Introduction to the WTO Non-tariff Measures and the SPS & TBT Agreements

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World Trade Organization
1. General Introduction to the WTO

2. Non-Tariff Measures and the WTO

3. Introduction to the SPS & TBT Agreements
   - Why the SPS & TBT Agreements?
   - What are their objectives? What do they cover?
What is it all about?
Multilateral trading system

1948–94: GATT
General Agreement on Tariffs and Trade

1995–now: WTO
Goods
+ Services
+ Intellectual property

Members are governments → now 161
‘member-driven’ → about trade policies
‘Multilateral’ trading system

Result:

• Freer-flowing trade
  lower trade barriers

• Less trade friction between governments
  agreed rules

• Growth, access to goods + services, welfare

• Economic stability
Objectives:

Freer-flowing trade
lower trade barriers

Less trade friction between governments
agreed rules, ‘rules-based’
Multilateral trading system

The means:

• Negotiations ...

... resulting in agreements: principles and commitments

• Implementation, monitoring (‘regular’ work): agreements and protectionism in general

• Dispute settlement: rulings and legal interpretations (of agreements)
Negotiations

Starting point of all WTO work

Agreement only by *consensus*

Everyone has to be persuaded
No one forced by a majority

Everything else *follows from negotiations* ...
Negotiating Trade Rounds

Rounds: 1947 (Geneva) ...

1948 - General Agreement on Tariffs and Trade
(Multilateral Agreement on Trade in Goods)
# Negotiating Trade Rounds

<table>
<thead>
<tr>
<th>Year</th>
<th>Place / name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1947</td>
<td>Geneva</td>
</tr>
<tr>
<td>1949</td>
<td>Annecy</td>
</tr>
<tr>
<td>1951</td>
<td>Torquay</td>
</tr>
<tr>
<td>1956</td>
<td>Geneva</td>
</tr>
<tr>
<td>1960-1961</td>
<td>Geneva (Dillon Round)</td>
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<tr>
<td>1964-1967</td>
<td>Geneva (Kennedy Round)</td>
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<td>1973-1979</td>
<td>Geneva (Tokyo Round)</td>
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<tr>
<td><strong>1986-1994</strong></td>
<td><strong>Geneva (Uruguay Round)</strong></td>
</tr>
<tr>
<td>2001 -</td>
<td>Geneva (DDA)</td>
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Source: WTO
30 negotiated agreements

- Status of international treaties
- WTO Members must modify their commercial policies to conform with their WTO obligations.
- When Members disagree, WTO rules have priority.
WTO Basic Principles

1. No discrimination
   - Most favoured nation principle (MFN): treating other countries equally
   - National treatment principle: treating foreign & domestic producers equally

2. Predictability
   - Respect of tariff “bindings” (goods and services)
   - Transparency (notification, TPR)

3. Freer trade (suppression of barriers through negotiations)
   - Tariff reductions
   - Prohibition of using quantitative restrictions (quotas)
‘Member-driven’

Ministerial Conference
Topmost, political. ... At least once every 2 years

General Council
In charge between ministerials
Meets in Gene

Councils and committees
Cover all WTO agreements and related issues
... include all members ... decisions by consensus
All WTO members may participate in all councils, committees, etc, except Appellate Body, Dispute Settlement panels, and plurilateral committees.
Dispute Settlement

The WTO is not a policeman

Disputes: handled by members in...
...Dispute Settlement Body

Cases are brought by governments ...
...based on ‘broken promises’
i.e. agreements or commitments violated

Aim: consult, settle ‘out of court’
Dispute starts with ‘request for consultations’
Negotiations

IN THE END:

Trade agreements do not create trade
They create trade opportunities
The WTO Fact File

- Location: Geneva, Switzerland
- Established: 1 January 1995
- Membership: 161
- Budget: 197m Swiss francs for 2014
- Secretariat staff: ~640
- Director-General: Roberto Azevêdo
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Overall, import weighted tariff on industrial products ≈ 40%
Non-tariff measures

- Technical barriers to trade
- Sanitary and phytosanitary measures
- Trade-related intellectual property rights
- Subsidies
- Quantitative restrictions
- Government purchase
- Trade in services
There is a problem with transparency
NTMs more opaque than tariffs
• difficult to quantify
• difficult to negotiate (no numbers and formulas)
• less predictable

The effects on trade are complex ...

