

Chapter 6

Non-tariff Measures in the Lao People's Democratic Republic

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CHAPTER 6

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1. Introduction

Since the introduction of the New Economic Mechanism in 1986, the Lao People's Democratic Republic (Lao PDR) has liberalized its trade through unilateral tariff reduction. Hence, its highest tariff rate is now 40 percent, down from 150 percent in 1995; and over half of its tariffs are under 5 percent. Its tariff regime has become more liberal when the country came under the umbrella of the Association of Southeast Asian Nations (ASEAN), which accounts for most of the country's trade. Under ASEAN, currently 89 percent of the total products have an import tariff of 0 percent and the proportion will increase to 96 percent in 2018. As in many other countries, non-tariff measures (NTMs) are gaining importance in controlling and hampering the flow of international trade. Several ministries in the Lao PDR are involved in formulating and implementing such regulations that may have a trade impact, and frequently new regulations are developed with little regard to the negative impact these may have on the trading community.

The Economic Research Institute for ASEAN and East Asia (ERIA), in collaboration with the United Nations Conference on Trade and Development (UNCTAD), has collected NTM data for all ASEAN countries. Based on this dataset, this chapter aims to provide insight on NTMs in the Lao PDR.

Table 6.1 summarizes the comprehensiveness of the data on NTMs for Lao PDR. There are a total of 70 NTM-related regulations. These regulations yield 301 NTMs, which is many folds higher than a number of NTMs reported to the WTO of 12 NTMs. In addition, those 70 NTM-related regulations are issued by 14 institutions. Interestingly, Table 6.1 reveals that every tariff line is affected by at least one NTM.

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Table 6.1. Comprehensiveness of Non-tariff Measures

Number	Comprehensiveness	Number
1	Total NTM-related regulations	70
2	Total NTMs reported to the WTO	12
3	Total number of coded NTMs	301
4	Total affected products (HS lines, national tariff lines)	
	a. Total number of affected products	9,558
	b. Share of the number of affected products to the number of total products (%)	100%
5	Total issuing institutions	14

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

2. Types and sources of legal documents

According to the Law on Legislation Making (2012), the country's legislation of general application consists of the following: (1) the Constitution; (2) laws; (3) resolutions of the National Assembly; (4) resolutions of the Standing Committee of the National Assembly; (5) Ordinances of the President; (6) decrees of the government; (7) resolutions of the government; (8) orders and decisions of the Prime Minister; (9) orders, decisions, and instructions of the minister, minister-equivalent, and head of a government authority; (10) orders, decisions, and instructions of the provincial governors and capital governors; (11) orders and decisions of the district and municipality chiefs; and (12) village regulations.

As illustrated in Table 6.1, among the legal documents, 70 contain non-tariff measures. Two-thirds of the legal documents with NTMs are decisions and instructions of the ministers and one-fifth are laws.

All legal documents are officially in the Lao language and most of them can be found in two main electronic sources – the Lao Official Gazette and the Lao Trade Portal. The Lao Trade Portal also provides unofficial English translation to a number of laws and regulations.

3. Non-tariff measures in the Lao PDR

To better understand NTMs in the Lao PDR, NTM data were analysed in detail. It may be noted that NTM data analysis started at the measure level. That means regardless of a number of tariff lines affected, each registered measure is counted as one. For example, Decree on the Control of the Movement of Animals and Animal Products, number 230/GOL dated on 4th June 2012, indicates that 'To import of livestock and animal products, the import permit issued designated by the relevant department of the Ministry of Agriculture and Forestry is required'. This is an NTM and classified as A14 according to UNCTAD's February 2012 Version

Classification. This measure affects 913 national tariff lines. It is, however, counted as one measure. The national tariff line of the Lao PDR is at 8-digit HS Code and the total number of tariff lines is 9,558.

