WTO work on trade in environmental goods and services

TRAINING COURSE ON “ENVIRONMENTAL GOODS AND SERVICES NEGOTIATIONS”
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Director, Trade and Environment Division
WTO
Outline

• Main **WTO tools** available to help ensure that trade works for, and not against, environmental sustainability

• **WTO and other initiatives** to liberalize trade in environmental goods and services

• **Main technical challenges** facing trade negotiators in liberalizing trade in environmental goods, and **how they have tried to overcome those challenges**
The WTO toolbox

Goals

Rules, enforcement

Negotiations

Monitoring, policy dialogue
The Committee on Trade and Environment or CTE: A unique forum for policy dialogue

Supports WTO members in:

- Understanding the **links** between trade and the environment
- Learning from **national** experiences
- Ensuring that **trade policies work for**, not against, **environmental protection**
The CTE: A broad work programme

- MEA and WTO rules
- Environmental policies
- MEA and WTO rules
- Dispute settlement and MEAs
- Market access
- Taxes, technical regulations, labelling
- Transparency
- Intellectual property rights
- Domestically prohibited goods
- Services
- NGO arrangements
WTO negotiations on the environment

CTE – Special Session

- Relationship between WTO and Multilateral Environmental Agreements (MEAs)
- Environmental goods and services

Goals

Negotiations

Rules, enforcement

Monitoring, policy dialogue

Negotiating Group on Rules

Fisheries subsidies
CTESS negotiating mandate

Relationship between existing **WTO rules** and **specific trade obligations (STOs)** in Multilateral Environmental Agreements

**Information exchange** between MEA Secretariats and the relevant WTO committees, **observer status**

Reduction or, as appropriate, elimination of **tariff** and **non-tariff barriers** to environmental goods and services

*Source:* Doha Ministerial Declaration (2001), paragraphs 31 (i), (ii), and (iii).
With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on [...]

iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.
Discussions in the CTESS

List approaches
USA, China, Canada, EU, Japan, Korea, New Zealand, Norway, Switzerland, Chinese Taipei, USA

Alternative approaches
- India
- Argentina
- Brazil

“Group of Friends”

Compromise approaches
- Mexico, Chile
- Singapore, Australia, Hong Kong, Norway, Colombia

Core list of 27 goods

2002
2005
2007
2008
2009
2010
2011

Technical discussions and workshop

Compiled list (480 items)

153-item list by Group of Friends

Compilation of EGs submissions (409 items)
<table>
<thead>
<tr>
<th>Category</th>
<th>Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air pollution control</td>
<td>- Clean up or remediation of soil and water</td>
</tr>
<tr>
<td></td>
<td>- Management of solid and hazardous waste and recycling systems</td>
</tr>
<tr>
<td></td>
<td>- Waste management, recycling and remediation</td>
</tr>
<tr>
<td></td>
<td>- Waste water management and potable water treatment</td>
</tr>
<tr>
<td>Renewable energy</td>
<td>- Gas flaring emission reduction</td>
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<tr>
<td></td>
<td>- Efficient consumption of energy technologies</td>
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<tr>
<td></td>
<td>- Cleaner or more resource efficient technologies and products</td>
</tr>
<tr>
<td></td>
<td>- Energy efficiency</td>
</tr>
<tr>
<td></td>
<td>- Environmental monitoring, analysis and assessment equipment</td>
</tr>
<tr>
<td></td>
<td>- Heat and energy management</td>
</tr>
<tr>
<td></td>
<td>- Natural risk management</td>
</tr>
<tr>
<td></td>
<td>- Noise and vibration abatement</td>
</tr>
<tr>
<td>Environmental technologies</td>
<td>- Environmentally preferable products</td>
</tr>
<tr>
<td></td>
<td>- Natural resources protection</td>
</tr>
<tr>
<td></td>
<td>- Renewable products and energy sources</td>
</tr>
<tr>
<td></td>
<td>- Resources and pollution management</td>
</tr>
<tr>
<td></td>
<td>- Other</td>
</tr>
<tr>
<td>Carbon capture and storage</td>
<td>- Environmentally preferable products</td>
</tr>
<tr>
<td></td>
<td>- Natural resources protection</td>
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<tr>
<td></td>
<td>- Renewable products and energy sources</td>
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<td></td>
<td>- Resources and pollution management</td>
</tr>
<tr>
<td></td>
<td>- Other</td>
</tr>
</tbody>
</table>
Convergence among product lists

