

# **Food Safety Standards and Regulations in Malaysia: Implications for the ASEAN Integrated Region**



Evelyn S. Devadason  
VGR Chandran  
Tang Tuck Cheong

*Draft – Not to be cited*

# The Agenda

- Regulatory heterogeneity is a challenge for increasing trade, harmonizing standards, and ultimately creating an integrated ASEAN single market.
- Focus on the food sector. Why?
  - ASEAN region is an important source for food (RISI, 2013), and a potential source to derive benefits from the AEC (Pettman, 2013);
  - significant number of NTMs in the food sector – due to diverse national standards and regulations (RSIS, 2013; Pettman, 2013; Norani, 2014);
  - Member countries arbitrarily adopt food control systems under SPS measures for imports (RSIS, 2013).
- Multiple food safety regimes call for increased dialogue on food safety standards - efforts are already underway to harmonize regulatory standards in the food sector under the AEC.

# Research Issue

- Information shortcomings on the extent of the diversity of NTMs in the various sub-sectors of food trade within the ASEAN countries - picture on NTMs remains sketchy, as the existing databases lack complete information.
- Applies a new database to provide a comprehensive assessment of NTMs in food trade from the Malaysian perspective:
  - Details the diverse types of NTMs for the various sub-sectors of food, based on acts and regulations that prescribe the conditions for importing food products into Malaysia
  - Coverage ratios of products affected by NTMs for the different food sub-sectors to provide indications of the trade incidence of NTMs.
- Purpose: To articulate some thoughts concerning the harmonization of standards within the region, based on the national scenario.

# Food Regulations and International Trade

- Governments set standards for food imports that require foreign producers to meet the same standards required of domestic producers (Mitchell, 2003).
- Food sector:
  - ✓ highly regulated, with various measures related to product characteristics, production, processing and distribution.
  - ✓ complex regulations - reflect consumers' demand for food safety, firms' reputation for providing safe food and maintaining global market shares, and new hazards that surface in global food trade.
  - ✓ regulations differ across countries - types/ forms and desired/ stringency levels, for example, different levels of tolerance for food safety risks and different levels of accidental contamination.
  - ✓ regulations also differ significantly across food types - raw and processed food, less and highly perishable food products, low or high incidence of risks for human health.

- Multiple safety regimes:
  - disrupt trade and cause conflict between countries; and
  - increase compliance costs for firms.

