

Chapter 7

Philippine Non-Tariff Measures Project

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PHILIPPINE NON-TARIFF MEASURE PROJECT

Cecilia V. Reyes

1. Introduction

1.1. The Economy

The Philippines is one of the most dynamic economies in Asia and the Pacific thanks to increasing urbanisation, a growing middle-income class, and a large young population. The country's economic dynamism is rooted in strong consumer demand supported by a vibrant labour market and robust remittances. Business activities are buoyant, especially in services, including business process outsourcing, real estate, and finance and insurance (World Bank, 2018). The Philippines' primary exports include electronics, other manufactured products, machinery and transport equipment, metal components, and chemicals, sold mainly to Japan, the United States, China, the Republic of Korea (henceforth, Korea), and Hong Kong.

The economy is the world's 37th largest by current US\$ gross domestic product (GDP). It is also the 14th-largest economy in Asia and the 7th-largest in the Association of Southeast Asian Nations (ASEAN) (World Bank, 2017).

The economy is transitioning from agriculture to services and manufacturing. Although it is one of Asia's fastest-growing economies, however, the Philippines has major problems related to alleviating the wide income and growth disparities between regions and socioeconomic classes, reducing corruption, and investing in infrastructure to ensure growth.

Table 7.1: Economic Indicators, Philippines, 2005, 2010, 2018

	2005	2010	2018
GDP (million current US\$)	103,072	199,591	304,906
GDP growth rate (annual %, constant 2010 prices)	4.8	7.6	6.9
GDP per capita (current US\$)	1,195.0	2,130.0	2,951.0
Economy: Agriculture (% of gross value added)	12.7	12.3	9.7
Economy: Industry (% of gross value added)	33.9	32.6	30.9
Economy: Services and other activities (% of gross value added)	53.5	55.1	59.5
Employment in agriculture (% of employed)	36	33.2	25.3
Employment in industry (% of employed)	15.6	15	17.8
Employment in services (% employed)	48.5	51.8	56.8
Unemployment rate (% of labour force)	7.8	3.6	5.9
Labour force participation rate (female/male population %)	47.7 / 76.6	48.6 / 76.1	49.8 / 75.1
Consumer price index (2010=100)	112
Agricultural production index (2004–2006=100)	99	112	113
International trade: Exports (million current US\$)	41,255	51,498	68,713
International trade: Imports (million current US\$)	49,487	58,468	101,889
International trade: Balance (million current US\$)	- 8,233	- 6,970	- 33,177
Balance of payments, current account (million US\$)	1,990	7,179	- 2,518

Source: United Nations (2018).

1.2. Trade Structure

Total external trade in goods in 2017 was US\$164.806 billion (Department of Trade and Industry, 2019), with total import receipts of US\$96.093 billion against total export receipts of US\$68.713 billion, or a balance of trade in goods of negative US\$27.380 billion (Table 7.2).

Table 7.2: Exports and Imports, Philippines, 2017 (US\$ million)

	Amount
Exports	68,713
Imports	96,093
Total	164,806
Balance of trade	-27,380

Source: Department of Trade and Industry (2019).

1.3.1. Export Composition, 2017

Export sales of the top-10 commodities totalled US\$50.235 billion, accounting for 73.11% of total export revenue in 2017. Primary exports included semiconductors and electronic products, transport equipment, copper products, chemicals, and various mineral products (Table 7.3). Major trading partners included Japan, China, the United States, Singapore, Korea, the Netherlands, Hong Kong, Germany, Taiwan, and Thailand (Table 7.4).

In 2017, cathodes, bananas, and electronic equipment and parts entered the top-10 list, replacing woodcraft, coconut oil, and apparel and clothing accessories.

Table 7.3: Top Commodity Exports, Philippines, 2017 (US\$ million)

Commodity	Amount	Share
Electronic products	32,704	47.60%
Other manufactured goods	4,092	5.96%
Machinery and transport equipment	3,795	5.52%
Ignition wiring sets and other wiring sets used in vehicles, aircrafts, and ships	2,030	2.95%
Metal components	1,496	2.18%
Chemicals	1,370	1.99%
Cathodes and sections of cathodes, of refined copper	1,270	1.85%
Other mineral products	1,191	1.73%
Electronic equipment and parts	1,158	1.69%
Bananas (fresh)	1,129	1.64%
Other commodities	18,478	26.89%
Total exports	68,713	

Source: Department of Trade and Industry (2019).

The top-10 export markets had combined trade worth US\$56.248 billion or 81.8% of the total exports in 2017. Germany and the Netherlands entered the top-10 export partners in 2017, replacing Malaysia and Indonesia.

Table 7.4: Top Export Markets, Philippines, 2017

Country	Amount	Share (%)
Japan	10,853	15.79%
United States	9,661	14.06%
Hong Kong	9,024	13.13%
China	8,017	11.67%

Country	Amount	Share (%)
Korea, Republic of	4,334	6.31%
Singapore	3,973	5.78%
Thailand	2,741	3.99%
Germany	2,676	3.89%
Netherlands	2,518	3.66%
Taiwan	2,451	3.57%
Other countries	12,465	18.14%
Total exports	68,713	

Source: Department of Trade and Industry (2019).

1.3.2. Import Composition, 2017

In 2017, the total payment for the country's top-10 import commodities was US\$66.314 billion, or 69.01% of total import payments. The top-10 commodities imported remained unchanged from the previous year.

Table 7.5: Top Commodity Imports, Philippines, 2017 (US\$ million)

Commodity	Amount	% Share
Electronic products	23,331	24.28%
Mineral fuels, lubricants, and related materials	10,594	11.02%
Transport equipment	10,025	10.43%
Industrial machinery and equipment	5,904	6.14%
Iron and steel	4,073	4.24%
Other food and live animals	3,074	3.20%
Miscellaneous manufactured articles	2,785	2.90%
Telecommunication equipment and electrical machinery	2,561	2.67%
Plastic in primary and non-primary forms	2,231	2.32%
Cereals and cereal preparations	1,736	1.81%
Other commodities	29,780	30.99%
Total exports	96,093	

Source: Department of Trade and Industry (2019).

In 2017, the top-10 import supplier countries had a total bill of US\$74.925 billion or about 77.9% of overall imports for the year. The top-10 countries remained the same from the previous year.

Table 7.6: Top Import Suppliers, Philippines, 2017 (US\$ million)

Country	Amount	Share
China	17,464	18.17%
Japan	10,912	11.36%
Korea, Republic of	8,465	8.81%
United States	7,784	8.10%
Thailand	6,759	7.03%
Indonesia	6,352	6.61%
Singapore	5,599	5.83%
Taiwan	5,090	5.30%
Malaysia	3,785	3.94%
Hong Kong	2,715	2.83%
Other countries	21,168	22.03%
Total	96,093	

Source: Department of Trade and Industry (2019).

1.3.3. Tariff Reductions under Most Favoured Nation and Free Trade Agreements

Most Favoured Nation

The most favoured nation (MFN) tariff structure is composed of 15 tariff levels, 0%–65%, covering 2017–2020. More than half the tariff lines (54%) have MFN duty rates of 0%–5%, whilst lines with duties of 10% and up account for more than a fifth (22%) of total tariff lines. By 2019, at least 14.3% of all tariff lines, up from 12.8% in 2018, will have a 0% tariff rate (Tariff Commission, 2019).

In 2000, the simple average tariff rate (SATR) for all products under MFN was 7.60%. The MFN SATR decreased slightly to 6.31% in 2015 and remained almost the same in 2016 and 2017 (World Bank, 2019). In the same benchmark year, the percentage of duty-free lines (PDFL) for all MFN products was 3.09%, increasing to 4.64% in 2015, dipping slightly to 4.58% in 2016, and increasing to 5.09% in 2017 (World Integrated Trade Solution, 2019) (Table 7.A2, Appendix).

