

Chapter 1

Updating Non-Tariff Measures in Brunei Darussalam

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CHAPTER 1

UPDATING NON-TARIFF MEASURES IN BRUNEI DARUSSALAM

Christina Ruth Elisabeth¹

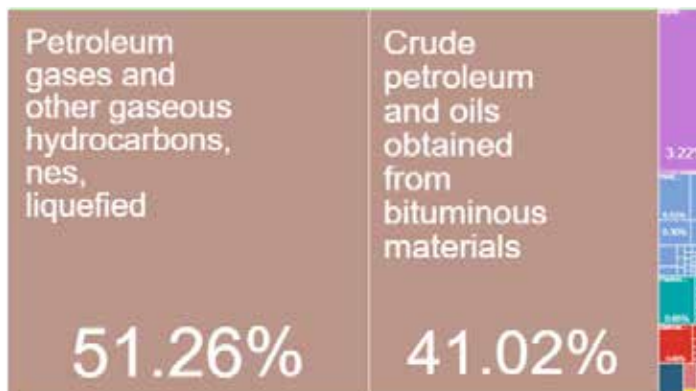
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1. Introduction

1.1. Trade Structure

The economy of Brunei Darussalam is highly dependent on oil and gas, which account for about two-thirds of output and over 90% of merchandise exports and government revenues (WTO, 2015).

Figure 1.1: Export Composition, Brunei, 2016



Note: Data is computed at Harmonized System (HS) Code 2-digit levels.

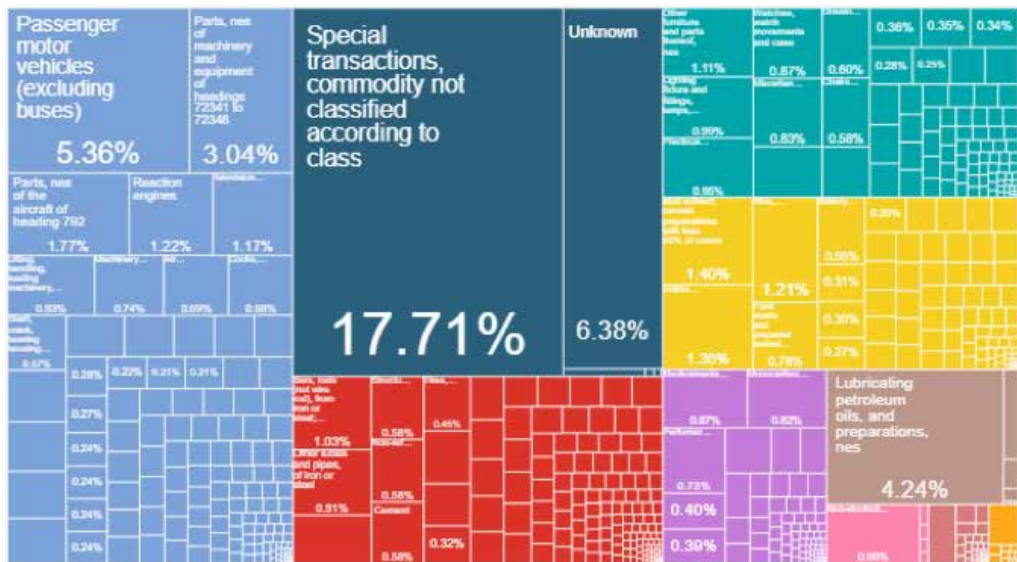
Source: CID (2019).

¹ The author would like to thank Mr. B. Realino Yudianto (Prasetiya Mulya University) for his useful assistance in collecting the regulations.

In 2016, these sectors contributed more than 92% of merchandise exports. Petroleum gases and other products contributed the largest share to total exports – 51.26% – a significant increase over 39.80% in 2000. Crude petroleum and oil products contributed the second-largest share to total exports – 41.02%, down from 45.30% in 2000. The shares of oil and gas fluctuated along with international prices. Non-oil and gas products made up only about 8% of total exports (Figure 1.1).

Imports are more varied than exports. In 2016, the biggest portions of imports were contributed by passenger motor vehicles (5.36%), lubricating petroleum oils (4.24%), machinery parts and equipment (3.04%), aircraft parts (1.77%), and malt extract (1.40%) (Figure 1.2). The share of passenger motor vehicles and machinery decreased from 2000, when they accounted for 5.53% and 3.33%, respectively. The share of lubricating petroleum oils and malt extract increased from 2000, when they accounted for only 0.47% and 0.49%, respectively.