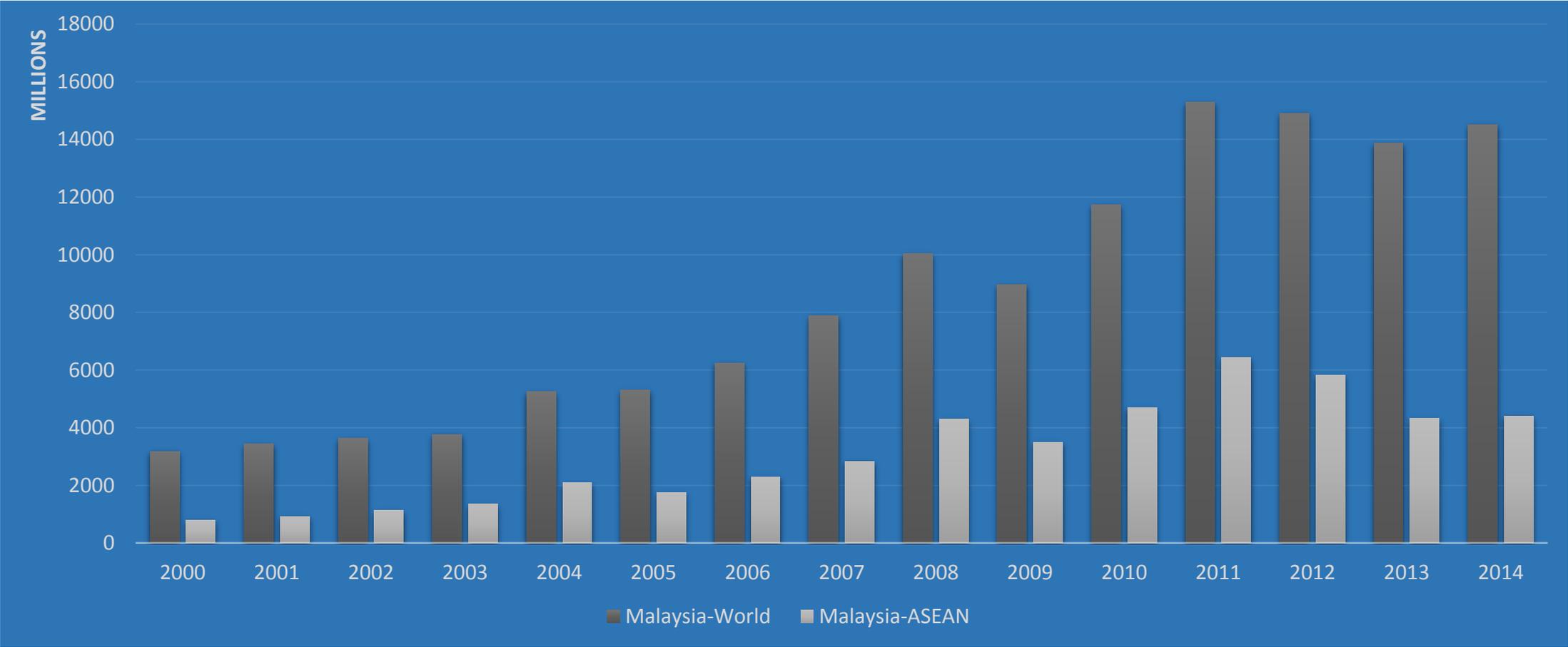
*Counter-arguments:*

- could spark more dialogue between countries, leading to change and improvement in the food safety systems Buzby and Unnevehr (2003).
  - standards can solve information asymmetries between buyers and sellers and reduce transaction costs (Schuster and Maertens, 2015; Athukorala and Jayasuriya, 2003).
- 
- Regulatory convergence:
    - harmonization of food regulations within the EU single market had significantly increased trade within member countries (de Frahan and Vancauteran, 2006); convergence of specific regulations, such as pesticides maximum residue limits (MRLs), are important for increasing trade flows (Winchester *et al.*, 2012).

