

# Chapter 7

## Non-tariff Measures in Korea

Korea Institute for International Economic Policy

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### 1. Introduction

The World Trade Organization has followed the introduction of trade-restrictive measures since 2008, which increased from 464 in 2010 to 2,127 in 2016 (World Trade Organization, 2016). This trend differs from that of customs tariff rates, which have been declining through the years. Whilst NTMs serve to protect the environment or human health and foster trade by aligning standards across countries; at the same time, they can represent a challenge for exporters as market access depends on compliance with domestic regulations. Econometric assessments have found NTMs to be more restrictive than tariffs (UNCTAD, 2012).

Despite their importance, analyses of NTMs are limited because NTMs are not easily distinguishable or quantifiable as they are embedded in legal documents. Measures need to be extracted from regulations based on consistent and concrete criteria.

This chapter shows how data are collected and sheds light on the status of NTMs in the Republic of Korea (henceforth, Korea). The data include NTMs as of 30 November 2016, including all measures issued by the central government collected from the National Law Information Center managed by the Ministry of Government Legislation. There are 1,930 NTMs,<sup>1</sup> most of which are sanitary and phytosanitary (SPS) measures or technical barriers to trade (TBTs). Accordingly, the Ministry of Agriculture, Food and Rural Affairs is responsible for the issuance of about 38% of all NTMs. Lastly, almost all product categories are subject to more than one NTM. It is important to note that not all NTMs are barriers to trade. The main objective of NTMs is to serve the public interest, especially with respect to safety issues. In this chapter we describe the data collection process, starting with a discussion of the legal system, before providing an overview of NTMs.

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<sup>1</sup> Independently if each affects a large or a small list of products.

## 2. Legal System

The legal system consists of five layers.<sup>2</sup> The Constitution represents the highest form of law. Although the constitution does not stipulate specific NTMs, acts that realise constitutional notions either limit the rights and freedom of people or clarify their duties. These acts are called ‘documents.’ Implementation details are often left for subordinate implementation regulations.

Our efforts to identify NTMs begin in the next level of legislation: NTMs are extracted from legal texts that offer sufficient detail (usually subordinate implementation regulations), as opposed to general laws. Next, we look at presidential decrees and ordinances of the prime minister and ministries used for administration purposes. Following the UNCTAD Guidelines, they are called ‘regulations’ because they include detailed NTMs. Last, administrative rules elaborate on administrative agencies’ roles and their duties. Although the rules do not restrict peoples’ rights or freedoms per se, the work of the agencies can act as an NTM.

Not all legislation includes NTMs; that is to say, not all relate to requirements that would affect imported or exported products. We collected information from acts (second level) through to administrative legislation (fourth level) after identifying their main source. Acts are usually ‘documents’ that include the ‘regulations’, which, in turn, have NTMs embedded in them. More details are in Table 7.1.

**Table 7.1. Definitions within Korea’s Legal System**

Category	Definition	Korean Legislation	Note
Source	Includes information such as legislations, ordinances, or else proclaimed and enforced	National Law Information Center	Accessible from the National Law Information Center website
Document	Official document or higher law of document that includes NTMs	Act	Higher law used when no act exists
Regulation	Law or administrative rule that includes NTMs	Act, enforcement decree, enforcement rule, notification, guidelines, standards	The act itself can be a regulation.
NTM	All policy instruments other than customs tariffs that economically affect the flow of goods	Each article and contents of legislation or administrative rule	

Source: Kim et al. (2016).

## 3. Data Construction

According to the National Law Information Center, the law can be categorised into 44 sectors. Twenty-five sectors related to trade were selected to construct the NTM data (Table 7.2). The

<sup>2</sup> The first level is the Constitution, the second acts, the third presidential decrees, the fourth ordinances of the prime minister and ministries, and the fifth administrative rules (National Law Information Center).

25 sectors consist of 2,408 acts, enforcement decrees, and rules. By mapping them, we were able to investigate 480 laws, including their subsidiary administrative rules.

**Table 7.2. Categories of Law in the Republic of Korea**

	<b>Categories NOT Related to Non-tariff Measures</b>		<b>Categories Related to Non-tariff Measures</b>
1	Constitution	13	Military affairs
2	National assembly	18	Science and technology
3	Election and political party	20	Internal tax
4	Administration in general	21	Tariff
5	Public official	22	Tobacco and ginseng
6	Court	24	Agriculture
7	Judicial affairs	25	Livestock
8	Civil affairs	26	Forest
9	Crimes and criminal procedure	27	Fishery
10	Local government	28	Commerce, trade, and industry
11	Police affairs	29	Industrial standards and measures
12	Civil defence and firefighting	30	Industrial property right
14	Conscription affairs	31	Energy utilisation and mining
15	Patriots and veterans	32	Electricity and gas
16	Education and academy	33	National land development and city
17	Culture and public relations	34	Housing, building and road
19	Finance and economy in general	35	Water resources, land and construction
23	Currency, state bond and banking	36	Health and medical affairs
44	Foreign affairs	37	Pharmaceutical affairs
		38	Social welfare
		39	Environment
		40	Labour
		41	Land transportation, aviation, and tourism
		42	Marine transportation
		43	Information and telecommunication

Source: Kim et al. (2016).

