WORLD TRADE ORGANIZATION

G/TBT/GEN/352

12 April 2023

(23-2611)

Committee on Technical Barriers to Trade

THEMATIC SESSION ON REGULATORY COOPERATION BETWEEN MEMBERS ON CLIMATE CHANGE

7 MARCH 2023, 15:00-18:00

Moderator's Report[1]

At the Ninth Triennial Review, Members agreed to continue to hold thematic sessions in conjunction with the TBT Committee's regular meetings from 2022 to 2024 to further deepen the exchange of experiences on specific topics. On this basis, the Committee agreed to hold a thematic session on regulatory cooperation between Members on climate change.[2] The first part of the session focused on international cooperation and the role of the TBT Committee. The second part focused on experience sharing and good practices. Information about the speakers, presentations, and related materials is available on the WTO website.[3]

1 INTRODUCTORY REMARKS BY THE MODERATOR

1.1. Climate change is an area of heightened international activity, with new ideas permeating through policymaking around the world. The UNFCCC commitments are taking concrete shape and will translate to policy and legislative changes in many spheres in the times to come.

1.2. From the WTO relevance standpoint, two data points are worth highlighting. First, 92 Members submitted at least 2322 climate change-related notifications to the TBT Committee since 1995. The notified measures mostly dealt with energy efficiency labelling for manufactured goods and the promotion of clean energy and emission standards for vehicles. Second, WTO Members made reference to climate change-related issues and notifications in 88 Specific Trade Concerns (STCs) between 1995 and 2022. The vast majority of these STCs were linked to energy efficiency labelling as well as energy efficiency and GHG emission standards.

2 INTERNATIONAL COOPERATION AND THE ROLE OF THE TBT COMMITTEE

2.1 Guiding questions

- What role should the TBT Committee play in enhancing international cooperation to promote effective and trade facilitating regulations and standards related to trade and climate change?
- How can international cooperation within the TBT Committee contribute to the adoption of technical regulations related to trade and climate change that support Members' commitments under multilateral environment agreements?

2.2 Interventions

2.1. **Ms Göksu Tülümen** (Türkiye)[4] presented the work of the Trade and Environmental Sustainability Structured Discussions (TESSD) in the area of trade-related climate measures. In this area, Members explore how trade-related climate measures can best contribute to climate goals in

[1] Mr Aashish Chandorkar (India). This Report is provided on the Moderator's own responsibility.
[2] G/TBT/46.
[3] WTO | Thematic session on regulatory cooperation between members (Climate Change).
[4] Commercial Counsellor, Permanent Mission of Türkiye to the WTO; co-facilitator of the Working Group on Trade-related Climate Measures of the Trade and Environmental Sustainability Structured Discussions.

a WTO-consistent manner. It was noted, in scope of the discussions that took place in 2022,[5] that the proliferation of different standards, labelling and recognition requirements could increase the cost for companies, particularly Micro, Small and Medium Enterprises (MSMEs). In this context, Members participating in TESSD have highlighted the importance of the TBT Committee and the TBT Committee's Six Principles for the Development of International Standards, Guides and Recommendations. At the same time, she noted that TESSD participants have recognized that Members should formulate domestic standards in light of their national circumstances and actively promote mutual recognition of carbon accounting standards.

2.2. Ms Tülümen added that TESSD participants acknowledge the resource and expertise constraints of developing countries and the challenges that MSMEs might face in quantifying their carbon emissions and meeting an increasing number of different regulatory requirements in export markets. Against this background, Members participating in TESSD decided to further explore, from a sectoral perspective, different forms of carbon measurement standards and measures taken to reduce carbon emissions.

2.3. **Mr Louis Mercier** (United Kingdom)[6] presented research undertaken by the United Kingdom assessing the impact of TBT measures on trade in environmental goods and services. While technical regulations play a vital role in pursuing environmental goals, they can also create trade barriers if they are not designed and implemented with reference to international standards and WTO rules. He highlighted that trade and climate policymakers, regulators and standard-setting bodies could work together to develop mutually beneficial solutions for more sustainable trade.

2.4. Mr Mercier explained that the UK research demonstrated that there are multiple incidences of regulatory duplications and divergence, and even similar technical requirements seeking to meet the same objectives but implemented differently across jurisdictions can negatively impact trade in environmental goods. For example, producers and exporters of static converters, a key component in photovoltaic energy systems, are subject to over 30 different requirements on product quality and performance, certification and labelling. In addition, he noted that such fragmentation of technical requirements may divert trade away from developing economies. In turn, collaboration between economies could make it easier for exporters to meet complex requirements and foster new trading links, particularly with developing countries. In this context, he underscored the United Kingdom's readiness to explore how the impact of TBTs on developing economies can be reduced, including through greater technical assistance and capacity building. He invited Members to explore how to reduce the impact of TBTs through increased regulatory cooperation, standard-setting and harmonization of technical requirements.