Table 6.2 shows a total of 301 measures registered and it may be noted that all the national tariff lines are affected by at least one NTM. Among all registered measures, the technical barriers to trade (B chapter, NTM code) accounts for the largest share at 30.2 percent and affects 19.4 percent of all the national tariff lines. Interestingly, export-related measures (P chapter, NTM code) account for 27.2 percent and affect 35.8 percent of all tariff lines. Price control measures (F chapter, NTM code) accounts for 15.9 percent but affects all the national tariff lines. Sanitary and phytosanitary (SPS) measures (A chapter, NTM code) accounts for 12.6 percent and affects about 21 percent of all tariff lines. Share of chapter E on non-technical licensing, quotas, prohibition and quantitative measures is 8.6 percent of all measures, but they affect only 4.6 percent of all tariff lines. Pre-shipment inspection and other formality measures (C chapter, NTM code) account for a smaller share, at 4.7 percent of total NTMs, but affect a sizeable portion or 24.3 percent of tariff lines. Measures under F chapter account for less than 1 percent of all measures. Measures under chapter D, H and I were not found.

Table 6.2. Non-tariff Measures by Type

Code	NTM by Type	Number of NTMs	%
A	Sanitary and phytosanitary (SPS) measures	38	12.6
B	Technical barriers to trade (TBT)	91	30.2
C	Pre-shipment inspection and other formalities	14	4.7
D	Contingent trade protective measures	0	0
E	Non-automatic licensing, quotas, prohibitions, and quantity control measures other than SPS or TBT reasons	26	8.6
F	Price control measures, including additional taxes and charges	48	15.9
G	Finance measures	2	0.7
H	Measures affecting competition	0	0
I	Trade-related investment measures	0	0
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	82	27.2
	Total coded NTMs	301	100

NTM = Non-tariff Measure.

Notes: The classification and NTMs codes follow the UNCTAD Classification, 2012 Version. The ERIA–UNCTAD’s data collection of NTMs for ASEAN countries does not include the collection of J–O NTMs.

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

Table 6.3 gives an overview of the number of measures by each issuing agency. Data show that NTMs involved not only commerce agencies but other line ministries. Measures issued by Ministry of Industry and Commerce account for 18.6 percent of a total number of measures. The largest share of NTMs comes from Ministry of Agriculture and Forestry, 19.9 percent. The government’s office and Ministry of Health both have about 18 percent share of all NTMs. Measures issued by the Ministry of Finance account for 7.3 percent. Other line ministries have their own shares from the total number of NTMs at less than 3.5 percent.

Table 6.3. Non-tariff Measures by Issuing Agency

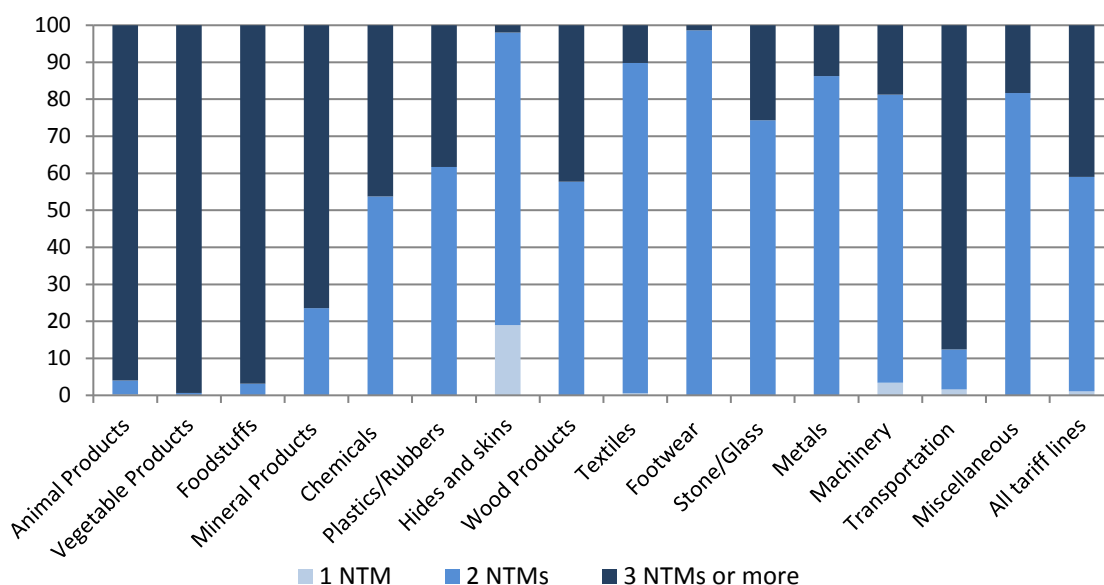
Number	Issuing Agency	Number of NTMs	Total NTMs (%)
1	Government's Office	55	18.3
2	Ministry of Health	53	17.6
3	Ministry of Finance	22	7.3
4	Ministry Agriculture and Forestry	60	19.9
5	Ministry of Natural Resource and Environment	6	2.0
6	Ministry of Industry and Commerce	56	18.6
7	Ministry of Public Work and Transport	7	2.3
8	Ministry of Energy and Mine	6	2.0
9	Ministry of National Defence	9	3.0
10	Ministry of Information Culture and Tourism	10	3.3
11	Ministry of Telecommunication and Post	6	2.0
12	President's Office	1	0.3
13	Bank of Lao PDR	9	3.0
14	Ministry of Home Affairs	1	0.3
	Total	301	100