The SATR for MFNs in 2000 was slightly higher than SATRs across all products (or overall), which was 7.19% (World Integrated Trade Solution, 2017). In that year, the Philippines had already enforced one free trade agreement (FTA) (ASEAN Free Trade Area) and it had likely improved the SATR across all products vis-à-vis MFNs. The SATRs across all products for 2015–2017 were substantially lower than for MFNs (4.06% in 2015, 5.12%

in 2016, and 3.70% in 2017) because the Philippines was already enforcing seven FTAs and would have significantly reduced tariff rates for lines covered under these FTAs.

The PDFL across all products was expectedly higher than the PDFL for MFNs in the benchmark year 2000 and in 2015–2017. This difference in PDFLs for MFNs and across all products was particularly significant – 37.34% in 2015, 21.49% in 2016, and 37.55% in 2017 – as the enforced FTAs had reduced duties to 0% for a substantial number of lines.

Free Trade Agreements

The Philippines is party to FTAs largely as a member of ASEAN (ASEAN Free Trade Area or AFTA, and later the ASEAN Trade in Goods Agreement or ATIGA) and through ASEAN+1 agreements. AFTA was established in 1999, under which ASEAN members committed to reduce intra-regional tariffs to 0%–5% within 15 years. ATIGA enhances AFTA and seeks to establish a single market and production base with free flow of goods in the ASEAN region, a major component of the ASEAN Economic Community (AEC).

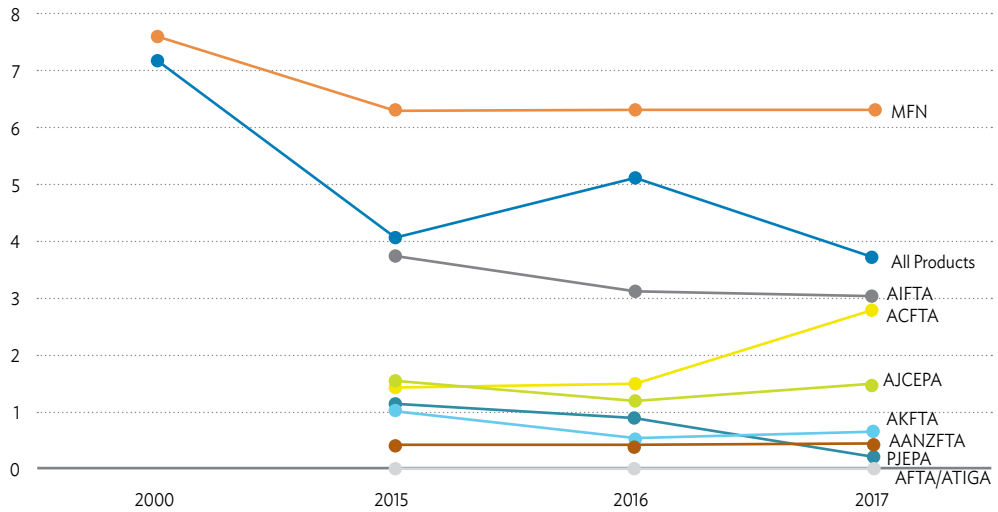
In 2005–2010, ASEAN signed and enforced five FTAs: with China (ASEAN–China Free Trade Area or ACFTA) in 2005, Korea (ASEAN–Korea Free Trade Area or AKFTA) and Japan (ASEAN–Japan Comprehensive Economic Partnership Agreement or AJCEPA) in 2008, and Australia and New Zealand (ASEAN Australia–New Zealand Free Trade Area or AANZFTA) and India (ASEAN–India Free Trade Area or AIFTA) in 2010 (Department of Trade and Industry, 2019).

The Philippines entered into bilateral FTAs with Japan (Philippines–Japan Economic Partnership Agreement or PJEPA) in 2008 and the European Free Trade Association (EFTA) (PH-EFTA FTA) in 2018. On 10 December 2018, the Philippines confirmed that internal procedures had been concluded, and the PH-EFTA FTA has been fully implemented since 24 October 2018 (European Free Trade Association, 2019).

Under these FTAs, preferential tariffs are to be progressively reduced or eliminated on almost all goods by the agreed end dates. In 2018, the Philippines offered duty-free access to more than 90% of the tariff lines in two out of seven FTAs in force.

In 2015–2017, SATRs for all products covered by AFTA and ATIGA bottomed to 0%, whilst the corresponding PDFL reached the targeted 100% by 2017 (Asia-Pacific Economic Cooperation, 2018). In those years, SATRs went down to less than 2% across all the other FTAs except AIFTA. PDFLs under ACFTA, AKFTA, AJCEPA, AANZFTA, and PJEPA were 70%–95% in 2015–2017.

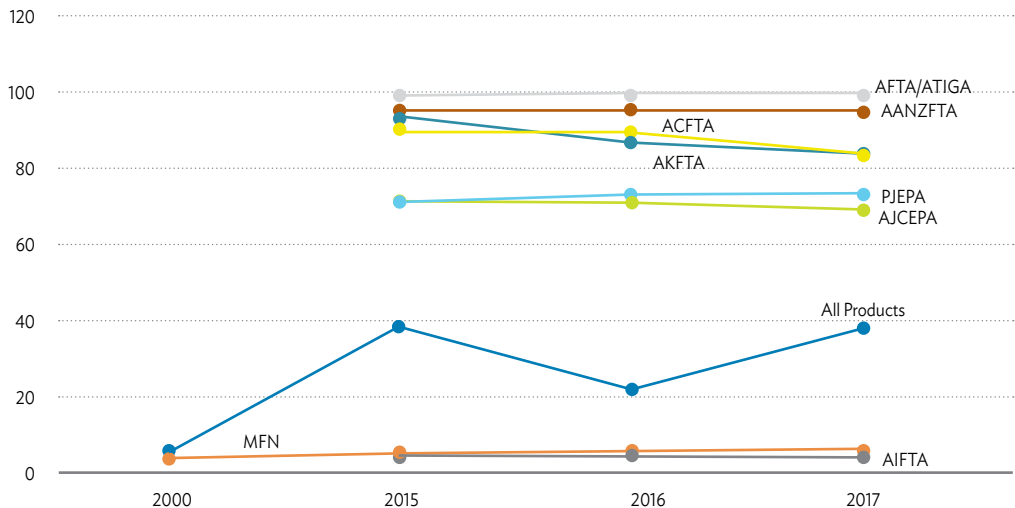
Figure 7.1: Simple Average Tariff Rates for Most Favoured Nation and Free Trade Agreements (%)



AANZFTA = ASEAN Australia–New Zealand Free Trade Area, AFTA = ASEAN Free Trade Area, AIFTA = ASEAN–India Free Trade Area, AJCEPA = ASEAN–Japan Comprehensive Economic Partnership Agreement, ATIGA = ASEAN Trade in Goods Agreement, MFN = most favoured nation, PJEPA = Philippines–Japan Economic Partnership Agreement.

Sources: World Bank (2019), Asia–Pacific Economic Cooperation (2019).

Figure 7.2: Percentage Duty-free Lines for Most Favoured Nation and Free Trade Agreements (%)



AANZFTA = ASEAN Australia–New Zealand Free Trade Area, AFTA = ASEAN Free Trade Area, AIFTA = ASEAN–India Free Trade Area, AJCEPA = ASEAN–Japan Comprehensive Economic Partnership Agreement, ATIGA = ASEAN Trade in Goods Agreement, PJEPA = Philippines–Japan Economic Partnership Agreement.

Source: World Integrated Solutions (2019); Asia–Pacific Economic Cooperation (2019).