... difficult to assess impact(s), and
difficult to compare across countries
Even NTMs solely motivated by public policy objectives can cause trade problems (even when not intentional!).

differences between countries in social preferences, level of development and governance, can lead to divergences between regulations

Different costs for different Members may affect or divert trade

Approaches to precaution can be difficult to reconcile

e.g. what is “fresh” poultry?
Characteristics of NTMs

TBT and SPS measures often perceived as major impediment to exporters, particularly for developing countries...

... measures often associated with burdensome (not always transparent) procedures to demonstrate conformity (e.g., certification, inspection) that rely on an established technical (quality) infrastructure (metrology, laboratories, accreditation bodies)
WTO disciplines on NTMs are essentially about resisting protectionist pressures

- legally binding treaty obligations
- international disciplines that cannot be broken or only at a high cost
  (formal dispute settlement, retaliation)

Important in times of crisis!
But you cannot always eliminate NTMs (Ø-tariff equivalent)! ...

You cannot bring a measure aimed at achieving a legitimate public policy objective with an effect on trade to Ø.
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SPS & TBT Agreements

Agreement on Technical Barriers to Trade
• 1979
• 1995

Agreement on the Application of Sanitary and Phytosanitary Measures
• 1995
It applies to all:

- technical regulations (mandatory)
- standards (voluntary)
- conformity assessment procedures

But: its provisions do **not** apply to SPS measures *(TBT Article 1.5)*
Why an Agreement on SPS?

World food and agriculture trade:

• In 2014, **US$ 1746 billion** of agricultural products traded

• **9.5%** total goods traded (2014)

But, on the other hand...
Uruguay Round: Negotiations on Agriculture

- Objectives to eliminate quantitative import restrictions
- Eliminate other non-tariff barriers (variable levies)
- Reduce tariffs
- Reduce domestic production subsidies
- Reduce export subsidies
- Establish sanitary and phytosanitary rules
Objectives of the SPS and TBT Agreements

Pursuit of trade liberalization to...
- avoid unnecessary barriers to international trade

Recognizing Members’ right to...
- fulfill legitimate objectives
- protect human, animal, plant life or health at levels they consider appropriate
So how to determine whether a measure falls under the:

- **SPS Agreement**
- **TBT Agreement**
- any other WTO Agreement?
### SPS Measures - Definition

**SPS Annex A**

**A measure taken to protect:**

<table>
<thead>
<tr>
<th>Category</th>
<th>Protection Against</th>
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<tbody>
<tr>
<td>Human or animal health</td>
<td>risks arising from additives, contaminants, toxins or disease organisms in food, drink, feedstuff</td>
</tr>
<tr>
<td>Human life</td>
<td>plant- or animal-carried diseases</td>
</tr>
<tr>
<td>Animal or plant life</td>
<td>pests, diseases, disease-causing organisms</td>
</tr>
<tr>
<td>Territory of Member</td>
<td>other damage caused by entry, establishment or spread of pests</td>
</tr>
</tbody>
</table>
human or animal health from food-borne risks
human health from animal- or plant-carried diseases
animals and plants from pests or diseases
examples:
  o pesticide residues
  o food additives

human disease control (unless it’s food safety)
nutritional claims
food packaging and quality
examples:
  o labelling (unless related to food safety)
  o pesticide handling
  o seat belts
THANK YOU!

Questions?

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SPS Gateway
http://www.wto.org/sps

TBT Gateway
http://www.wto.org/tbt