

Chapter 4

Non-Tariff Measures: Lao People's Democratic Republic

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NON-TARIFF MEASURES: LAO PEOPLE'S DEMOCRATIC REPUBLIC

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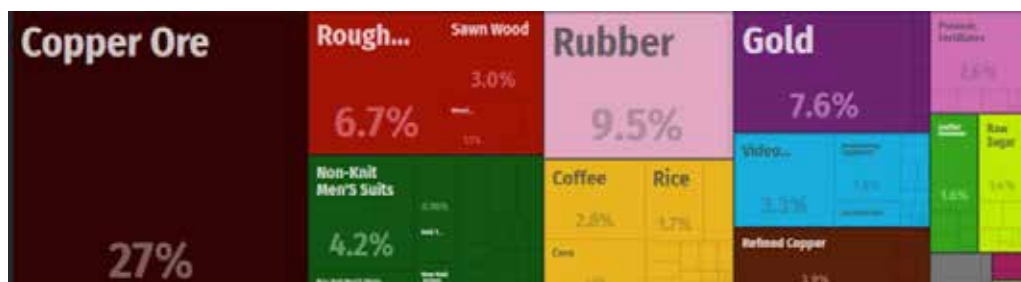
1. Introduction

1.1. Trade Structure

The adoption of the New Economic Mechanism in 1986 signalled a significant shift of the Lao People's Democratic Republic (Lao PDR) economy from a centrally planned to a market system. Economic growth averaged more than 6% per year in 1988–2008; has been amongst the fastest in Asia, averaging more than 7% per year for most of the last decade; and is forecast to reach 7% in 2019. Lao PDR has liberalised its trade through unilateral tariff reduction. Its highest tariff rate is now 40%, down from 150% in 1995, and over half its tariffs are below 5%. As in many other countries, non-tariff measures (NTMs) are gaining importance in controlling and hampering the flow of international trade. Most ministries in the Lao PDR are involved in formulating and implementing such regulations, which are frequently developed with little regard for the negative impact they may have on the trading community.

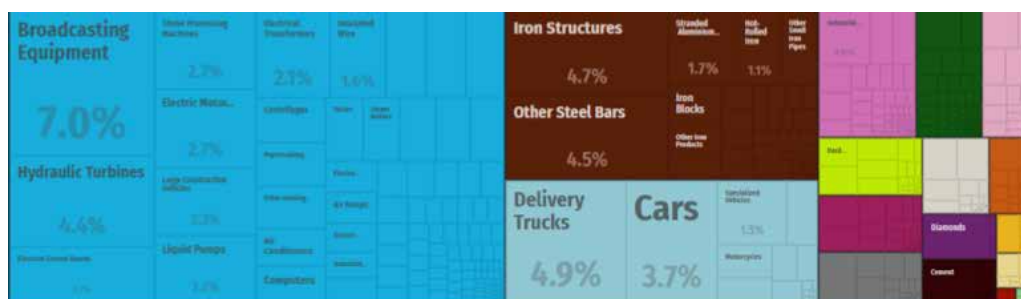
In 2017, Lao PDR exported US\$2.04 billion, making it the 131st-largest exporter in the world (Figure 4.1). Lao PDR exports decreased at an annualised rate of 1.6%, from US\$2.20 billion in 2012 to US\$2.04 billion in 2017, which is not surprising as most exports are natural resources, such as mining products, and depend on global market prices and demand. The most recent exports are led by copper ore (27.4% of all exports), followed by rubber (9.5%).

¹ The researcher would like to thank Ms. Dorkfa Siyotha and Mr. Yang Tour for their assistance in compiling Lao PDR non-tariff measure data.

Figure 4.1: Export Composition, HS 4, Lao PDR, 2017

Source: WITS (2019).