Potential Effects of Free Trade Agreements on Tariffs and Non-tariff Barriers

An Institute of Developing Economies (IDE) study (Hayakawa and Kimura, 2014) showed how much FTAs lower tariff rates and non-tariff barriers (NTBs) for manufacturing. The IDE study is the first to investigate the direct relationship of tariff rates and NTBs with FTAs.

The study noted that whilst eliminating tariffs is one of their major purposes, new FTAs contain provisions for policy modes that include government procurement, competition policy, intellectual property rights protection, e-commerce, dispute settlement, labour standards, environmental policy, technical cooperation, and institutional mechanisms. Several are present in some of the FTAs the Philippines is party to. For instance, PJEPA includes provisions for further actions addressing intellectual property, government procurement, competition policy, and dispute settlement; AKFTA seeks common standards for production technology, product regulations, distribution, and after-sales service; whilst ATIGA includes elements addressing rules of origin, trade facilitation, customs, standards and conformance, sanitary and phyto-sanitary (SPS) measures, and the removal of NTBs. It is undetermined whether these affect NTMs in the Philippines.

The IDE study showed that, in general, tariff rates and NTBs between FTA member countries are lower than those between countries not linked by FTAs. Tariff rates are 9% between FTA members and 10% between countries not linked by FTAs, whilst the NTBs are 155% between FTA members and 231% between countries not linked by FTAs. The study also noted that FTAs are unlikely to completely eliminate NTBs amongst the member countries.

Response of Philippine Firms to Free Trade Agreements

A Philippine Institute of Development Studies (PIDS) study measured how Philippine firms respond to FTAs (Aldaba, 2015). It determined that whilst the government is expected to progressively reduce preferential tariffs to 0%, Philippine firms have historically been slow to take advantage of FTAs. The government is identified as the main source of FTA-related information and needs to increase the efficiency, scope, and reach of its promotional and technical training programmes.

Efforts to enhance FTA utilisation are directly linked with the easing of rules of origin compliance and administration. National efforts include reforms to use electronic certificates of origin and self-certification and link to a national single window. Efforts to harmonise rules of origin (ROO) can increase FTA utilisation across ASEAN member

countries and pave the way for the forthcoming Regional Comprehensive Economic Partnership (RCEP).

1.3.4. Philippine Hierarchy of Laws and Regulations

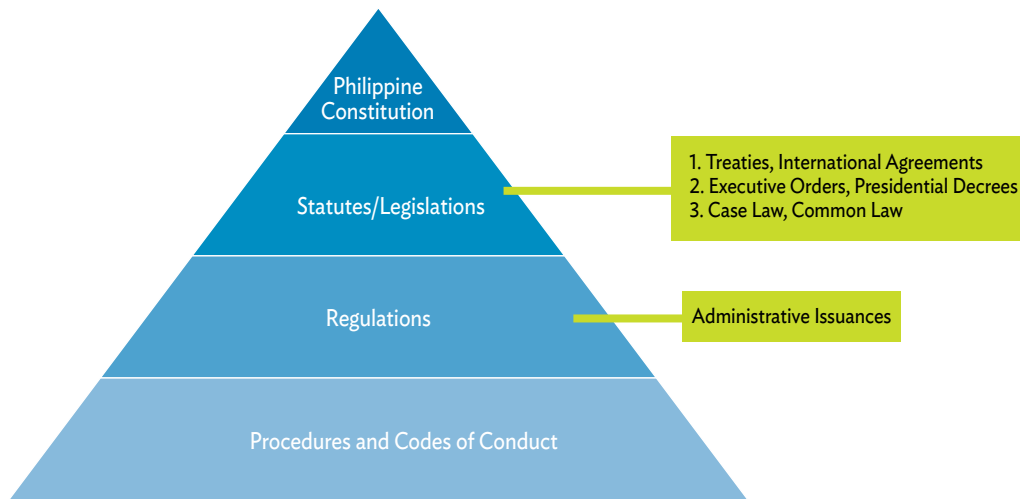
The legal system blends civil law (Roman), common law (Anglo-American), Muslim (Islamic) law, and indigenous law. The two main sources of law are statutes (statutory law) and jurisprudence (case law). Statutory law includes the constitution, treaties, statutes proper or legislative enactments, municipal charters, municipal legislation, court rules, administrative rules and orders, legislative rules, and presidential issuances. Case law consists of decided or written opinion by courts and by persons performing judicial functions, and includes all rulings in administrative and legislative tribunals, such as decisions made by the Presidential or Senate or House electoral tribunals (Santos-Ong, 2015).

The legislature promulgates statutes – acts, commonwealth acts, republic acts, and *batas pambansa* (national laws). The executive promulgates presidential issuances (presidential decrees, executive orders, memorandum circulars, administrative orders, proclamations, etc.), rules, and regulations through its various departments, bureaus, and agencies. The judiciary promulgates judicial doctrines embodied in decisions.

- **The constitution** states the grounding legal and democratic principles that the government is obligated to uphold; the supreme law to which all other laws must adhere (Clegg, Ellena, Ennis, and Vickery, 2016).
- **National laws and international treaties and agreements**
 - o *National laws*: republic acts, commonwealth acts, *batas pambansa* (national laws), presidential decrees, executive orders by the President.
 - o *International agreements*: treaties with other states, having the same force of authority as legislative enactments (ASEAN Law Association, 2005).
- **Administrative issuances to implement national laws (national government and regulatory agencies)** include implementing rules and regulations, letters of instruction, administrative orders, memorandum orders, administrative circulars, memorandum circulars.
- **Local government ordinances**

The legal comprehensiveness of this study is based on research on Philippine laws, in coordination with trade-related agencies and their provision of documentation, including official online sources and databases.

Figure 7.3: Hierarchy of Laws in the Philippines



Source: Clegg, Ellena, Ennis, and Vickery (2016).

2. Non-tariff Measure Statistics

2.1. Comprehensiveness of NTMs, 2015 and 2018

Our 2018 study involved 29 lead government agencies, the same number of agencies covered by the 2015 study. During the period between the studies, an additional 110 regulations (30% more than in 2015) were reviewed. An additional 256 NTMs (26% more than in 2015) were identified. For the complete list of government agencies referred to in this study, see Table 7.A1, Appendix.

Table 7.7: Non-tariff Measure Comprehensiveness, Philippines, 2015 and 2018

	2015	2018
Number of regulatory agencies	29	29
Total number of regulations	330	398
Total number of non-tariff measures	1,076	1,220
Total number of regulations reported to the World Trade Organization	772	1,040
Total number of affected HS8 products	10,937	11,347

Source: Authors.

The study (2015 and 2018) involved 42 agencies, including bureaus, and those attached to lead government departments. NTMs from the Department of Agriculture and its attached agencies (Bureau of Animal Industry, Bureau of Fisheries and Aquatic

Resources, Bureau of Plant Industry, Fertilizer and Pesticide Authority, National Tobacco Administration, National Meat Inspection Service, Philippine Coconut Authority, Philippine Fiber Industry Development Authority, Sugar Regulatory Administration) constituted half of the total NTMs covered in both periods.

The agency with the highest number of NTMs, in both periods, was the Bureau of Animal Industry, with 144 NTMs (14% of the total) in 2015 and 166 (13%) in 2018.