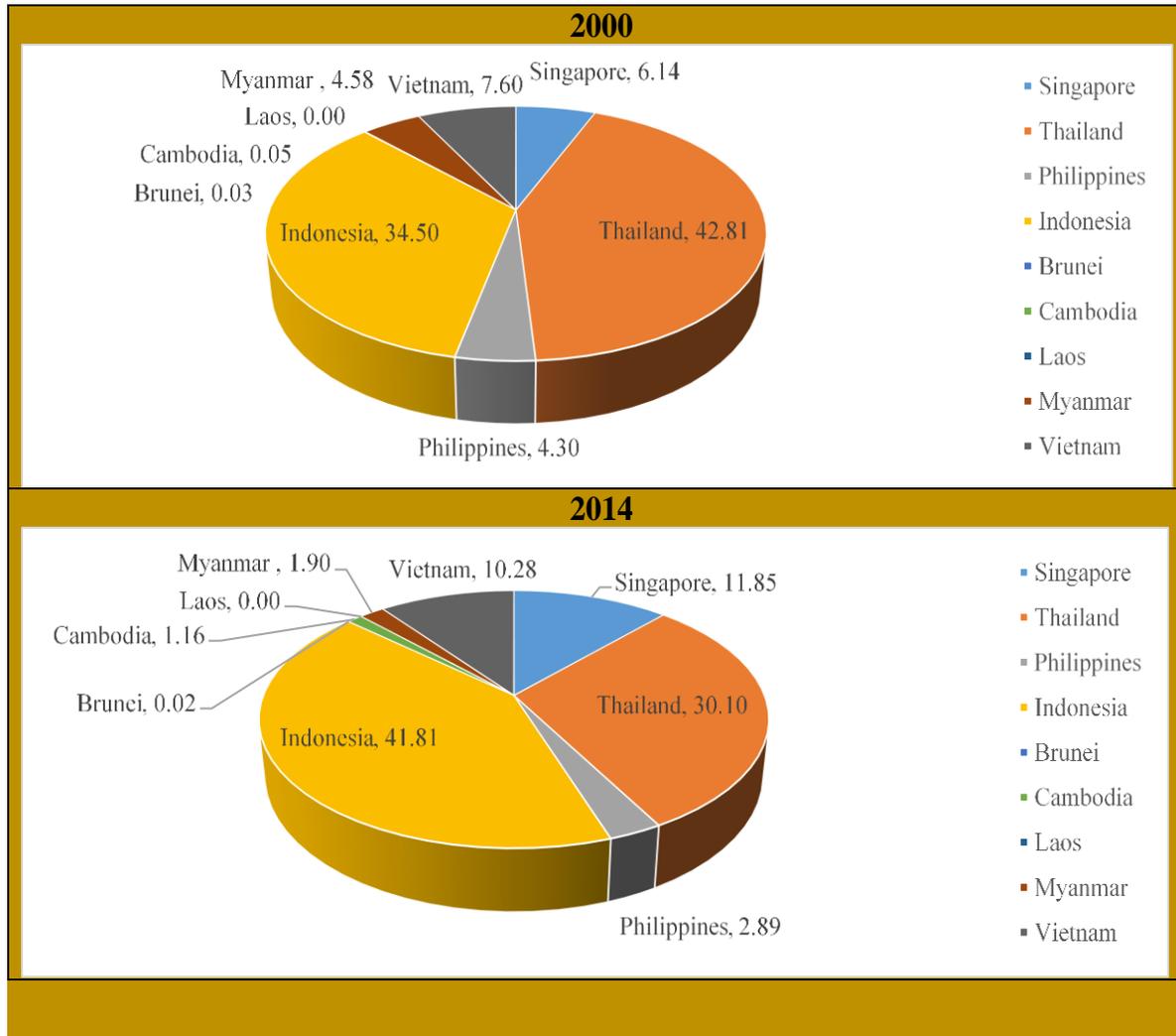
# Regional Source for Food Imports

- Malaysian perspective:
  - 2000-2014: 15.9% of food imports from ASEAN relative to global food imports at 12.5% for the period 2000-2014;
  - In 2014: ASEAN commanded 30.4% of Malaysia's global food imports.
  - High import concentration in terms of markets and products:
    - Indonesia and Thailand, account for more than 70% of total imports from ASEAN.
    - Fats, animal and vegetable (HS15), fish, crustaceans (HS03), cereal, flour, starch (HS19), cereals (HS10) and cocoa (HS 18) account for more than 60% of total imports from ASEAN.
- Four major import markets for food products in ASEAN, Indonesia, Thailand, Singapore and Vietnam, serve the Malaysian market for different food categories. Major imports from:
  - ✓ Indonesia: fats, animals and vegetables (HS15), cocoa (HS18) and fish and crustaceans (HS3);
  - ✓ Thailand: sugar (HS17) and cereals (HS10);
  - ✓ Singapore: miscellaneous edible preparations (HS21), beverages (HS22) and cereal, flour and starch (HS19);
  - ✓ Vietnam: cereals (HS10), coffee, tea and spices (HS9) and fish and crustaceans (HS3).

