



WORLD TRADE  
ORGANIZATION

# World Trade Report 2012

Trade and public policies:  
A closer look at non-tariff measures in the 21<sup>st</sup> century



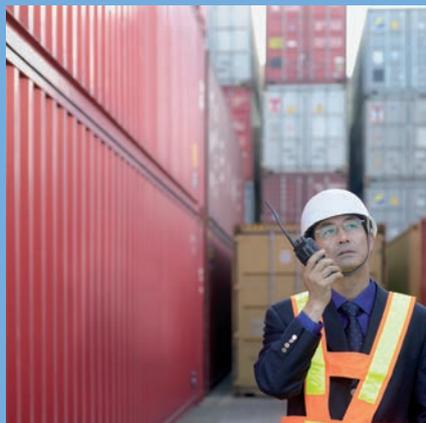
» Why do governments use non-tariff measures (NTMs)?

» How important are public policy objectives (such as ensuring the health and safety of consumers) in determining the use of NTMs in the 21<sup>st</sup> century?

» What are the trade effects of these policies?

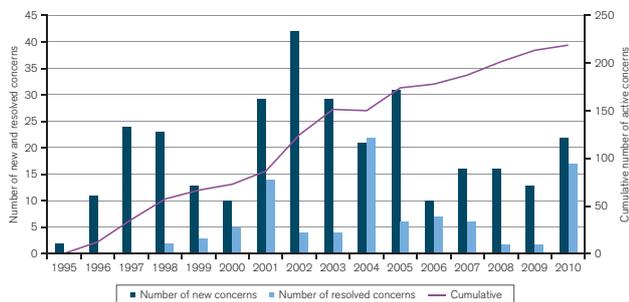
» What challenges does international cooperation on public policies raise for the WTO?

Answers to these questions can be found in the *World Trade Report 2012*.



## Key facts

Figure C.4: New and resolved SPS specific trade concerns, 1995-2010 (number of concerns)



Source: WTO STC Database.

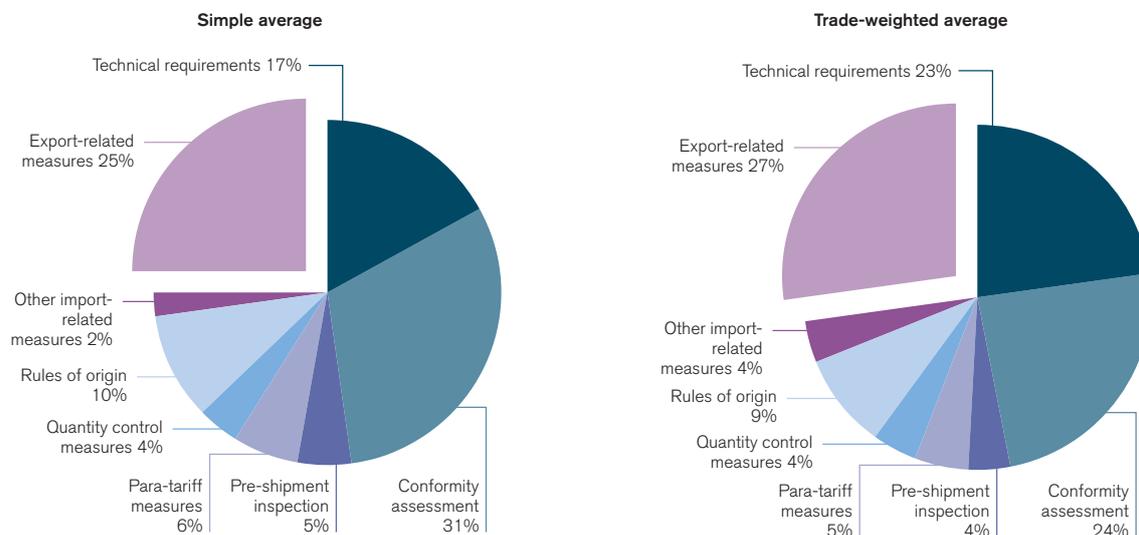
- Notifications from WTO members show an increasing use of technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) measures (concerning food safety and animal/plant health) since the mid-1990s. This increase is reflected in an increase in the number of specific trade concerns raised by WTO members in the TBT and SPS committees.
- Over the last five years, however, only 11 per cent of trade disputes brought to the WTO cited the SPS Agreement and 12 per cent cited the TBT Agreement.
- Evidence from business surveys conducted by the International Trade Centre (ITC) suggests that TBT/SPS measures are the most burdensome for developing countries' exporters. In 2010, these measures represented almost half (48 per cent) of the non-tariff measures (NTMs) perceived as burdensome by exporting firms. The figure is comparable for the European Union.
- Ninety-four per cent of specific trade concerns regarding SPS measures, and 29 per cent of those regarding TBT, are related to agriculture. Evidence from WTO disputes also shows a greater number of citations of the SPS and TBT agreements in cases involving agricultural products than in other cases.
- ITC business surveys show that, for exporters, more than 70 per cent of burdensome NTMs also raise a procedural obstacle.



*"This year's World Trade Report takes a fresh look at an old issue. Non-tariff measures (NTMs) have been with us since nations have traded and they have certainly constituted a key element of the work of the GATT and the WTO over the years... The Report shows how the early focus on removing NTMs that were largely surrogates for tariffs has given way to a much subtler and more complex world in which public policy concerns find greater expression in trade relations than they did a few decades ago."*

WTO Director-General  
Pascal Lamy

Figure C.9: Burdensome NTMs by type of measure, 2010 (percentage)



Source: ITC business surveys on NTMs.

Note: Surveys were conducted in 11 developing and least-developed economies: Burkina Faso, Egypt, Jamaica, Kenya, Madagascar, Mauritius, Morocco, Paraguay, Peru, Rwanda and Uruguay. Minerals and arms are excluded from the survey.