Table 7.8: Non-tariff Measures by Issuing Institution, Philippines, 2015 and 2018 (absolute and percentage)

Issuing Agency	2015	%	2018	%
Bangko Sentral ng Pilipinas	3	0.28	3	0.25
Board of Investments	4	0.37	4	0.33
Bureau of Agriculture and Fisheries Standards	9	0.84	9	0.74
Bureau of Animal Industry	162	15.06	198	16.23
Bureau of Customs	15	1.39	16	1.31
Bureau of Fisheries and Aquatic Resources	108	10.04	108	8.85
Bureau of Internal Revenue	10	0.93	10	0.82
Bureau of Philippine Standards	18	1.67	33	2.70
Bureau of Plant Industry	95	8.83	105	8.61
Civil Aviation Authority of the Philippines	4	0.37	4	0.33
Congress of the Philippines	3	0.28	3	0.25
Dangerous Drugs Board	24	2.23	31	2.54
Department of Agriculture	4	0.37	4	0.33
Department of Agriculture - SPS and Related Legal Issuances	42	3.90	42	3.44
Department of Energy	38	3.53	45	3.69
Department of Environment and Natural Resources	43	4.00	43	3.52
Department of Finance	1	0.09	1	0.08
Department of Social Welfare and Development	1	0.09	1	0.08
Department of Trade and Industry	20	1.86	20	1.64
Environmental Management Bureau	35	3.25	35	2.87
Fertilizer and Pesticide Authority	28	2.60	34	2.79
Food and Drug Administration	51	4.74	58	4.75
Forest Management Bureau	14	1.30	14	1.15
International Coffee Organization Certifying Agency	1	0.09	1	0.08
Maritime Industry Authority (MARINA)	25	2.32	30	2.46
Mines and Geosciences Bureau	2	0.19	2	0.16

Issuing Agency	2015	%	2018	%
National Book Development Board	2	0.19	2	0.16
National Food Authority	29	2.70	37	3.03
National Meat Inspection Service	53	4.93	53	4.34
National Museum	1	0.09	1	0.08
National Telecommunications Commission	39	3.62	49	4.02
National Tobacco Administration	12	1.12	12	0.98
Official Gazette	6	0.56	6	0.49
Optical Media Board	13	1.21	13	1.07
Philippine Amusement and Gaming Corporation	12	1.12	12	0.98
Philippine Coconut Authority	12	1.12	12	0.98
Philippine Drug Enforcement Agency	3	0.28	3	0.25
Philippine Fiber Industry Development Authority	8	0.74	8	0.66
Philippine International Trading Corporation	1	0.09	1	0.08
Philippine National Police- Firearms and Explosives Division	55	5.11	62	5.08
Philippine Nuclear Research Institute	56	5.20	59	4.84
Sugar Regulatory Administration	14	1.30	36	2.95
Total	1,076	100.00	1,220	100.00

The study (2015 and 2018) involved 42 agencies, including bureaus, and those attached to lead government departments. NTMs from the Department of Agriculture and its attached agencies (Bureau of Animal Industry, Bureau of Fisheries and Aquatic Resources).

Table 7.9: Non-tariff Measures by Chapter, 2015 and 2018 (absolute and percentage)

	Chapter	2015		2018	
		Number of NTMs	Proportion of NTMs (%)	Number of NTMs	Proportion of NTMs (%)
A	Sanitary and phyto-sanitary (SPS) measures	316	29.37	363	29.75
B	Technical barriers to trade (TBT)	299	27.79	357	29.26
C	Pre-shipment inspection and other formalities (PSI)	24	2.23	26	2.13
D	Contingent trade protective measures	0	0.00	0	0.00
E	Non-automatic licensing, quotas, prohibitions, and quantity control measures for other than SPS or TBT reasons	189	17.57	209	17.13
F	Price control measures, including additional taxes and charges	34	3.16	40	3.28
G	Finance measures	10	0.93	11	0.90
H	Measures affecting competition	1	0.09	3	0.25
I	Trade-related investment measures	0	0.00	1	0.08

	Chapter	2015		2018	
		Number of NTMs	Proportion of NTMs (%)	Number of NTMs	Proportion of NTMs (%)
J	Distribution restrictions	3	0.28	3	0.25
K	Restriction on post-sales services*	0	0.00	0	0.00
L	Subsidies (excluding export subsidies under P7)*	0	0.00	0	0.00
M	Government procurement restrictions*	0	0.00	0	0.00
N	Intellectual property*	0	0.00	0	0.00
O	Rules of origin*	0	0.00	0	0.00
P	Export-related measures	200	18.59	207	16.97
	Total non-tariff measures	1,076	100.00	1,220	100.00

* Not included in this study.

The top-eight NTM codes in 2015 and 2018 were largely the same. In 2018, codes B42 and B7 entered the top-10 list, replacing P69 and B2.

Table 7.10: Top-10 Non-tariff Measure Codes, Philippines, 2015

Rank	Code	Description	Count	Proportion (%)
1	E1	Non-automatic import-licensing procedures other than authorisations for SPS or TBT reasons	154	14.33
		E1	121	
		E11	1	
		E111	1	
		E112	9	
		E113	16	
		E119	5	
		E129	1	
2	A11	Temporary geographic prohibitions for SPS reasons	63	5.86
3	P11	Export prohibition	51	4.74
4	B31	Labelling requirement	50	4.65
5	B83	Certification requirement	38	3.53
6	A83	Certification requirement	34	3.16
7	B84	Inspection requirement	31	2.88
8	A84	Inspection requirement	29	2.70
9	B7	Product-quality or -performance requirement	29	2.70
10	B42	TBT regulations on transport and storage	27	2.51
		All others	569	52.93

SPS = sanitary and phytosanitary, TBT = technical barriers to trade.

Table 7.11: Top-10 Non-tariff Measure Codes, Philippines, 2018

Rank	Code	Description	Count	Proportion (%)
1	E1	Non-automatic import-licensing procedures other than authorisations for SPS or TBT reasons	171	14.02
		E1	138	
		E11	1	
		E111	1	
		E112	9	
		E113	16	
		E119	5	
		E129	1	
2	A11	Temporary geographic prohibitions for SPS reasons	92	7.54
3	B31	Labelling requirements	59	4.84
4	P11	Export prohibition	53	4.34
5	B83	Certification requirement	44	3.61
6	B7	Product-quality or -performance requirement	37	3.03
7	A83	Certification requirement	35	2.87
8	B42	TBT regulations on transport and storage	33	2.70
9	B84	Inspection requirement	33	2.70
10	A84	Inspection requirement	32	2.62
		All others	631	51.72

SPS = sanitary and phytosanitary, TBT = technical barriers to trade.

2.2. Non-tariff Measure Indicators

The Philippines has been implementing its Tariff Reform Program since the 1980s. Whilst the country has significantly reduced tariffs on many commodities, several still carry high tariffs. The average applied MFN tariff exceeded 7.6% in 2018, up from 6.4% in 2011. The increase in the average tariff is mainly due to transposition to HS 2017 and the splitting of lines carrying high tariffs. Tariff rate quotas apply to 77 tariff lines, and 65% of tariff lines (including all agricultural lines) are bound (WTO, 2018).

Tariff quotas cover 80 tariff lines, equivalent to 0.7% of all lines and including live swine, goats, and poultry and meat thereof; potatoes; coffee; maize; rice; sugar; and coffee. Products subject to tariff quotas are also subject to import licenses and, in most cases, NTMs. The number of NTMs implemented by the government notably increased since 2015.

In general, the imposition of NTMs could be justified for different reasons, such as health, security, environment, and consumer protection. However, NTMs could also adversely affect global and regional production chains by unnecessarily increasing the cost of business of companies (Medalla and Mantaring, 2017). Several studies reveal that NTMs can restrict trade and be as trade-restrictive as tariffs, even more so in the case of certain high- and middle-income countries (WTO, 2012).

The following sections illustrate the extent of restrictiveness of NTMs on imports and exports as reflected in the computed NTM indicators across commodities.

2.2.1. Exports

Export Frequency Index, 2015 and 2018

The frequency index is the percentage of all commodity classifications – total (e.g., HS 4-digit) product categories with non-zero exports – linked to or subject to at least one measure in one WTO notification. The frequency index does not take into account the value of trade in the affected products.

In 2015–2018, the computed frequency index for total exports was around 0.42–0.44, indicating that 42%–44% of total export product categories received at least one notification or required an NTM. Overall, frequency indices for exports remained relatively stable, except for chemical products.