Lao PDR imports mainly oil, machinery and equipment, vehicles, iron and steel, telecommunication equipment, beverages, and cement. The country imports mainly from Thailand (66% of all imports), followed by China and Viet Nam. In 2017, Lao PDR imported US\$1.94 billion worth of goods, making it the 152nd-largest importer in the world. Imports decreased at an annualised rate of 8.7%, from US\$5.43 billion in 2012 to US\$1.94 billion in 2017. The most recent imports are led by broadcasting equipment (6.96%), followed by delivery trucks (4.88%) (Figure 4.2).

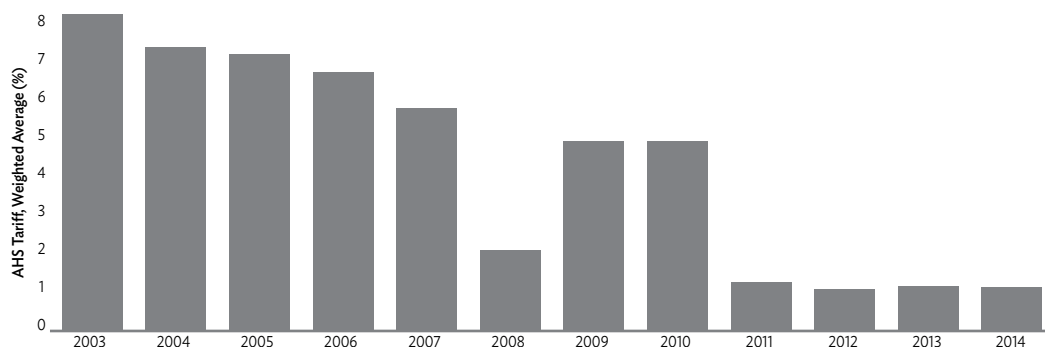
Figure 4.2: Import Composition, Lao PDR, 2017

Source: WITS (2019).

Tariff rates have gone down since the economy shifted from a centrally planned to a market system, particularly since Lao PDR joined the Association of Southeast Asian Nations (ASEAN) and the World Trade Organization (WTO). Within the framework of the ASEAN Economic Community and the WTO, the country has made great progress in reducing tariffs and setting up institutions and physical infrastructure to facilitate trade. In 2003, the applied tariffs were 8.17% and declined slightly each year to about 4.80% in 2010. In 2008, the applied tariff rate decreased dramatically because the government had begun to reduce import tariffs on goods, with import tariffs on many products reduced to zero and on vehicles to 5%, down from 40%. In 2011–2014, the applied tariff rate was reduced to about 1%. Reducing tariffs may create competition for domestic producers. If

regulatory capacity and infrastructure are inadequate, the country could see an influx of low-quality and harmful imports.

Figure 4.3: Effectively Applied Tariffs (AHS), Weighted Average Over Time, Lao PDR, 2003–2014



Source: WITS (2019).

1.2. Hierarchy of Law and Regulations

The government adopted the Legal Sector Master Plan in 2009 to build a transparent, clear, and inclusive legal system. In 2012, the National Assembly adopted the Law on Laws to reform law making. Under the Law on Legislation Making (2012), the hierarchy of legislation is as follows: (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 ministers, ministers-equivalent, and heads of government authorities; (10) orders, decisions, and instructions of provincial and capital governors; (11) orders and decisions of district and municipality chiefs; and (12) village regulations. International treaties are legislation implemented in accordance with provisions of specific legislation. All legal documents are officially in the Lao language and most can be found in two electronic sources – the Lao Official Gazette and the Lao Trade Portal. The Lao Trade Portal also provides unofficial English translations of a number of laws and regulations.

2. Descriptive Non-tariff Measure Statistics

In 2015, 78 NTM-related regulations yielded 342 NTMs, issued by 13 institutions (Table 4.1). In 2018, 106 NTM-related regulations yielded 520 NTMs, issued by 14 institutions. The number of NTMs in 2015 and 2018 was many times higher than the 12 NTMs reported to the WTO. Every tariff line is affected by at least one NTM.

