

F. No.07/16/2016- FT (SA)
Department of Commerce,
Ministry of Commerce and Industry
New Delhi

Dated, the 08 November, 2016

OFFICE MEMORANDUM

Subject: National Consultation Meeting on SPS TBT issues - reg.

A key issue impacting trade in South Asia is the implementation of sanitary/phyto-sanitary standards and technical barriers to trade. In this context, Asian Development Bank (ADB) developed a South Asia Sub-regional Economic Cooperation (SASEC - comprising Bangladesh, Bhutan, India, Nepal, Maldives and Sri Lanka) Trade Facilitation Strategic Framework (TFSF), 2014-2018, which was approved by the SASEC countries, to promote sub-regional integration and facilitate trade among them. A key pillar of the framework is the strengthening of standards and conformity assessment procedures and augmenting the capacity of concerned agencies and implementation processes.

2. This matter was discussed in the two SASEC meetings held in November 2013 and December 2014 at Bangkok. In the meetings, it was agreed to conduct national and regional-level SPS/TBT diagnostic studies for all SASEC countries for identifying the potential items facing SPS and TBT measures, and the way forward to facilitate trade in these items.

3. In accordance with this, it is proposed to conduct a national diagnostic study for India. Prior to the conduct of the study, a national consultation meeting is to be held to

(i) review the TOR and make appropriate adjustments to reflect the national priorities and preferences;

(ii) agree on working arrangements for conducting the national diagnostic study; and


(iii) confirm a schedule and next steps before starting the study.

4. Draft terms of reference (TOR) for conducting such studies, which was discussed at the 2014 Bangkok meeting, is enclosed. The Summaries of Proceedings and TORs finalized during similar national consultation meetings held for Bhutan and Nepal are also enclosed for reference.

5. The national consultation meeting for India is scheduled to be held on **23 November 2016** at New Delhi. ADB which functions as the Secretariat of SASEC, would make the logistical arrangements for the meeting, prepare the required documentation and organize the diagnostic study, in accordance with the terms of reference finalized in the meeting. The exact time and venue of the meeting would be intimated in due course.

6. It is requested to make it convenient to attend the meeting or nominate a suitable representative for this purpose. A line of confirmation would be appreciated.

Encl : As above


08.11.16
(Anurag Sharma)
Deputy Secretary

To,
EPCs

SASEC SPS/TBT Diagnostic Study
Identification of Potential Export Items
facing Sanitary/Phytosanitary and
Technical Barriers to Trade Measures in
the SASEC Subregion

India TERMS OF REFERENCE

I. Introduction

1. Given the reduction in tariffs over the last 30 years due to multilateral and bilateral obligations as well as autonomous economic liberalization, the important remaining barriers to trade are non-tariff measures (NTMs). NTMs occur frequently in the form of standards and technical regulations, especially Sanitary/Phytosanitary and Technical Barriers to Trade (SPS/TBT). Since the establishment of the World Trade Organization (WTO), reliance on using SPS/TBT and other NTMs has increased:¹ SASEC member countries are not an exception.

2. To promote subregional integration among South Asia Sub-regional Economic Cooperation (SASEC)² countries by removing all remaining barriers, a need has been identified to develop mutual cooperation processes in the diverse and challenging area of SPS/TBT-related issues. The current situation in SASEC countries varies widely: some present a highly skewed export structure, and are also dependent on small number of markets for their exports. This creates two-fold problems: (i) loss of foreign exchange earnings for least developed countries due to lack of capacity to produce and export processed goods—which are supposed to generate more value added in these countries; and (ii) the lack of foreign direct investment inflow, thus limiting technology and growth options. Unless there is integration of industries in South Asian Association for Regional Cooperation or at least in SASEC members, regional integration will not take place.

II. Sanitary/ Phytosanitary and Technical Barriers to Trade (SPS/TBT) in the SASEC Subregion

3. In November 2013, SASEC countries gathered to brainstorm on SPS/TBT priorities and challenges in member countries and initiate development of a regional agenda in South Asia to address these issues.³

¹ World Trade report 2012 (WTO)

² The South Asia Sub-regional Economic Cooperation (SASEC) Program brings together Bangladesh, Bhutan, India, the Maldives, Nepal, and Sri Lanka in a project-based partnership to promote regional prosperity by improving cross-border connectivity, boosting trade among member countries, and strengthening regional economic cooperation. Since 2001, SASEC countries have implemented 33 regional projects worth more than a total of \$6 billion in the energy, transport, and trade facilitation sectors. SASEC also supports initiatives in the information and communications technology.

³ Full information and materials are available at www.sasec.asia/index.php?page=event&eid=90&url=sasec-brainstorming-meeting-on-sanitary-phytosanitary-priorities-and-challenges-in-sasec-member-countries

Outcomes of the meeting included: (i) increased understanding of country-specific constraints in SPS/ TBT in the region; (ii) enhanced knowledge of available assistance and support from international organizations and research networks in the area of SPS/ TBT; (iii) preliminary identification of preferences and priorities for necessary SPS/ TBT diagnostics and studies in the SASEC countries; (iv) identification of needs-based capacity-building activities at both regional and national levels; (v) agreement on the need and general initial scope for a regional platform addressing SPS/ TBT development in the SASEC region. The TOR proposed here addresses item (iii) above: preliminary identification of preferences and priorities for necessary SPS/ TBT diagnostics and studies in the SASEC countries.

III. SASEC Support for SPS/TBT Measures

4. In March 2014, the SASEC countries endorsed the SASEC Trade Facilitation Strategic Framework 2014–2018 (STF Strategy) that aims "to promote the prosperity of the subregion by facilitating the efficient movement of trade across borders". Specific goals during 2014–2018 include increasing intra-regional trade through enhanced efficiency and security, and reducing the time and costs associated with trade. Trade facilitation is already a high priority at the national level of SASEC countries, and the regional platform offered by the STF Strategy will further complement and strengthen national actions through the sharing of information and experience, and promotion of joint and coordinated action.

5. The STF Strategy focuses on five priority areas, under which five strategic thrusts further define the steps identified to implement the TF Strategy: (i) customs modernization and harmonization; (ii) standards and conformity assessment strengthening; (iii) cross-border facilities improvement; (iv) through transport facilitation; and (v) institution and capacity building. The proposed TOR directly contributes to areas (ii) and (v) of the TF Strategy.

