
INTERNATIONAL TRADE DEVELOPMENTS

USITC Nontariff Measures Database: Overview and Preliminary Findings

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The USITC has completed preliminary work on a database covering nontariff measures for goods and services in the APEC and FTAA regions. This article explains the primary elements of the database and presents a preliminary summary of the data. According to a preliminary review of the data, the nontariff measure category cited by the most countries in the database is inadequate intellectual property rights. A large number of service sectors are also affected by NTMs. Additional work on the database is in progress.

The Office of Economics of the U.S. International Trade Commission is currently conducting a research project to improve the quantification of the effects of nontariff measures (NTMs) on trade flows and other economic variables.² A central feature of this effort is the generation of a database of NTMs for goods and services in the Asia Pacific Economic Cooperation forum (APEC) and the Free Trade Area of the Americas (FTAA) regions. The preliminary database includes information on 20 countries regarding NTMs that have been notified or alleged, products and sectors that have been affected by specific NTMs, as well as reference sources. Each of the elements of the database is discussed in this article, followed by a brief summary of the preliminary data.

In compiling the database, information has been obtained from several sources including the Office of

the United States Trade Representative's (USTR) National Trade Estimate Report on Foreign Trade Barriers (NTE), the European Union's (EU) Market Access Database and the World Trade Organization's (WTO) Trade Policy Reviews. The information contained in the NTE reports and the EU database survey foreign trade measures as reported by government officials and company representatives in the United States and the EU. The WTO Trade Policy Reviews provide information on a country's trade regime as reported by the WTO Secretariat.

There are strengths and limitations associated with each of the three reference sources. All of the sources generally include some of the same categories of NTMs. However, their descriptions of NTMs vary, as does their coverage. Some references contain information regarding only a few NTM categories. For example, the EU's Market Access Database contains information on NTMs for most countries prior to 2001, but includes only a few NTM categories and provides only general information for each category. The WTO reviews countries with varying frequencies, none of them annually. Therefore, the WTO Trade Policy Reviews do not provide information for every country under consideration in the USITC database. The USITC database includes only information from the Trade Policy Reviews conducted from 1998 to the

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² Inclusion of a citation or item in the database does not constitute an opinion regarding the WTO-consistency or lack thereof, discriminatory impact or lack thereof, or economic effect of that item. The intended purpose of the database is for general research into the economic effects of NTMs in support of USITC's customers.

present. The Trade Policy Reviews are most useful for such topics as import prohibitions, quotas, licensing, and standards. For many countries, the USTR's NTE report includes more in-depth information on NTMs, than either the EU Market Access Database or WTO Trade Policy Review provides.

A major element of the USITC database—in addition to country and product/sector information, as well as references—is information on the NTMs. There is no single definitive classification scheme for NTMs. However, there are several major classification systems such as Robert Baldwin's twelve groupings (1970), UNCTAD's seven categories, Deardorff and Stern (1984, 1988), and OECD (2002). The main problem with classifying NTMs is that the range is potentially infinite, especially if all measures—other than tariffs—that impede trade or raise the cost of trading are included. NTMs can be both formal, including governmental regulations, policies and administrative procedures or they can include informal barriers and practices. Not all categories of NTMs are applicable to all countries and products.

The NTM classification system in the database incorporates both formal governmental regulations (e.g., customs regulations) and policies (e.g., investment-related measures), and informal barriers and practices (e.g., nontransparency, arbitrary enforcement, corruption). Both formal and informal barriers affect a different number of sectors and tariff lines. For example, some countries may have formal governmental NTMs that affect only a few sectors or tariff lines while they have informal practices such as inadequate enforcement of anticompetitive practices or corruption that may act as barriers to imports in many sectors. Table 1 lists the 14 major NTM categories in the USITC's database. Most of the categories can be found in other classification systems, except for taxes, which is separated out in the USITC database. Table 2 provides more detailed examples of the major NTM categories. Some examples of note include preshipment inspection which is included in the category of "Customs," local preferences for bids and countertrade requirements which are included in "Government Procurement," and local content requirements in "Investment-Related Measures."

Another element of the database is the products or sectors affected by NTMs. The USITC database contains both broad sectors such as automobiles and pharmaceuticals and specific products such as wine and margarine. It also includes a large number of service sectors such as telecommunications, banking, and legal services. Some products or sectors may be affected by more than one NTM. For example, a

product such as wheat may be affected by import prohibitions as well as state-trading. Many products or sectors may be affected by the same NTMs. For example, imports of cosmetics, medical equipment, and lighting fixtures are all affected by required inspections in the Philippines.