Saudi Arabia (259 HS6) 9 Members (169 HS6)  
Qatar (20 HS6) 55
Philippines (17 HS6) 1
Singapore (72 HS6) 45

Note: Proportions not respected

<table>
<thead>
<tr>
<th>Overlapping</th>
<th># HS-6</th>
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<tbody>
<tr>
<td>1x</td>
<td>278</td>
</tr>
<tr>
<td>2x</td>
<td>89</td>
</tr>
<tr>
<td>3x</td>
<td>35</td>
</tr>
<tr>
<td>4x</td>
<td>7</td>
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</tbody>
</table>
Identifying environmental goods

**List approaches:** United States, “Group of Friends”, Singapore, Saudi Arabia, Qatar, Philippines

**Integrated approach:** Argentina, India

**Request and offer approach:** Brazil

**Hybrid approach:** Australia; Colombia; Hong Kong, China; Norway; Singapore

**Combined approach:** Chile, Mexico
Other relevant issues: Non-tariff barriers

- **Limited work** on this issue in the CTESS
- Recognition that NTBs can be a **significant impediment** to trade
- **Types of measures** identified by Members that may act as NTBs:
  - Customs procedures
  - Standards, technical regulations, conformity assessment procedures, labelling schemes
  - Intellectual property rights, including patents
- NTBs are mentioned in several approaches
Other relevant issues

Services

– **Limited work** on this issue – in the WTO Council on Trade in Services Special Session, not the CTESS
– Recognition of the **close links** between environmental goods and services

Other issues of special interest to developing countries

– Mechanisms for the **development and transfer of environmental technologies**, technology pools, exchange of information on environmental technologies
– **Financial mechanisms** to access and develop environmental technologies in developing countries
### Current classification of environmental services in W/120 (Services Sectoral Classification List)

6. **ENVIRONMENTAL SERVICES**  

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Sewage services</td>
<td>9401</td>
</tr>
<tr>
<td>B. Refuse disposal services</td>
<td>9402</td>
</tr>
<tr>
<td>C. Sanitation and similar services</td>
<td>9403</td>
</tr>
<tr>
<td>D. Other</td>
<td>- -</td>
</tr>
</tbody>
</table>
Remaining CPC items

• Cleaning services of exhaust gases
  – CPC 9404

• Noise abatement services
  – CPC 9405

• Nature and landscape protection services
  – CPC 9406

• Other environmental services n.e.c.
  – CPC 9409
Issues with current classification

• Focus on “infrastructure” environmental services
  – Important role of public sector
  – Public good characteristics
  – Prone to monopolies

• Inadequate definition of “non-infrastructure” environmental services (e.g. air pollution prevention and mitigation, noise abatement, remediation of polluted sites)
  – Demand driven by environmental legislation has increased (e.g., remediation services)
  – Services prone to “B2B” relations
**Better understanding of increased trade opportunities in environmental services**

| Mode 1 – cross-border supply | e.g. remote monitoring and control of air pollution levels; environmental consultancy; test and analysis; ...
|-------------------------------|---------------------------------------------------------------|
| Mode 2 – consumption abroad    | e.g. solid waste are treated abroad ...
| Mode 3 – establishment of commercial presence | e.g. subsidiary provides solid waste/waste water treatment services;...
| Mode 4 – presence of natural persons | e.g. foreign technician provides natural disaster assessment services; ...