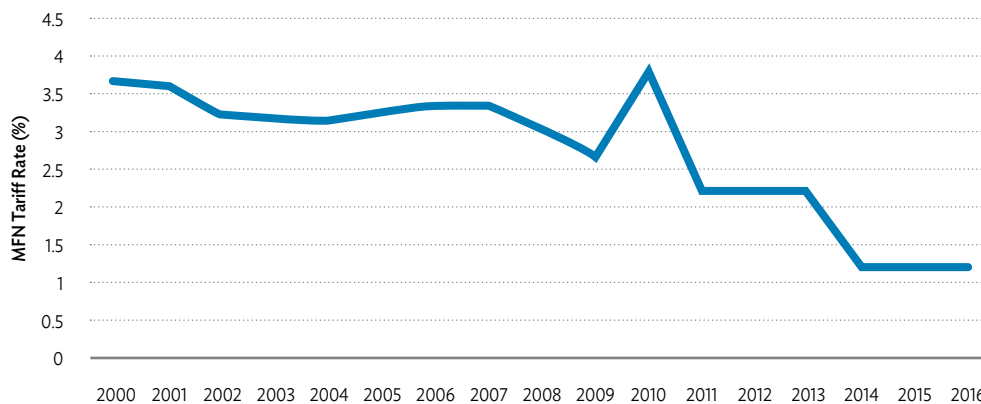
Figure 1.2: Import Composition, Brunei, 2016



has concluded FTAs with Australia–New Zealand, China, India, Japan, and the Republic of Korea. Bilaterally, Brunei has concluded an economic partnership agreement with Japan, and the Trans-Pacific Strategic Economic Partnership with Chile, New Zealand, and Singapore.

The average most favoured nation (MFN) tariff was reduced from 3.66% in 2011 to 1.21% in 2016. Despite bilateral tariffs with India, the tariff under the FTA was significantly lower than the average MFN in 2016 (Figure 1.3). The tariff rate was 0.29% under the ASEAN–Australia–New Zealand Free Trade Area (AANZFTA) and 0.16% under the ASEAN–Japan Comprehensive Economic Partnership (AJCEP).

Figure 1.3: Most Favoured Nation Tariff Trends, Brunei, 2000–2016



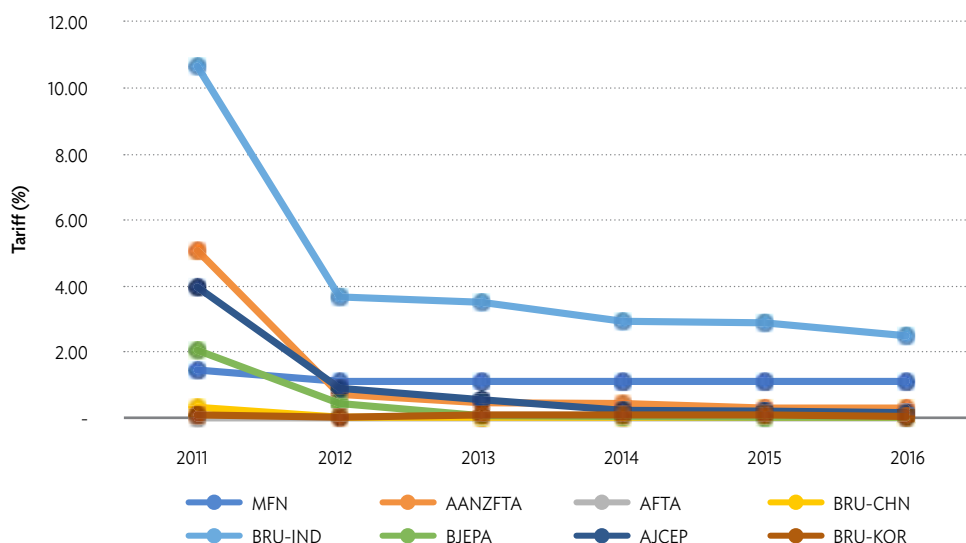
Note: Computed at Harmonized System 6-digit levels.

Source: World Bank (2019).

In 2011–2016, the average AANZFTA tariff decreased by 4.8% and the average AJCEP tariff by 3.8%. The most progressive reduction was in the bilateral tariff between Brunei and India, which decreased by 8.18%, followed by the bilateral tariff between Brunei and Japan, which decreased by 2.03%. The bilateral tariff between Brunei and China remains small at 0.02%.