IV. TOR Objectives

6. The proposed SPS/TBT Diagnostics Study comprises two broad phases: (i) building a robust understanding of the specific needs of individual SASEC countries through **national diagnostic studies (NDS)**;

National Diagnostics Studies

7. The primary objectives of the NDS, to be conducted in each SASEC country by a national consultant expert over a period of 5 months, include

- Identify the specific items which have the potential for exports from the SASEC country and subject to SPS/TBT measures of the importing countries;
- Carrying out a national diagnostic audit by (i) examining trade data trends; (ii) conducting a gap analysis that examines and compares current national legislation, local practices, and international best practice; and (iii) carrying out practical field studies in identification of standards or regulations in the SASEC countries that are impeding trade on the above identified items;
- Identifying current infrastructure capacity/ constraints related to SPS and TBTs, and presenting prioritized recommendations for necessary future investments; and
- Identifying priority national capacity-building activities in the area of standards and regulations and a preliminary 2016-2018 time-line for these activities.

8. Detailed tasks to be carried out under the NDS include⁴

⁴ The final TOR for the NDS will reflect individual country priorities and situations.

- (i) Conduct detailed gap analysis, identifying areas of non-alignment or conflict between national legislation, local practices, and international best practice;
- (ii) Identify the SPS/TBT measures that exist in the exporting and importing countries and the gaps in standards through a survey of exporters, compiling reasons for lower or no share of exports, and covering at least the following criteria:⁵
 - a) Which countries are major markets at present for X?
 - b) How X complies with the SPS/TBT requirements of current export markets other than SASEC countries?
 - c) The reasons for not exporting to M?
 - d) Is information about market M available?
 - e) Is information on SPS/TBT in market M available?
 - f) What are the problems associated with compliance of SPS/TBT in market M?
 - g) Is conformity assessment (including testing, certification and inspection) available in exporting country X?
 - h) Which agency does the conformity assessment in X?
 - i) If conformity assessment is done in importing country M, where is the conformity assessment of products done to ensure compliance of SPS/TBT?
 - j) Can exporters of X meet the demand of the SASEC importing country or do they face identified supply-side constraint as well?
 - k) What kind of support do exporters need from their Government to export the list of products (identified in [i]) to SASEC countries?
- (iii) Recommend possible measures to address SPS/TBT constraints within the overall framework of the World Trade Organization (WTO) and regional integration. Proposed measures should detail the nature of support required for effective integration at national as well as at sub-regional level. The findings should also explore how measures like investment flows, technology, mutual recognition agreements and arrangements (MRAs), and others could help in developing the regional supply chain;
- (iv) Propose actions to address the issue relating to technical regulations and standards as well as the staging of individual and related initiatives such as MRAs, conformity assessment procedures, harmonization and regionalization, and others;
- (v) Identify SPS and TBT infrastructure constraints at the national level and develop an indicative time-bound action plan to address these constraints;
- (vi) Collate broad-based national inventory of all bilateral, multilateral, and development partners' initiatives in SPS/TBT; and identify sources of technical assistance and expertise of and for local agencies;
- (vii) Identify human capacity constraints in the application of effective SPS and standards measures, and develop an indicative time-bound action plan to address priority capacity-building needs;
- (viii) Determine the need for a national database of SPS/TBT standards, legislation, and procedures, and recommend an efficient approach to its development;
- (ix) Disseminate the results of the studies through comprehensive stakeholders' consultations to verify the findings. Government officials should be engaged to explore options for controlling non-tariff measures that are in principle compliant with the trade rules, to ensure such non-tariff measures do not degenerate into barriers and/or cause too high costs of compliance for exporters; and

⁵ Country of exports = X; importing country = M. A detailed methodology is provided in Annex 1.

Annex 1: Detailed Methodology for NDS

1. Identification of potential export items that could not be exported due to SPS/TBT measures:

- A. Using the latest five years trade data, identify top 100 items at 6 digit HS level:
 - i. Which are being exported to world markets where the import share the individual SASEC members are less than or equal to 20%);
 - ii. Where the exporting country unit value of exports is lesser than the importer country's unit value of imports.

The summary table should provide the following:

S. No.	HS Code	Description	Export value of X to M	Global export value of X	UV exports of X	Global import value of M	UV imports of M	X Share of exports in M (in %) [(4)/(7)]
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

X = country of exports, M = importing country, UV = Unit Value.

2. To understand existing gaps in standards/ regulations, identify the SPS/TBT measures of exporting and importing country on the identified items:

S. No.	HS Code	Description	SPS/TBT measures of X	Details of SPS/TBT agency of X	SPS/TBT measures of M	Is SPS/TBT of M based on international standard?	Details of SPS/TBT agency of M
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

3. Procedural Obstacles faced by X and M in terms of time taken for their clearance and cost involved in delay in clearance.



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**National Consultation on the SASEC
Sanitary/phytosanitary and Technical Barriers to Trade Diagnostic Study**

