

# Chapter 8

## Report on Non-tariff Measures in Myanmar

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## CHAPTER 8

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#### 1. Introduction

There is a relationship between the reduction of tariffs arising from the World Trade Organization (WTO) multilateral agreements and numerous regional and bilateral level preferential trade agreements (PTAs), and the proliferation of non-tariff measures (NTMs). Efforts to reach a common understanding on the importance of the different types of NTMs and their impact on trading activities especially in developing countries have been challenging, and these efforts include those that were initiated in Myanmar.

The most challenging part in the study of NTMs in Myanmar is to be able to fully cover and review all regulations issued in the country. The second most challenging part is to identify the affected products in terms of the Harmonized System (HS) code. The preliminary step to compile the data based on the product groups has been done by the Myanmar team, and the more precise classification of products in the HS code is accomplished by the United Nations Conference on Trade and Development (UNCTAD).

#### 2. The legal framework

The collection of data for NTMs requires knowledge on how legislation proceeds in a country. In Myanmar's legal system, the ministry having the jurisdiction drafts a legislative bill that is to be introduced. Based on this first draft of the legislation, consultations take place with other ministries concerned. The originating ministry that first drafted the legislation then revises the draft in accordance with the discussion results, advice, and comments from the inter-ministerial consultations. For NTMs, the Ministry of Commerce may repeat the discussion and procedure to follow the advice of referral international nongovernment organizations. Once the required procedure is completed, the draft legislation is sent to the Attorney General for crafting it into its proper statutory form. The Office of the Attorney General prepares a comment to

accompany the draft legislation, which is in turn submitted to the Hluttaw (Parliament) for further discussion. The draft legislation is also presented to the public through the media, such as newspapers. To incorporate the public's comments, the Hluttaw again revises the draft legislation. If the Hluttaw decides in favour of the legislation, the legislative bill is finalized, goes to the Office of the President, is signed, and it becomes law.

The sources of information for laws and regulations can be categorized into three. The Official Gazette is the most common and up-to-date source of information on regulations issued at a point of time. The second source is the database of the Office of the Attorney General, which provides almost all laws, Cabinet orders, and Cabinet and ministerial ordinances. It is also supposed to be a comprehensive source of NTM-related regulations. However, the most comprehensive sources of regulations are the ministries themselves, where specific regulations affecting their trade activities are lodged.

There are many countries where regulatory functions are scattered over a number of ministries and agencies, with little incentive to work together and regulations are often adopted with narrow mandates domestically (Cadot, Munadi, and Ing, 2013). Myanmar is not exceptional among such countries. The Ministry of Commerce in Myanmar is now leading the effort to make regulations available in the forthcoming Trade Portal.

Since ASEAN is leading in improving transparency of its trade regulations, this chapter is a foundation for Myanmar being an ASEAN member to keep improving the transparency of trade regulations in the region.

### **3. Study coverage of non-tariff measures in Myanmar**

Since no official database is yet available or all the standards referred to in Myanmar's legislation, it is difficult to confirm the full coverage of such legislation. For full and complete information on Myanmar's NTMs, two stages of collecting regulations were used. The first step undertaken was a survey of the websites, newspapers, and key informants of all ministries that were considered likely to issue regulations affecting their particular trade activities. The Ministry of Commerce was main source of information as it has been the most responsible organization in Myanmar for collecting trade related-regulations. The second stage was confirming the collected data with the Ministry of Commerce, where compliance of NTMs is monitored. The registration of NTMs is finalized by UNCTAD.

**Table 8.1. Coverage of Non-tariff Measures in Myanmar**

Number	Comprehensiveness	Number
1	Total NTM-related regulations	36
2	Total NTMs reported to the WTO	0
3	Total number of coded NTMs	172
4	Total affected products (HS lines, national tariff lines)	
	a. Total number of affected products	4,663
	b. Share of the number of affected products to the number of total products (%)	47.5%
5	Total issuing institutions	8