### Trade impediments in environmental services

- Monopolies and exclusive rights
- Limitations on foreign ownership, on the types of legal entity, on the number and location of subsidiaries, and on the number of foreign employees;
- Lack of regulatory transparency; weak or inconsistent enforcement of environmental regulation;
- Unnecessary delays in processing applications;
- Impediments in other areas may also affect trade in services, such as high import tariffs on necessary equipment and inadequate intellectual property protection.
**Further developments in the WTO (outside of the CTESS)**

**January 2014**
Joint Statement on Environmental Goods Agreement (EGA) in Davos:
Australia, Canada, China, Costa Rica, European Union, Hong Kong (China), Japan, Korea, Liechtenstein, New Zealand, Norway, Singapore, Switzerland, Chinese Taipei, United States

**December 2015**
ITA II – conclusion of discussions to liberalize trade in IT products beyond the original ITA of 1996 – covers some environmental goods

**September 2016**
G20 Leaders welcome “landing zone”

**Israel, Iceland and Turkey**
join negotiations

**July 2014**
EGA negotiations start

**2014**

**2015**

**2016**

**2017**

**December 2016**
EGA ministerial meeting (Geneva)

**Compiled list**
(Some 2,400 product nominations covering 650 tariff lines at HS-6 level)

**July 2016**
Chair’s “landing zone” list of EGs (304 tariff lines at HS-6 level)

**18 rounds of negotiations**

**2014**

**2015**

**2016**

**2017**
The EGA seeks to reduce the cost and accelerate the adoption of green technologies by slashing tariffs on a wide range of imported products that can assist governments, companies and individuals to protect the environment. The products covered by the EGA can be grouped in the following ten categories:
Environmental Goods Agreement

Davos Joint Statement (January 2014)

• Seeks to build on the APEC commitment of 2012 to achieve global free trade in environmental goods

• Future oriented agreement able to address other issues in the sector and respond to changes in technologies in the years to come

• Reinforce the multilateral trading system and benefit all WTO members

• Contribution to the international environmental protection agenda, including UNFCCC negotiations

• Critical mass of WTO members needed for agreement to take effect
EGA participants

18 participants representing 46 WTO members and covering the majority of trade in environmental goods
EGA: Plurilateral or multilateral?

• The EGA is a “plurilateral” negotiation in the sense that it involves a subset of WTO members.

• But like ITA II, the results of the EGA would become part of participants’ WTO commitments. As a result, all WTO members would benefit from improved access into the markets of EGA participants.
  ➢ This situation has sometimes led to concerns among participants in a “plurilateral” negotiation about the possibility of free-riding by non-participants.

• Provisions on critical mass have been used as a means to address free-riding concerns:
  ➢ For example, ITA II defines a threshold of “approximately 90% of world trade” in ITA II products for implementation to take place.
26 participants representing 54 WTO members and covering about 95% of trade in IT products
What is ITA II?

- Plurilateral agreement to liberalize trade in information technology products beyond the original ITA of 1996

- 26 Participants, representing 54 WTO Members, which account for about 95% of world trade in covered products

- Agreement will eliminate tariffs on 201 high-tech products, whose annual trade is estimated at US$1.3 trillion or about 10% of world merchandise trade

ITA II covers several goods with environmental applications
Some environmental goods covered by ITA II

**Renewable energy & energy efficiency**
- Machines to manufacture PV cells and modules
- Static converters
- Energy usage data transmitters
- Motion sensor switches
- Mirrors (for solar concentrated power)
- Smart meters

**Environmental monitoring & analysis**
- Global navigation satellite system apparatus
- Electron microscopes
- Soil moisture sensors and nutrient meters
- Sound level meters
- Dissolved oxygen meters
- Balancing equipment

**Air pollution control**
- Engine and chassis dynamometers
- Air pollution emissions monitoring systems
- Gas leak detectors
- Mass spectrometers
- Regulating and control apparatus
In 2012, APEC leaders agree to reduce, on a voluntary basis, applied tariff rates on a list of 54 environmental goods to 5% or less by the end of 2015, taking into account the economic circumstances of individual APEC economies.
APEC trade in environmental goods