In 2016, under Harmonised System (HS) 2, average MFN tariffs were 0%–9.8%. The highest tariff was on headgear (9.8%) and musical instruments (9.1%). Tariffs were 0% on agri-food products.

Figure 1.4: Tariff Reductions under Most Favoured Nation and Free Trade Agreements, Brunei, 2011–2016



Note: Data on MFN tariffs is computed at HS 2-digit levels and others at 6-digit levels.

AANZFTA = ASEAN–Australia–New Zealand Free Trade Area, AFTA = ASEAN Free Trade Area, AJCEP = ASEAN–Japan Comprehensive Economic Partnership, BJEPA = Brunei–Japan Economic Agreement, BRU–CHN = Brunei–China (bilateral agreement), BRU–IND = Brunei–India (bilateral agreement), BRU–KOR = Brunei–Republic of Korea (bilateral agreement), MFN = most favoured nation.

Source: WTO (2019).

In 2015, Brunei applied 555 NTMs, which affected 60.39% of its total trade. As trade regulations are dynamic, data on NTMs must be updated. In 2015–2018, the government updated 254 regulations, of which 70 contained NTMs as published on the Attorney General’s Chambers website (www.agc.gov.bn). This study will discuss the process and results of updating NTMs by using the 2018 United Nations Conference on Trade and Development (UNCTAD) classification.

1.2. Hierarchy of Laws and Regulations

Brunei has centralised the source of online regulations on the Attorney General’s Chambers website, from which more than 90% of trade-related regulations can be accessed. Other sources are the websites of the Ministry of Health and of Trading Across Borders.

The hierarchy of regulations is, from top to bottom, acts, orders, regulations, rules, and notifications. Most NTMs are in the form of regulations and rules. Many NTMs are found in ministry notifications. All updated NTM regulations are in English.

As comprehensiveness is critical, we did the following:

1. Checked all updated regulations on the Attorney General's Chambers website for 2015–2018; determined whether the regulations contained NTMs and found 254 updated regulations, of which 70 contain NTMs.
2. Checked all regulations and determined whether they had been amended or repealed.
3. Checked ministry websites to determine whether any regulations had not been published on the Attorney General's Chambers website.
4. Checked whether Brunei was following new regulations of international conventions.

2. Descriptive Non-tariff Measure Statistics

2.1. Comprehensiveness of Non-tariff Measures

In 2018, there were two updated NTMs: Customs (Prohibition and Restriction on Imports and Exports) (Amendment) Order 2017 and Fire Safety Order 2016, from which seven updated NTMs were derived in 2018.

Transparency improved significantly. In 2018, 20 regulations were reported to the World Trade Organization (WTO), while in 2015, only two were (WTO, 2018). In 2018, 60.57% of products were affected by NTMs, compared with 60.39% in 2015.

Table 1.1: Comprehensiveness of Non-tariff Measures, Brunei, 2015 and 2018

No	Comprehensiveness	2015	2018
1	Total number of coded regulations	68	70
2	Total number of coded regulations reported to WTO	2	20
3	Total number of coded NTMs	555	562
4	Total affected traded products (HS lines, national tariff lines)		
	a) Total number of affected traded products ^{a)}	5,988	6,006
	b) Share of the number of affected traded products to the number of total products ^{b)}	60.39%	60.57%
5	Total number of issuing institutions	26	26

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

a) One product may be affected by more than one measure.

b) Brunei has 9,916 tariff lines.

Source: Author, based on UNCTAD (2018).

2.2. Non-tariff Measures by Issuing Institution

There were only slight changes in issuing institutions in 2018. The Ministry of Health issued more than half the NTMs in 2015 and 2018, followed by the Royal Customs and Excise Department and the Department of Agriculture and Agrifood. The change in the proportion of issuing institutions in 2018 was due to the Ministry of Home Affairs issuing five new NTMs and the Royal Customs and Excise Department issuing two.