#### 4. Non-tariff Measures in the Republic of Korea

Table 7.3 shows the comprehensiveness of our data. Twenty-nine institutions issued 427 regulations, which included 1,930 coded measures. In total, 11,483 products were affected by NTMs. As there are 12,244 national tariff lines (NTLs), 93.7% of products are subject to NTMs. The percentage is called the frequency index. Since other countries exhibit similar percentages, the quantity of products subject to NTMs is not of particular concern (UNCTAD; Economic Research Institute for ASEAN and East Asia, 2016). NTMs are not necessarily barriers to trade. They protect domestic consumers from harmful materials and ban illegal production practices. What would be beneficial is to distinguish the necessary measures from the unnecessary measures, which could be the subject of a future study.

**Table 7.3. NTM Data Comprehensiveness in Korea**

	<b>Comprehensiveness</b>	<b>Number</b>
1	Total NTM-related regulations	427
2	Total NTMs reported to the World Trade Organization	1,507
3	Total number of coded NTMs	1,930
4	Total affected products (national tariff lines)	11,483 (93.8%)
5	Total issuing institutions	29

Source: Authors.

Ten main regulatory agencies are responsible for issuing and enforcing NTM-related regulations in Korea. Aligned with the fact that most measures are SPS measures and TBTs, the top agency responsible for issuing measures is the Ministry of Agriculture, Food and Rural Affairs (37.9%). The Ministry of Trade, Industry and Energy comes second and is responsible for issuing 11.7% of mostly trade related NTMs.

**Table 7.4. Non-tariff Measures by Institutions, by Issuing Institution, in Korea**

<b>No.</b>	<b>Issuing Institution</b>	<b>NTMs (number)</b>	<b>NTMs (% of total number)</b>
1	Ministry of Agriculture, Food and Rural Affairs	732	37.94
2	Ministry of Trade, Industry and Energy	225	11.66
3	Ministry of Food and Drug Safety	206	10.67
4	Ministry of Environment	204	10.57
5	Ministry of Land, Infrastructure and Transport	94	4.87
6	Ministry of Oceans and Fisheries	82	4.25
7	Animal and Plant Quarantine Agency	71	3.67
8	National Fishery Products Quality Management Service	65	3.37
9	Nuclear Safety and Security Commission	46	2.38
10	Ministry of Health and Welfare	40	2.08
11	Other institutions	165	8.54
	<b>Total</b>	<b>1,930</b>	<b>100</b>

Source: Authors.

Most NTMs for imports are concentrated in SPS measures (A), which account for 36.6% of total NTMs, and TBTs (B), for 41.9%. Although the two are similar in number, TBTs are mostly imposed on the world (93%), while SPS measures are imposed on a limited number of countries (74.7%). For export-related measures (P), 66% are technical measures (P69), followed by price control measures (F) that include border fees or taxes, pre-shipment inspection, and other formalities (C) such as monitoring and surveillance requirements and other automatic licensing measures (C4). The only finance measure (G) identified is the refundable deposits for sensitive product categories (G14).

Although the numbers of SPS and TBT measures are almost the same, the number of tariff lines impacted by the two measures is very different. TBTs apply to a much wider range of products while SPS measures mainly affect agriculture and food related products. Almost all tariff lines (91.1%) are subject to TBTs while only 30% are subject to SPS measures and 37.5% to other formalities.

**Table 7.5. Non-tariff Measures, by Type, Imposed in Korea**

Code	NTMs by Type (chapter)	NTMs (total number)	NTMs (% of total number)
A	Sanitary and phytosanitary measures	707	36.6
B	Technical barriers to trade	809	41.9
C	Pre-shipment inspection and other formalities	27	1.4
D	Contingent trade-protective measures	0	0
E	Non-automatic licensing, quotas, prohibitions, and quantity control measures other than for sanitary and phytosanitary measures or technical barrier to trade reasons	8	0.4
F	Price control measures, including additional taxes and charges	71	3.7
G	Finance measures	1	0.1
H	Measures affecting competition	0	0
I	Trade-related investment measures	0	0
J	Distribution restrictions	0	0
K	Restrictions on post-sale 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	307	15.9
<b>Total coded NTMs</b>		<b>1,930</b>	<b>100</b>

Source: Authors, based on the new NTM database.