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

Figure 6.1 shows the 'depth' of NTMs in each product group. More than 95 percent of animal products, vegetable products, and foodstuffs are subject to three or more NTMs. Similarly, a large number of transportation (88 percent) and mineral products (76 percent) are subject to three or more NTMs. The rest of the product groups have the majority of their tariff lines subject to two NTMs. If all the product groups were combined, figures show that 58 percent of all tariff lines were subject to two NTMs, 41 percent of all tariff lines were subject to three or more NTMs, and 1 percent is subject to one NTM.

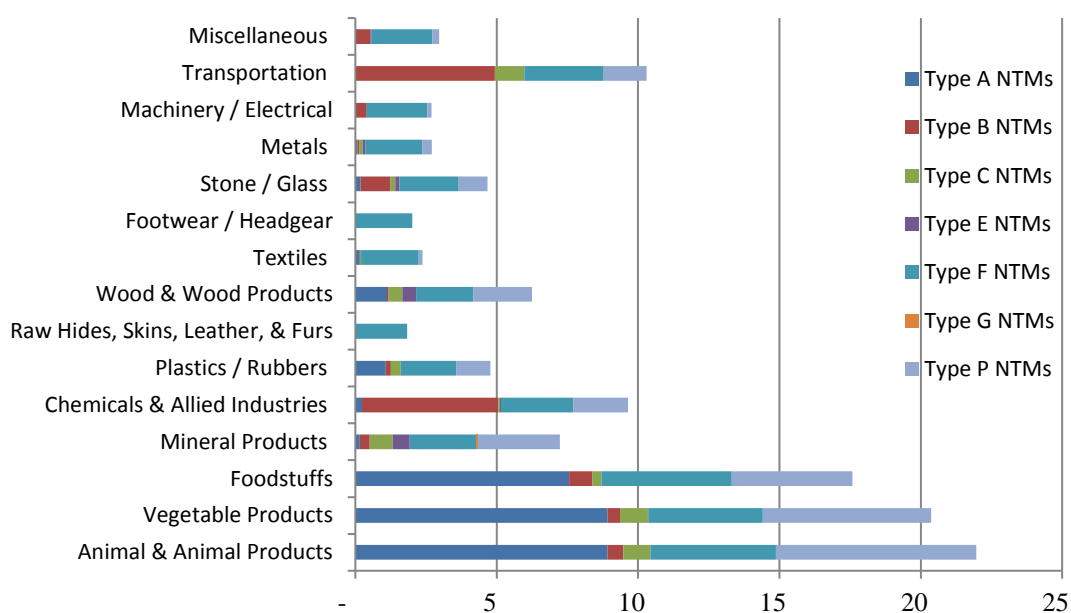
Complementing Figure 6.1, Figure 6.2 shows the average number of NTMs faced by each group of products. As shown, the number of NTMs faced by each group of product varies substantially. Animal and animal products are affected by more than 22 NTMs on average—where nine NTMs are SPS and seven NTMs are export-related measures. Similarly, vegetable products also face as high as 20 NTMs on average—with nine on SPS, six on export-related measures and 5 on price control and pre-shipment measures. Another group of products that faces a large number of NTMs is foodstuffs. On average, foodstuffs is subject to 17 NTMs—eight SPS, five price control measures, and four export-related measures. On the other hand, raw hides and skins, footwear, and textiles are subject to only two NTMs on average; and plastics/rubbers, stone/glass, and miscellaneous products are subject to less than five NTMs.