Table 4.1: Comprehensiveness of Non-tariff Measures, Lao PDR

Number	Comprehensiveness	Number	
		2015	2018
1	Total number of coded regulations	78	106
2	Total number of coded NTMs reported to the WTO	12	12
3	Total number of coded NTMs	342	520
4	Total affected products (HS lines, national tariff lines)		
	Total number of affected products (a)	6,658	7,350
	Share of the number of affected products to the number of total products (%) (b)	100%	100%
5	Total number of issuing institutions	13	14

HS = Harmonised System, NTM = non-tariff measure, WTO = World Trade Organization.

Source: Authors, based on ERIA-UNCTAD (2018).

NTMs were issued not only by commerce agencies but also line ministries (Table 4.2). The Ministry of Industry and Commerce accounted for 17.84% of all measures in 2015 and for 15.96% in 2018. The largest share of NTMs in 2015 came from the Ministry of Agriculture and Forestry (23.10%) and in 2018 from the Government Office (26.15%). These numbers show that NTM-related regulations are centralised and that the government pays attention to international trade. The Ministry of Health accounted for 18.42% of all NTMs in 2015 and for 10.96% in 2018; the decrease was due to the repeal of some regulations. The Ministry of Finance accounted for 6.73% of all NTMs in 2015 and 4.81% in 2018. Other line ministries accounted for less than 3% of all NTMs.

Table 4.2: Number of Non-tariff Measures, by Issuing Institution, Lao PDR, 2015 and 2018

Number	Issuing Institution	2015		2018	
		No. of NTMs	Proportion of NTMs (%)	No. of NTMs	Proportion of NTMs (%)
1	Bank of Lao	9	2.63	9	1.73
2	Government Office	55	16.08	136	26.15
3	Ministry of Agriculture and Forestry	79	23.10	96	18.46
4	Ministry of Energy and Mining	8	2.34	8	1.54
5	Ministry of Finance	23	6.73	25	4.81
6	Ministry of Health	63	18.42	57	10.96
7	Ministry of Industry and Commerce	61	17.84	83	15.96
8	Ministry of Information Culture and Tourism	12	3.51	13	2.50
9	Ministry of National Defence	11	3.22	11	2.12

Number	Issuing Institution	2015		2018	
		No. of NTMs	Proportion of NTMs (%)	No. of NTMs	Proportion of NTMs (%)
10	Ministry of Natural Resource and Environment	8	2.34	8	1.54
11	Ministry of Post and Telecommunication	8	2.34	13	2.50
12	Ministry of Public Security	1	0.29	1	0.19
13	Ministry of Public Work and Transportation	4	1.17	4	0.77
14	Ministry of Science and Technology	0	0	56	10.77
Total		342	100	520	100

NTM = non-tariff measure.

Source: Authors, based on ERIA–UNCTAD (2018).

Export-related measures (chapter P) accounted for the largest share of all NTMs, 29.24% in 2015 and 33.08% in 2018 (Table 4.3). Since 2015, the government has launched many regulations to protect the public, business operators, and consumers. For example, the decree on petroleum business No. 331/Gol of 27 October 2017 contains more than 30 measures. Technical barriers to trade (TBT) (B) accounted for 19.30% in 2015 and 27.12% in 2018, which shows that the government focuses on ensuring people’s safety, national security, and environmental protection. Since 2015, almost 20 regulations with non-automatic licensing procedures have been announced. Non-automatic licensing (E) accounted for 17.54% in 2015 and 14.53% in 2018. Price control measures (F) accounted for 15.20% in 2015 and 10.77% in 2018. They support the domestic prices of certain products when import prices are lower. Sanitary and phytosanitary (SPS) measures (A) accounted for 14.33% in 2015 and 10.77% in 2018. Finance measures (G) accounted for the lowest number of NTMs, 0.29% in 2015 and 0.38% in 2018.