Table 7.6 shows the types of NTMs used in more detail. Code B7 (product quality or performance requirement) is the most used type, followed by B31 (labelling requirements), A83 (certification requirements), B82 (testing requirements), and A42 (hygienic practices during production). These are the codes most mentioned in the regulations (column 3, Table 7.5). The last column in the table shows the prevalence of this regulations. Some of them affect many products at a time. From this perspective, based on NTLs, code B851 (origin of materials and parts) is the most used NTM. It affects 73.8% of NTLs, despite only 13 NTMs using this code, because the Foreign Trade Act requires a large portion of products to reveal their origin.

**Table 7.6. Most Commonly Applied Non-tariff Measures in Korea**

NTM Code	NTM Description	NTM (number)	NTL (% of affected products)
B7	Product quality or performance requirement	154	46.2
B31	Labelling requirements	135	70.3
A83	Certification requirement	89	6.6
B82	Testing requirement	84	44.2
A42	Hygienic practices during production	70	16.3
A64	Storage and transport conditions	53	25.7
A86	Quarantine requirement	53	12.0
A62	Animal raising or catching processes	47	3.2
B859	Traceability requirements, not elsewhere specified	44	51.3
B14	Authorisation requirement for technical barrier to trade reasons	40	56.0

NTL = non-tariff line, NTM = non-tariff measure.

Note: Export measures are not considered here. Data were collected using the M3 classification version. The B1 codes from M3 are converted into chapter E when using M4.

Source: Authors.

Products can be subject to multiple NTMs. For instance, the products most subject to them are chemicals (18.4%) and machinery (17.3%), with most subject to more than three. The figure shows the frequency of multiple NTMs for each product category. Most of the product categories are subject to three or more NTMs. Animal products, vegetable products, foodstuffs, and hides and skins are all subject to more than three NTMs.

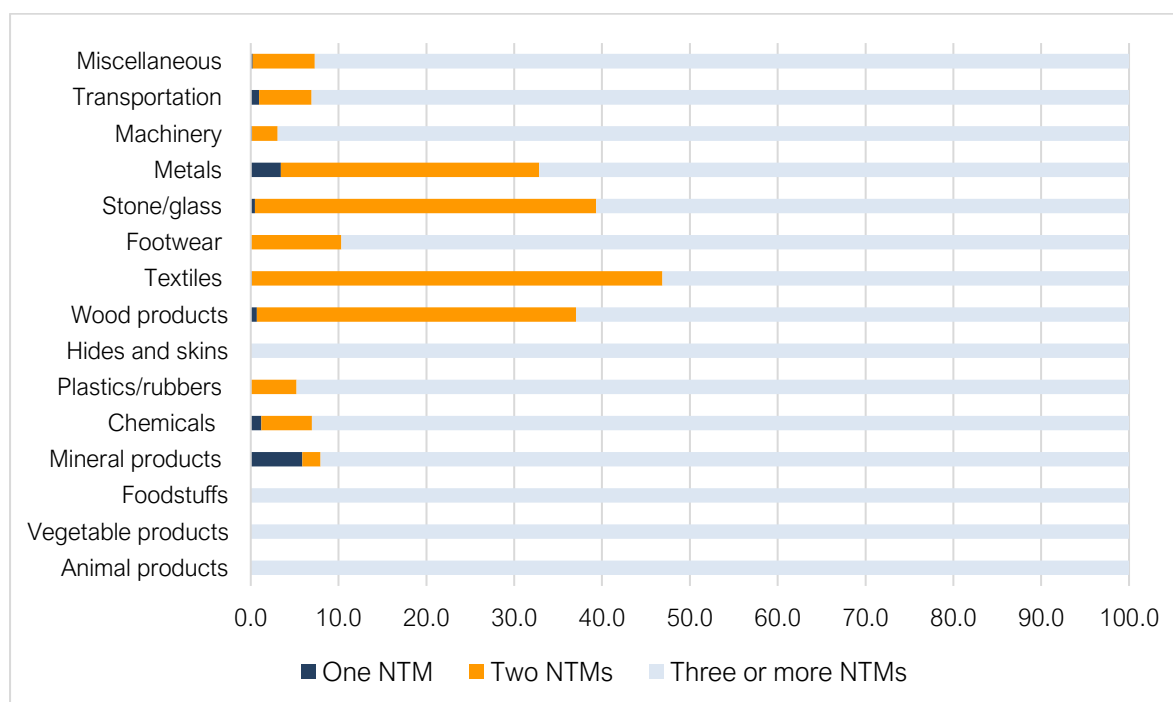
**Table 7.7. Multiple Non-tariff Measures Applied to Each Product Group in Korea**  
(number of tariff lines affected)

