

Chapter 6

Non-tariff Measures in Japan

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1. Introduction

This chapter does not intend to demonstrate the stringency of Japan's non-tariff regulations on international trade; technical measures and other behind-the-border trade-related measures may either increase or decrease trade.¹ Instead, this chapter aims to demonstrate how our data-gathering and coding efforts can help us understand the landscape of NTMs in Japan and determine their features.

We relied on the online database of laws and regulations maintained by the Ministry of Internal Affairs and Communications, as a part of the government's [e-Gov initiative](#). As of 1 February 2016, the legal system consisted of the Constitution, 1,960 laws, 2,112 cabinet orders, and 4,048 cabinet office and ministerial ordinances (including rules). A cabinet order collectively establishes the provisions necessary for enforcing a specific law. A cabinet office and ministerial ordinance is a decree promulgated by the Cabinet Office and a particular ministry specifying the details of the enforcement provisions. Further detailed provisions are enacted in public notices. Typically, a specific law is accompanied by one cabinet order, one ministerial ordinance, and multiple public notices, but there could be multiple cabinet orders and ministerial ordinances to enforce the law.

All laws, cabinet orders, and ministerial ordinances in force are included in the law database, which is regularly updated to reflect changes as soon as they are reported in the Official Gazette. Although the database was originally in Japanese, English translations (although sometimes outdated) are available for some laws and regulations.² For public notices, there is no centralised source of information, and we must refer to webpages maintained by the ministries and other government bodies. Although regulatory authorities often publish instructions, notifications, and announcements of procedural issues relating to enforcement, we check them as needed for supplementary information but do not address them all.

In the law database, laws and regulations are classified by category or sector (Table 6.1). Out of 50 categories, we selected 32 (potentially trade related), 21 of which we identified as trade related

¹ When individual countries employ different technical regulations or standards, these can be barriers to trade. However, employing technical regulations in an internationally harmonised manner or through a mutual recognition agreement enhances trade and can be seen as a mild form of policy convergence or harmonisation.

² The Japanese Law Translation Database System (<https://www.japaneselawtranslation.go.jp/>) states that 'only the original Japanese texts of the laws and regulations have legal effect, and the translations are to be used solely as reference'.

(closely trade related). We gathered information on NTMs by looking at 2,887 laws and regulations in the identified 21 sectors available from the law database, as well as associated public notices obtained from the webpages of government bodies.

Table 6.1. Categories of Laws and Regulations in Japan

Closely Trade Related	Potentially Trade Related	Not Trade Related
Agriculture	Construction and housing	Administrative organs
Air transport	Education	Administrative procedures
Business	General rules on tax	Civil proceedings
Commerce	Land	Civil service
Culture	Land development	Constitution
Environment	Logistics	Diet
Fire fighting	National assets	Disaster management
Fishery	National defence	Finance and insurance
Foreign exchange and trade	Postal service	Foreign affairs
Forestry	Statistics	Judiciary
General rules on industry	Tourism	Local administration
Health		Local budget
Labour		National bonds
Land transport		Penal proceedings
Manufacturing		River management
Mining		Social insurance
National tax		Social welfare
Police		Urban planning
Road		
Sea transport		
Telecommunication		

Source: Authors.

We gathered information on NTMs that were official, mandatory, and imposed as of April 2015 by the government, and that potentially affect, positively or adversely, imports or exports of the targeted products. In keeping with UNCTAD (2014) data collection guidelines, we call legal documents that are sufficiently specific to identify NTMs and affected products and countries' 'regulations.' All NTMs contained within each regulation were translated into a database format by linking the contents of the detected NTMs to the predefined NTM classification codes, and descriptions of the affected products to the Harmonised Commodity Description and Coding System (HS) product classification codes.

To detect independent 'measures' of different types contained within each regulation, we used the M3 version of UNCTAD's NTM classification (UNCTAD, 2013), in which NTMs are categorised by type into 16 chapters (A–P), each further disaggregated into groups in most chapters and into subgroups in certain chapters. The scope of our data-gathering efforts under UNCTAD's initiative has so far been limited to NTMs categorised under chapters A–I (except D), and P (export-related measures). Chapters A–C, E–I, and P have 227 NTM classification codes in total, including all possible codes at any aggregation level.