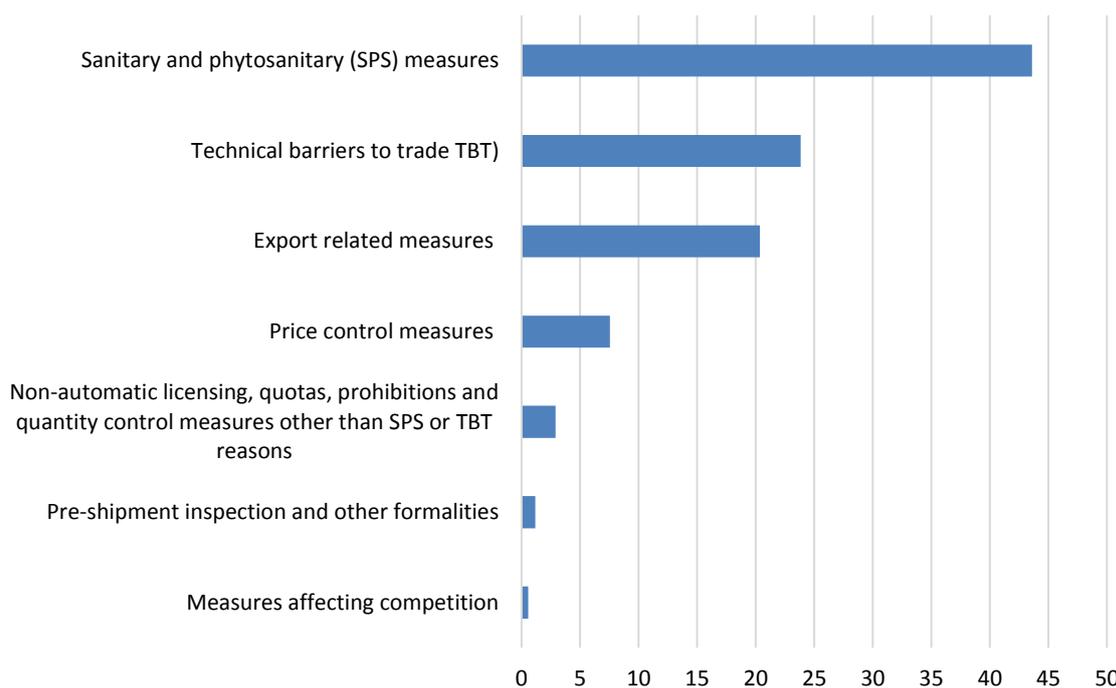
Source: Authors' calculation based on the newly constructed 2015 NTM database ASEAN-ERIA-UNCTAD raw data.

Table 8.1 reveals the incidence of NTMs in Myanmar in terms of the frequency ratio. Overall, among the regulations issued and reviewed by mid-2015, 36 regulations were observed as NTMs and from them, 172 NTMs were coded and registered. Summing all NTMs across the 10-digit HS level, the data reveal a total of 4663 NTM-affected products in Myanmar 47.5 percent of product categories are covered by one or more NTMs.

#### **4. Non-tariff measures by type**

Myanmar had 100 percent frequency ratio of by-type NTMs on account of quantitative restrictions (Ando and Obashi, 2010). Some of these NTMs might have legitimate reasons. Some NTMs are policy measures concerning security, such as transport of firearms or explosives, or public health, such as trade in dangerous chemicals and radioactive materials. A number of NTMs are bans on trade, such as opium and drug narcotics.

Figure 8.1. Non-tariff Measures, by Type



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

The pattern of NTMs in Myanmar is similar to most ASEAN countries where technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) measures play a significant role in the incidence of NTMs. Data collection of NTMs in Myanmar reveals that the most widely regulated measure are SPS measures. The TBT measures are the second most widely used measures, followed by export-related measures.

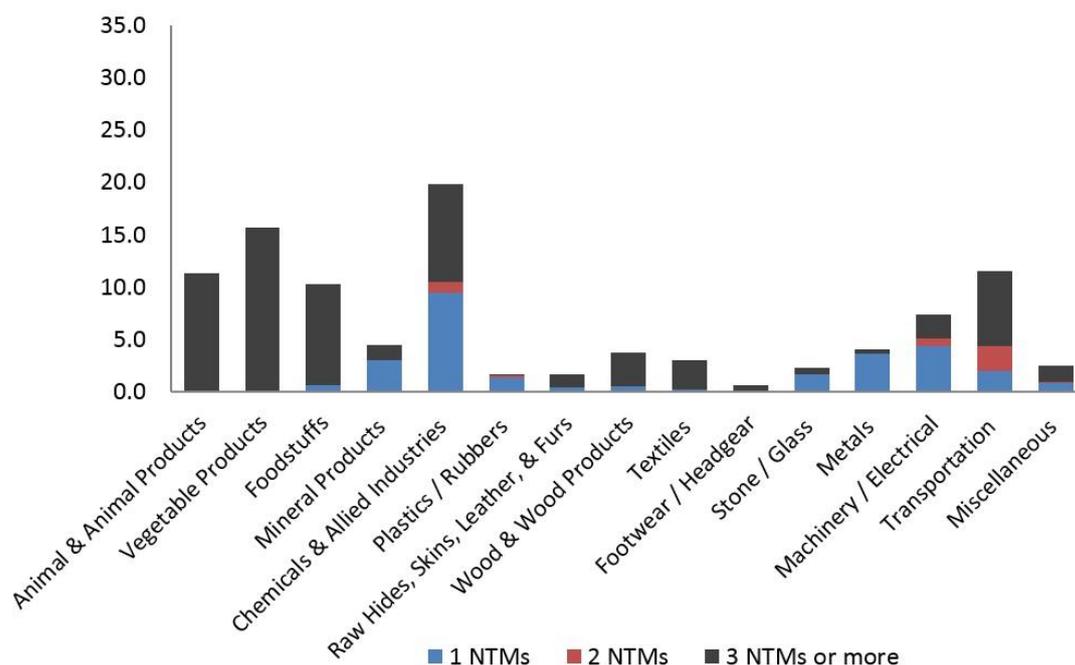
**Table 8.2. Non-tariff Measures, by Type**