Exports of agricultural goods (animal, food, and vegetable products) consistently have higher export frequency indices than other export goods because most countries, including the Philippines, have significantly higher NTMs for product groups derived from agriculture and natural resources.

The higher frequency index for animal products denotes the stringent export requirements for meat and poultry products.

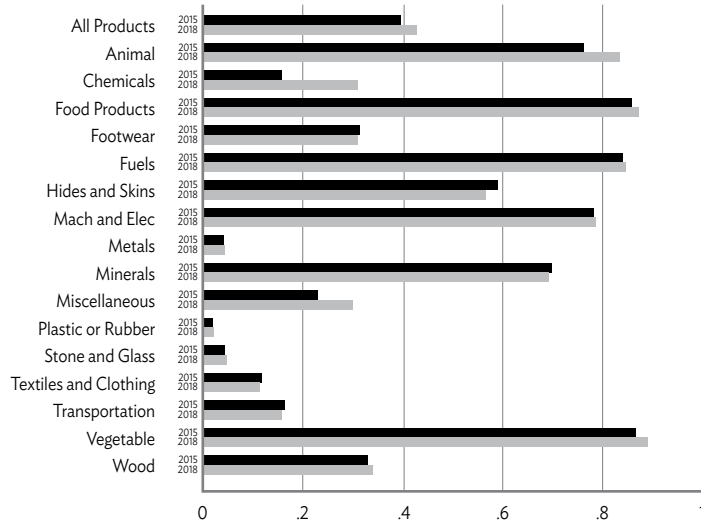
NTMs that may affect the export of animals and meat include the following:

1. Bureau of Animal Industry (BAI) inspection requirement
2. BAI sworn statement by veterinarian
3. BAI export permit (Convention on International Trade in Endangered Species of Wild Fauna and Flora [CITES] permit from the Protected Areas and Wildlife Bureau, Department of Environment and Natural Resources (PAWB-DENR) for exotic animals and monkeys)
4. BAI inspection requirement
5. National Meat Inspection Service (NMIS) veterinary quarantine clearance
6. NMIS official certificates of the condition of the animals
7. NMIS registration and accreditation
8. NMIS export licensing
9. NMIS Hazard Analysis Critical Control Point (HACCP) Program certification and accreditation
10. NMIS certificate of wholesomeness
11. NMIS registration of meat exporters
12. NMIS inspection requirement

NTMs that may affect the export of poultry and poultry products include the following:

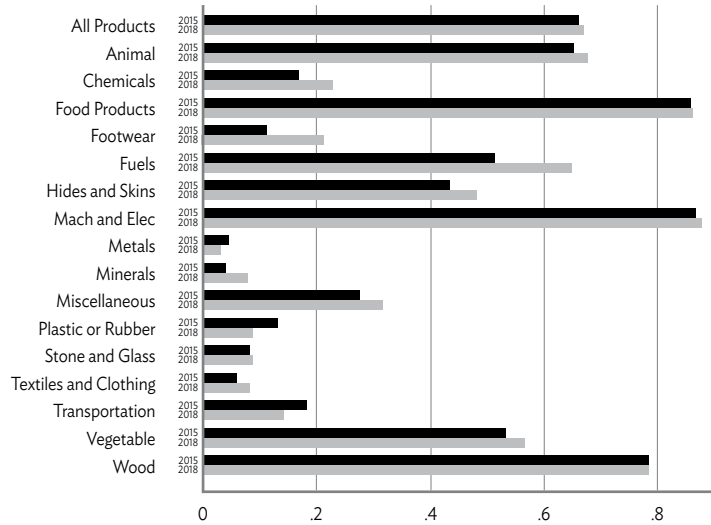
1. BAI international veterinary certificate
2. BAI certificate of no clinical evidence of infectious poultry diseases
3. BAI certification issued by the farm veterinarian
4. BAI sworn statement by veterinarian
5. BAI export permit (CITES permit from the PAWB-DENR for wild fauna and import permit from the country of destination for game fowl)
6. BAI inspection requirement
7. BAI National Meat Inspection Service certification requirement
8. BAI slaughter requirements
9. NMIS veterinary quarantine clearance
10. NMIS official certificates of the condition of the animals
11. NMIS registration and accreditation
12. NMIS export licensing
13. NMIS HACCP certification and accreditation
14. NMIS certificate of wholesomeness
15. NMIS registration of meat exporters
16. NMIS inspection requirement

Figure 7.4: Frequency Index of Philippine Exports, 2015 and 2018



Source: UNCTAD (2019).

Figure 7.5: Coverage Ratio of Philippine Exports, 2015 and 2018



Source: UNCTAD (2019).

Export Coverage Ratio, 2015 and 2018

The coverage ratio is the percentage of the total trade value – exports and imports – linked to at least one WTO member’s notification at a certain HS commodity (e.g., HS 4-digit) level.

For 2015 and 2018, the coverage ratio for the total value of Philippine exports was about 0.7 (or 70%). Export goods with high coverage ratios (0.55–0.9) were agricultural products

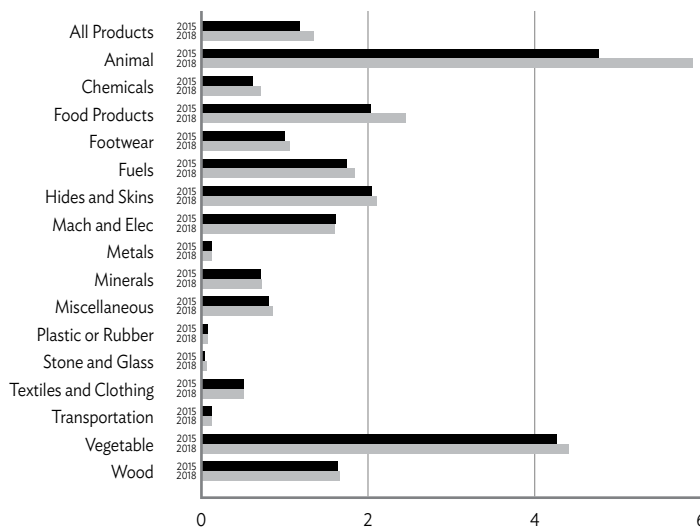
(animal, food, and vegetable products), machinery and electronics, and wood. Higher coverage ratios mean that export values of the mentioned goods are mostly covered by NTMs. Machinery and electronic products have a high coverage ratio because they are high-value commodities and most exports are covered by NTMs. Semiconductors comprise the biggest share of electronic products.

Exports of agricultural products are mostly regulated and subjected to the greatest number of NTMs, resulting in high coverage ratios for these commodities.

Export Prevalence Score, 2015 and 2018

The prevalence score is the average number of NTMs applied to each product by each economy. For total Philippine exports, about one NTM per product was required by the importing country in 2015 and 2018. The export of animal products recorded the highest prevalence score, close to 5 in 2015 and about 6 in 2018. Exports of agricultural products (animal and vegetable products) recorded the highest prevalence score for 2015 and 2018.

Figure 7.6: Prevalence Score of Philippine Exports, 2015 and 2018



Source: UNCTAD (2019).

2.2.2. Imports

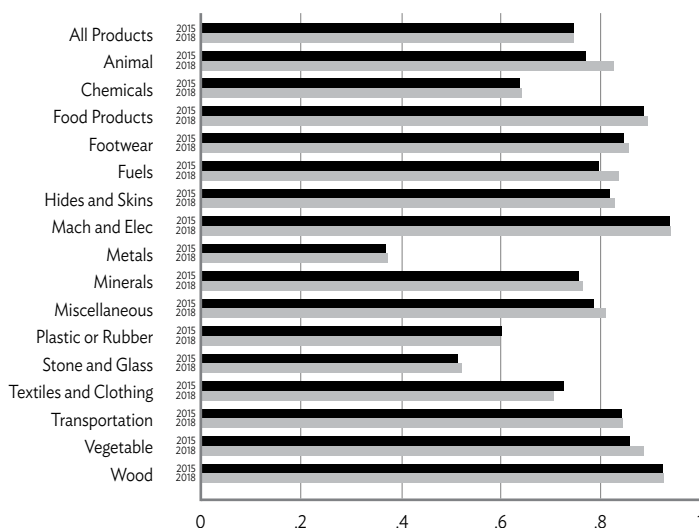
Import Frequency Index, 2015 and 2018

The frequency index for all imported products was at least 0.80, indicating that at least 80% of imports were subject to NTMs. The index for all product groups in 2015–2018 was almost unchanged.