# Malaysia: Food Imports Imports from ASEAN and the World (USD million)



# Malaysia: Geographical Concentration of Food Imports from ASEAN, 2000 and 2014 (%)



# Malaysia - Import Concentration of Food Products from ASEAN 2000 and 2014 (%)

HS Category	ASEAN		2014			
	2000	2014	SGP	THAI	INDO	VNM
HS 02 Meat, edible	0.79	0.86	0.37	2.15	0.00	1.57
<b>HS 03 Fish, crustaceans</b>	<b>19.76</b>	<b>9.03</b>	1.34	<b>8.01</b>	<b>9.89</b>	<b>14.45</b>
HS 04 Dairy products	1.42	0.42	1.80	0.12	0.21	0.63
HS 07 Edible vegetables	6.21	2.72	0.15	3.29	0.35	6.90
HS 08 Edible fruits, nuts	2.50	2.03	0.25	3.29	1.19	1.67
HS 09 Coffee, tea, spices	4.93	4.70	2.49	0.15	5.62	19.27
<b>HS 10 Cereals</b>	<b>17.10</b>	<b>8.66</b>	0.11	<b>14.14</b>	0.01	<b>33.30</b>
HS 11 Milling products	2.93	3.49	0.92	9.04	0.64	3.60
HS 12 Oilseeds	3.10	0.82	0.05	1.03	0.69	1.31
HS 13 Lac, gums, resins	0.18	0.13	0.14	0.03	0.18	0.00
<b>HS 15 Fats, animal and vegetable</b>	<b>11.27</b>	<b>23.61</b>	4.59	<b>8.07</b>	<b>47.29</b>	3.25
HS 16 Meat and fish preparations	1.99	1.04	0.69	2.23	0.30	1.13
<b>HS 17 Sugars</b>	<b>5.34</b>	<b>7.74</b>	0.54	<b>23.33</b>	0.46	3.50
<b>HS 18 Cocoa</b>	<b>8.96</b>	<b>9.76</b>	10.20	0.55	19.47	1.45
<b>HS 19 Cereal, flour, starch</b>	<b>6.95</b>	<b>10.22</b>	<b>19.17</b>	<b>10.65</b>	6.99	0.60
HS 20 Vegetable and fruit preparations	1.27	1.12	0.99	2.51	0.19	0.48
<b>HS 21 Miscellaneous edible preparations</b>	<b>4.40</b>	<b>9.16</b>	<b>34.60</b>	6.50	6.35	3.96
HS 22 Beverages	0.91	4.49	<b>21.59</b>	4.90	0.15	2.92

# Database: Description and Classification

- Refers to public standards set by the government.
- Food Regulations 1985 (gazetted on 26 September 1985) of the Food Act 1983 (enacted as Laws of Malaysia Act 281; gazetted on 10 March 1983).
- All food, beverage and edible agricultural products imported (or manufactured locally) are required to comply with these guidelines, and the requirements apply to imports from all countries.
- Food Regulations comprise 10 parts and 30 schedules. Part VIII provides detailed provisions regarding standards and particular labelling requirements for 28 sub-sectors.

- NTM classification based on UNCTAD (2013): 9 chapters comprising technical and non-technical measures. For example: There are 42 and 31 sub-chapters for SPS and TBT, respectively.

<b>Chapters</b>	<b>Technical Measures</b>
<b>A</b>	Sanitary and Phytosanitary (SPS) Measures
<b>B</b>	Technical Barriers to Trade (TBT)
<b>C</b>	Pre-Shipment Inspection and Other Formalities
<b>Chapters</b>	<b>Non-Technical Measures</b>
<b>D</b>	Contingent Trade Protective Measures
<b>E</b>	Non Automatic Licensing, Quotas, Prohibitions and Quantity Control Measures Other than for SPS or TBT Reasons
<b>F</b>	Price Control Measures, Including Additional Taxes and Charges
<b>G</b>	Finance Measures
<b>H</b>	Measures Affecting Competition
<b>I</b>	Trade-Related Investment Measures

# Food Sector - Type of NTMs

- Total of 488 NTMs - all of which comprise technical measures.
- Within the technical measures category – 55% constitute TBTs and the remaining 45% are SPS.
  
- For SPS measures - most of the NTMs are for:
  - restricted use of certain substances in foods and feed and their contact materials;
  - labelling requirements.
  
- For TBT measures – most of the NTMs relate to:
  - product quality or performance requirement;
  - labelling; and
  - packaging requirements.

- Most sub-categories of food products have 3 or more NTMs, with the exception of four sub-categories - frequency count of NTMs is highest for
  - (i) salt and spice;
  - (ii) sweetening substance;
  - (iii) edible fat and edible oil;
  - (iv) alcoholic beverage; and
  - (v) tea, coffee, chicory and related product.
- Approximately 37% of food products imported into Malaysia are affected by NTMs – products affected by NTMs is considerably high for edible meat, vegetable and fruit preparations, sugar, and meat and fish preparations.

