

Chapter 3

Classification of Non-tariff Measures in Brunei Darussalam

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CHAPTER 3

Classification of Non-tariff Measures in Brunei Darussalam⁹

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1. Overview of Brunei Darussalam's economy

Brunei Darussalam (hereinafter, Brunei) has one of the highest levels of income per capita in Southeast Asia with the lowest population and abundant oil and gas resources. However, in the last decade, Brunei had the lowest economic growth rate in the region⁹ due to its dependence on the oil and gas sector. The sector contributes more than 60 percent of its gross domestic product (GDP) and more than 90 percent of its exports (OECD, 2014).

Brunei's dependency on oil and gas caused the government to have a significant role, while limiting the role of the private sector. This condition is further strengthened by the combination of high wages and low productivity of the private sector that makes the private sector is uncompetitive internationally (Lawrey, 2010).

Realising this condition, on January 2008, the Brunei government issued a long-term development policy package, known as Wawasan Brunei 2035 (Vision Brunei 2035). The policy consisted of a structural development package to accelerate sustainable economic growth. The emphasis of the package is to accelerate economic growth through high productivity to achieve the target of 6 percent average annual economic growth. High economic growth was expected to come from economic diversification and an increasing role of the private sector.

In order to support the structural programme, the government promotes investment inflow in the export-oriented and labour-intensive sectors. Those sectors are agri-food, downstream oil and gas and energy-intensive industries, information and communication technology, life sciences (pharmaceutical, cosmetics, and functional health food and health supplements); light manufacturing, services such as financial services, logistics, and tourism and

⁹ The author would like to thank B. Realino Yudianto (Center for Inclusive and Sustainable Development, Prasetiya Mulya) for his useful assistance in collecting the regulations and Steven Leonardo (Prasetiya Mulya) for his dedicated assistance in data processing.

activities that may be driven by technology development (Brunei Economic Development Board website).

Recently, Brunei has viewed the regional partnership as a complement of multilateral partnership. The regional trade agreements (RTAs) have increased market access and investment to support economic diversification. In 2013, merchandise trade with RTA partners consisted of 75 percent of Brunei's imports and 99.6 percent of its exports.

In 2013, the ratio of merchandise trade (exports and imports) to GDP was 104.1 percent. Mineral fuels, which include petroleum and natural gas, represented 96.5 percent of total merchandise exports. The remaining exports are manufactured goods, led by machinery and transport equipment (1.1 percent of total merchandise exports in 2013) and chemicals (0.8 percent) Brunei's merchandise exports are mainly destined for the East Asian region. Japan remains Brunei's largest export partner, followed by the Republic of Korea (WTO, 2015).

Brunei's imports were dominated by manufactured goods; the most important category was machinery and transport equipment, accounting for 36.6 percent of total imports in 2013 followed by other manufactured imports such as chemicals. The share of food in total merchandise imports increased from 12.3 percent in 2008 to 13.3 percent in 2013.

Most of Brunei's merchandise imports came from East Asia, with Malaysia accounting for the largest source of imports, 21.9 percent, and followed by Singapore at 19.1 percent in 2013. Imports from ASEAN countries accounted for 50.9 percent in 2013.

Currently, Brunei applies low tariffs on imported goods. There are import and excise duties but no value-added tax. The average applied most favoured nation (MFN) applied tariff is around 1.7 percent, with no tariffs on agriculture and 2 percent on non-agricultural products. Tariff rates range up to 30 percent, with chemicals and related products subject to the highest tariff protection.

As tariffs are low, non-tariff measures (NTMs) have become the focus in Brunei. According to a study conducted by Ando and Obashi (2010) NTMs have been implemented on some products in Brunei. All tariff lines for chemicals and related products are subject to automatic licensing measures, 70 percent of which are also subject to non-automatic licensing simultaneously. More than 95 percent of animals, plants, and food products group are subject to technical regulations. All machineries products are subject to either quantity control or automatic licensing. Nearly 90 percent of wood and wood products are subject to a combination of automatic licensing and quantity control measures. A study conducted by Ando and Obashi (2010) uses 2008 UNCTAD classifications.

