Overview of non-tariff measures (NTMs) related to climate change and relevant work in the WTO

TESSD Working Group on Environmental Goods and Services

4 October 2022
Outline

Overview of NTMs
- Definition NTMs
- Classification
- WTO Agreements and NTMs
- NTMs, climate change and environmental goods

Related work in the WTO
What are NTMs

Non-tariff measures are:

**policy measures other than ordinary customs tariffs** that can potentially have an **economic effect on international trade in goods**, changing **quantities** traded, or **prices** or **both**.

- Effect on trade can be **negative** or **positive**, e.g. technical regulations/standards.
- Non-tariff barriers: They include, in principle, all measures other than “tariffs” that discriminate or restrict market access (negative definition).
<table>
<thead>
<tr>
<th>Imports</th>
<th>Non-technical measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Sanitary and phytosanitary measures</td>
</tr>
<tr>
<td>B</td>
<td>Technical barriers to trade</td>
</tr>
<tr>
<td>C</td>
<td>Pre-shipment inspection and other formalities</td>
</tr>
<tr>
<td>D</td>
<td>Contingent trade-protective measures</td>
</tr>
<tr>
<td>E</td>
<td>Non-automatic import licensing, quotas, prohibitions, quantity-control measures and other restrictions not including sanitary and phytosanitary measures or measures relating to technical barriers to trade</td>
</tr>
<tr>
<td>F</td>
<td>Price-control measures, including additional taxes and charges</td>
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<tr>
<td>G</td>
<td>Finance measures</td>
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<tr>
<td>H</td>
<td>Measures affecting competition</td>
</tr>
<tr>
<td>I</td>
<td>Trade-related investment measures</td>
</tr>
<tr>
<td>J</td>
<td>Distribution restrictions</td>
</tr>
<tr>
<td>K</td>
<td>Restrictions on post-sales services</td>
</tr>
<tr>
<td>L</td>
<td>Subsidies and other forms of support</td>
</tr>
<tr>
<td>M</td>
<td>Government procurement restrictions</td>
</tr>
<tr>
<td>N</td>
<td>Intellectual property</td>
</tr>
<tr>
<td>O</td>
<td>Rules of origin</td>
</tr>
<tr>
<td>P</td>
<td>Export-related measures</td>
</tr>
</tbody>
</table>

Source: International Classification of NTMs (2019 Version), UNCTAD
How are NTMs on environmental goods linked to trade-related climate measures?

Trade-related climate measures include NTMs taken to achieve climate objectives.

NTMs applying to environmental goods might have or might not have a climate objective.
Most WTO Agreements seek to regulate NTMs

GATT 1994

<table>
<thead>
<tr>
<th>Understandings</th>
<th>Marrakesh Protocol</th>
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<tbody>
<tr>
<td>Multilateral Agreements on:</td>
<td></td>
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<tr>
<td>Agriculture</td>
<td>Antidumping</td>
</tr>
<tr>
<td>Sanitary and Phytosanitary measures</td>
<td>Customs Valuation</td>
</tr>
<tr>
<td>Safeguards</td>
<td>Preshipment inspection</td>
</tr>
<tr>
<td>Trade Facilitation Agreement</td>
<td>Rules of origin</td>
</tr>
<tr>
<td>Technical Barriers to Trade</td>
<td>Import Licensing Procedures</td>
</tr>
<tr>
<td>Trade-related investment measures</td>
<td>Subsidies and countervailing measures</td>
</tr>
</tbody>
</table>

Annex 1A
Multilat. Trade Agrs. on Goods
When do measures become barriers?

• Lack of transparency

• Discriminatory treatment (MFN or NT)

• More restrictive than necessary

• Many measures are introduced seeking a legitimate policy objective and can be introduced in a WTO consistent manner
NTM information at the WTO

Members notify NTMs to the WTO
•Not all measures are notified

For more information see: https://data.wto.org/en
Identification of NTBs (GATT and NAMA Neg.)