Table 4.3: Non-tariff Measures by Chapter, Lao PDR, 2015 and 2018

Chapter	2015		2018	
	No. of NTMs	Proportion of NTMs (%)	No. of NTMs	Proportion of NTMs (%)
A Sanitary and phytosanitary (SPS) measures	49	14.33	56	10.77
B Technical barriers to trade (TBT)	66	19.30	141	27.12
C Pre-shipment inspection and other formalities	14	4.09	18	3.46
D Contingent trade protective measures	0	0	0	0
E Non-automatic licensing, quotas, prohibitions, and quantity control measures other than for SPS or TBT reasons	60	17.54	75	14.53
F Price control measures, including additional taxes and charges	52	15.20	56	10.77
G Finance measures	1	0.29	2	0.38
H Measures affecting competition	0	0	0	0

Chapter	2015		2018	
	No. of NTMs	Proportion of NTMs (%)	No. of NTMs	Proportion of NTMs (%)
I Trade-related investment measures	0	0	0	0
J Distribution restrictions	0	0	0	0
K Restriction on post-sales services	0	0	0	0
L Subsidies (excluding export subsidies under P7)	0	0	0	0
M Government procurement restrictions	0	0	0	0
N Intellectual property	0	0	0	0
O Rules of origin	0	0	0	0
P Export-related measures	100	29.24	172	33.08
Total	342	100	520	100

Source: Authors, based on the 2018 NTM database and ASEAN-ERIA-UNCTAD raw data.

Amongst all registered NTMs in 2015 and 2018, export-related measures, TBT, non-automatic licensing, and price-control measures (P, B, E, and F) accounted for the top 10 (Table 4.4). The licensing, permit, or registration requirement to export (P33) had the highest percentage, with 12.28% in 2015 and 8.46% in 2018. The second-ranked were licensing procedure with no specific ex ante criteria (E111) (6.14%) in 2015 and the product quality, safety, or performance requirement (P163) (6.73%) in 2018. Third-ranked were the import license fee (F65) (5.85%) in 2015 and the import certification requirement (B83) (5.96%) in 2018.

Table 4.4: Top-10 Non-tariff Measures, Lao PDR, 2015 and 2018

Number	2015			2018		
	NTM Type	Number of NTMs	Proportion of NTMs (%)	NTM Type	Number of NTMs	Proportion of NTMs (%)
1	P33 (Licensing, permit requirement)	42	12.28	P33 (Licensing, permit requirement)	44	8.46
2	E111 (Licensing procedure)	21	6.14	P163 (Product quality)	35	6.73
3	F65 (Import license fee)	20	5.85	B83 (Certificate requirement)	31	5.96
4	F72 (Excise taxes)	17	4.97	B31 (Labelling requirement)	25	4.81
5	P43 (Export charge/fee)	16	4.68	E111 (Licensing procedure)	21	4.04
6	P163 (Product quality)	14	4.09	F65 (Import license fee)	20	3.85
7	B31 (Labelling requirement)	13	3.80	B84 (Inspection requirement)	17	3.27
8	B7 (Product quality, safety requirement)	11	3.22	B9 (TBT measures)	17	3.27

Number	2015			2018		
	NTM Type	Number of NTMs	Proportion of NTMs (%)	NTM Type	Number of NTMs	Proportion of NTMs (%)
9	A14 (Authorisation requirement)	10	2.92	B7 (Product quality, safety requirement)	16	3.08
10	B81 (Product registration)	10	2.92	P162 (Product quality)	16	3.08
11	Others	168	49.12	Others	278	53.46
12	Total	342	100	Total	520	100