We coded the products affected by each 'measure' based on the 2012 (H4) version of the HS classification codes and, at a more disaggregated level, on the 2015 version of national tariff lines

(NTLs) for imports. The H4 version has 5,206 product HS six-digit codes. Based on the 2015 NTLs, there are 9,323 product nine-digit codes, including the special 'misc.' code.

2. Non-tariff Measures in Japan

Our NTM data-gathering efforts are summarised in Table 6.2. We identified 331 regulations, most of which are either cabinet orders, ministerial ordinances, or public notices, containing 1,278 NTMs in total.

Table 6.2. Comprehensiveness of Collected Non-tariff Measure Data in Japan

	Comprehensiveness	Number
1	Total number of NTM-related regulations	331
2	Total number of coded NTMs reported to the World Trade Organization ^a	383
3	Total number of coded NTMs	1,278
4	Total number of affected products ^b	
	(i) Total number of affected products	9,323 ^c
	(ii) Affected products as a share of total products	100% ^c
5	Total number of issuing institutions	12

NTM = non-tariff measure.

Notes: Affected products are counted based on the H4 version of the Harmonised Commodity Description and Coding System (HS) six-digit codes and on the 2015 version of nine-digit national tariff lines (NTLs). Even if a product is affected by more than one measure, the same coded product is counted as one product. The number of issuing institutions is counted at the ministry level.

^a Out of 119 NTM-related regulations reported to the World Trade Organization.

^b Based on nine-digit NTLs. The corresponding figure based on HS six-digit codes is 5,206 (100%).

^c Includes three measures involving the Democratic People's Republic of Korea (hereafter North Korea). They affect all products imported from or exported to North Korea and are contained in the Foreign Exchange and Foreign Trade Act as a part of economic sanctions against North Korea. If we exclude the three measures, the number of affected products is slightly reduced to 8,779 (94.2%) at the NTL nine-digit level and to 4,894 (94.0%) at the HS six-digit level.

Source: Authors.

To check if the identified regulations and measures had been previously reported to WTO, we used the Trade Analysis Information System (TRAINS)–Historical Non-tariff Measures data for the latest year, 2009, obtained through the World Bank's World Integrated Trade Solution (WITS). We assumed that the measures included in the TRAINS–Historical Non-tariff Measures data set had been reported to WTO. Comparing our data set with the TRAINS–Historical Non-tariff Measures data set, we detected overlapping entries based on the HS six-digit codes and the most disaggregated measure classification codes.³ Our data comparison indicated that only 36% of

³ We used the conversion table from the H4 and H3 versions of the HS classification and the correlation table between the M2 and M3 versions of the NTM classification because our data collection is based on the H4 and M3 versions whilst the TRAINS–Historical Non-tariff Measures data are reported based on the H3 and M2 versions. The conversion and correlation tables are available at the [Trade Statistics Branch of](#)

the identified regulations and 30% of the measures had been reported to WTO. Thus, our data-gathering efforts have shed considerable light on NTMs in Japan.

Table 6.2 shows that all products imported or exported are subject to NTMs because of three measures involving the Democratic People's Republic of Korea (hereafter, North Korea). They affect all products imported from or exported to North Korea and are contained in the Foreign Exchange and Foreign Trade Act. If we exclude the three measures, the number of affected products is slightly reduced to 8,779 (94.2%) at the NTL nine-digit level and to 4,894 (94.0%) at the HS six-digit level.

Table 6.3 categorises the NTMs by type or purpose. As expected, most of the measures are in chapter A (sanitary and phytosanitary [SPS] measures, 21%) and B (technical barriers to trade [TBTs], 57%). The proportions increase to 24% for SPS measures and 67% for TBTs if we exclude export-related measures from the calculation.