# Key findings

## ▪ **Reasons for using NTMs**

Non-tariff measures (NTMs), such as TBT/SPS measures, are often the first-best instruments to achieve public policy objectives, including correcting market failures arising from information asymmetries (where one party has more or better information than the other) or imperfect competition, and pursuing non-economic objectives, such as the protection of public health. While many NTMs are concerned with consumer protection, NTMs can also be utilized by political incumbents to protect domestic producers.

## ▪ **NTMs in the 21<sup>st</sup> century**

Economic, social and technological advances have resulted in higher consumer demand for food safety and posed new challenges in managing globally fragmented supply chains. Food safety measures have proliferated as a tool to respond to these challenges. As a consequence, various approaches to mitigate possible negative trade impacts, such as harmonization of standards, equivalence and commitment to a set of rules, are receiving widespread attention.

## ▪ **Sources of information on NTMs and services measures**

Transparency is a major issue with regard to both NTMs and services measures. The relative scarcity of information on non-tariff measures is partly due to the nature of these measures, which are inherently more difficult to measure than tariffs. The WTO and other international organizations have undertaken substantial efforts and made good progress in classifying and collecting data on NTMs in recent years, and these efforts are starting to extend to services measures. However, more needs to be done to obtain a clearer and more complete picture of the trade policy landscape.

## ▪ **Trade effects**

Not all non-tariff measures have a negative impact on trade. Public policy measures such as TBT/SPS measures and domestic regulation in services, in particular, do not unambiguously increase or decrease trade. TBT/SPS measures and domestic regulation in services affect not only how much two countries trade but also the number of countries with whom they trade. There is also some evidence that conformity assessment is particularly burdensome. Negative effects on trade are mitigated by a reduction in policy divergence, whether through convergence to international standards, harmonization of standards or mutual recognition. If harmonization and mutual recognition of standards occur at the regional level, there may be significant trade-diverting effects on outsiders and regulatory “lock-in”. This appears to be a risk especially for developing countries.

## ▪ **Regulation of NTMs in trade agreements**

Traditional trade agreements contain provisions that focus on addressing the problem of tariffs being replaced by non-tariff measures. The changing nature of international trade and the use of private standards may prompt the need for deeper forms of institutional integration. Moreover, the growing number of reasons why governments resort to NTMs, including health, safety and environmental considerations, creates a need to develop rules to facilitate cooperation in the identification of efficient and legitimate uses of NTMs.

▪ **The SPS and TBT agreements** are “post-discriminatory” agreements. Although they include non-discrimination obligations, they also contain provisions that go beyond a “shallow integration” approach. They promote harmonization through the use of international standards and include obligations that are additional to the non-discrimination obligation. This includes, for instance, the need to ensure that requirements are not unnecessarily trade restrictive. Some question the appropriateness of these “post-discriminatory” obligations, arguing that the assessment of a measure’s consistency with such requirements is difficult without WTO adjudicators “second-guessing” a member’s domestic regulatory choices.

▪ **Challenges to international cooperation on NTMs.** Firstly, the transparency of non-tariff measures must be improved and the WTO has a central role to play with its multiple transparency mechanisms. Secondly, current WTO disciplines may not always strike the right balance between policy commitments and flexibility. Thirdly, more effective criteria are needed to identify why a measure is used. Better integration of economic and legal analysis may help achieve this goal. Fourthly, the rise of global production sharing poses additional challenges for the multilateral trading system, calling for deeper integration.

▪ A number of challenges are more specifically related to **public policies**. Addressing the adverse trade effects of TBT/SPS measures and domestic regulation in services requires regulatory convergence. Part of this convergence takes place at the regional level and part of it at the multilateral level, raising the question of the optimal level. The role of governments and the WTO with regard to private standards also needs clarification. Negotiations on domestic regulation in services have turned out to be very difficult to conclude, mainly because of concerns with regulatory autonomy. Lastly, capacity-building could make a more significant contribution to improving international cooperation on public policies.



The *World Trade Report 2012* ventures beyond tariffs to examine other policy measures that can affect trade. Regulatory measures for trade in goods and services raise new and pressing challenges for international cooperation in the 21<sup>st</sup> century. More than many other measures, they reflect public policy goals (such as ensuring the health, safety and well-being of consumers) but they may also be designed and applied in a manner that unnecessarily frustrates trade. The focus of this report is on technical barriers to trade (TBT), sanitary and phytosanitary (SPS) measures (concerning food safety and animal/plant health) and domestic regulation in services.

The Report examines why governments use non-tariff measures (NTMs) and services measures and the extent to which these measures may distort international trade. It looks at the availability of information on NTMs and the latest trends concerning usage. The Report also discusses the impact that NTMs and services measures have on trade and examines how regulatory harmonization and/or mutual recognition of standards may help to reduce any trade-hindering effects.

Finally, the Report looks at the level of international cooperation on NTMs and services measures. It reviews the economic rationale for such cooperation and discusses the efficient design of rules on NTMs in a trade agreement. It examines how cooperation has occurred on TBT/SPS measures and services regulation in the multilateral trading system, and within other international forums and institutions. A legal analysis is provided regarding the treatment of NTMs in WTO dispute system and interpretations of the rules that have emerged in recent international trade disputes. The Report concludes with a discussion of outstanding challenges and key policy implications.

## Further information

The *World Trade Report* is an annual publication that aims to deepen understanding about trends in trade, trade policy issues and the multilateral trading system.

The Report is available in English, French and Spanish:

World Trade Report 2012  
ISBN 978-92-870-3815-9

Rapport sur le commerce mondial 2012  
ISBN 978-92-870-3816-6

Informe sobre el Comercio Mundial 2012  
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