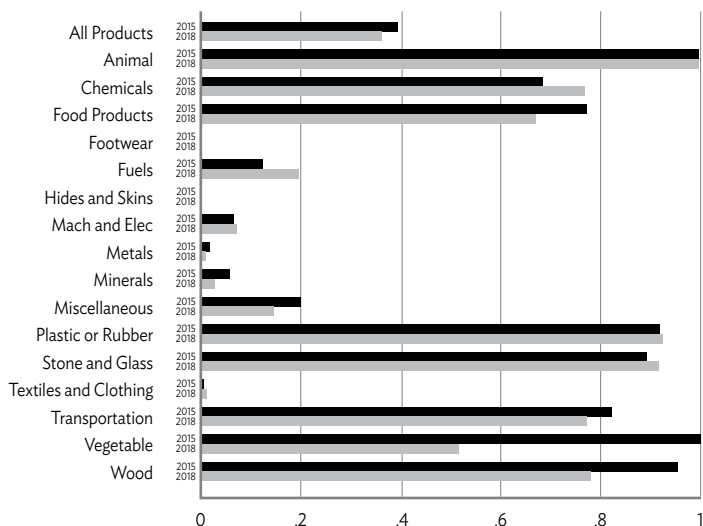
NTM = non-tariff measure, TBT = technical barriers to trade.

Source: Authors, based the 2018 NTM database and ERIA–UNCTAD (2018).

3. Non-tariff Measure Indicators

This section discusses the NTM coverage ratio, frequency index, and prevalence score, which are calculated on exports and imports at the aggregate and product-group levels (Figure 4.4).

Figure 4.4: Coverage Ratio of Exports, Lao PDR, 2015 and 2018

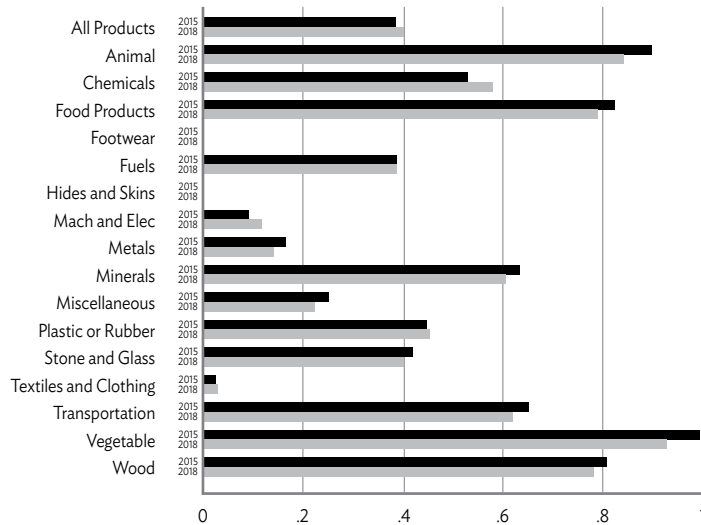


Source: 2018 NTM database; ERIA–UNCTAD (2018).

The coverage ratio of total exports in 2015 was 0.4, implying that 40% of the total export value was subject to at least one NTM (Figure 4.4). The coverage ratio declined only slightly in 2018. In 2015 and 2018, the use of NTMs varied considerably across groups of exports. The 2015 and 2018 coverage ratios of exports of animal products, plastic or rubber, and stone and glass were higher than 0.9, whilst the coverage ratios of exports of footwear, hides and skins, metals, and textiles and clothing were zero or only slightly

more than zero. Fuels, machinery and electronics, minerals, and miscellaneous had NTM coverage ratios of less than 0.2 in both periods; chemicals, food products, and transportation had coverage ratios of 0.7–0.8. The proportion of all exports subjected to at least one NTM declined slightly in 2018, except for exports of vegetables, whose coverage ratio dropped substantially from 1 in 2015 to about 0.5 in 2018, and wood, from 0.9 to less than 0.8.