12 August 2016
Thimphu, Bhutan

AGENDA

Objectives	<ul style="list-style-type: none">• Review the terms of reference for the national SPS/TBT diagnostic study, reflecting national priorities and preferences for Bhutan;• Review commodities tentatively identified by Bhutan for the national diagnostic study;• Confirm readiness of the nodal point and the members of the national working group to work with the national consultant for the 6 month period of the diagnostic study; and• Agree on the schedule for conducting the study.
Participants	<ul style="list-style-type: none">• SPS/TBT national core group• Participants from related Government Agencies• Asian Development Bank
Venue	Hotel Taj Tashi, Thimphu (Phone: 02-336699)
08:30 – 09:00	Registration
09:00-09:45	Session One: Introductory Session
09:00–09:15	Welcome and Opening
09.15–09.30	Opening Remarks: <ul style="list-style-type: none">• <i>Dasho Namgay Wangchuk, Director-General, Bhutan Agriculture and Food Regulatory Authority (BAFRA), Ministry of Agriculture & Forests, Thimphu</i>• <i>Ms. Rose McKenzie, Senior Regional Cooperation Specialist, South Asia Regional Department, ADB</i>
09:30–09:45	Update on SASEC Trade Facilitation Program and Activities <ul style="list-style-type: none">• <i>Ms. Rose McKenzie, Senior Regional Cooperation Specialist, South Asia Regional Department, ADB will discuss SPS/TBT in the context of the ongoing SASEC Trade Facilitation Strategic Framework 2014-2018</i>
09:45–10:15	Coffee break and official photograph
10:15–10:50	Session Two: National Updates on SPS and TBT in Bhutan
10:15–10:30	Update on National Status of Sanitary/Phyosanitary (SPS) Measures <ul style="list-style-type: none">• <i>Ms. Kinley Pelden, Chief, Quality Control and Quality Division, BAFRA, Ministry of Agriculture & Forests, Thimphu</i>
10:30–10:40	Update on National Status on Technical Barriers to Trade (TBT) <ul style="list-style-type: none">• <i>Dr. Selim Raihan, Professor, Department of Economics, University of Dhaka, Bangladesh and Executive Director, South Asian Network on Economic Modeling</i>

O/C
Wangchuk
11/1/2016



10:40–10:50	Q&A on national SPS/TBT updates
10:50 – 11:00	<i>Coffee break</i>
11:00–13:00	Session Three: Terms of Reference for the SASEC SPS/TBT Diagnostic Study in Bhutan
11:00–12:15	<p>Presentation of the draft TOR for the Bhutan National SPS/TBT Diagnostic Study</p> <ul style="list-style-type: none"> • <i>Dr. Selim Raihan, Professor, Department of Economics, University of Dhaka, Bangladesh and Executive Director, South Asian Network on Economic Modeling</i> <p>Q&A and discussion on the products tentatively identified in 2013</p>
12:15–12:45	Finalization of Summary of Proceedings
12:45–13:00	Closing Remarks by the Co-Chairs
13:00–14:00	<i>Lunch by invitation of ADB</i>



National Consultation on the SASEC SPS/TBT Diagnostic Study
12 August 2016
Thimphu, Bhutan

Summary of Proceedings

1. A National Consultation on the SASEC Sanitary/phytosanitary and Technical Barriers to Trade (SPS/TBT) Diagnostic Study, jointly organized by the Bhutan Agriculture and Food Regulatory Authority (BAFRA), Ministry of Agriculture and Forests, and the Asian Development Bank (ADB), was held in Thimphu on 12 August 2016. The initiative was funded through ADB's Technical Assistance Special Fund. The Agenda and list of participants is in **Annex 1**.
2. Mr. Namgay Wangchuk, Director General, BAFRA, as chair of the meeting, welcomed all the participants representing different government agencies, private sector organizations, and ADB officials and consultants. In his welcome remarks, he highlighted the importance of SPS measures in protecting human health and bio-security, as well as facilitating trade. He highlighted various measures being taken by BAFRA in cooperation with some other countries in the areas of infrastructure development, reviewing rules and regulations and strengthening human resource capacity. He hoped that the SASEC initiative on SPS/TBT and the preparation of the diagnostic study will help elevate BAFRA's ongoing efforts to a higher level.
3. In her opening remarks, co-chair Ms. Rose McKenzie, Senior Regional Cooperation Specialist, South Asia Regional Department, ADB, thanked the participants for attending the consultation. She congratulated Bhutan on being the second SASEC member country to hold the SPS/TBT consultation meeting, led by BAFRA. Recalling the Briefing Meeting for the members of the National Core Group organized by ADB on 14 June 2016, which had proved informative and useful for the members, she hoped that the consultation meeting would further clarify the rationale and modalities of carrying out the national diagnostic study. She also presented the Agenda for the national consultation.
4. In session one, Ms. McKenzie outlined the SASEC trade facilitation strategic framework and detailed how the SPS/TBT agenda fits under the overall SASEC trade facilitation program.
5. In session two, Ms. Kinley Pelden, Chief, Quarantine Control and Quality Division, BAFRA made a presentation updating the status of SPS measures under BAFRA and its responsibilities for implementing a number of laws and their regulations, especially on plant quarantine, seed, pesticides, food and livestock. The presentation underlined the challenges faced by BAFRA to protect the country from various diseases entering through its porous border. She highlighted the measures being taken for facilitating import, export, and domestic use of plant and animal products in conformity with the existing legal framework. To promote food safety, BAFRA is working towards improving conformity assessment, setting of standards and accreditation programs on several products at regional, international and bilateral levels. ISO-accreditation was received in 2012 for the food testing laboratory established in 2005. An area of immediate concern is the need for quality control and standard setting for domestic/private food preparations that are increasingly coming to the market.



6. Dr. Selim Raihan, Professor, Department of Economics, University of Dhaka, Bangladesh and Executive Director, SouthAsian Network on Economic Modeling spoke briefly on TBT in Bhutan, basing his remarks on a presentation made by Mr. Tashi Wangchuk, (former Bhutan Standards Bureau) in during the SASEC Trade Facilitation Week: Sanitary/Phytosanitary and Technical Barriers to Trade, in December 2014, Bangkok. The information in this presentation should be updated to reflect new developments that might have taken place since December 2014.

7. In session three, Dr. Raihan presented the terms of reference (TOR) for the national diagnostic study. Reiterating the need for consistency of methodological approach throughout all six SASEC national diagnostic studies, he provided information on the objectives of the study, detailed tasks to be carried out and a detailed methodology of the NDS.

8. The presentation was followed by discussion where the participants provided constructive feedback on the TOR. A point was made to include the suggestions made by the members of the National Core Group (NCG) during the Briefing Meeting (14 June 2016), which was accepted. Specified low-volume high-value products of export interest for Bhutan could also be included, in addition to others that may be identified in the national study. Possible opportunities to share testing, conformity assessment and accreditation facilities among the SASEC countries were stressed. In order to optimize the study outputs (in terms of sharing information, data, and resources to the extent possible), the participants expressed that the Bhutan national consultant should work closely with the other national consultants in the other SASEC countries, through the international consultant, taking into account the different time frames for completing the national studies. The TOR was improved and adjusted based on participants' suggestions.