Code	NTM by Type	Number of NTMs	%
A	Sanitary and phytosanitary (SPS) measures	75	43.6
B	Technical barriers to trade (TBT)	41	23.8
C	Pre-shipment inspection and other formalities	2	1.2
D	Contingent trade protective measures		
E	Non-automatic licensing, quotas, prohibitions, and	5	2.9
F	Price control measures, including additional taxes and	13	7.6
G	Finance measures		
H	Measures affecting competition	1	0.6
I	Trade-related investment measures		
J	Distribution restrictions		
K	Restriction on post-sales services		
L	Subsidies (excluding export subsidies under P7)		
M	Government procurement restrictions		
N	Intellectual property		
O	Rules of origin		
P	Export-related measures	35	20.3
	Total coded NTMs	172	100

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

There are multiple NTMs on several products. Most of the product groups have total NTMs exceeding their total number of tariff lines. This indicates that some of the products within that group are subject to more than one NTM, compared or relative to the number of tariff lines in each product. As Ando and Obashi observed in 2010, Myanmar was found to cover all product lines with one or other types of NTMs. Compared to the previous study on Myanmar's NTMs (Ando and Obashi, 2010), it is observed from this study that finance control measures, such as multiple exchange rates and quantity control measures like quotas linked with export performance and quotas for sensitive product categories no longer exist in Myanmar's NTMs. Instead, technical measures such as marking, labelling, and packaging requirements have become important in Myanmar's NTM composition. An examination on the frequency of NTMs by type in Myanmar suggests that TBT measures are the most frequent measures, followed by SPS and safeguard measures, according to the data in 2014 (Cadot and Ing, 2015). This study confirms that SPS measures becomes the most regulated NTMs in Myanmar.

Figure 8.2. Incidence of Multiple Non-tariff Measures, by Product Group



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

Figure 8.2 confirms the moderate use of NTMs in Myanmar. The chemicals and allied industries can be seen as the sector covered most by the greatest number of NTMs, but, only 20 percent of its tariff lines are covered by NTMs, and many of the product groups in its tariff lines are covered by one NTM only.

Of the total NTM incidence, 14.2 percent are on vegetable products with three or more NTMs, while almost 11 percent, 10 percent, and 9 percent of NTMs are related to animal products, foodstuffs, and machinery and electrical products, respectively. It is noted that animal and animal products, vegetable fat and oil, vegetable extract, and meat and fish are heavily covered by three or more NTMs (Figure 8.1).

**Table 8.3. Number of Tariff Lines subject to Multiple NTMs, by Product Group**

HS Code	Product Group	1 NTM	2 NTMs	3 NTMs or more
01-05	Animal & Animal Products	1	0	527
06-15	Vegetable Products	4	0	727
16-24	Foodstuffs	28	0	450
25-27	Mineral Products	141	0	70
28-38	Chemicals & Allied Industries	441	49	434
39-40	Plastics/Rubbers	63	9	2
41-43	Raw Hides, Skins, Leather, & Furs	20	0	59
44-49	Wood & Wood Products	26	0	151
50-63	Textiles	9	0	131
64-67	Footwear/Headgear	0	0	29
68-71	Stone/Glass	76	0	33
72-83	Metals	171	0	16
84-85	Machinery/Electrical	202	34	106
86-89	Transportation	93	110	335
90-99	Miscellaneous	38	5	73
Total		1,313	207	3,143

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

Most of the NTMs related to vegetable products are SPS and TBT measures, but export-related measures such as certification required by the exporting country, export technical measures, and measures on re-export as well as licensing procedures with no specific ex-ante criteria are also included. Most of the NTMs related to animals and animal products and food stuffs are SPS measures such as labelling, marking and packaging requirements, conformity assessment related to SPS, storage and transport conditions, animal-raising or catching processes, export-related measures, and licensing for economic reasons as well as customs inspections, processing, and servicing fees. Regulations related to chemicals and allied industries' products contain TBT measures such as testing requirement and traceability information requirements, export technical measures, as well as licensing for economic reasons. The NTMs related to textile products can be found in the export and import rules under the CITES Convention and Operation System. Measures for textile products include TBT, export, and licensing for economic reasons. For transportation products, there are three NTM regulations for licensing or permit requirements, authorization requirements for TBT reasons, and licensing for economic reasons.