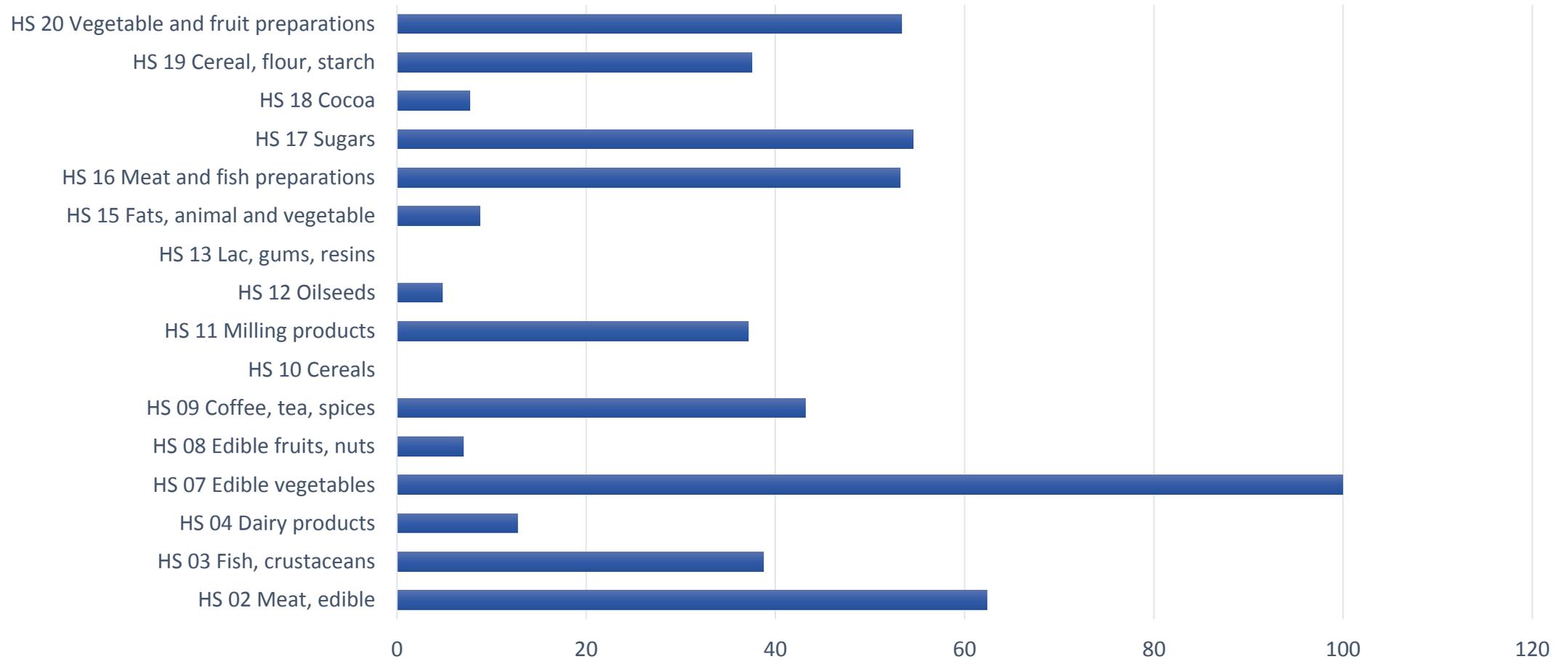
# Malaysia: NTMs for Food

A	SPS	%
A14	Special Authorization requirement for SPS reasons	1.80
A19	Prohibitions/restrictions of imports for SPS reasons n.e.s.	0.45
A21	Tolerance limits for residues of or contamination by certain (non-microbiological) substances	0.45
<b>A22</b>	<b>Restricted use of certain substances in foods and feeds and their contact materials</b>	<b>56.31</b>
<b>A31</b>	<b>Labelling requirements</b>	<b>29.73</b>
A33	Packaging requirements	4.05
A41	Microbiological criteria of the final product	0.45
A42	Hygienic practices during production	1.35
A51	Cold/heat treatment	2.70
A63	Food and feed processing	0.45
A64	Storage and transport conditions	0.45
A82	Testing requirement	1.80
	SPS	100.00
B	TBT	%
<b>B31</b>	<b>Labelling requirements</b>	<b>24.44</b>
<b>B6</b>	<b>Product identity requirement</b>	<b>13.91</b>
<b>B7</b>	<b>Product quality or performance requirement</b>	<b>61.65</b>
	TBT	100.00