9. The meeting agreed on the TOR for the SASEC SPS/TBT national diagnostic study and the tentative schedule of the study as given in **Annex 2**.

Closing of the Meeting

10. In closing the Meeting, Mr. Namgay Wangchuk, as Chair, thanked all participants and ADB for their support and active participation.

SASEC SPS/TBT Diagnostics:

Identification of Potential Export Items Facing Sanitary/Phytosanitary and Technical Barriers to Trade Measures in the SASEC Subregion

BHUTAN: TERMS OF REFERENCE

(12 August 2016)

I. Introduction

1. Given the reduction in tariffs over the last 30 years due to multilateral and bilateral obligations as well as autonomous economic liberalization, the important remaining barriers to trade are non-tariff measures (NTMs). NTMs occur frequently in the form of standards and technical regulations, especially Sanitary/Phytosanitary and Technical Barriers to Trade (SPS/TBT). Since the establishment of the World Trade Organization (WTO), reliance on using SPS/TBT and other NTMs has increased.¹ SASEC member countries are not an exception.

2. To promote subregional integration among South Asia Sub-regional Economic Cooperation (SASEC)² countries by removing all remaining barriers, a need has been identified to develop mutual cooperation processes in the diverse and challenging area of SPS/TBT-related issues. The current situation in SASEC countries varies widely: some present a highly skewed export structure, and are also dependent on small number of markets for their exports. This creates two-fold problems: (i) loss of foreign exchange earnings for least developed countries due to lack of capacity to produce and export processed goods—which are supposed to generate more value added in these countries; and (ii) the lack of foreign direct investment inflow, thus limiting technology and growth options. Unless there is integration of industries in South Asian Association for Regional Cooperation or at least in SASEC members, regional integration will not take place.

II. Sanitary/Phytosanitary and Technical Barriers to Trade (SPS/TBT) in the SASEC Subregion

3. In November 2013, SASEC countries gathered to brainstorm on SPS/TBT priorities and challenges in member countries and initiate development of a regional agenda in South Asia to address these issues.³ Outcomes of the meeting included: (i) increased understanding of country-specific constraints in SPS/ TBT in the region; (ii) enhanced knowledge of available assistance and support from international organizations and research networks in the area of SPS/ TBT; (iii) preliminary identification of preferences and priorities for necessary SPS/ TBT diagnostics and studies in the SASEC countries; (iv) identification of needs-based capacity-building activities at both regional and national levels; (v) agreement on the need and general initial scope for a regional platform addressing SPS/ TBT

¹ World Trade report 2012 (WTO)

² The South Asia Sub-regional Economic Cooperation (SASEC) Program brings together Bangladesh, Bhutan, India, the Maldives, Nepal, and Sri Lanka in a project-based partnership to promote regional prosperity by improving cross-border connectivity, boosting trade among member countries, and strengthening regional economic cooperation. Since 2001, SASEC countries have implemented 33 regional projects worth more than a total of \$6 billion in the energy, transport, and trade facilitation sectors. SASEC also supports initiatives in the information and communications technology.

³ Full information and materials are available at www.sasec.asia/index.php?page=event&eid=90&url=sasec-brainstorming-meeting-on-sanitary-phytosanitary-priorities-and-challenges-in-sasec-member-countries

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development in the SASEC region. The TOR proposed here addresses item (iii) above: preliminary identification of preferences and priorities for necessary SPS/ TBT diagnostics and studies in the SASEC countries.

III. SASEC Support for SPS/TBT Measures

4. In March 2014, the SASEC countries endorsed the SASEC Trade Facilitation Strategic Framework 2014–2018 (STF Strategy) that aims "to promote the prosperity of the subregion by facilitating the efficient movement of trade across borders". Specific goals during 2014–2018 include increasing intra-regional trade through enhanced efficiency and security, and reducing the time and costs associated with trade. Trade facilitation is already a high priority at the national level of SASEC countries, and the regional platform offered by the STF Strategy will further complement and strengthen national actions through the sharing of information and experience, and promotion of joint and coordinated action.

5. The STF Strategy focuses on five priority areas, under which five strategic thrusts further define the steps identified to implement the TF Strategy: (i) customs modernization and harmonization; (ii) standards and conformity assessment strengthening; (iii) cross-border facilities improvement; (iv) through transport facilitation; and (v) institution and capacity building. The proposed TOR directly contributes to areas (ii) and (v) of the TF Strategy.

IV. TOR Objectives

6. The proposed SPS/TBT Diagnostics Study comprises two broad phases: (i) building a robust understanding of the specific needs of individual SASEC countries through **national diagnostic studies (NDS)**; and (ii) based on the national diagnostic studies, identifying common issues and challenges faced by the countries in a **regional diagnostic study (RDS)** to facilitate development of coordinated regional responses and required capacity building actions.

A. Phase 1: National Diagnostics Studies

7. The primary objectives of the NDS, to be conducted in each SASEC country by a national consultant expert over a period of 7 months, include

- Identify the specific items which have the potential for exports from the SASEC country and subject to SPS/TBT measures of the importing countries;
- Carrying out a national diagnostic audit by (i) examining trade data trends; (ii) conducting a gap analysis that examines and compares current national legislation, local practices, and international best practice; and (iii) carrying out practical field studies in identification of standards or regulations in the SASEC countries that are impeding trade on the above identified items;
- Identifying current infrastructure capacity/ constraints, and presenting prioritized recommendations for necessary future investments; and
- Identifying priority national capacity-building activities in the area of standards and regulations and a preliminary 2016-2018 time-line for these activities.

8. Detailed tasks to be carried out under the NDS include⁴

- (i) Prepare a list of products (at 6-digit HS level) that have potential to be exported but are either not being traded or traded negligibly within SASEC countries;

⁴ The final TOR for the NDS will reflect individual country priorities and situations.