**Methodology:** Mostly “inventories” based on reverse notifications (i.e. finger pointing by others)
Example: Solar panels

HS code 854140 in HS2017 and 854143 in HS2022

- Subject to import licensing procedures
- Classified in some cases as “dual use” items subject to export controls
- Subject to TBT regulations
- Anti-Dumping investigations and Countervailing duties

Measures vary according to product & market
Stakeholder engagement

• Manufacturers and traders of the product can bring more clarity on what non-tariff measures are the most important, both in a positive and negative way.

• Example: WTO Secretariat [Indicative list of trade-related bottlenecks and trade-facilitating measures on critical products to combat COVID-19](#)
TBT work of relevance to environmental goods discussions

1. Identifying share of TBT measures among NTMs
2. Strengthening transparency and regulatory dialogue
3. Easing burden of conformity assessment procedures
4. Improving national quality infrastructure
5. Exchanging experiences: thematic session on climate change
1. Identifying share of TBT measures among NTMs
Technical regulations are the most frequent form of NTMs affecting 40 per cent of product lines and about 65 per cent of world imports.

Global average ad valorem impact of 7.3%

*Addressing NTMs affecting environmental goods requires examining technical regulations and ...*
CAP is the first burdensome NTMs faced by both agri-food and manufacturing exporters.

...and also conformity assessment procedures.

Source: ITC Businesses Survey on NTMs in 37 countries, www.ntmsurvey.org
TBT AGREEMENT IN A NUTSHELL

allowing Members to fulfill legitimate objectives

avoiding discriminatory and unnecessary barriers to trade

Transparency
International standards
2. Strengthening transparency and regulatory dialogue on environmental goods through TBT Committee
Members notify upcoming changes to their regulations and allow for comments

542 new TBT notifications related to environmental objectives in 2021

![Bar chart showing number of notifications from 1995 to 2022, with categories for regular notifications, revisions, and addenda and corrigenda. The highest number of notifications is in 2022.]
Interested in tracking regulatory developments related to potential “environmental goods”?

• Register on ePing

• Identify products of interest
  not always straightforward!

• Search, receive alerts, communicate
Examples of TBT notifications

G/TBT/N/IDN/126

January 2020

Committee on Technical Barriers to Trade

Original: English

Draft text available through link in Indonesian

1. Notifying Party: Indonesia
   [If applicable, name of local government involved (Article 5.2 and 7.1):]

   [Name and address (including telephone and fax numbers, email and website addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:]
     Jakarta Pusat 10220, Jakarta
     Tel.: 021-22835077
     Fax: 021-31901067
     Email: info@bkkbn.go.id
     Website: http://bkkbn.kemen.dep.go.id

3. Notified under Article 2.9.2 (X), 2.10.1 (D), 5.6.2 (X), 5.7.1 (X), etc.;

4. Products covered (I) or CCC/UCN where applicable; otherwise national tariff heading. ICS number may be provided in addition, where applicable: Ex.: HS 8541.40.22
   - Photovoltaic cells, assembled in modules or made up into panels.
   - Photovoltaic solarcell devices, including photovoltaic cells whether or not assembled in modules or made up into panels.

5. Title, number of pages and language(s) of the notified document:
   - Draft Decree of the Minister of Energy and Mineral Resources regarding Mandatory Implementation of the Indonesian National Standard for Crystalline Silicon Photovoltaic Modules (23 pages); in Indonesian.

6. Description of context: Draft Decree requires that Crystalline Silicon Photovoltaic Modules, which are distributed in Indonesia market, to comply with:

   - SNI DEC 61219-1: 2018, “Terrestrial Photovoltaic Module (PV) - design qualification and type approval - Part 1.1: Test procedures”
   - SNI DEC 61220-11: 2018, “Terrestrial Photovoltaic Module (PV) - design qualification and type approval - Part 2.1: Test requirement;”