Table 1
Major NTM Categories in the USITC Database

Anticompetitive Practices/Competition Policy
Corruption
Customs Procedures
Government Procurement
Import Licensing
Import Prohibitions
Import Quotas
Intellectual Property Rights
Investment-Related Measures
Sanitary and Phytosanitary Standards
Services
Standards, Testing, Certification, and Labeling
State Trading
Taxes

Preliminary Data Summary

One initial finding reflected in the data is that some NTM categories are more frequent among the 20 countries in the preliminary database than others (figure 1). For example, the data indicate that 19 countries were cited as having inadequate intellectual property rights protection—the greatest number of countries so notified. The next most widespread NTM categories were import prohibitions (17 countries), standards and licensing (15), and services (15). Corruption was cited least, in only 4 countries.³

For the database as a whole, the measure with the greatest number of citations by far is "Standards, Testing, Certification, and Labeling" (figure 2). There are 1,048 citations within this category, compared to only 475 for "Import Licensing," the next category most frequently cited.⁴ Technical regulations,

³ One major difficulty confronted in assessing nontariff measures may be shown by the example that an NTM may exist even though it is not cited, e.g. corruption may be present in more countries than are cited by the sources incorporated into the USITC database.

⁴ A citation in the database includes information entered regarding a (1) country, (2) sector, and (3) measure. A fourth entry may include references. Thus, an individual citation in the database will include on a single line information about, for example, Afghanistan, apples, and anticompetitive practices. Individual measures are aggregated into NTM categories. In some cases, the product category is listed as a "horizontal" if nearly all products or a group of products are affected.

Table 2
Detailed Examples of Non-Tariff Measures, by Category

Anticompetitive Practices/Competition Policy

- weak antitrust enforcement
- exclusionary business practices
- high levels of cross-shareholding
- oligopolistic market structure
- lack of transparency in rulemaking
- inconsistency in applying laws and regulations

Corruption

- lax enforcement of laws
- lack of transparency
- demand for irregular and non-transparent fees to obtain required permits or licenses
- government awards of contracts based on personal relations
- arbitrary legal system

Customs Procedures

- invoice requirements
- dual pricing schemes/reference prices
- requirements to enter through certain ports
- discriminatory and uneven enforcement of regulations
- long, burdensome, nontransparent inspection and clearance procedures
- inconsistent interpretation of regulatory requirements, arbitrary
- insufficient prior notification of procedural changes
- importer registration procedures, cumbersome and time-consuming
- preshipment inspection
- administrative guidance
- nontransparent and inconsistently applied regulations
- merchandise handling fees
- special import requirements

Government Procurement

- nontransparent preferences in bids
- “Buy National,” “Buy Subnational,” or local preferences
- national security restrictions
- set-asides for small- and medium-sized businesses
- countertrade requirements
- temporary changes in the bidding process

Import Licensing

- mandatory licensing, or non-automatic licensing approval

Import Prohibitions

- for reasons of national security, public health, or environmental reasons

Import Quotas

- lack of transparency of laws and regulations

Intellectual Property Rights

- most common problem: inadequate enforcement of copyrights, patents and trademarks
- insufficient protection of geographic indications and trade secret information
- indirect costs associated with country-specific features of patent systems

Table 2—Continued
Detailed Examples of Non-Tariff Measures, by Category

Investment-Related Measures

- notification requirements
- prohibitions on foreign investment
- restrictions on foreign ownership
- local content requirements
- taxes
- bureaucratic obstacles
- exclusionary business practices
- cross-shareholding
- lack of transparency in government rulemaking
- restrictions on mergers and acquisitions
- lack of rules-based legal infrastructure

Sanitary and Phytosanitary Standards

- pre-clearance inspection requirements

Services

- lack of national treatment
- lengthy and burdensome proceedings in regulatory processes
- limited transparency regarding laws and regulations
- complex laws and regulations
- prohibitions/restrictions on foreign equity ownership
- quota on number of screens (film)
- prohibitions/restrictions on establishing a branch
- conditions on approval of licenses
- prohibitions/restrictions on use of foreign names
- restrictions on numbers of local employees
- requirements for foreign firms to form joint ventures with local firms
- prohibition on licensed professionals
- residency requirements
- broadcast content quota
- restrictions on Internet website
- limits on portfolio investments and restrictions on capital flows

Standards, Testing, Certification, and Labeling

- costly and burdensome standards, testing, certification and labeling
- nontransparent standards and testing procedures
- redundant testing
- quarantine restrictions
- excessive use of fumigation
- cumbersome labeling requirements
- time-consuming inspections
- nontransparent safety regulation system
- sub-federal regulations
- delays in approval for biotechnology foods
- limited recognition of foreign testing and certification
- packaging standards
- safety licenses
- building codes

Table 2—Continued
Detailed Examples of Non-Tariff Measures, by Category

State Trading (examples of government boards)

- wheat
- dairy
- fish
- liquor
- postal
- rice
- tobacco
- silk
- petroleum
- utilities (e.g., gas, electricity)
- grains
- cotton
- fertilizer

Taxes

- value-added tax
 - customs processing fee
 - surcharge
 - excise tax
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Figure 1
Number of countries reported with non-tariff measures, by category