- (ii) Conduct detailed gap analysis, identifying areas of non-alignment or conflict between national legislation, local practices, and international best practice;
- (iii) Identify the SPS/TBT measures that exist in the exporting and importing countries and the gaps in standards through a survey of exporters, compiling reasons for lower or no share of exports, and covering at least the following criteria:⁵
- a) Which countries are major markets at present for X?
 - b) How X complies with the SPS/TBT requirements of current export markets other than SASEC countries?
 - c) The reasons for not exporting to M?
 - d) Is information about market M available?
 - e) Is information on SPS/TBT in market M available?
 - f) What are the problems associated with compliance of SPS/TBT in market M?
 - g) Is conformity assessment (including testing, certification and inspection) available in exporting country X?
 - h) Which agency does the conformity assessment in X?
 - i) If conformity assessment is done in importing country M, where is the conformity assessment of products done to ensure compliance of SPS/TBT?
 - j) Can exporters of X meet the demand of the SASEC importing country or do they face identified supply-side constraint as well?
 - k) What kind of support do exporters need from their Government to export the list of products (identified in [j]) to SASEC countries?
- (iv) Recommend possible measures to address SPS/TBT constraints within the overall framework of the World Trade Organization (WTO) and regional integration. Proposed measures should detail the nature of support required for effective integration at national as well as at sub-regional level. The findings should also explore how measures like investment flows, technology, mutual recognition agreements and arrangements (MRAs), and others could help in developing the regional supply chain;
- (v) Propose actions to address the issue relating to technical regulations and standards as well as the staging of individual and related initiatives such as MRAs, conformity assessment procedures, harmonization and regionalization, and others;
- (vi) Identify SPS and TBT infrastructure constraints at the national level and develop an indicative time-bound action plan to address these constraints;
- (vii) Collate broad-based national inventory of all bilateral, multilateral, and development partners' initiatives in SPS/TBT; and identify sources of technical assistance and expertise of and for local agencies;
- (viii) Identify human capacity constraints in the application of effective SPS and standards measures, and develop an indicative time-bound action plan to address priority capacity-building needs;
- (ix) Determine the need for a national database of SPS/TBT standards, legislation, and procedures, and recommend an efficient approach to its development;
- (x) Disseminate the results of the studies through comprehensive stakeholders' consultations to verify the findings. Government officials should be engaged to explore options for controlling non-tariff measures that are in principle compliant with the trade rules, to ensure such non-tariff measures do not degenerate into barriers and/or cause too high costs of compliance for exporters; and
- (xi) Provide inputs to and collaborate with the international consultant team and other national consultant experts in the development of the RDS.

⁵ Country of exports = X; importing country = M. A detailed methodology is provided in Annex 1.

B. Phase 2: Regional Diagnostics Study

9. The RDS will be prepared by an international consultant over a period of 6 months, with inputs and support from the national consultants responsible for the NDS.⁶ The broader primary objectives of the RDS include

- Identifying prioritized common issues and challenges faced by the SASEC countries, based on the national diagnostic studies and proposing practical steps to facilitate increased regional trade of products adversely affected by SPS/TBT measures;
 - Preparing a comprehensive assessment of regional and inter-regional entities active in SPS/TBT initiatives (including but not limited to SARSO, World Trade Organization), to include (i) recommendations of options to enhance effective coordination in addressing SPS/TBT challenges and strengthen a broader regional response, including possible establishment of information and data exchange systems; and (ii) details of successful regional initiatives to tackle SPS/TBT, and lessons learned from less effective projects;
 - Identifying common infrastructure and human capacity constraints across the region and where possible developing coordinated solutions at a regional level.
10. Detailed tasks to be carried out under the RDS would include:
- (i) Prepare a summary of the national diagnostic studies and list the common elements;
 - (ii) Identify common exporting country and common item matrix and the market;
 - (iii) Identify the gaps between importing country measures and international standards;
 - (iv) Propose actions to address the issue relating to technical regulations and standards, as well as the staging of individual and related initiatives such as MRAs, conformity assessment procedures, harmonization and regionalization, and others at the regional level;
 - (v) Identify infrastructure constraints at the sub-regional level and develop an indicative time-bound action plan to address these constraints; and
 - (vi) Suggest the role that SARSO can play in addressing these issues.

⁶ The phase 2 consultant is expected to coordinate the inputs of the phase 1 national consultant experts. Phase 2 could run concurrently with the latter stages of phase 1 work.

Annex 1: Detailed Methodology for NDS

1. Identification of potential export items that could not be exported due to SPS/TBT measures:

A. Using the latest five years trade data, identify top 100 items at 6 digit HS level, to include specified low volume-high value products:

- i. Which are being exported to world markets where the import share of the individual SASEC members are less than or equal to 20%;
- ii. Where the exporting country unit value of exports is lesser than the importer country's unit value of imports.

The summary table should provide the following:

S. No.	HS Code	Description	Export value of X to M	Global export value of X	UV exports of X	Global import value of M	UV imports of M	X Share of exports in M (in %) [(4)/(7)]
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

X = country of exports, M = importing country.

2. To understand existing gaps in standards/ regulations, identify the SPS/TBT measures of exporting and importing country on the identified items:

S. No.	HS Code	Description	SPS/TBT measures of X	Details of SPS/TBT agency of X	SPS/TBT measures of M	Is SPS/TBT of M based on international standard?	Details of SPS/TBT agency of M	Details of Procedural obstacles in X	Details of Procedural obstacles in M
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Annex 2: Implementation Arrangements

1. An interim SASEC SPS/TBT Focal Point and interim Core Group have been identified by the Government of Bhutan, comprising the Office of BAFRA (Ministry of Agriculture and Forests) as interim Focal Point. The Office of the Focal Point undertakes to be the national coordinator for the SASEC SPS/TBT national diagnostic study.

2. Other relevant government agencies and representatives of the private sector and research will be involved in the diagnostic study process, including a national stakeholder workshop to be conducted by the national consultant.

3. The national consultant will be engaged in accordance with standard ADB process for a period of 5 months (intermittent over 7 months), and will coordinate closely with the established government counterparts (SASEC SPS/TBT Focal Point and Core Group) in Bhutan. Close collaboration will also be required with the (i) other relevant government agencies, and (ii) representatives of the private sector, and research, and (iii) the SASEC SPS and TBT consultant team (international and national) for the diagnostic studies initiative being prepared in the other five SASEC countries.