APEC exports and imports of EGs (left-hand scale)

Share of APEC trade in world trade in EGs (right-hand scale)

Source: WTO Secretariat
Implementation of the APEC commitment

Simple average applied tariff before cuts

Simple average applied tariff after cuts
Main negotiating challenges of a technical nature

- Product coverage
- Modalities for tariff reduction
- Technical description issues
- Technological change
- Political balance
**Product coverage: Challenges for identifying green goods**

- **No agreed definition of “environmental good”**
  - Does *past work* (OECD, SEEA) may serve as basis?
  - Lack of definition may provide *flexibility* in trade negotiations
  - Importance of close collaboration with the *scientific and technology communities*

- **Many green goods are “dual” or multiple use**
  - Goods differ in terms of the extent to which they are used exclusively for an *environmental purpose*

- **Environmentally preferable products (EPPs)**
  - Ideally, *life-cycle analysis* should be used to identify EPPs; in practice, EPPs are defined by their superior environmental performance during use

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Both *multiple use* and *EPPs* may pose challenges for ensuring an agreement’s *customs implementability* and *environmental credibility*
Product coverage: Identifying green goods

- Dual or multiple use goods
  Example: centrifugal pump

- Environmentally preferable products
  - Production
  - Consumption/use
  - Disposal

Environmental benefits arise during

- Wastewater applications
- Other industrial applications (oil, chemicals)
Product coverage: Broad or narrow?

Environmental considerations

Commercial considerations
(concerns about import competition)
Product coverage: Think value chain!

A wind turbine can consist of up to 8,000 parts

50% of those components in some markets are sourced from foreign suppliers

Source: US Department of Energy
Modalities for tariff reduction

Tariff elimination

No or limited “staging”

Environmental considerations

Commercial considerations (concerns about import competition)

Special and differential (S&D) treatment?
A "bound" tariff is a tariff in respect of which there is a legal commitment not to raise it beyond a certain level.

A binding is a “ceiling”, not a “floor”.

Binding commitments promote the security and predictability of the trade regime.
Technical description issues

• Tariff liberalisation negotiations normally result in a list of covered Harmonised System (or HS) codes.

• BUT HS descriptions are not always sufficiently specific to match the specificity of environmental goods.

• Negotiators often resort to “ex-outs” to define a subset of products to be covered under a 6-digit HS subheading.

• BUT negotiating ex-outs can be a lengthy and difficult process.
  ➢ Close collaboration between trade negotiators and customs officials is critically important to ensure that ex-out descriptions are precise enough to allow customs officers to identify products.
## Technical description issues

### Examples of ex-out descriptions from APEC

<table>
<thead>
<tr>
<th>HS 2012</th>
<th>HS Description</th>
<th>Ex-out</th>
<th>Environmental benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>8419.19</td>
<td>- Instantaneous or storage water heaters, non-electric: Other</td>
<td>Solar water heaters</td>
<td>Solar water heaters use the sun's heat to provide hot water for a home or building</td>
</tr>
<tr>
<td>8419.39</td>
<td>- Dryers: other</td>
<td>Sludge dryers</td>
<td>Reduce sludge volume in wastewater treatment facilities and help in transforming sludge into easily disposable or recyclable matter</td>
</tr>
<tr>
<td>8502.31</td>
<td>- Other generating sets: wind-powered</td>
<td>-</td>
<td>Wind turbines convert the kinetic energy of wind into mechanical energy</td>
</tr>
</tbody>
</table>
• Environmental goods are subject to rapid technological change.

• Should an agreement on environmental goods be a one-off exercise, or should it include a mechanism to review product coverage as technologies and environmental requirements change (“living list”)?

• The ITA and the “Pharmaceutical Understanding” established review mechanisms for considering new products coming to market as a result of technological breakthroughs.
The political challenge: Finding the appropriate balance

Getting the balance right at both the national and global levels calls for close collaboration between trade negotiators and businesses, scientists, technology experts, customs officials, environmental NGOs, and the public at large.
Thank you

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