As NTM numbers and types have evolved, UNCTAD developed a new and more comprehensive NTM classification in 2012. This study uses the 2012 UNCTAD classification in classifying and analysing NTM applied in Brunei.

2. Legal comprehensiveness

Brunei applies a number of non-tariff measures (NTMs) in its international trade. These NTMs are spread across several types of legal documents issued by government agencies in Brunei. Most of these documents can be accessed through a centralised source, namely the website of the Attorney General's Chamber (www.agc.gov.bn). The website publishes all legal documents issued in Brunei, including all regulations related to international trade. In some cases, NTM regulations can also be found in other online sources, such as ministries' websites, departments' websites, and in World Trade Organization (WTO) notifications.

One hundred regulations with indications of NTMs were found during the collection and review process. However, only 58 regulations were found to contain NTMs. Most of these regulations are written in English, with only two in Malay. Most NTMs are found in rules and regulations, while a few are found in acts. The rules and regulations generally provide more detailed information of the measures and the affected products than the acts.

In order to validate legal comprehensiveness, six international conventions relating to international trade were reviewed. Four international conventions have been ratified into regulations in Brunei:

- 1) Montreal Protocol, ratified in the Customs (Prohibition and Restriction on Import and Export) Order, 2005
- 2) Basel Convention, ratified in the Hazardous Waste (Control of Export, Import and Transit) Order, 2013
- 3) CITES Convention, ratified in the Wild Fauna and Flora Order, 2007
- 4) Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances; the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances: ratified in the Misuse of Drugs Act, 1978

Two international conventions are not yet ratified, namely the Stockholm Convention and the Chemical Weapons Convention.

Table 3.1 shows the comprehensiveness of Brunei's NTMs. There are 58 NTM regulations containing NTMs, but only two that have been notified to the WTO – the Public Health (Food) Regulations and the Halal Meat Rules. A total of 29 government institutions issue

NTM regulations. The total number of coded NTMs is 516, affecting 5,613 products (Harmonized System [HS] code), or 56.6 percent of the total products traded in Brunei.

Table 3.1. Comprehensiveness of Non-tariff Measures in Brunei Darussalam

Number	Comprehensiveness	Number
1	Total number of coded regulations	58
2	Total number of coded regulations reported to the WTO	2
3	Total number of coded NTMs	516
4	Total affected products (HS lines, national tariff lines)	
	a. Total number of affected products ^{a/}	5,613
	b. Share of the number of affected products to the number of total products (%) ^{b/}	56.6%
5	Total number of issuing institutions	29

Notes:

^{a/} One product may be affected by more than one measure, but the same HS-coded product will be counted as one product, e.g., HS 840731 has three NTMs, so it is counted as 'one affected product'.

^{b/} Brunei adopts the HS-10 digit at national tariff lines and it has 9,916 tariff lines. Among these 9,916 products, 5,613 products are affected by NTMs, so the share of the affected products to the number of total products is 56.6 percent.

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

3. Issuing institutions

The Ministry of Health issued more than half of the NTM regulations (57.5 percent), followed by the Ministry of Industry and Primary Resources (8.6 percent), and the Department of Agriculture and Agrifood (6.6 percent) (Table 3.2). There are 168 NTMs issued jointly by more than one institution.

Table 3.2. Proportion of Non-tariff Measures by Issuing Institution (Single Institutions)

Number	Issuing Institution	Number of NTMs	Total Number of NTMs (%)
1	Ministry of Health	393	57.5
2	Ministry of Industry and Primary Resources	59	8.6
3	Department of Agriculture and Agrifood	45	6.6
4	Ministry of Religious Affairs	26	3.8
5	Royal Customs and Excise Department	25	3.7
6	Ministry of Finance	18	2.6
7	Department of Forestry	16	2.3
8	Authority for Info-communications Technology Industry	11	1.6
9	Ministry of Communication	10	1.5
10	Department of Land Transport	9	1.3
11	Other institutions	72	10.5
	Total	684*	100

Note: Total number of NTMs is 516, of which 168 were jointly issued by institutions.