Tentative schedule:

Selection of national consultant	15 September 2016
Draft outline submission	30 September 2016
Draft report submission	30 November 2016
National workshop	15 December 2016
Draft final draft	30 December 2016



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National consultation on the SASEC SPS/TBT Diagnostic Study

13th June 2016

Kathmandu, Nepal

AGENDA

Venue	Hotel Annapurna, Durbar Marg, Kathmandu. (Phone: 01 - 4221711)
Expected participants	<ul style="list-style-type: none">• SPS/TBT core group• Participants from related Government Agencies• SAARC• Research Institute• Business Association• Asian Development Bank
Objectives	<p>(i) Review the terms of reference for the national SPS/TBT diagnostic study, reflecting the national priorities and preferences for Nepal;</p> <p>(ii) Review the commodities chosen by Nepal for the national diagnostic study;</p> <p>(iii) Confirm the willingness of the nodal point and group to work with the national consultant for the 6 month period of the diagnostic study; and</p> <p>(iv) Schedule for conducting the study.</p>
08:30 – 09:00	Registration
09:00 – 09:15	Welcome, introduction and Opening
09:15 – 09:30	Opening Remarks: Ms. L. Savithri, Director Economic, Trade and Finance Division, South Asian Association for Regional Cooperation (SAARC)
09:30 – 09:45	Update on SASEC Trade Facilitation Program and Activities ADB will provide an update on the work of the SASEC Trade Facilitation Program and development of the SASEC trade facilitation strategic framework.
09:45 – 10:15	Coffee break and official photograph
10:15 – 10:30	Update on Nepal's Initiative on Sanitary/Phytosanitary (SPS) Dr. Pradyumna Pandey, Chief, International Trade Promotion Section (Senior Agricultural Economist), Agri-business Promotion and Statistics Division, Ministry of Agricultural Development (MoAD), Kathmandu, Nepal.
10:30 – 10:45	Update on Nepal's Initiative on Technical Barriers to Trade Measures (TBT) Mr. Sanjeev Thakur, Director, Nepal Bureau of Standards & Metrology (NBSM), Kathmandu, Nepal
10:45 – 11:00	Q & A
11:00 – 11:15	Update on 'ADB Proposed Agriculture Sector Development Loan' Mr. Ahsan Tayyab (HQ) and Mr. Govinda Gewali, ADB NRM
11:15 – 11:30	Coffee break
11:30 – 12:00	Presentation of the draft TOR for the Nepal National Diagnostic Study Dr. Selim Raihan, Professor, Department of Economics, University of Dhaka, Bangladesh and Executive Director, South Asian Network on Economic Modeling (SANEM)
12:00 – 13:30	Q & A
13:30 – 14:00	Closing Remarks by the Chair
14:00 – 15:00	Lunch

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National Consultation on the SASEC SPS/TBT Diagnostic Study
13th June 2016
Kathmandu, Nepal

Summary of Proceedings

1. A National Consultation on the SASEC SPS/TBT Diagnostic Study, jointly organized by the Ministry of Commerce, Nepal and the Asian Development Bank (ADB), was held in Kathmandu on 13 June 2016. The initiative is funded by ADB's Technical Assistance Special Fund. The list of the participants is in **Annex 1**.
2. Mr. Rameshwar Pokharel, Under Secretary, Ministry of Commerce, as the chair of the meeting, welcomed all participants representing from different government agencies, research institute and private sector organizations. In his welcome remarks, he believed that this meeting is expected to lay down the foundation for the national level SPS/TBT study. He stated that the presentations made in the meeting would provide feedback to finalize the TOR for national diagnostic study.
3. Ms. Rose McKenzie, Senior Regional Cooperation Specialist, South Asia Regional Department, as a co-chair, in her opening remarks thanked the participants and expressed that Nepal is the first country to hold the consultation meeting and provided brief information on how the diagnostics study will be carried out.
4. Ms. L. Savithri, Director, Economic, Trade and Finance Division, South Asian Association for Regional Cooperation (SAARC) in her opening remarks, provided brief information on SAARC and SARC initiatives and highlighted the importance of SASEC SPS/TBT Diagnostic Study in the overall framework of SAARC.
5. Ms. McKenzie outlined the SASEC trade facilitation strategic framework and updated on the overall trade facilitation program under ADB support.
6. Dr. Pradyumna Pandey, Chief, International Trade Promotion Section (Senior Agricultural Economist), Food Security, Agri-business Promotion and Environment Division, Ministry of Agricultural Development, Kathmandu, Nepal delivered a presentation to update on Nepal's Initiative on Sanitary/Phytosanitary (SPS).
7. In continuation, Mr. Sanjeev Kumar Thakur, Director, Nepal Bureau of Standards & Metrology (NBSM), Kathmandu, Nepal provided an update on Nepal's Initiative of Technical Barriers to Trade (TBT) Measures.
8. These two separate presentations from Nepal identified significant SPS and TBT related issues and challenges, namely weak conformity assessment infrastructure, non-recognition of testing certification, inadequate testing and calibration facilities, high cost and lengthy process of conformity assessment for exporter, insufficient legal and institutional mechanism for the protection of public health and safety, weak coordination among relevant national agencies and institutions, lack of risk based inspection, and inadequate technical, infrastructural and human resources. Subsequently, the presentation highlighted the government initiatives undertaken with regard to SPS/TBT. The two presentations highlighted the need of holistic and integrated SPS/TBT project to overcome value chain system for export markets.
9. Dr. Selim Raihan, Professor, Department of Economics, University of Dhaka, Bangladesh and Executive Director, South Asian Network on Economic Modeling (SANEM) made a presentation of the draft TOR for the Nepal National Diagnostic Study. Reiterating the need of consistency of the study in all the National Diagnostic Studies (NDS), he provided information on the objectives of the study, detailed tasks to be carried out and a detailed methodology of the NDS.
10. The presentation was followed by discussion. Participants provided feedback on draft TOR particularly on the methodology of identifying products, agreement on the overall methodology, aspects to be taken into account in the national context of Nepal, engagement of SPS National Focal Point and Core Group to work with the national consultant and the role between the national and international consultant. The TOR was improved and adjusted based on participants' suggestions.
11. The meeting agreed on the TOR for National SASEC SPS/TBT diagnostic study and the tentative schedule of the study as given in **Annex 2**.
12. Mr. Ahsan Tayyab, Principal Agriculture and Natural Resource Specialist, ADB provided updates on 'ADB Proposed Agriculture Sector Development Loan' and welcomed any suggestions from the meeting.