7. Relevant documents:
   - Law No.39 Year 2009 concerning Electricity

8. Proposed date of adoption to be determined
   - Proposed date of entry into force to be determined

9. Final date for comments: 60 days from notification

10. Texts available from:
    - National enquiry point (X) or address, telephone and fax numbers and email and website addresses, if available, of other body:
      Directorate of Implementation System for Standards and Conformity Assessment National Standardization Agency of the Republic of Indonesia (BSN)
      TBT WTO Notification and Inquiry Point of Indonesia
      BPPT Building, 5th floor
      Jakarta 12220, Indonesia
      Tel.: 021-3227924 ext. 127
      Fax: 021-3227925
      Email: bsn@bsn.go.id
      Website: http://www.bsn.go.id

   - TBT Indonesia (X)
      BPPT Building, 4th floor
      Jakarta 12220, Indonesia
      Tel.: 021-3227925 ext. 127
      Fax: 021-3227926
      Email: bsn@bsn.go.id
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    Email: bsn@bsn.go.id
    Website: http://www.bsn.go.id
Examples of TBT notifications

G/TBT/N/KEN/145

Kenya

Solar power systems
ICS:27.160

<table>
<thead>
<tr>
<th>WORLD TRADE</th>
<th>G/TBT/N/KEN/145</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 June 2009</td>
<td>(8-2002)</td>
</tr>
<tr>
<td>Committee on Technical Barriers to Trade</td>
<td>Original: English</td>
</tr>
<tr>
<td>Notification</td>
<td>June 2009</td>
</tr>
</tbody>
</table>

The following notification is being circulated in accordance with Article 10.6

1. Member in Agreement notifying: KENYA
   If applicable, name of local government involved (Article 3.2 and 7.2):

2. Agency responsible: KENYA BUREAU OF STANDARDS (KEBS)
   Name and address (including telephone and fax numbers, email and website addresses, if applicable) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:

3. Notified under Article 5.6.2 [X], 5.6.4 [X] 5.7.1 [ ], 5.8.2 [ ], 5.8.3 [ ] other:

4. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): Solar power systems (ICS 27.160)


6. Description of content: Specifies test methods for validating the durability, reliability and safety requirements for liquid heating collectors as specified in KS 1551-1. This standard also includes test methods for the thermal performance characteristics for liquid heating collectors.

7. Objective and rationale, including the nature of urgent problems where applicable: Consumer safety

8. Relevant documents: Publication in which the notification is published when adopted: Kenya Gazette

9. Proposed date of adoption; Proposed date of entry into force: Upon declaration as Mandatory by the Minister for Industrialization in the official Kenya Gazette

10. Final date for comments: 60 days from the circulation date

Draft text available through link

60-day comment period
Examples of TBT notifications

Kenya

Solar power systems. ICS:27.160

G/TBT/N/KEN/145/Add.1

February 2021

Final text available through link
How to strengthen transparency of regulations affecting environmental goods drawing on TBT Committee recommendations?
Using the TBT Committee to raise and address trade concerns

Out of 759 concerns, over a quarter related to measures aimed at environmental protection, e.g. energy efficiency, renewables… (40% of new concerns in 2021)
Using the TBT Committee to raise and address trade concerns

Some issues raised related to measures covering solar panels

- different treatment for national and imported
- how to assess carbon emissions of solar products
- unclear certification procedures
- high fees
- exclusion of certain solar panels from certification schemes (due to use of toxic substances in production process or in product itself)

Search more on ePing
3. Easing burden of conformity assessment procedures related to environmental goods drawing on TBT Committee work
4. Improving national quality infrastructure in developing countries so they can meet and demonstrate compliance with product specifications in export markets; facilitate imports of environmental goods
see [WTO/IRENA publication](#)

Focusing on solar photovoltaic markets, including further discussion on role of QI
WTO Publication on linkages between Trade and Climate Change focusing on TBT disciplines
5. Exchanging experiences: upcoming thematic session on climate change
Mandate from Ninth Triennial Review under regulatory cooperation

TBT Committee thematic session to share information on:

“best practices … that support the attainment of environmental goals and contribute to addressing climate change, thereby contributing to achieving the goals and principles of the United Nations Framework Convention on Climate Change (UNFCCC) and its Paris Agreement, while adhering to the disciplines of the TBT Agreement”

mark your calendars: 7 March 2023
Thank you!

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