Table 1.2: Non-tariff Measures by Issuing Institution, Brunei, 2015 and 2018 (number, %)

No	Issuing Institution	2015		2018	
		Number of NTMs	Share of NTMs (%)	Number of NTMs	Share of NTMs (%)
1	Ministry of Health	354	63.78	354	62.99
2	Royal Customs and Excise, Ministry of Finance	29	5.23	31	5.52
3	Department of Agriculture and Agrifood, Ministry of Industry and Primary Resources (MIPR)	22	3.96	22	3.91
4	Ministry of Religious Affairs	15	2.70	15	2.67
5	Fisheries Department, MIPR	12	2.16	12	2.14
6	Ministry of Health, Ministry of Religious Affairs, Department of Agriculture and Agrifood, MIPR	12	2.16	12	2.14
7	Authority for Info-communications Technology Industry, Ministry of Communication	11	1.98	11	1.96
8	Department of Energy and Industry, The Brunei Darussalam Intellectual Property Office	10	1.80	10	1.78
9	Brunei Industrial Development Authority	9	1.62	9	1.60
10	Forestry Department, MIPR	9	1.62	9	1.60
	Other institutions	72	12.97	77	13.70
	Total	555	100	562	100

Source: Author, based on UNCTAD (2018).

2.3. Non-tariff Measures by Chapter, 2015 and 2018

Most NTMs were technical barriers to trade (TBT), which accounted for more than 43% of total NTMs in 2018. They were followed by sanitary and phytosanitary (SPS) and export measures, which accounted for 31.7% and 10.5%, respectively (Table 1.3).

Overall, the change in 2018 was due to the increment of TBT (chapter B), non-automatic licensing (chapter E), and export-related measures (chapter P), which were increased by four, two, and one NTM, respectively.

Table 1.3: Non-tariff Measures by Chapter, Brunei, 2015 and 2018 (number, %)

No	Chapter	2015		2018	
		Number of NTMs	Share of NTMs (%)	Number of NTMs	Share of NTMs (%)
A	Sanitary and phytosanitary (SPS) measures	178	32.1	178	31.7
B	Technical barriers to trade (TBT)	241	43.4	245	43.6
C	Pre-shipment inspection and other formalities	1	0.2	1	0.2
D	Contingent trade protective measures	-	-	-	-
E	Non-automatic licensing, quotas, prohibitions, and quantity-control measures other than SPS or TBT	53	9.5	55	9.8
F	Price control measures, including additional taxes and charges	24	4.3	24	4.3
G	Finance measures	-	-	-	-
H	Measures affecting competition	-	-	-	-
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	58	10.5	59	10.5
	Total	555	100	562	100

NTM = non-tariff measure.

Note: NTMs are defined based on the UNCTAD (2018) classification.

Source: Author, based on UNCTAD (2018).

2.4. Top-10 Non-tariff Measure Codes, 2015 and 2018

In 2018, the composition of the top-10 NTMs was the same as in 2015. Product quality (B7) was the highest, followed by restricted use of certain substances (A22). All B7, A22, and B6 NTMs originated from the Public Health (Food) Regulations. The labelling requirement of B31 and A31 originated from regulations related to food, medicine, tobacco, and chemical products.

In 2018, non-automatic import-licensing (E1) increased by one measure: (1) two additional NTMs originated from Customs (Prohibition and Restriction on Imports and Exports) (Amendment) Order, 2017 and Fire Safety Order and reduction; and (2) one NTM was removed from the Miscellaneous Licences Act, resulting in there being no specific product code for this NTM. The increasing number for Export Prohibition of

Technical Reason (P11) came from additional NTMs from Customs (Prohibition and Restriction on Imports and Exports) (Amendment) Order, 2017.

Table 1.4: Top-10 Non-tariff Measures, Brunei, 2015 and 2018 (number, %)

No	NTM Type	NTM Description	2015		2018	
			Number of NTMs	Share of NTMs (%)	Number of NTMs	Share of NTMs (%)
1	B7	Product-quality, -safety, or -performance requirement	114	20.54	114	20.28
2	A22	Restricted non-automatic import-licensing use of certain substances in foods and feeds and their contact materials	79	14.23	79	14.06
3	E1	Procedures other than authorisations for SPS or TBT reasons	42	7.57	43	7.65
4	B6	Product identity requirement	40	7.21	40	7.12
5	B31	Labelling requirements	39	7.03	39	6.94
6	A31	Labelling requirements	23	4.14	23	4.09
7	A83	Certification requirement	13	2.34	13	2.31
8	P11	Export prohibition for technical reasons	11	1.98	12	2.14
9	A21	Tolerance limits for residues of or contamination by certain (non-microbiological) substances	10	1.80	10	1.78
10	A64	Storage and transport conditions	10	1.80	10	1.78
	Others		174	31.35	179	31.85
	Total		555	100	562	100

NTM = non-tariff measure.