Table 6.3. Non-tariff Measures, by Type, Imposed in Japan

Code	NTMs by Type (chapter)	NTMs (number)	NTMs (% of total)
A	Sanitary and phytosanitary measures	264	20.65
B	Technical barriers to trade	722	56.49
C	Pre-shipment inspection and other formalities	32	2.50
D	Contingent trade protective measures	0	0
E	Non-automatic licensing, quotas, prohibitions, and quantity control measures other than sanitary and phytosanitary measures or technical barriers to trade reasons	16	1.25
F	Price control measures, including additional taxes and charges	45	3.53
G	Finance measures	2	0.15
H	Measures affecting competition	3	0.24
I	Trade-related investment measures	0	0
J	Distribution restrictions	0	0
K	Restriction on post-sales services	0	0
L	Subsidies (excluding export subsidies under P7)	0	0
M	Government procurement restrictions	0	0
N	Intellectual property	0	0
O	Rules of origin	0	0
P	Export-related measures	194	15.19
Total coded NTMs		1,278	100

NTM = non-tariff measure.

Notes: The scope of our data gathering was limited to chapters A–C, E–I, and P, and we identified no measures categorised under chapter I. Affected products are counted based on the 2015 version of nine-digit national tariff lines (NTLs). Even if a product was affected by more than one measure, the same coded product was counted as one product within a certain NTM chapter.

Source: Authors.

[the United Nations Statistics Division](#) and [WITS Reference Data](#). According to the M2–M3 correlation table on the WITS webpage, the M2 codes A700, B500, and F290 have no direct counterpart M3 codes. Amongst the three M2 codes, Japan's measures are classified under F290 only. All Japan measures coded F290 are stipulated by the same legal source, Law Concerning Wildlife Protection and Hunting, based on which we interpret F290 of M2 as corresponding to F69 of M3.

As expected, product coverage is the broadest for TBTs (84%) but is also broad for export-related measures (73%), even after ignoring economic sanctions against North Korea. The latter finding is due to the all-in-one nature of chapter P and because some measures are implemented against exported products to restrict military and weapons usage. Of the nine-digit NTLs, 43% are subject to NTMs categorised under chapter C and 35% under chapter F. Pre-shipment inspection and other formalities affect imports of fuels, medical devices, medicines, and chemicals for monitoring purposes, and animals for quarantine purposes (e.g., specific ports of entry). Price control measures, including additional taxes and charges, are often implemented in combination with inspection, testing, certification, or labelling requirements, in addition to excise taxes.

Table 6.4 shows the regulations containing NTMs issued by 12 institutions or ministries. It lists the top 10 ministries issuing NTM-related regulations by number of coded measures. The remaining institutions or ministries are classified as 'other institutions'. We calculated the percentage of coded measures issued by a certain ministry as a fraction of the substantial number of affected products (1,278). Reflecting our earlier observation that the bulk of NTMs are implemented for SPS and TBT reasons, the ministries of health, labour, and welfare; economy, trade, and industry; and agriculture, forestry, and fisheries are responsible for most coded measures.

Table 6.4. Non-tariff Measures, by Issuing Institution, in Japan

No.	Issuing Institution	NTMs (number)	NTMs (% of total number)
1	Ministry of Health, Labour, and Welfare	586	45.9
2	Ministry of Economy, Trade and Industry	341	26.7
3	Ministry of Agriculture, Forestry and Fisheries	250	19.6
4	Ministry of Land, Infrastructure, Transport and Tourism	102	8.0
5	Ministry of the Environment	81	6.3
6	Ministry of Finance	29	2.3
7	Nuclear Regulation Authority	19	1.5
8	Cabinet Office	11	0.9
9	Ministry of Education, Culture, Sports, Science and Technology	10	0.8
10	Ministry of Internal Affairs and Communications	10	0.8
11	Other institutions	4	0.3
	Total	1,278	100

NTM = non-tariff measure.

Note: Some NTMs are issued by multiple ministries, which accounts for the gap between the gross and substantial total number of coded measures.

Source: Authors, based on the new NTM database.

Next, we present an overview of the frequency of NTMs per affected product. The number of affected products reported in Tables 6.2 and 6.3 suggests that many products at the NTL nine-digit level are subject to multiple NTMs of different types. To confirm this, we looked at the pattern of per-product frequency of NTMs across product groups (Figure 6.1, Table 6.5). Since three of the coded measures affect all nine-digit NTLs, we created bar charts indicating the proportion of nine-digit NTLs that are subject to three, four, and five or more coded measures.