Closing of the Meeting

13. Mr. Rameshwar Pokharel, as a chair, thanked all the participants and ADB for their support and active participation and closed the meeting.

SASEC SPS/TBT Diagnostics:**Identification of Potential Export Items Facing
Sanitary/Phytosanitary and Technical Barriers to Trade Measures
in the SASEC Subregion****NEPAL TERMS OF REFERENCE
(as of 13 June 2016)****I. Introduction**

1. Given the reduction in tariffs over the last 30 years due to multilateral and bilateral obligations as well as autonomous economic liberalization, the important remaining barriers to trade are non-tariff measures (NTMs). NTMs occur frequently in the form of standards and technical regulations, especially Sanitary/Phytosanitary and Technical Barriers to Trade (SPS/TBT). Since the establishment of the World Trade Organization (WTO), reliance on using SPS/TBT and other NTMs has increased:¹ SASEC member countries are not an exception.

2. To promote subregional integration among South Asia Sub-regional Economic Cooperation (SASEC)² countries by removing all remaining barriers, a need has been identified to develop mutual cooperation processes in the diverse and challenging area of SPS/TBT-related issues. The current situation in SASEC countries varies widely: some present a highly skewed export structure, and are also dependent on small number of markets for their exports. This creates two-fold problems: (i) loss of foreign exchange earnings for least developed countries due to lack of capacity to produce and export processed goods—which are supposed to generate more value added in these countries; and (ii) the lack of foreign direct investment inflow, thus limiting technology and growth options. Unless there is integration of industries in South Asian Association for Regional Cooperation or at least in SASEC members, regional integration will not take place.

II. Sanitary/ Phytosanitary and Technical Barriers to Trade (SPS/TBT) in the SASEC Subregion

3. In November 2013, SASEC countries gathered to brainstorm on SPS/TBT priorities and challenges in member countries and initiate development of a regional agenda in South Asia to address these issues.³ Outcomes of the meeting included: (i) increased understanding of country-specific constraints in SPS/ TBT in the region; (ii) enhanced knowledge of available assistance and support from international organizations and research networks in the area of SPS/ TBT; (iii) preliminary identification of preferences and priorities for necessary SPS/ TBT diagnostics and studies in the SASEC countries; (iv) identification of needs-based capacity-building activities at both regional and national levels; (v) agreement on the need and general initial scope for a regional platform addressing SPS/ TBT

¹ World Trade report 2012 (WTO)

² The South Asia Sub-regional Economic Cooperation (SASEC) Program brings together Bangladesh, Bhutan, India, the Maldives, Nepal, and Sri Lanka in a project-based partnership to promote regional prosperity by improving cross-border connectivity, boosting trade among member countries, and strengthening regional economic cooperation. Since 2001, SASEC countries have implemented 33 regional projects worth more than a total of \$6 billion in the energy, transport, and trade facilitation sectors. SASEC also supports initiatives in the information and communications technology.

³ Full information and materials are available at www.sasec.asia/index.php?page=event&eid=90&url=sasec-brainstorming-meeting-on-sanitary-phytosanitary-priorities-and-challenges-in-sasec-member-countries

development in the SASEC region. The TOR proposed here addresses item (iii) above: preliminary identification of preferences and priorities for necessary SPS/ TBT diagnostics and studies in the SASEC countries.

III. SASEC Support for SPS/TBT Measures

4. In March 2014, the SASEC countries endorsed the SASEC Trade Facilitation Strategic Framework 2014–2018 (STF Strategy) that aims "to promote the prosperity of the subregion by facilitating the efficient movement of trade across borders". Specific goals during 2014–2018 include increasing intra-regional trade through enhanced efficiency and security, and reducing the time and costs associated with trade. Trade facilitation is already a high priority at the national level of SASEC countries, and the regional platform offered by the STF Strategy will further complement and strengthen national actions through the sharing of information and experience, and promotion of joint and coordinated action.

5. The STF Strategy focuses on five priority areas, under which five strategic thrusts further define the steps identified to implement the TF Strategy: (i) customs modernization and harmonization; (ii) standards and conformity assessment strengthening; (iii) cross-border facilities improvement; (iv) through transport facilitation; and (v) institution and capacity building. The proposed TOR directly contributes to areas (ii) and (v) of the TF Strategy.

IV. TOR Objectives

6. The proposed SPS/TBT Diagnostics Study comprises two broad phases: (i) building a robust understanding of the specific needs of individual SASEC countries through **national diagnostic studies (NDS)**; and (ii) based on the national diagnostic studies, identifying common issues and challenges faced by the countries in a **regional diagnostic study (RDS)** to facilitate development of coordinated regional responses and required capacity building actions.

A. Phase 1: National Diagnostics Studies

7. The primary objectives of the NDS, to be conducted in each SASEC country by a national consultant expert over a period of 5 months, include

- Identify the specific items which have the potential for exports from the SASEC country and subject to SPS/TBT measures of the importing countries;
- Carrying out a national diagnostic audit by (i) examining trade data trends; (ii) conducting a gap analysis that examines and compares current national legislation, local practices, and international best practice; and (iii) carrying out practical field studies in identification of standards or regulations in the SASEC countries that are impeding trade on the above identified items;
- Identifying current infrastructure capacity/ constraints related to SPS and TBTs, and presenting prioritized recommendations for necessary future investments; and
- Identifying priority national capacity-building activities in the area of standards and regulations and a preliminary 2016-2018 time-line for these activities.

8. Detailed tasks to be carried out under the NDS include⁴

- (i) Prepare a list of products (at 6-digit HS level) that have potential to be exported but are either not being traded or traded negligibly within SASEC countries;

⁴ The final TOR for the NDS will reflect individual country priorities and situations.