# Malaysia: Top 10 Food Sub-Sectors with Highest Frequency of NTMs

Product Category	No.
Salt and Spice	70
<b>Sweetening Substance</b>	<b>44</b>
<b>Edible Fat and Edible Oil</b>	<b>44</b>
Alcoholic Beverage	42
Tea, Coffee, Chicory and Related Product	34
<b>Fish and Fish Product</b>	<b>26</b>
<b>Cereal, Cereal Products, Starch and Bread</b>	<b>25</b>
Meat and Meat Product	25
Fruit and Fruit Product	24
Special Purpose Food	23

# Percentage of Tariff Lines Affected by NTMs, by HS Groups



# Summary of Findings

- **Shortcomings of existing data sources.** For example, total number of notifications made at the WTO by Malaysia for TBTs and SPS are 216 and 36, respectively - number of notifications not a reflection of number of NTMs (see also Cadot *et al.*, 2013; Malouche *et al.*, 2013).
- **TBTs are core NTMs** in the food sector - major impediment for the expansion of regional trade in processed food (AFBA, 2014).
- **Labelling requirements** are important: among the ASEAN countries that follow the Codex guidelines, only Malaysia makes nutrition labelling mandatory for energy, protein, carbohydrate, fat and total sugars for foods that are commonly consumed (bread and milk, canned meat, fish, vegetable, fruit and fruit juices, salad dressing and mayonnaise) and for various types of beverages (Kasapila and Sharifudin, 2011; Pettman, 2013).

# Implications – Highly Regulated and Highly Diversified Sector!

- Varying market- and product concentration of food imports from the region suggest that NTMs affect the Member states disproportionately.
- **Efforts to harmonize standards within the region should account for the intensity of trade across the different food sub-sectors.**
- Food sub-sector with relatively high number of NTMs, edible fat and edible oil, is also the sector with the highest import concentration of food products from ASEAN.
- Food sub-sector with relatively high number of tariff lines affected by NTMs, fish and crustacean, is also an important food source from the region.
- **NTMs in the category of fats, animal and vegetable (HS15) and fish, crustaceans (HS03) need to be given special attention - restrictiveness of these measures.**

- Frequency, type and coverage of NTMs, though informative, are not an indication of the severity of those measures:
  - ✓ snapshot of NTMs in the food sector provides insights for tackling the issue of regulatory convergence.
  - ✓ Why? Same diversity found in food regulations in Malaysia is most likely to prevail in the other ASEAN countries that adopt the Codex guidelines.
- To move forward in facilitating trade through the harmonization of standards and regulations in the food sector:
  - First, prioritize the task of harmonization by considering specific NTMs and specific sub-sectors of food that are highly tradable within ASEAN;
  - Second, examine which of the NTMs in the highly tradable sector of the region impede trade.

# Harmonization of Food Standards: Some Thoughts.....

- Different International Guidelines followed by Member countries when preparing national regulations (see Kasapila and Sharifudin, 2011) – Codex, US and EU labelling guidelines.
- Different approaches followed in those guidelines - ‘hazards’ based-approach vs. ‘risk’ based approach (see also Henson and Caswell, 1999).
- Important to recognize that complete harmonization may not be practical or politically feasible - harmonization of regulations in the sub-sectors that have high product coverage of NTMs (cover a large number of products), would make more sense.

- Focus should shift away from eliminating NTMs to streamlining NTMs across the region, irrespective of the regulatory rapprochement that is taken.
- Premises for harmonization often builds on the elimination of TBTs (AFBA, 2014). Not all TBTs are NTBs. Focus should not be on suppression of TBTs (see also Malouche *et al.*, 2013).
- Malaysian perspective: Only a few reported cases of *potential* NTBs (not clearly defined NTBs) related to food products.
- Harmonization of standards and regulations should give priority to the following two areas: labelling for SPS and TBT reasons and restricted substances on food (see also AFBA, 2014).
- It should be sector specific, as the food sector is highly diversified, and trade within the region is concentrated in a few sub-sectors.

*Thank You*