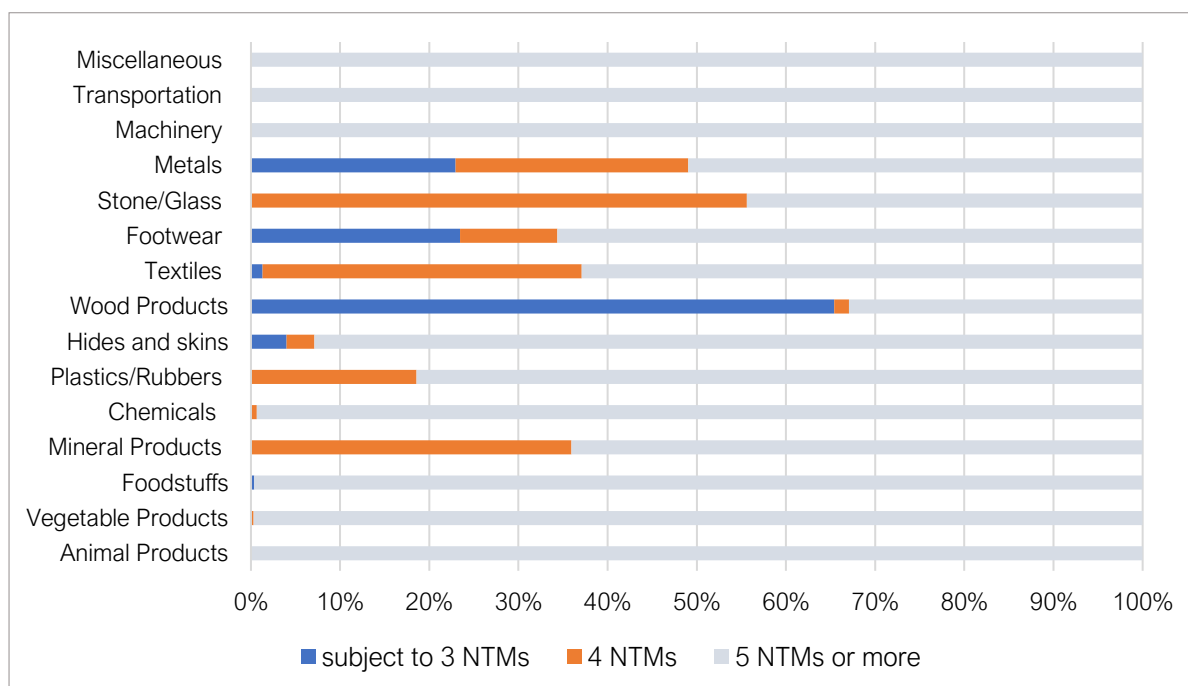
Table 6.5. Multiple Non-tariff Measures Applied to Each Product Group in Japan
(number)

Product Groups	3 NTMs	4 NTMs	5 NTMs or More
Animal and animal products	0	0	770
Vegetable products	0	2	706
Foodstuffs	3	0	815
Mineral products	0	92	164
Chemicals and allied industries	0	7	1070
Plastics/rubbers	0	55	241
Raw hides, skins, leather, and furs	9	7	209
Wood and wood products	282	7	142
Textiles	26	706	1242
Footwear/headgear	30	14	84
Stone/glass	0	134	107
Metals	194	221	431
Machinery/electrical	0	0	918
Transportation	0	0	145
Miscellaneous	0	0	490
Total	544	1245	7534

NTM = non-tariff measure.

Source: Authors.

Figure 6.1. Multiple of Non-tariff Measures Applied to Each Product Group in Japan
(share within group)



HS = Harmonised System, NTM = non-tariff measure.

Note: Animal products include HS01–05, vegetable products HS06–15, foodstuffs HS16–24, mineral products HS25–27, chemicals HS28–38, hides and skins HS39–40, wood products HS44–49, textiles HS50–63, footwear HS64–67, stone/glass HS68–71, metals HS72–83, machinery HS84–85, transportation HS86–89, and miscellaneous HS90–99.

Source: Authors.

Of products at the NTL nine-digit level, 6% are subject to three measures, which were implemented as a part of economic sanctions against North Korea. The remaining 94% are subject to a measure or more (other than those related to economic sanctions against North Korea). Of the products, 81% are subject to five or more NTMs, corresponding to two or more measures in addition to those related to economic sanctions against North Korea. All nine-digit NTLs classified under either animal products, machinery, or transportation are subject to five or more NTMs. Almost all nine-digit NTLs are subject to five or more NTMs in vegetable products, foodstuffs, and chemicals.