- (ii) Conduct detailed gap analysis, identifying areas of non-alignment or conflict between national legislation, local practices, and international best practice;
- (iii) Identify the SPS/TBT measures that exist in the exporting and importing countries and the gaps in standards through a survey of exporters, compiling reasons for lower or no share of exports, and covering at least the following criteria:⁵
 - a) Which countries are major markets at present for X?
 - b) How X complies with the SPS/TBT requirements of current export markets other than SASEC countries?
 - c) The reasons for not exporting to M?
 - d) Is information about market M available?
 - e) Is information on SPS/TBT in market M available?
 - f) What are the problems associated with compliance of SPS/TBT in market M?
 - g) Is conformity assessment (including testing, certification and inspection) available in exporting country X?
 - h) Which agency does the conformity assessment in X?
 - i) If conformity assessment is done in importing country M, where is the conformity assessment of products done to ensure compliance of SPS/TBT?
 - j) Can exporters of X meet the demand of the SASEC importing country or do they face identified supply-side constraint as well?
 - k) What kind of support do exporters need from their Government to export the list of products (identified in [i]) to SASEC countries?
- (iv) Recommend possible measures to address SPS/TBT constraints within the overall framework of the World Trade Organization (WTO) and regional integration. Proposed measures should detail the nature of support required for effective integration at national as well as at sub-regional level. The findings should also explore how measures like investment flows, technology, mutual recognition agreements and arrangements (MRAs), and others could help in developing the regional supply chain;
- (v) Propose actions to address the issue relating to technical regulations and standards as well as the staging of individual and related initiatives such as MRAs, conformity assessment procedures, harmonization and regionalization, and others;
- (vi) Identify SPS and TBT infrastructure constraints at the national level and develop an indicative time-bound action plan to address these constraints;
- (vii) Collate broad-based national inventory of all bilateral, multilateral, and development partners' initiatives in SPS/TBT; and identify sources of technical assistance and expertise of and for local agencies;
- (viii) Identify human capacity constraints in the application of effective SPS and standards measures, and develop an indicative time-bound action plan to address priority capacity-building needs;
- (ix) Determine the need for a national database of SPS/TBT standards, legislation, and procedures, and recommend an efficient approach to its development;
- (x) Disseminate the results of the studies through comprehensive stakeholders' consultations to verify the findings. Government officials should be engaged to explore options for controlling non-tariff measures that are in principle compliant with the trade rules, to ensure such non-tariff measures do not degenerate into barriers and/or cause too high costs of compliance for exporters; and
- (xi) Provide inputs to and collaborate with the international consultant team and other national consultant experts in the development of the RDS.

⁵ Country of exports = X; importing country = M. A detailed methodology is provided in Annex 1.

B. Phase 2: Regional Diagnostics Study

9. The RDS will be prepared by an international consultant over a period of 6 months, with inputs and support from the national consultants responsible for the NDS.⁶ The broader primary objectives of the RDS include

- Identifying prioritized common issues and challenges faced by the SASEC countries, based on the national diagnostic studies and proposing practical steps to facilitate increased regional trade of products adversely affected by SPS/TBT measures;
- Preparing a comprehensive assessment of regional and inter-regional entities active in SPS/TBT initiatives (including but not limited to SARSO, World Trade Organization), to include (i) recommendations of options to enhance effective coordination in addressing SPS/TBT challenges and strengthen a broader regional response, including possible establishment of information and data exchange systems; and (ii) details of successful regional initiatives to tackle SPS/TBT, and lessons learned from less effective projects;
- Identifying common infrastructure and human capacity constraints across the region and where possible developing coordinated solutions at a regional level.

10. Detailed tasks to be carried out under the RDS would include:

- (i) Prepare a summary of the national diagnostic studies and list the common elements;
- (ii) Identify common exporting country and common item matrix and the market;
- (iii) Identify the gaps between importing country measures and international standards;
- (iv) Propose actions to address the issue relating to technical regulations and standards, as well as the staging of individual and related initiatives such as MRAs, conformity assessment procedures, harmonization and regionalization, and others at the regional level;
- (v) Identify infrastructure constraints at the sub-regional level and develop an indicative time-bound action plan to address these constraints; and
- (vi) Suggest the role that SARSO can play in addressing these issues.

⁶ The phase 2 consultant is expected to coordinate the inputs of the phase 1 national consultant experts. Phase 2 could run concurrently with the latter stages of phase 1 work.

Annex 1: Detailed Methodology for NDS

1. Identification of potential export items that could not be exported due to SPS/TBT measures:

- A. Using the latest five years trade data, identify top 100 items at 6 digit HS level, to include the products already identified in the NTIS 2016:
- Which are being exported to world markets where the import share the individual SASEC members are less than or equal to 20%;
 - Where the exporting country unit value of exports is lesser than the importer country's unit value of imports.

The summary table should provide the following:

S. No.	HS Code	Description	Export value of X to M	Global export value of X	UV exports of X	Global import value of M	UV imports of M	X Share of exports in M (in %) [(4)/(7)]
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

X = country of exports, M = importing country.

2. To understand existing gaps in standards/ regulations, identify the SPS/TBT measures of exporting and importing country on the identified items:

S. No.	HS Code	Description	SPS/TBT measures of X	Details of SPS/TBT agency of X	SPS/TBT measures of M	Is SPS/TBT of M based on international standard?	Details of SPS/TBT agency of M
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Annex 2: Implementation Arrangements

1. A SASEC SPS/TBT Focal Point and Core Group has been identified by the Government of Nepal, and comprises Under Secretary (Ministry of Commerce) as Focal Point, and representatives from the Ministry of Agriculture Development (2) and the Nepal Bureau of Standards and Metrology (1). The Office of the Focal Point undertakes to be the national coordinator for the SASEC SPS/TBT national diagnostic study.
2. Other relevant government agencies and representatives of the private sector and research will be involved in the diagnostic study process, including a national stakeholder workshop to be conducted by the national consultant.
3. The national consultant will be engaged in accordance with standard ADB process for a period of 5 months (intermittent over 7 months), and will coordinate closely with the established government counterparts (SASEC SPS/TBT Focal Point and Core Group) in Nepal. Close collaboration will also be required with the (i) other relevant government agencies, and (ii) representatives of the private sector, and research, and (iii) the SASEC SPS and TBT consultant team (international and national) for the diagnostic studies initiative being prepared in the other five SASEC countries.

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