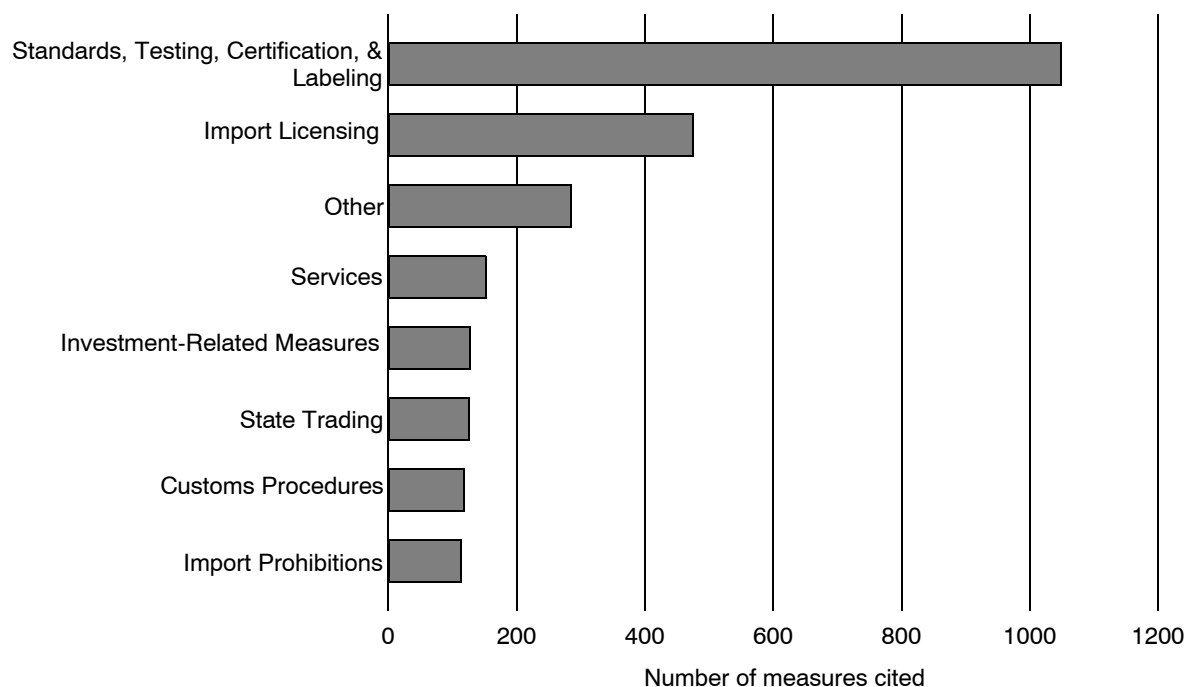


* Standards, Testing, Certification, & Labeling

** Anticompetitive Practices/Competition Policy

Source: USITC.

Figure 2
Non-tariff measures cited most frequently, grouped by category



Note.—“Other” is the combination of remaining NTM categories.

Source: USITC.

standards, and conformity assessment procedures are covered under the WTO Agreement on Technical Barriers to Trade (“TBT Agreement”).⁵ The TBT Agreement provides for certain exceptions to international standards for specific, legitimate objectives such as “to ensure the quality of ... exports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices” whenever international standards do not exist or are inadequate.⁶

Finally, there are a large number of different service sectors affected by NTMs. According to the database, there are 49 service sectors affected by NTMs. The four service sectors affected in the greatest

number of countries are legal services (12), telecommunications (10), insurance (9), and architecture (7). One country was cited for 26 service sectors, many of which were professional services such as interior design, criminology, veterinary journalism, and tourism services.

In conclusion, the USITC’s database is in its preliminary stages of development. Thus, final conclusions cannot be drawn based on its contents at the present time, although a broad summary of the data as it currently stands has been provided here. The nontariff measure cited by the greatest number of countries falls in the category of inadequate “Intellectual Property Rights,” cited by 20 countries in the database. The most frequently cited nontariff measure *overall* falls in “Standards, Testing, Certification, and Labeling,” perhaps because this type of NTM is very specific and may affect many individual products. Finally, the data show that a very large number (49) of services sectors are currently affected by NTMs. The sectors range from broad areas such as telecommunications and legal services to specific professions such as journalism.

⁵ WTO, “Agreement on Technical Barriers to Trade,” *The Results of the Uruguay Round of Multilateral Trade Negotiations* (Geneva:WTO, 1995). See, for example, the Preamble and TBT Article 1 (General Provisions), at Art. 1.6.

⁶ WTO, “Agreement on Technical Barriers to Trade,” *The Results of the Uruguay Round of Multilateral Trade Negotiations* (Geneva:WTO, 1995), TBT Art. 1; and additional information from WTO, “Agreement on Technical Barriers to Trade,” found at Internet address http://www.WTO.org/english/docs_e/legal_e/17-tbt.pdf, retrieved on Aug. 26, 2002.