Source: Author, based on the UNCTAD (2018) database.

3. Non-tariff Measure Indicators

3.1 Import Products

The frequency index is used to measure the intensity of NTMs in product lines. The frequency index of imports changed slightly in 2018 (Figure 1.5). That year, the intensity of NTMs increased for fuels and imported chemical products. The increasing frequency index for imported fuels was the result of the application of six new NTMs of the Fire Safety Order. In 2018, almost 70% of fuel products were subject to at least one NTM. The increasing frequency index for chemical products was the result of the application of one new NTM from Customs (Prohibition and Restriction On Imports And Exports) (Amendment) Order, 2017.

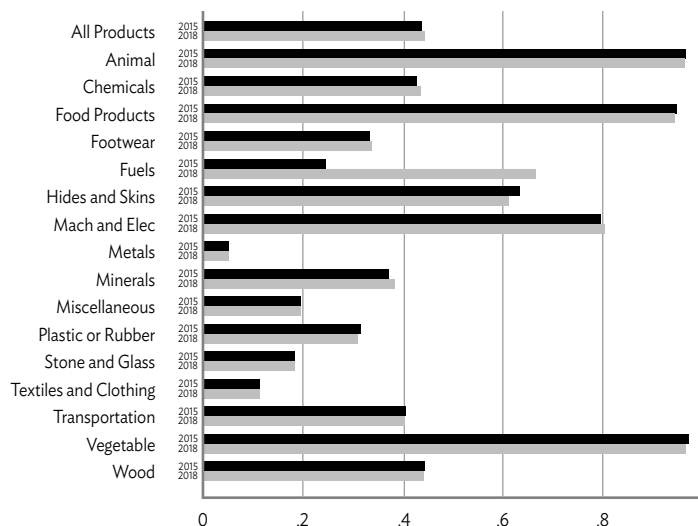
The frequency index for imports was highest – close to 1 – for animal, vegetable, and food products, with more than 90% affected by at least one NTM. The frequency index for imports was lowest – below 0.2 – for metal, textiles, and clothing.

The coverage ratio was calculated to measure the share of total imports exposed to NTMs. The import coverage ratio for fuels, minerals, stone and glass, and textiles and clothing increased in 2018 (Figure 1.6). The import coverage ratio decreased for chemicals, footwear, hides and skins, machinery and electronics, plastic and rubber, transportation, and wood. There was significant increase in the coverage ratio of fuels due to the application of new NTMs. In 2018, almost 100% of imported fuels were subject to NTMs.

On average, each product is subject to approximately 3 NTMs. However, the prevalence score was significantly higher for animals, food products and vegetable, accounting for more than 12 NTMs each. On the other hand, number of NTMs per product is relatively small for manufacturing, except for food products. Imposing high NTMs in agricultural and food products is meant to ensure consumer safety.

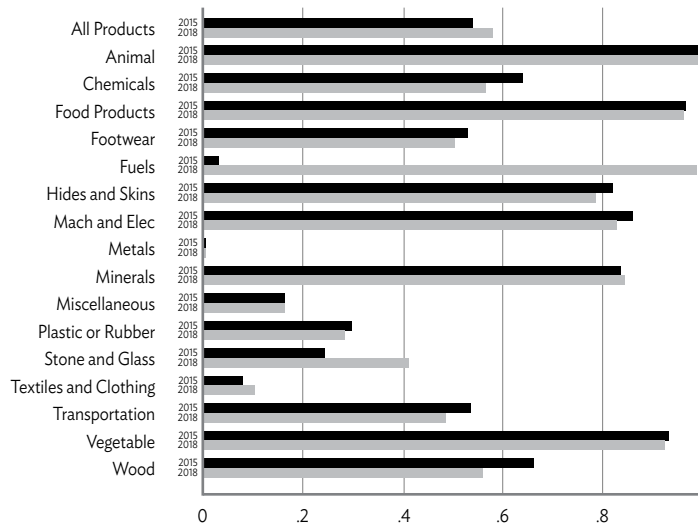
The highest prevalence score of imports was for agri-food products – animal, vegetable, and food products – which, on average, were subjected to more than 12 NTMs, mostly from Public Health (Food) Regulations, Animal Quarantine Services, and Halal Meat Rules.