Table 6.6 summarises the statistics for the number of coded measures per product at the NTL nine-digit level by product group. On average, one product at the NTL nine-digit level is subject to 18 different NTMs (including when the code is repeated). The number of NTMs per product follows a right-skewed distribution. As an extreme case, one specific chemical product is subject to 176 NTMs of various kinds. Chemical, machinery, and transportation products appear to be highly regulated with multiple NTMs since many can be imported or exported for military and weapons use.⁴ Animals and agricultural and food products are also subject to a combination of many NTMs, mostly for SPS and TBT reasons.

⁴ Care is needed in interpreting the coverage of regulations for these products, especially chemical products, which can be used in multiple sectors (e.g., food, cosmetics, and pharmaceuticals, which are heavily regulated in most countries) and for multiple purposes (e.g., military). The regulations may be

Table 6.6. Coded Measures per National Tariff Line, by Product Group, in Japan
(number)

Product Group	Coded Measures per National Tariff Line (number)					
	Mean	Min.	p25	Median	p75	Max.
Animal products	25.9	8	17	24	30	61
Vegetable products	24.8	4	15	18	37	106
Foodstuffs	21.5	3	12	15	23	77
Mineral products	22.5	4	4	14	43	61
Chemicals	41.5	4	19	46	55	176
Plastics/rubbers	13.8	4	8	12	16	100
Hides and skins	16.8	3	15	17	19	29
Wood products	7.3	3	3	3	7	98
Textiles	5.9	3	4	5	6	21
Footwear	10.5	3	4	15	15	16
Stone/glass	5.9	4	4	4	5	38
Metals	6.7	3	4	5	8	99
Machinery	23.1	12	22	23	26	56
Transportation	17.2	12	13	15	20	35
Miscellaneous	21.8	7	12	16	24	73
Total	18.3	3	5	14	23	176

HS = Harmonised System, max = maximum, min. = minimum, p25 = percentile 25, p75 = percentile 75.

Note: Note: Animal products include HS01–05, vegetable products HS06–15, foodstuffs HS16–24, mineral products HS25–27, chemicals HS28–38, hides and skins HS39–40, wood products HS44–49, textiles HS50–63, footwear HS64–67, stone/glass HS68–71, metals HS72–83, machinery HS84–85, transportation HS86–89, and miscellaneous HS90–99.

Source: Authors.

3. Policy Recommendations

Whilst the online availability of all laws greatly assisted our efforts to gather NTMs, dissemination of the information could be improved significantly. The government could upgrade its regulatory regime in four areas. First, identifying all relevant documents for each law is difficult. The online resource contains laws, cabinet orders, and ministerial ordinances, but the implicit linkages amongst them made it difficult to find the relevant orders and ordinances. Often a law merely states, ‘the detail is specified in the order’ or ‘the detail is specified in the ordinances’ without identifying what they are. Whilst identifying them at the legislative stage may be difficult, they could be added at the dissemination stage. This is an important issue since a law can have multiple orders and ordinances. For some regulations, we needed to look deeper into public notices and other documents for further details. Although the ministries provide the information in an easy-to-access format for an important law, finding the resources for a non-major law proved difficult, especially for some ministries. Since details of the regulations are sometimes specified in public notices, they could also be listed in the law database.

The second area where we encountered difficulties was cross-references to other laws. In some instances, the law refers to multiple other laws, making it difficult to read the law. Third, the lack

applied under certain conditions, especially if the products have a dual purpose.

of English translations of the laws, orders, ordinances, and other relevant documents makes it difficult for non-Japanese-speaking people to understand them. Whilst English translations of some regulations are available, they were produced some time ago and have not been updated even if the laws have been revised. Fourth, the government should attempt to streamline certain regulations. Some products are subject to several regulations, some of which overlap. Some old laws are still in force, although they are not relevant in modern times.

All these issues relate to the accessibility of information and transparency of the regulatory regime. Whilst the government has begun to move in the right direction by making the information available online, it could greatly improve access to information by offering additional information (relevant documents for each law).

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