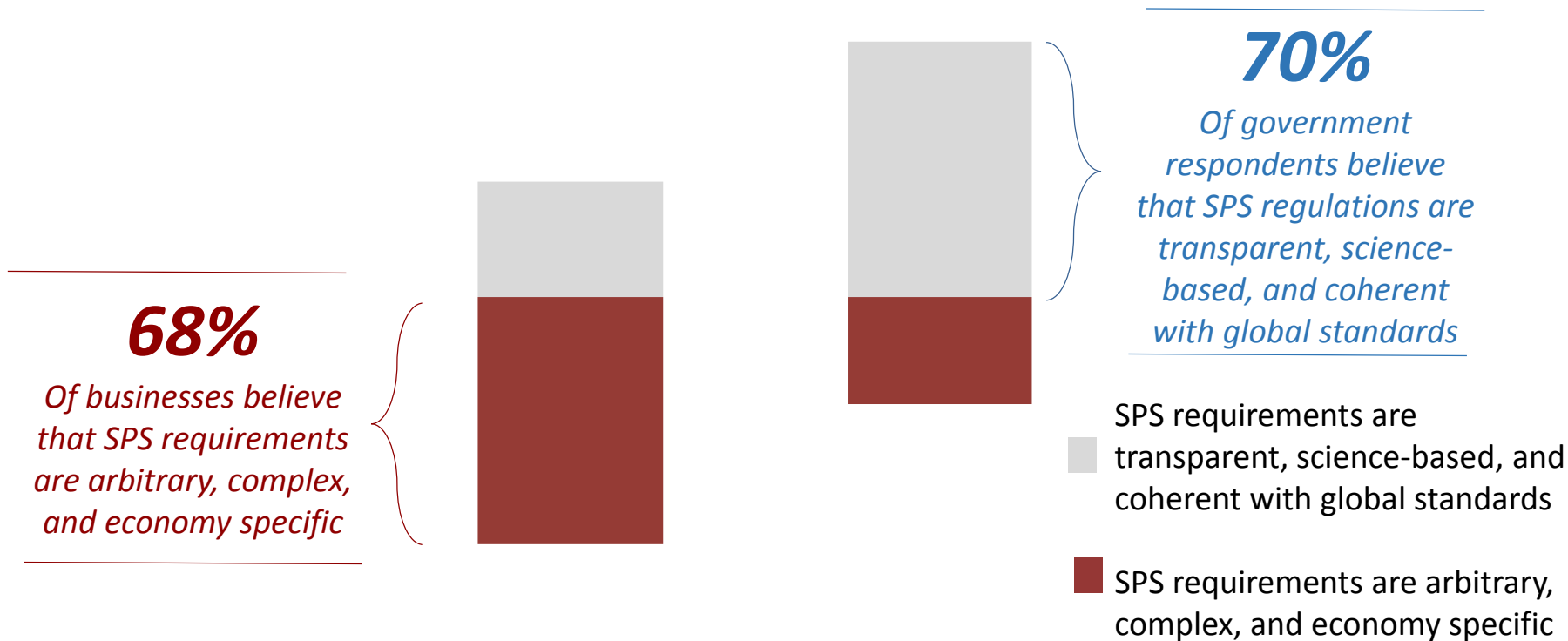
Should business be involved?

- Business is well placed to understand the impacts and significance of NTBs
- Governments and business do not always see the issues the same way

Differing business and government perceptions on NTBs



Example: Perceptions on SPS





Business has an important role

- ***engaging in the development*** of new non-tariff measures
- ***ongoing dialogue*** about the implementation of measures
- ***identifying*** problems with NTBs
- ***developing and proposing*** solutions to NTBs
- ***keeping the profile high*** on NTBs work with governments and other stakeholders

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