The frequency index for all product groups, except metal, was more than 0.50, meaning more than 50% of imports were subject to NTMs. Agricultural products had the highest import frequency indices for 2015 and 2018. This was expected since Department of Agriculture agencies implement the most number of NTMs (Table 7.8).

In 2016, the Anti-Agricultural Smuggling Act (Republic Act No. 10845) was passed into law and the Bureau of Customs issued Customs Administrative Order No. 02-2017 to implement it. The law covers agricultural products, specifically rice, sugar, pork, garlic, onion, carrots, fish, and cruciferous vegetables. Additional regulations were issued by regulatory agencies to ascertain that the value and volume of imports would not result in large-scale smuggling. The law is one indicator that agriculture is highly regulated.

Figure 7.7: Frequency Index of Philippine Imports, 2015 and 2018



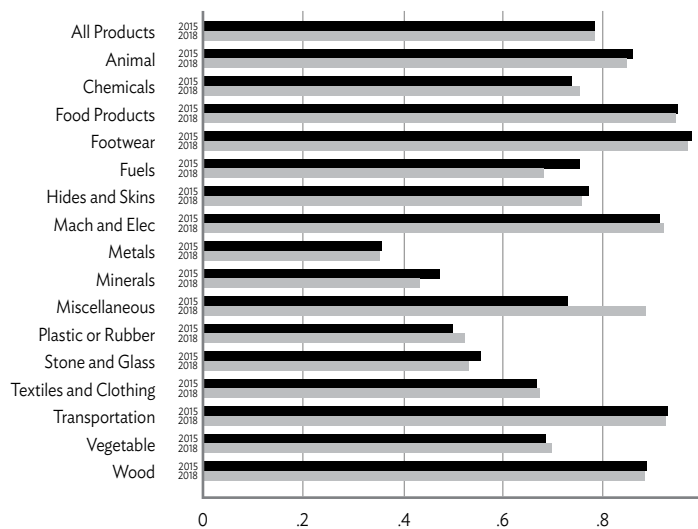
Source: UNCTAD (2019).

The computed coverage ratios for imports ranged from 0.35 (metal goods) to almost 1.0 (footwear) (35%–100%). The coverage ratio for total imports for 2015 and 2018 was 0.80, indicating that about 80% of the total value of imports was covered by NTMs imposed by the importing countries.

Only imports of miscellaneous goods, including furniture, beddings, mattresses, and lamps and lighting fittings, had significantly different coverage ratios in 2015 and 2018. The higher coverage ratio in 2018 may be attributed to additional regulations issued for lamps and lighting fittings. The Department of Trade and Industry (DTI) issued Department Administrative Order 18-02 declaring mandatory the Philippine National Standard for Self-Ballasted LED Lamps for General Lighting Services. Self-ballasted LED lamps were added to the list of products that the DTI regulates prior to their distribution to the market.

Lamps and related products, LED and incandescent, are amongst the products that require a certificate under Memorandum Circular 28-11 issued by DTI's Bureau of Product Standards in September 2018. Over the years, the use of LED lights has been increasing because they are energy efficient and long lasting.

Figure 7.8: Coverage Ratio of Philippine Imports, 2015 and 2018



Source: UNCTAD (2019).

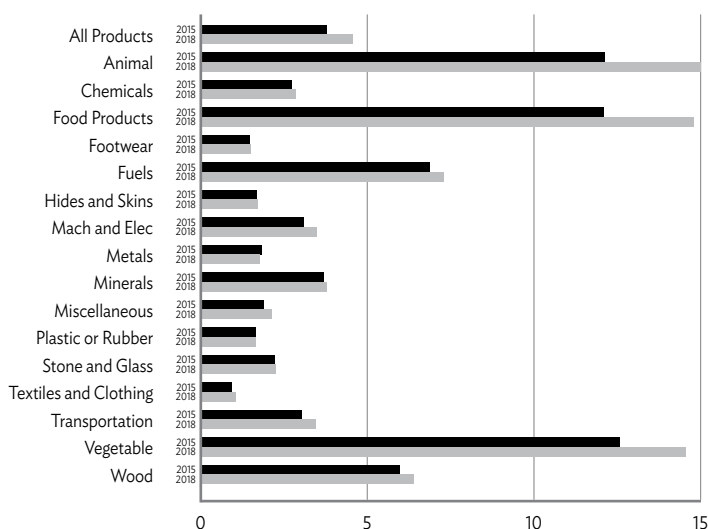
Import Prevalence Scores, 2015 and 2018

The prevalence scores for total imports were 4 in 2015 and 5 in 2018. The country imposes more measures on its imports. The most NTMs were imposed on agricultural imports (animal, food, and vegetable products). The prevalence scores for agricultural products were higher in 2018 (15) than in 2015 (13).

NTMs for animal imports increased because the Department of Agriculture imposed stricter measures on meat and poultry imports due to the prevalence of avian virus and African swine fever, which can harm not only animals but also humans. In 2018, the

Department of Agriculture issued several memorandum orders (MOs) (Nos. 18, 23, 30, and 31) that temporarily banned the import of domestic and wild pigs and their products, including pork meat, from the Russian Federation, Poland, China, Belgium, South Africa, and Hungary. MO Nos. 02, 03, 04, 05, 06, 07, 25, and 37 temporarily banned the import of domestic and wild birds and their products, including poultry meat, day-old chicks, eggs, and semen, from Bulgaria, Sabah, Malaysia, the Netherlands, Saudi Arabia, the Russian Federation, and Belgium.

Figure 7.9: Prevalence Scores of Philippine Imports, 2015 and 2018



Source: UNCTAD (2019).

3. Conclusions and Policy Recommendations

3.1. Issues Encountered by the Non-tariff Measure Project Team

The following is a review of the issues and challenges encountered by the team, to give context to the conclusions and policy recommendations.

3.1.1. Agencies Unprepared to Handle Non-tariff Measure Issues

A. For many agencies, the task of identifying, documenting, and monitoring NTMs is not a priority. The government does not have a policy to make it a priority and lacks programmes to promote awareness and expertise. Most initiatives to raise NTM awareness are from development assistance projects sponsored by the United Nations, for example, and the Economic Research Institute for ASEAN and East Asia (ERIA).

- B. Most agencies do not have properly trained technical personnel who can effectively identify and document NTMs. It is common for agencies to have only temporarily assigned personnel who can work on NTM matters as the need arises. This contributes to inefficiency in implementing NTMs, which causes delays in the processing of imports and exports.
- C. Agencies that regularly monitor their NTMs are familiar primarily with those related to trade licenses, permits, certificates, or authorisations (code E items), perhaps because the agencies collect fees to issue licenses, permits, and certificates, which are a significant source of income. In some cases, the issuance of permits and licenses has become an opportunity for corruption. There are anecdotal accounts of unscrupulous personnel who solicit un-receipted payments to facilitate the issuance of permits and licenses.