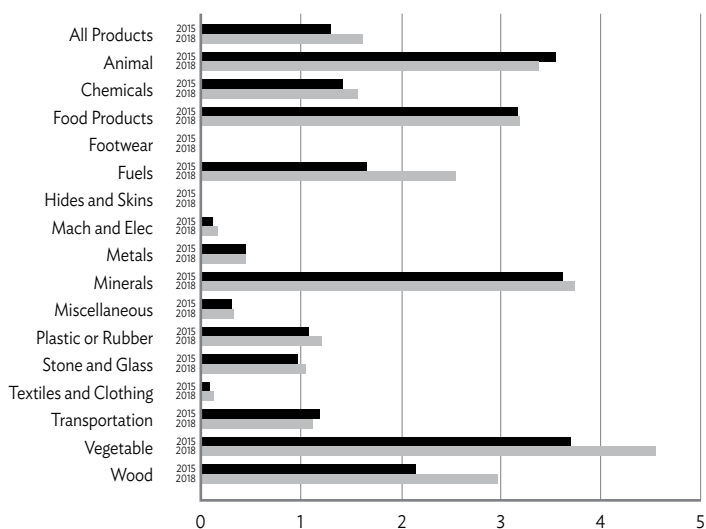
Figure 4.5: Frequency Index of Exports, Lao PDR, 2015 and 2018



Source: 2018 NTM database; ERIA–UNCTAD (2018).

The coverage ratio and frequency index depict the extent of exports subject to at least one NTM, but unlike the coverage ratio, the frequency index does not take into account the value of exports (Figure 4.5). In 2015, the frequency index of total exports was 0.4, suggesting that about 40% of all exports were subject to one or more NTMs. The frequency index declined slightly in 2018. Like coverage ratios, the frequency indices were substantially different across product groups in 2015 and 2018. About 80% of vegetables, animals, food products, and wood were subject to one or more NTMs. In contrast, footwear, hides and skins, textiles and clothing, and machinery and electronics had low frequency indices of less 0.20 in 2015 and 2018, and the rest of the exports 0.25–0.65, declining only slightly in 2018. Exports of vegetables saw the largest decline, but it was less than 0.1.

Figure 4.6: Prevalence Score of Exports, Lao PDR, 2015 and 2018



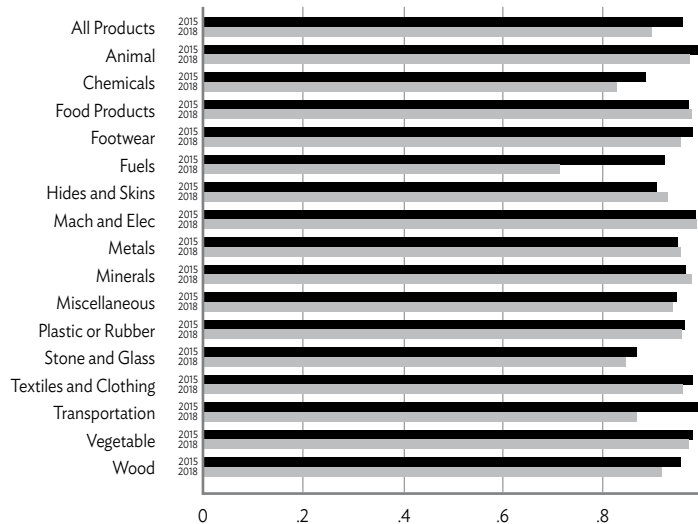
Source: 2018 NTM database; ERIA-UNCTAD (2018).

The coverage ratio and frequency index do not take into account the number of NTMs imposed on each product; whether a product is subject to one or more NTMs, the coverage ratio and frequency index remain unchanged (Figure 4.6). The prevalence score, however, calculates the average number of NTMs imposed on a product. The prevalence score for all export products was about 1.3 in 2015 and increased slightly to about 1.6 in 2018. This means exports were subject to, on average, about 1.6 NTMs in 2018 and 1.3 NTMs in 2015. Exports of footwear and hides and skins were not subject to NTMs in either period. Exports of machinery and electronics, textiles and clothing, metals, and miscellaneous products were subject to, on average, less than one NTM. Exports of vegetables faced the highest number of NTMs in both years, with prevalence scores higher than 4.5 in 2018 and higher than 3.5 in 2015. Other groups of export products subject to high NTMs included animal products, food products, and minerals; their prevalence scores were higher than 3 in 2015 and 2018. Plastic and rubber, stone and glass, and transportation had prevalence scores of slightly more than 1 in 2018. Except for fuel, wood, and vegetables, most export groups saw a small decline in prevalence scores – almost 1 unit less in 2018 than in 2015.