Figure 6.1. Tariff lines in Each Product Group Affected by One or More Non-tariff Measure (%)



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

Figure 6.2. Average Number of Non-tariff Measures Faced by Product Group



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

4. Other observations

In February 2013, the Lao PDR became a member of the World Trade Organization (WTO). The process of WTO membership, coupled with regional integration, has contributed to a great extent to improving the legal environment of the country. Over the past few years, a large number of amended laws and new legislations have been approved. The improvement of the

legal environment is, however, an ongoing process. It is expected that a number of legislations will be issued in the coming years, which will likely change the NTMs stock of the Lao PDR.

The analysis above suggests that most of the regulations that contain NTMs are legislations at the ministry level. However, unlike the country's standard laws, ministry-level legislations are not readily available and accessible. Even within the ministry, stock-keeping of legislation is not centralised but rather kept within the issuing departments. This causes, to some extent, redundancy of regulations as some agencies issue new regulations without taking into account the existing ones. This style of stock-keeping of regulations also hinders the efforts to collect a comprehensive NTM data in the future.

The large number of NTMs issued by various line ministries highlights the importance of enhancing the awareness and knowledge on NTMs. The high incidence of NTMs also reflects the situation where line agencies might have low awareness or knowledge of NTMs and that they do not fully realize the potential impact these regulations could have on trade. The high incidence, depth, and large presence of non-technical measures suggest that there is an urgent need to streamline NTMs in the Lao PDR.

As part of WTO membership and ASEAN commitments, the Lao PDR is already engaged in modest streamlining of its stock of NTMs. The Ministry of Industry and Commerce has, through the Trade Development Fund supported by development partners, set up a clear agenda to streamline the NTMs of the Lao PDR in the coming years. The ministry has already taken initiatives by forming the NTMs review working group with representatives coming from line ministries, the private sector, and research institutes. In addition, the ministry has also collected data on NTMs and made the NTM database available at its trade portal.

5. Recommendations

The findings that both the incidence and depth of NTMs are high in the Lao PDR suggest that there is an urgent need to streamline NTMs in the country. Taking into consideration the initiatives already taken by the Ministry of Industry and Commerce, this chapter provides the following policy recommendations:

- The Ministry of Industry and Commerce needs to keep its momentum in streamlining NTMs. In addition to forming the NTMs review working group, it needs to include NTM issues in the agenda for trade-related meetings among high-ranking officials to gain political traction and support in streamlining the NTMs. The political support from line ministries is necessary because NTMs involve not only the Ministry of

Industry and Commerce but also other line ministries where the majority of NTMs originate.

- The Ministry of Industry and Commerce could make use of the ERIA–UNCTAD NTM database to complement its database, which can increase comprehensiveness and become more up-to-date.
- It is necessary to enhance the knowledge and capacity of stakeholders on NTMs. NTM data collection and analysis, as well as streamlining efforts, should be pursued and enhanced further. To ensure the sustainability of knowledge and the capacity-building process, training of trainers should be undertaken. This will ensure the availability of local and in-house expertise in line agencies. As noted earlier, some line agencies have limited awareness on the potential impact their regulations could have on trade. The participation of local academic and research institutions should be encouraged.
- Line ministries and government agencies need to stocktake their regulation functions and improve the stock keeping of those regulations. All regulations should be readily available and accessible. Centralized sources, such as the Lao Official Gazette and the Lao Trade Portal, should be optimally utilized. This will not only improve the collection of NTM data but also improve the legal environment of the country.
- As more legislation is expected to be issued in the coming years – driven by WTO membership and the ASEAN integration – timely and regular updating of the NTM database in the next few years should be undertaken. The frequency of updating the database could be less in later years.

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