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Table 3.3. Proportion of Non-tariff Measures by Issuing Institution (Single and Joint Institutions)

Number	Issuing Institution	Number of NTMs	Total Number of NTMs (%)
1	Ministry of Health	354	68.6
2	Ministry of Health, Ministry of Religious Affairs, Department of Agriculture and Agrifood, Ministry of Industry and Primary Resources	23	4.5
3	Department of Agriculture and Agrifood	17	3.3
4	Department of Forestry, Ministry of Industry and Primary Resources	16	3.1
5	Authority for Info-communications Technology Industry	9	1.7
6	Fisheries Department, Ministry of Industry and Primary Resources	9	1.7
7	Ministry of Health and Royal Customs and Excise Department, Ministry of Finance	9	1.7
8	Royal Brunei Police Force	9	1.7
9	Ministry of Health, Ministry of Home Affairs	7	1.4
10	Brunei Museums Department	6	1.2
11	Other institutions	57	11
	Total	516	100

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

As shown in Table 3.3, out of the top 10 institutions, 3.4 percent of NTMs were jointly issued by the Ministry of Health, the Ministry of Religious Affairs, the Department of Agriculture and Agrifood, the Ministry of Industry and Primary Resources, while 1.3 percent were jointly

issued by the Ministry of Health and the Royal Customs and Excise Department, and 1.0 percent were jointly issued by the Ministry of Health and the Ministry of Home Affairs.

4. NTM classification by type

As shown in Table 3.4, the most commonly identified types of NTMs are technical barriers to trade (TBT) (Type B), sanitary and phytosanitary (SPS) measures (Type A), and price control measures (Type F). TBT measures accounted for 55.8 percent of total NTMs.

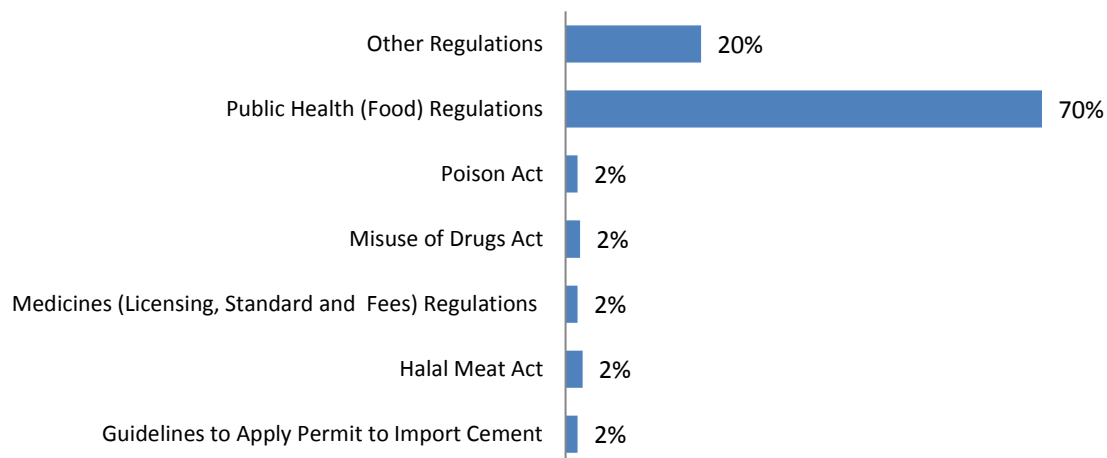
Table 3.4. Non-tariff Measure Classification by Type