Figures 4.4, 4.5, and 4.6 present indicators illustrating the incidence of NTMs imposed on exports in 2015 and 2018. Figures 4.7, 4.8, and 4.9 do the same for imports in 2015 and 2018. The coverage ratios of total imports and imports of various product groups in 2015 and 2018 are in Figure 4.7. The coverage ratios of imports were considerably higher than those of exports in 2015 and 2018. This is not surprising because NTMs are, in general, more relevant to imports than to exports. Notwithstanding, the figures are high. The coverage ratio of total imports was close to 1 in 2015 and declined only slightly to about

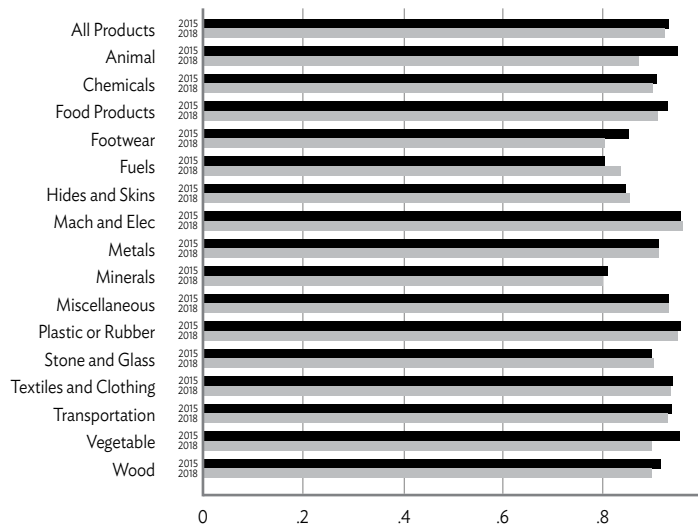
0.9 in 2018. This implies that at least 90% of imports in terms of value were subject to at least one NTM in 2015 and 2018. The coverage ratios of imports across product groups saw small differences, and their values were all higher than 0.8, except for fuel imports in 2018 (0.7). For all product groups, 2018 saw a small drop in coverage ratios, except for fuel imports, which saw a decline of 0.1 units.

Figure 4.7: Coverage Ratio of Imports, Lao PDR, 2015 and 2018



Source: 2018 NTM database; ERIA-UNCTAD (2018).

Figure 4.8: Frequency Index of Imports, Lao PDR, 2015 and 2018

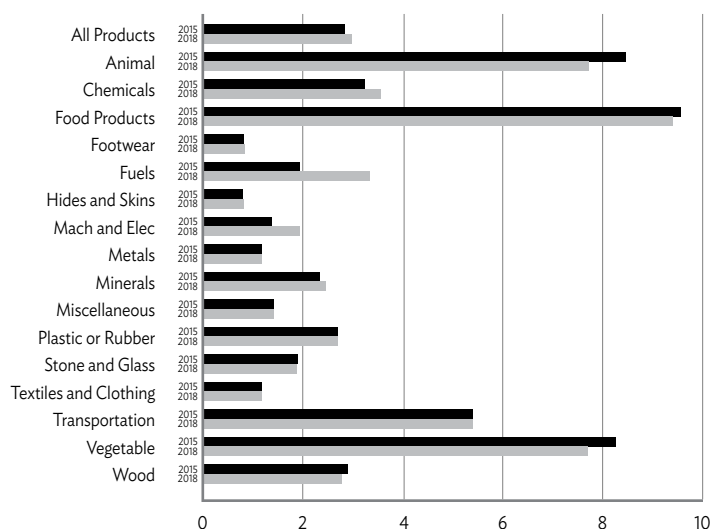


Source: 2018 NTM database; ERIA-UNCTAD (2018).