## 5. Non-tariff measures by issuing institutions

According to the legislative procedure of Myanmar, the NTM-related regulations reviewed under the study are issued by the ministries concerned. The regulations reviewed in this study originated from the ministries that are considered as official sources of regulation.

**Table 8.4. Non-tariff Measures by Issuing Institutions**

Number	Issuing Institution	Number of NTMs	Total Number of NTMs (%)
1	Ministry of Agriculture and Irrigation	22	13
2	Ministry of Health	18	10
3	Myanmar Petroleum Product Enterprise,	9	5
4	Ministry of Livestock, Fisheries, and Rural	85	49
5	Ministry of Forestry and Environmental	19	11
6	Ministry of Communication and Information	2	1
7	Ministry of Home Affairs	16	9
8	Ministry of Commerce	1	1
	Total	172	100

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

Regulations reviewed in this study are issued by eight different ministries. Most of the country's NTMs can be found in regulations issued by the Ministry of Livestock, Fisheries and Rural Development. The Regulation for Importation and Exportation of Animals and Animal Products, Animal Health and Development Law, and the Myanmar Marine Fishery Law regulate many NTMs related to the trade activities of animal and animal products and fishery products. The Ministry of Agriculture and Irrigation issues regulations provided under the Pesticide Law, the Plant and Pest Quarantine Law, and the Fertilizer Law, and ranks second in terms of the number of NTMs issued.

As far as the incidence of NTMs on products in terms of national tariff lines is concerned, the NTMs issued by the Ministry of Forest and Environmental Conservation have affected the most products including vegetable products and animals and animal products, which are the largest group of products affected by more than three NTMs. The Ministry of Forest and Environmental Conservation is working in collaboration with the Convention on International Trade on Endangered Species (CITES) by issuing the CITES Convention and Operation system (2012) regarding the rules of export and import permits for CITES species. In addition to CITES, the Protection of Wildlife and Conservation of Natural Areas Law (1994) has affected the export of animal and animal products. The Environmental Conservation Law (2012) has affected products in many areas including transportation.

Notifications of the Myanmar Petroleum Products Enterprise issued by the Ministry of Energy contain many TBT measures and licensing for economic reasons. The National Food Law issued by the Ministry of Health and notifications from the Ministry of Home Affairs also regulate NTMs. Even though the Ministry of Commerce contributed with only one regulation to the NTM data of Myanmar, it covers 4405 national tariff lines as its notification is related to the licensing of many imported products.

Some ministries have drafted laws which are still in the legislation procedure process. The Ministry of Science and Technology, which is the national enquiry Point for technical barriers to trade (TBT), is in the process of drafting the law related to TBT. Since it is also the focal ministry for the responsibility of the Chemical Weapon Convention (CWC) and Myanmar is a member of CWC, the Ministry is also in the process to notify to the CWC. The Ministry of Science and Technology enacted the National Standard Law in 2014. However, as it has no rules yet the Ministry of Science and Technology is taking the leading role for coordinating with the relevant ministries in order to have the rules in place.

## 6. Conclusion

Many regulations related to NTMs in Myanmar are ratifications to the international conventions. To streamline NTMs, different approaches for different types of measures are required. For technical measures like TBT and SPS, standards harmonization and conformity assessment improvement are desirable and cost less for compliance. For NTMs that are customs related, trade facilitation programmes that include infrastructure development and computerization should support the regulatory environment.

A regulatory environment with less bureaucracy and less cost of compliance is the desirable path for Myanmar. However, consumers are increasingly conscious about food safety, calling for government intervention to ensure they are safe. Myanmar is like other countries that have resorted to the regulation of foodstuffs and agricultural products. The difficulty is to assess whether an NTM regulation in favour of consumer protection is truly an NTM and, to ensure it is not a non-tariff barrier. In conclusion, the transparency of regulations is an appropriate complement to the level of the comprehensiveness of NTM information, while a trade policy review mechanism is another solution to minimize the protectionist use of NTMs.

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