Figure 1.5: Frequency Index of Imports, Country Total, by HS 2 Product Group, Brunei, 2015 and 2018



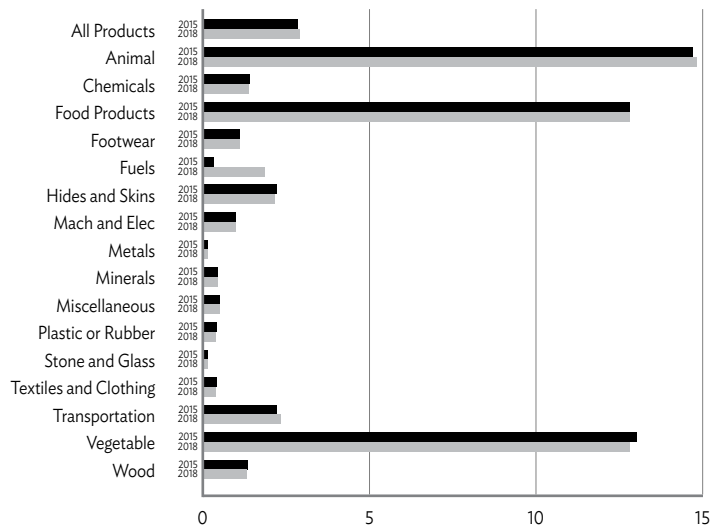
Source: UNCTAD (2018).

Figure 1.6: Coverage Ratio of imports, Country Total, and by HS 2 Product Group, Brunei, 2015 and 2018



Source: UNCTAD (2018).

Figure 1.7: Prevalence Score of Imports, Country Total, by HS 2 Product Group, Brunei, 2015 and 2018



Source: UNCTAD (2018).

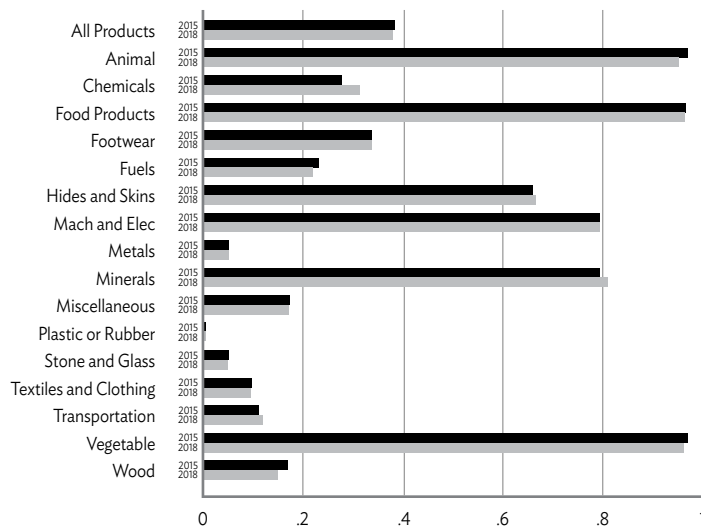
3.2 Export Products

In 2018, the export frequency index changed slightly, increasing for chemicals, hides and skins, minerals, and transportation (Figure 1.8) due to Customs (Prohibition and Restriction On Imports And Exports) (Amendment) Order, 2017.

On average, the coverage ratio for exports was lower than for imports. In 2018, the coverage ratio increased for chemicals, machinery and electronics, and stone and glass products (Figure 1.9). The export coverage ratio decreased for footwear, hides and skins, minerals, vegetables, and wood. In 2018, more than 80% of the export value of hides, skins, and minerals was subject to NTMs.

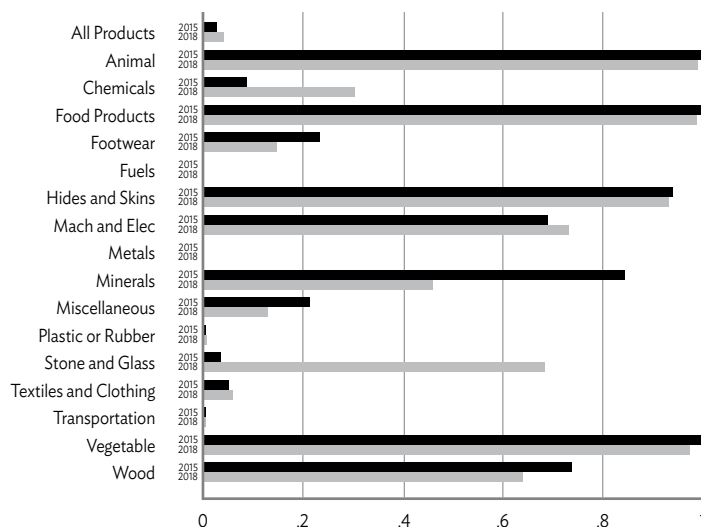
In contrast, the agri-food prevalence score was low, with animal products subjected to an average of almost five NTMs, and food and vegetables to less than two.