3.1.2. Regulations Not Always Available or Accessible

- A. Many regulations are still not digitised, and only print copies are available. Whilst agencies have started digitising their regulations (producing a PDF file or at least an image), often only old print copies are available. Team members digitised the print copies themselves to complete internal documentation.
- B. The team requested agencies for copies only of trade regulations that include potential NTMs, but sometimes agencies would provide copies of all their issuances, whether or not they included NTMs. The team did the initial culling of regulations.
- C. Many agencies maintain online libraries of regulations on their official websites. Some include only the more recent regulations whilst others attempt to include all of them. Many websites were either down or had dead links. Down time was particularly severe during the study period (second and third quarters of 2018), when up to 132 government agency websites experienced hardware failure in the Government Web Hosting Service.

3.2. Recommendations

The following are (1) immediate recommendations to be implemented within 1 year to solve the most urgent problems, focusing on fast-tracking agency expertise in NTMs and improving the access and availability of regulations; and (2) long-term recommendations

to provide guidelines to develop new or refine existing policies and strategies to improve the quality of trade regulations.

3.2.1. Immediate Recommendations

A. **Technical training on NTMs.** The need for technical training amongst agency personnel on NTM topics was emphasised during a World Bank–sponsored workshop in April 2018 in Manila. The director of the host agency, the Bureau of Import Services, mentioned that agencies have difficulty classifying NTMs within their regulations. As local expertise on NTMs is inadequate, it was strongly suggested that technical assistance from international donor agencies be pursued to provide much-needed training for agency personnel.

In a 25 June 2018 email, UNCTAD expressed interest in providing technical support to government agencies on NTM issues. The government should accept the offer.

B. **Properly designated personnel.** Agencies must designate permanent technical personnel who will focus on NTM matters. These technical personnel will undergo training and become in-house NTM experts.

C. **Online accessibility of regulations and NTM listings.** Agencies must be mandated to publish all trade policies, regulations, and NTMs – especially on the web – to ensure that they are available and accessible. Existing infrastructure can provide primary and secondary host sites, including websites of the Philippine National Trade Repository (PNTR), managed by DTI, and other private or independent trade websites. Agencies must immediately publish new regulations, especially if they revise, update, or otherwise affect existing ones.

D. **Agency with NTM-monitoring authority.** NTMs must be effectively and efficiently managed by a permanent government unit established to coordinate and monitor agency activities pertaining to NTMs. The new unit can be subsumed by a government department (e.g., DTI or the National Economic and Development Authority) with members from various agencies. The unit should have the authority to recommend measures and establish guidelines and procedures to maintain, update, and disseminate NTMs.

3.2.2. Long-term Recommendations

The success or failure of programmes and policies to promote transparency and procedural efficiency depends on how practical they are and how strong the political will is to implement and sustain them. Programmes and policies must emphasise not only the importance of reviewing and streamlining NTMs but also define infrastructure, organisation, and sustainability measures.

Since 2015, the government has taken steps to make its policies, information, and procedures transparent and accessible. More recently, the government appears serious about driving the bureaucracy to operate more efficiently.

Although not specifically targeting NTM issues, the following initiatives are making trade regulations more transparent:

A. **Customs Regulated Imports List (CRIL).** In 2015, the Bureau of Customs released the CRIL online, a comprehensive listing of about 7,500 regulated products, with their corresponding import regulations and required permits. The bureau, with technical assistance from USAID, developed the CRIL to correct the lack of a single official reference for requirements for regulated imports. The list inventories all laws, regulations, and processes relevant to imports to guide the bureau's frontline officers.

The CRIL maps the rules relevant to imports and identifies overlapping and conflicting regulations. During data collection, the agencies were able to study and understand the legal mandates of their regulations from the perspective of trade facilitation, and started to distinguish NTMs from NTBs. The customs commissioner mandated that customs assessors as well as traders refer to the CRIL as the official guide on import requirements.

The CRIL's value and usefulness depends on how current it is. The Bureau of Customs must ensure that the list is always updated by establishing an efficient coordinating procedure with agencies on new regulations and policies.

B. **Philippine National Trade Repository.** In 2016, the PNTR went online after more than a year of development. The PNTR (pntr.gov.ph), spearheaded by DTI and assisted by USAID and the World Bank, is intended to be a comprehensive, one-stop online reference on all tariff and non-tariff measures applied to goods entering, exiting, and transiting the Philippines.

The repository also includes all documentary requirements for specific commodities (the CRIL is a significant source of PNTR information). If it is accurate and up to date, the PNTR will significantly reduce the cost, time, and effort spent on searching for trade-related information. The repository also helps agencies disseminate updated regulatory information to the trading community. The PNTR is intended to provide greater transparency and increase the likelihood of voluntary compliance by traders and help them make sound business decisions.

The PNTR will eventually be integrated into the ASEAN Trade Repository, which will give exporters accurate and up-to-date information, including a regulatory requirement road map of the movement of goods to and between ASEAN member states.

- C. **Freedom of Information Program (FOI).** In July 2016, the government issued the landmark FOI (Executive Order No. 02) (Government of the Philippines, 2016), covering all executive government offices. They are required to disclose public records (e.g., contracts, transactions) and any information produced (e.g., procedures and policies) requested by the public, except for matters affecting national security and other information falling under the inventory of exceptions. The FOI directs all government agencies to be transparent in their policies, procedures, and transactions, and designates a specific period to reply to a request for or release requested information. The FOI imposes administrative and disciplinary sanctions on agency officials for failure to comply.

- D. **Ease of Doing Business Act.** In May 2018, the government enacted the Ease of Doing Business Act (Republic Act No. 11032) (Government of the Philippines, 2018), which directs government offices (including trade regulatory agencies) to streamline requirements, remove complicated and redundant procedures, and shorten processing times for government services. Government agencies must act on applications within 3 days for simple transactions, 7 days for complex ones, and 20 days for highly technical ones.

3.3. Conclusion

Government agencies are beginning to appreciate the value of identifying and documenting NTMs and to understand that NTMs must be monitored and moderated so that the Philippines will benefit fully from a free trade environment.

NTMs, however, still lack transparency, and information on them is scarce, which is why their implications for international trade are not well understood (UNCTAD, 2013).

NTM notification mechanisms are largely incomplete. NTM information is often buried in legal and regulatory documents, which makes gathering data difficult and costly. Scarce information on the implications of NTMs for international trade is especially a cause for concern for traders, trade negotiators, policy makers, and development agencies.

Government efforts in the past 2 or 3 years to promote transparency and efficiency are a step in the right direction. A PIDS study (*The Philippine Star*, 2017) stated that Philippine NTM rules are in the mid-range of clarity or transparency, while Singapore and Thailand are the most transparent, and Cambodia, the Lao People's Democratic Republic, and Myanmar are the least transparent. The study also mentions increasing and legitimate concerns that some NTMs are used mainly for protectionist reasons. In such cases, NTMs are NTBs to trade and investments.

The PIDS study considered the added costs of doing business resulting from NTMs as moderate. The Philippines should strive to attain complete clarity or transparency of regulations and their NTMs, as well as have the lowest additional costs. The study urged the promotion of transparency through the creation of an updated database of NTMs in the region to complement regular notifications to the ASEAN Secretariat and the WTO. The ERIA–UNCTAD project on NTMs in ASEAN is a response to this need.