The frequency ratio of total imports was slightly higher than 0.9 in 2015 and declined minimally in 2018 (Figure 4.8). The frequency indices across product groups were higher than 0.8 in 2015 and 2018, and slightly lower in 2018.

Figure 4.9 shows that, on average, all import products were subject to at least three NTMs in 2015 and 2018, as illustrated by the prevalence scores of total imports. The prevalence scores of imports by product group varied significantly, with the highest value close to 10 and the lowest 1. Food imports had the highest prevalence scores – more than 9 in both periods – implying that, on average, food imports were subject to at least nine NTMs. Imports of animals and vegetables were subject to slightly more than eight NTMs on average in 2015 and slightly fewer than eight in 2018. The prevalence score of imports of transportation was the same in 2015 and 2018 – slightly more than 5. Imports of footwear, hides and skins, metals, and textiles and clothing had prevalence scores of 1 or slightly higher in both periods. The rest of the product groups were subject to two to four NTMs.

Figure 4.9: Prevalence Score of Imports, Lao PDR, 2015 and 2018



Source: 2018 NTM database; ERIA-UNCTAD (2018).

4. Conclusions and Policy Recommendations

Most regulations that contain NTMs are ministry-level legislation, which, unlike standard laws, are not readily available or accessible. Even within the ministry, legislation is not centralised but rather kept within the issuing departments, resulting in some redundancy as some agencies issue new regulations without considering existing ones, hindering efforts to collect comprehensive NTM data.

The large number of NTMs issued by line ministries highlights the importance of raising awareness of and increasing knowledge on NTMs. The high incidence of NTMs also reflects a situation where line agencies do not fully realise the impact these regulations could have on trade. NTMs must be streamlined.

As part of its WTO and ASEAN commitments, Lao PDR is already modestly streamlining its NTMs. The Ministry of Industry and Commerce (MIC) has, through the Trade Development Facility (TDF) and with support from development partners, set up a clear agenda to streamline NTMs. The TDF has supported Lao PDR's continued development by facilitating trade, strengthening SPS and TBT frameworks, increasing export competitiveness, building capacity to formulate trade policy, negotiating trade agreements, and taking advantage of global opportunities. The ministry has formed an NTM review working group, with representatives from line ministries, the private sector, and research institutes. The ministry has also collected data on NTMs and made the NTM database available in its trade portal.

Considering the initiatives already taken by the MIC, this chapter recommends the following:

- 1) The MIC needs to keep its momentum in streamlining NTMs. In addition to forming the NTM review working group, it should include NTM issues in the agenda for trade-related meetings amongst high-ranking officials to gain political traction and support for streamlining NTMs. Support from line ministries is necessary because they are the source of most NTMs.
- 2) The MIC could use the ERIA–UNCTAD NTM database to make its own database more comprehensive and up-to-date.
- 3) NTM stakeholders should enhance their knowledge of and capacity to manage NTMs. NTM data collection and analysis, as well as streamlining efforts, should be pursued and enhanced further. To ensure that knowledge and capacity building are sustainable, and that line agencies will always have in-house expertise, trainers should be trained. The participation of local academic and research institutions should be encouraged.
- 4) Line ministries and government agencies need to take stock of their regulation functions and improve the stock keeping of regulations. All regulations should be readily available and accessible. Centralised sources such as the Lao Official Gazette and the Lao Trade Portal should be optimally utilised to improve not only the collection of NTM data but also the country's legal environment.
- 5) As more legislation is expected – driven by the country's membership in the WTO and ASEAN – the NTM database should be regularly updated in the next few years. Updating may be less frequent after that.

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