HS Code	Product	One NTM	Two NTMs	Three or More NTMs
01-05	Animal products			762
06-15	Vegetable products			798
16-24	Foodstuffs			543
25-27	Mineral products	17	6	266
28-38	Chemicals	27	131	2113
39-40	Plastics/rubbers		19	345
41-43	Hides and skins			242
44-49	Wood products	4	206	357
50-63	Textiles	1	446	507
64-67	Footwear		10	87
68-71	Stone/glass	2	162	253
72-83	Metals	30	257	587
84-85	Machinery	3	60	1991
86-89	Transportation	3	19	295
90-99	Miscellaneous	2	66	866
	Total	89	1382	10012

HS = Harmonised System

Source: Authors.

**Figure 7.1. Multiple Non-tariff Measures in Korea**  
(share within product groups)



Source: Authors.

## 5. Policy Recommendations

Weakness in the global economy and the rise of protectionism are strong reasons to monitor any NTMs that could hamper international trade. The project is thus a timely effort from the international community to improve transparency regarding behind-the-border measures. Nonetheless, it is important to remember that the project's objective is not to remove all the collected NTMs but to help them serve their purpose while minimising their impacts on trade.

To further reap the fruits of such cooperative work, it is recommended that domestic regulations be analysed in more detail. Domestic regulations are legitimate in the sense that they promote social welfare by emphasising public safety and environment protection. However, measures that do not align with global standards can have unintended consequences. Although measures protecting domestic industries can be helpful in the short term, they increase costs for exporting firms that need to comply with standards in other countries and undermine their competitiveness in the long term.

Internationally, it is important to continue sharing and updating information on NTMs. Further analyses would be made possible by accumulating time series data on NTMs from which we could draw other reliable policy recommendations. Efforts to establish international standards and abolish redundant regulations should not stop. We hope that the current data will contribute to further analyses of NTMs, especially when comparing countries.

Nevertheless, we remain vigilant while interpreting the data as aggregate measures can sometimes be misleading. For example, if one measure is imposed on all products, the percentage of affected products (the frequency ratio) would be 100%. These measures are often



called 'horizontal' measures. If such an NTM were included in the incidence measures (e.g., frequency index), the country could be seen as highly restrictive. Thus, it is always recommended to consider measures in detail. Therefore, the standard process for computing incidence measures does not include horizontal measures. Given potential development gaps between countries' regulating systems, including enforcement challenges, simply comparing incidence measures at the country level can obscure reality.

NTMs are generally considered to have negative effects on international trade. Previous research on NTMs estimated their ad valorem equivalents or calculated their coverage ratios to investigate the level of protectionism. However, as defined by the UNCTAD Multi-Agency Support Team, NTMs include measures that hamper trade (non-tariff barriers) and other measures that do not have a protectionist intent. Food safety standards, hazardous substance residue standards, and safety tests for baby products are NTMs that cannot be seen as protectionist; they can sometimes even promote trade under certain circumstances. These NTMs aim to fulfil public objectives relating to hygiene, security, animal and plant protection, quality improvement, and so on. Thus, to understand NTMs better, their dual side must be acknowledged. We hope that UNCTAD's project will soon allow us to distinguish between necessary and unnecessary NTMs and eventually help us better assess their effects. This can be achieved through analyses such as those under good regulatory practices, which go beyond the statistical analysis presented here.

## References

- Economic Research Institute for ASEAN and East Asia (ERIA) and United Nations Conference on Trade and Development (UNCTAD) (2016), *Non-tariff Measures in ASEAN*. Jakarta: ERIA.
- Kim, J.D., B.Y. Choi, M.H. Cho, and M.C. Chung (2017), 'An Analysis of Korea's Non-tariff Measures: Focusing on Link between NTM and HS', *Policy Reference*, 17-3. Seoul: Korea Institute for International Economic Policy.
- Kim J.D., B.Y. Choi, J.H. Eom, and M.C. Chung (2016), 'An Analysis of Korea's Non-tariff Measures: Focused on Data Collection and Classification', *Policy Reference*, 16-11. Seoul: Korea Institute for International Economic Policy.
- National Law Information Center. *Korean Legislative System and Procedures*. Available at <http://www.law.go.kr/LSW/eng/engAbout.do?menuId=3> (accessed February–March 2018).
- UNCTAD, *The Global Database on Non-tariff Measures* Available at <https://trains.unctad.org/Default.aspx> (accessed January–November 2018).
- UNCTAD (2012), *Non-tariff Measures to Trade: Economic and Policy Issues for Developing Countries*. Geneva.
- UNCTAD (2016), *Guidelines to Collect Data on Official Non-tariff Measures*. Geneva
- World Trade Organization (2016), *World Trade Statistical Review*. Geneva.