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Appendix
**Table 7.A1: Non-tariff Measure Reference List of
 Government Institutions, Philippines**

Ministry (Executive Department)	Department/Bureaus (Implementing Agencies)	Subsidiary Agency (Departments/Divisions/Offices)	
1. Department of Agriculture (DA)	Bureau of Animal Industry (BAI)	National Veterinary Quarantine Services	
	Bureau of Animal Industry (BAI)	Animal Feeds Standard Division	
	Bureau of Fisheries and Aquatic Resources (BFAR)	Fisheries Regulatory and Quarantine Division	
	Bureau of Plant Industry (BPI)	Plant Quarantine Service (PQS)	
	National Meat Inspection Services (NMIS)	Meat Export Import Division	
	National Tobacco Authority (NTA)	National Tobacco Authority (NTA)	
	Philippine Coconut Authority (PCA)	Philippine Coconut Authority (PCA)	
	Philippine Fiber Industry Development Authority (PhilFIDA)	Philippine Fiber Industry Development Authority (PhilFIDA)	
	Sugar Regulatory Administration (SRA)	Sugar Regulatory Administration (SRA)	
2. Department of Energy (DOE)	Energy Industry Administration Bureau (EIAB)	Energy Industry Administration Bureau (EIAB)	
	Energy Resource Development Bureau (ERDB)	Petroleum Resources Development Division	
	Energy Resource Development Bureau (ERDB)	Coal and Nuclear Minerals Division	
	Oil Industry Management Bureau (OIMB)	Oil Industry Competition and Monitoring Division (OICMD)	
	Oil Industry Management Bureau (OIMB)	Oil Industry Standard and Monitoring Division (OISMD)	
	Environment Management Bureau (EMB)	Environmental Quality Division	
3. Department of Environment and Natural Resources (DENR)	Environment Management Bureau (EMB)	Chemicals Division	
	Environment Management Bureau (EMB)	Hazardous Division	
	Forest Management Bureau (FMB)	Forest Management Bureau (FMB)	
	Biodiversity Management Bureau (BMB)	Biodiversity Management Bureau (BMB)	
	Mines and GeoSciences Bureau (MGB)	Mines and GeoSciences Bureau	
	Philippine Ozone Desk (POD)	Philippine Ozone Desk (POD)	
	4. Department of Finance (DOF)	Bureau of Internal Revenue (BIR)	Large Taxpayers Collection and Enforcement
		Bureau of Internal Revenue (BIR)	Excise Taxpayers Regulatory Division
Cooperative Development Authority (CDA)		Cooperative Development Authority (CDA)	
One Stop Shop (OSS)		One Stop Shop (OSS)	
Revenue Office		Revenue Office	
Banko Sentral ng Pilipinas (BSP)		Banko Sentral ng Pilipinas (BSP)	

Ministry (Executive Department)	Department/Bureaus (Implementing Agencies)	Subsidiary Agency (Departments/Divisions/Offices)
5. Department of Interior and Local Government (DILG)	Philippine National Police (PNP)	Dangerous Drugs Board (DDB)
	Philippine National Police (PNP)	Firearms and Explosives Office (FEO)
	Philippine National Police (PNP)	Philippine Drug Enforcement Agency (PDEA)
6. Department of Health (DOH)	Food and Drug Administration (FDA)	Center for Cosmetics Research and Regulation
	Food and Drug Administration (FDA)	Center for Device Research and Regulation
	Food and Drug Administration (FDA)	Center for Drugs Research and Regulation
	Food and Drug Administration (FDA)	Center for Food Research and Regulation
7. Department of Justice (DOJ)	National Bureau of Investigation (NBI)	National Bureau of Investigation (NBI)
8. Department of Social Welfare and Development (DSWD)	Department of Social Welfare and Development (DSWD)	Disaster Risk Reduction and Response Operations Office
	Department of Social Welfare and Development (DSWD)	Standards Bureau
9. Department of Science and Technology (DOST)	Philippine Nuclear Research Institute (PNRI)	Philippine Nuclear Research Institute (PNRI)
10. Department of Transportation and Communication (DOTC)	Civil Aviation Authority of the Philippines (CAAP)	Airworthiness Authority
	Land Transportation Office (LTO)	Motor Vehicle Inspection System
	National Telecommunication Commission (NTC)	Special Licensing Branch
	National Telecommunication Commission (NTC)	Regulation Branch
	National Telecommunication Commission (NTC)	National Capital Region Regional Office
	National Telecommunication Commission (NTC)	Equipment Standard Division
	National Telecommunication Commission (NTC)	Broadcast Services Division
	Maritime Industry Authority (MARINA)	Overseas Shipping Services
11. Department of Trade Industry (DTI)	Bureau of Import Services (BIS)	Import Action Division
	Bureau of Investments (BOI)	Motor Vehicle Development Program Manufacturing Industry Department Project Evaluation Division
	Bureau of Investments (BOI)	Incentives Department
	Bureau of Product Standards (BPS)	Bureau of Product Standards (BPS)
	Fair Trade Enforcement Bureau (FTEB)	Fair Trade Enforcement Bureau (FTEB)
	Intellectual Property Office (IPO)	Intellectual Property Office (IPO)
	Exports Management Bureau (EMB)	Exports Management Bureau (EMB)
	Philippine International Trading Corporation (PITC)	Philippine International Trading Corporation (PITC)

Ministry (Executive Department)	Department/Bureaus (Implementing Agencies)	Subsidiary Agency (Departments/Divisions/Offices)
12. Office of the President	Fertilizers and Pesticide Authority (FPA)	Fertilizers and Pesticide Authority (FPA)
	National Food Authority (NFA)	Grains Marketing Operations Department
	Optical Media Board (OMB)	Registration and Licensing Division
	Philippine Economic Zone Authority (PEZA)	Philippine Economic Zone Authority (PEZA)
	Philippine Gaming Corporation (PAGCOR)	Philippine Gaming Corporation (PAGCOR)
13. Department of Education (DepEd)	National Commission for Culture and Arts (NCCA)	National Museum (NM)

Table 7.A2: Simple Average Tariff Rates and Percentage of Duty-Free Lines under Most Favoured Nation and Free Trade Agreements

Rank	Year Enforced	Year Fully Implemented	Simple Average Tariff for All Products (%)				Percentage of Duty-Free Lines to All Products (%)				Objective/ Highlights
			2000	2015	2016	2017	2000	2015	2016	2017	
Across all products			7.19	4.06	5.12	3.70	5.43	37.34	21.49	37.55	
MFN			7.60	6.31	6.30	6.31	3.09	4.64	4.58	5.09	
AFTA/ ATIGA	1999/2010	2015	-	0.00	0.00	0.00	-	98.89	98.89	100.00	Establish a single market and production base; eliminate intra-ASEAN import duties
ASEAN-China FTA	2005	2018	-	1.48	1.48	2.82	-	89.96	88.36	83.41	Reduce tariffs on 90% of imported goods to zero
ASEAN-Korea FTA	2008	2016	-	1.12	0.48	0.66	-	91.52	86.36	83.41	Progressive reduction and elimination of tariffs on almost all products
ASEAN-Japan CEPA	2008	2018	-	1.52	1.24	1.47	-	70.47	70.46	68.56	Adopted 13 categories with schedules to reduce/ eliminate tariffs
Philippines-Japan EPA	2008	2018	-	1.13	0.88	0.27	-	71.08	72.67	71.9	Duty-free access to 80% of Philippine exports to Japan (7,476 products)
ASEAN-Australia and New Zealand FTA	2010	2020	-	0.43	0.4	0.48	-	93.85	95.04	94.37	Eliminate at least 90% of all tariff lines within specified timelines
ASEAN-India FTA	2010	2022	-	3.76	3.14	3.04	-	4.10	4.10	4.02	Tariff liberalisation of over 90% of products traded between ASEAN and India

Rank	Year Enforced	Year Fully Implemented	Simple Average Tariff for All Products (%)				Percentage of Duty-Free Lines to All Products (%)				Objective/ Highlights
			2000	2015	2016	2017	2000	2015	2016	2017	
Philippines-European Free Trade Association (EFTA) FTA	2018	2027	-	-	-	-	-	-	-	-	Duty-free access for all Philippine industrial and fisheries exports to EFTA

AFTA = ASEAN Free Trade Area, ASEAN = Association of Southeast Asian Nations, ATIGA = ASEAN Trade in Goods Agreement, EPA = economic partnership agreement, FTA = free trade agreement, MFN = most favoured nation.