Code	NTM by Type	Number of NTMs	%
A	Sanitary and phytosanitary (SPS) measures	161	31.2
B	Technical barriers to trade (TBT)	288	55.8
C	Pre-shipment inspection and other formalities	1	0.2
D	Contingent trade protective measures	0	0.0
E	Non-automatic licensing, quotas, prohibitions, and quantity control measures other than SPS or TBT reasons	2	0.4
F	Price control measures including additional taxes and charges	18	3.5
G	Finance measures	0	0.0
H	Measures affecting competition	0	0.0
I	Trade-related investment measures	0	0.0
J	Distribution restrictions	0	0.0
K	Restriction on post-sales services	0	0.0
L	Subsidies (excluding export subsidies under P7)	0	0.0
M	Government procurement restrictions	0	0.0
N	Intellectual property	0	0.0
O	Rules of origin	0	0.0
P	Export-related measures	46	8.9
	Total coded NTMs	516	100

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Figure 3.1 shows that 70 percent of the TBT measures originated from public health (food) regulations, while regulations concerning poisonous products, drugs, medicine, cement, and halal meat each contributed around 2 percent to TBT measures. Out of 288 TBT measures, 44 percent were B7 (product quality), followed by B31 (labelling requirements) and B6 (product identity). B7 (product quality) was mostly applied to food products.

Figure 3.1. Technical Barriers to Trade Measures by Regulation

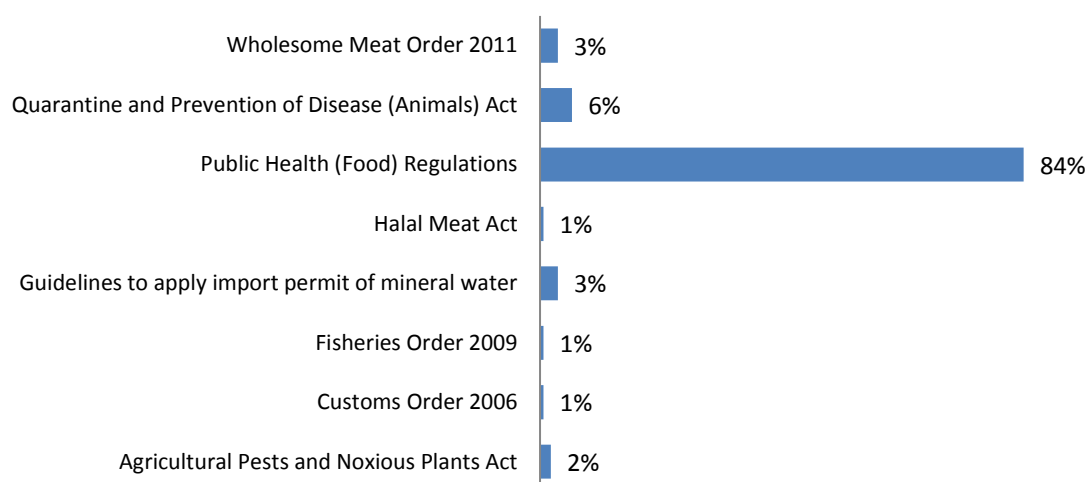


Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

SPS measures were the second-largest group of NTMs, accounting for 31.2 percent of total NTMs. As shown in Figure 3.2, 84 percent of SPS measures concerned public health (food). Other significant sources were quarantine regulations, wholesome food orders, and guidelines to apply for import permits for mineral water. The objective of most SPS measures is the protection of human health.

Out of 161 SPS NTMs, the most frequently applied NTM was A22 (restricted use of certain substances in foods and feeds), which accounted for 47 percent, followed by A31 (labelling requirements) accounted for 20 percent, A21 (tolerance limit of residues or contaminations) accounted for 6 percent, and A64 (storage and transport conditions) accounted for 6 percent.