Figure 1.8: Frequency Index of Exports, Country Total, and by HS 2 Product Group, Brunei, 2015 and 2018



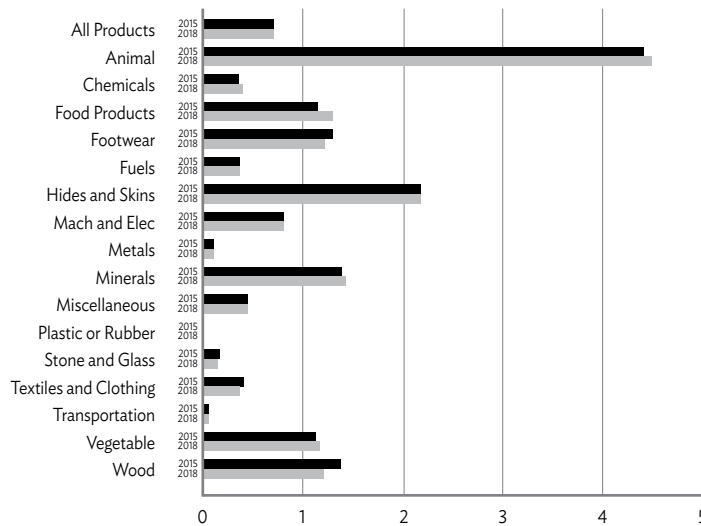
Source: UNCTAD (2018).

Figure 1.9: Coverage Ratio of Exports, Country Total, and by HS 2 Product Group, Brunei, 2015 and 2018



Source: UNCTAD (2018).

Figure 1.10: Prevalence Score of Exports, Brunei, 2015 and 2018



Source: UNCTAD (2018).

The NTM frequency index was high for imports and exports of animal, vegetable, and food products, which may indicate high standards of consumer health and safety.

4. Conclusions and Policy Recommendations

In 2015–2018, only seven NTMs were updated, due to two updated regulations. In 2018, 60.57% of products were affected by NTMs. TBT remains the largest group of NTMs, accounting for 43.5%. More than 62% of NTMs were issued by the Ministry of Health. Product quality (B7) and the restricted use of certain substances in foods and feeds (A22) were the most frequently used NTMs.

The NTM indicators show that Brunei is still applying intensive NTMs to animal, vegetable, and food imports and exports, and that high standards for consumer and environmental protection are being followed. Brunei imposes relatively few NTMs on manufactured imports, excluding hides and skins, and machinery and electronic products. The high number of NTMs imposed on exports is due to Brunei following international conventions and standards.

Exports are dominated by oil and gas. Brunei applies more NTMs to imported than exported fuels. In 2018, the frequency index of imported fuels increased to 0.7 compared with 0.3 in 2015. This does not necessarily indicate protectionism since the objective of applying NTMs is to ensure consumer safety.

However, to improve transparency, the government should increase notifications of NTM regulations to WTO. To improve information on NTMs for the business sector, the government should update comprehensive information on NTMs on the Trading Across Borders website.

References

Center for International Development at Harvard University (CID) (2019), Atlas of Economic Complexity. <http://atlas.cid.harvard.edu> (accessed 15 February 2019).

United Nations Conference on Trade and Development (UNCTAD) (2018), Upcoming NTMs Database 2018. Geneva: UNCTAD.

World Bank (2019), MFN Tariff Brunei. <https://data.worldbank.org> (accessed 28 March 2019).

World Trade Organization (WTO) (2015), *Trade Policy Review Brunei Darussalam 2014*. Geneva: WTO.

World Trade Organization (2018), Notifications from Brunei Darussalam. https://www.wto.org/english/thewto_e/countries_e/brunei_darussalam_e.htm (accessed 15 February 2019).

World Trade Organization (2019), Tariff Download Facility Brunei. <http://tariffdata.wto.org> (accessed 15 February 2019).