Figure 3.2. Sanitary and Phytosanitary Measures by Regulation



Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Overall, NTM Types A, B, and C (so-called technical measures) were the most commonly applied NTMs in Brunei, accounting for 87.2 percent of total NTMs. Meanwhile, non-technical measures accounted for 19.7 percent of total NTMs. The non-technical measures most applied in Brunei were Type E (non-automatic licensing, quotas, prohibitions, and quantity control measures other than for SPS or TBT reasons) and Type F (price control measures including additional taxes and charges). NTM Type F mostly affected food products, motor vehicles and trailers, and endangered species.

Meanwhile, export measures covered 8.9 percent of total NTMs. Products most affected by export measures were those regulated by international conventions, such as hazardous waste, wild flora and fauna, and arms and explosives. Export measures were also imposed on animal products, oil and mining, and products exported through government incentive schemes.

If NTM types are broken down into a more detailed code or into sub-chapters of classifications, 53 types of NTMs were applied in Brunei (Table 3.5). Among these, B7 was the most frequently applied NTM, accounting for 24.4 percent, followed by A22 (14.5 percent), and B31 (8.9 percent). Most of the B7 NTMs were applied to foodstuffs.

Table 3.5. Non-tariff Measure Classification by Detailed Type of NTM

Number	Sub-Chapter of NTM	Amount	%	Number	Sub-Chapter of NTM	Amount	%
1	A14	5	0.97	28	B6	37	7.17
2	A15	3	0.58	29	B7	126	24.42
3	A19	2	0.39	30	B81	2	0.39
4	A21	10	1.94	31	B82	4	0.78
5	A22	75	14.53	32	B83	6	1.16
6	A31	32	6.20	33	B84	8	1.55
7	A33	1	0.19	34	B85	10	1.94
8	A41	3	0.58	35	B9	2	0.39
9	A42	1	0.19	36	C3	1	0.19
10	A51	2	0.39	37	E113	1	0.19
11	A63	2	0.39	38	E321	1	0.19
12	A64	10	1.94	39	F11	1	0.19
13	A81	1	0.19	40	F19	1	0.19
14	A82	1	0.19	41	F65	6	1.16
15	A83	7	1.36	42	F69	9	1.74
16	A84	4	0.78	43	F72	1	0.19
17	A85	1	0.19	44	P11	2	0.39
18	A86	1	0.19	45	P13	17	3.29
19	B11	6	1.16	46	P14	2	0.39
20	B14	22	4.26	47	P21	1	0.19
21	B15	6	1.16	48	P5	8	1.55
22	B21	1	0.19	49	P61	6	1.16
23	B22	5	0.97	50	P62	4	0.78
24	B31	46	8.91	51	P69	4	0.78
25	B33	3	0.58	52	P7	1	0.19
26	B41	1	0.19	53	P9	1	0.19
27	B42	3	0.58	TOTAL		516	100

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

As shown in Table 3.6, among the top 10 NTMs, nine were SPS and TBT, and only one was an export measure, which licences or governs permits required for export (P13). Out of 126 Type B7 NTMs, only one NTM did not relate to food regulations. This NTM comes from a regulation concerning the quality of imported used cars.

Table 3.6. Top 10 Non-tariff Measure Codes

Number	NTM by Type	Amount	%
1	B7	126	24.4
2	A22	75	14.5
3	B31	46	8.9
4	B6	37	7.2
5	A31	32	6.2
6	B14	22	4.3
7	P13	17	3.3
8	A21	10	1.9
9	A64	10	1.9
10	B85	10	1.9
11	Others	131	25.4

Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

5. NTM classification by affected product

Furthermore, to identify the intensity of NTMs on products, this study classifies the number of NTMs applied. The results are shown in Tables 3.7 and 3.8 and Figure 3.3. Products that were most affected (by at least three NTMs) were in transportation (11.8 percent), vegetable products (11.1 percent), animals and animal products (8.9 percent), and foodstuffs (7.4 percent). Most machinery products were affected by two NTMs (28.5 percent), while plastics/rubber products were mostly affected by just one NTM.

NTMs affecting transportation products consisted of product registration, company registration, certification, documentation requirements, licensing, inspection, product quality, import licence fees, additional charges, and excise tax. The objective of the measures on transportation products is mostly to ensure public safety related to transportation.

Although the transportation products group was the most affected by three or more NTMs, on average the animals and animal-product group had the highest average number of NTMs. As shown in Figure 3.4, on average this product group was affected by 19.8 NTMs, while the transportation product group was affected by 11.8 NTMs. Other product groups that had high average NTMs were vegetable products (11.4), foodstuffs (10.2), and wood and wood products (9.2). The plastics/rubber product group had the lowest average number of NTMs, at only 1.2.

Overall, NTMs were applied intensively on affected products in Brunei. As shown in Table 3.8, 56.48 percent of affected products were affected by at least three NTMs, while 37.2 percent of affected products were affected by two NTMs, and only 6.3 percent of affected products were affected by just one NTM.

Table 3.7. Non-tariff Measure Classification by Affected Product

HS Code	Product Group	1 NTM	2 NTMs	3 NTMs or more
01-05	Animals & animal products	1	18	498
06-15	Vegetable products	0	3	623
16-24	Foodstuffs	0	25	414
25-27	Mineral products	15	112	29
28-38	Chemicals & allied industries	38	99	332
39-40	Plastics/rubber	165	0	7
41-43	Raw hides, skins, leather & furs	0	1	59
44-49	Wood & wood products	26	29	131
50-63	Textiles	30	25	106
64-67	Footwear/headgear	0	0	27
68-71	Stone/glass	26	41	17
72-83	Metals	18	38	22
84-85	Machinery/electrical	5	1,600	147
86-89	Transportation	19	39	662
90-99	Miscellaneous	9	61	96
	Total	352	2,091	3,170

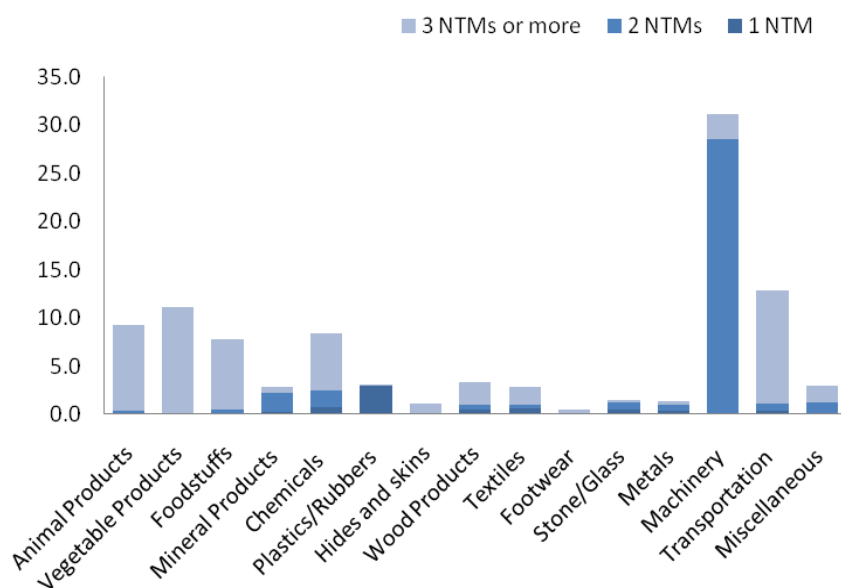
Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Table 3.8. Non-tariff Measure Classification by Affected Product (%)

HS Code	Product Group	1 NTM	2 NTMs	3 NTMs or more
01-05	Animals & animal products	0.02	0.32	8.87
06-15	Vegetable products	0.00	0.05	11.10
16-24	Foodstuffs	0.00	0.45	7.38
25-27	Mineral products	0.27	2.00	0.52
28-38	Chemicals	0.68	1.76	5.91
39-40	Plastics/rubber	2.94	0.00	0.12
41-43	Hides and skins	0.00	0.02	1.05
44-49	Wood products	0.46	0.52	2.33
50-63	Textiles	0.53	0.45	1.89
64-67	Footwear	0.00	0.00	0.48
68-71	Stone/glass	0.46	0.73	0.30
72-83	Metals	0.32	0.68	0.39
84-85	Machinery	0.09	28.51	2.62
86-89	Transportation	0.34	0.69	11.79
90-99	Miscellaneous	0.16	1.09	1.71
	Total	6.27	37.25	56.48

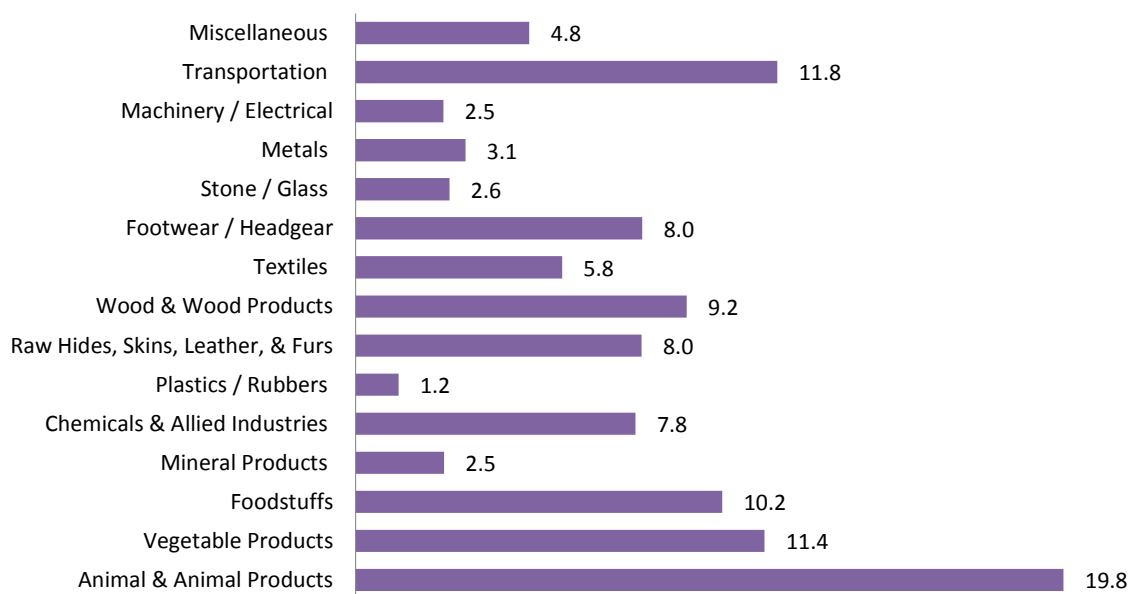
Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Figure 3.3. Non-tariff Measure Classification by Affected Product



Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

Figure 3.4. Average Number of Non-tariff Measures by Product Group



Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data

6. Main findings

- From 58 regulations, 516 NTMs affect 5,613 products (HS codes).
- The Ministry of Health issued the most NTM regulations.
- Technical measures were the most frequently applied NTMs in Brunei, accounting for 87.2 percent of total NTMs. From these numbers, TBT measures covered 55.8 percent of total NTMs and SPS measures accounted for 31.2 percent of total NTMs.
- Product quality (B7) was the most frequent NTM. This measure mostly applies to food products.
- Export measures covered 8.9 percent of the total. The most frequently affected products by export measures were those products regulated by international conventions.
- Products that were most affected by three or more NTMs were transportation, vegetable products, animals and animal products, and foodstuffs.
- On average, the animals and animal product group was the group most frequently affected by NTMs.

7. Policy recommendations

- In order to increase NTM transparency, the government should increase the number of notifications to the WTO. Currently, only two regulations (out of 58) have been notified to the WTO.
- Further study is needed to understand whether the intensive use of NTMs on several products tends to lower or to increase trade volumes in Brunei Darussalam.

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