2.5. **Mr Alistair Mackinnon** (IEC)[7] presented the work of the IEC system in the area of renewable energy applications (IECRE) focusing on international standards development and conformity assessment. He noted that IEC develops standards and conducts conformity assessment in this area. Standards work is led by the Standardization Management Board and conformity assessment work is led by the Conformity Assessment Board. Due to neutrality principle there is a clear separation of work between the work related to standards-setting and the work on conformity assessment. He also noted that IEC counts with a number of technical committees working on renewable energy applications with a large technical diversity. For example, the technical committee responsible for wind energy generation systems (TC88) works on matters covering design, testing, plant design and plant operations. The IEC system on renewable energy applications is a member-driven organization based on consensus, which is open to technologies from across the world and large and small companies. He underscored that there is a significant market opportunity in scaling up the use of renewable energy by leveraging the work of IECRE and a global supply chain that allows countries to participate at every stage of the product cycle.

2.6. **Mr Li Pengcheng** (China)[8] described China's experience with implementing energy efficiency standards and labelling schemes. He noted that energy efficiency standards and labelling are key pillars of climate change policies in many countries as more than 100 countries use mandatory minimum energy efficiency performance standards and/or energy labels for the most common appliances. China's framework of energy efficiency standards comprises: (i) minimum energy

[5] TESSD Summary Report 2022, INF/TE/SSD/R/14.
[6] Head of Multilateral Green Trade Policy, Department of Business and Trade.
[7] Chair, International Electrotechnical Commission – Renewable Energy (IECRE).
[8] Research Fellow, China National Institute of Standardization.

performance requirements that phase out inefficient products; (ii) energy efficiency grades that support mandatory energy labelling programme; and (iii) energy efficiency evaluating index that is used in voluntary certification schemes.

2.7. Mr Li Pengcheng identified the following key elements that contribute to success of such measures: (i) commitment of leadership; (ii) strong legal obligations; (iii) comprehensive implementation framework; and (iv) alignment with international standards. He also stressed the importance of enhancing policy alignment; building capacity for the development and implementation of such measures; and collaborating with relevant international organizations.

3 EXPERIENCE SHARING AND GOOD PRACTICES

3.1 Guiding questions

- What are the key challenges Members face when adopting and implementing technical regulations in the area of trade and climate change?
- How can developing countries be supported further in order to increase their participation in the development of, and conformance to, international standards related to trade and climate change?
- How can government bodies help the private sector, including producers and innovators, build their capacity to understand trade and climate change standards?

3.2 Interventions

3.1. **Mr Michele Galatola** (European Union)[9] presented the European Union's new Digital Product Passport (DPP), a policy tool introduced by the Ecodesign for Sustainable Products Regulation (ESPR) that was adopted by the European Commission in March 2022. The DPP seeks to increase the sustainability and circularity of products placed on the EU market, while also strengthening the enforcement of existing legislation and assisting European customs and market surveillance authorities. Under the ESPR, products placed on the EU market will have to comply with: (i) certain performance requirements, such as technical requirements and thresholds; and (ii) information requirements on the specific environment or technical characteristics. While discussions are still ongoing on the specific products that will be covered by this new regulation, the DPP may apply equally to different product groups, as different areas of concern and technical requirements may be assessed for each product group. Accordingly, the DPP might set product requirements in areas such as durability and reparability; the presence of substances of concern; energy efficiency; resource efficiency; recyclability, expected waste generation or environmental impacts including carbon footprint.

3.2. Mr Galatola emphasised that the aim of the DPP would be to include all product information relevant to supply chain actors and other stakeholders including legislators and consumers. The DPP will have several layers of information disclosure, granting access to different sets of information to different stakeholders. Regarding the logistical aspects of data collection and storage, he noted that, while all DPPs would work using the same IT infrastructure, the system would not be using a centralized database to store data.

3.3. **Mr Junwen Guan** (China)[10] spoke about China's Green Product Certification and Labelling System, which was adopted in November 2016 with a view to establishing a unified standard, certification and labelling system for green products. Based on the whole life cycle concept, China's system examines in each stage of the product life cycle a number of aspects, such as low resource and energy consumption, low pollutant emissions, low toxicity and low harm, easy recycling and reuse, health and safety, and high quality. In designing this system, China considered the green/eco-related compliance assessment systems of a number of countries, regions and organizations, such as "Blue Angel" of Germany, the Eco-label of European Union, and the Global Environmental Labelling Network (GEN). At present, the green products system has resulted in 90 types of products included in the scope of the green product certification, more than 20,000 unified green product certificates issued and more than 2,000 certified enterprises. He noted that, in terms

[9] Senior Policy Officer, DG GROW, Unit "Green and circular economy", European Commission.
[10] Section Chief, Division of Industrial Products of the Department of Certification, State Administration for Market Regulation.

of next steps, China will focus on: (i) accelerating the construction of a unified green product certification and labelling system; (ii) promoting the acceptance of green product certification results and strengthen the supervision and regulation on green product certification activities; and (iii) promoting international cooperation and mutual recognition on green and ecological products.

3.4. **Ms Shamini Harrington**[11] and **Dr Storm Potts**[12] (South Africa) spoke about some of the regulatory challenges in relation to South Africa's efforts to meet its net-zero goals. Ms Harrington affirmed South Africa's commitment to its nationally determined contributions under the Paris Agreement but also underscored the importance of the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC) under the United Nations Framework Convention on Climate Change. Some economies, including South Africa, would have to follow different decarbonization trajectories, while still aiming for the same common goal. The international community can play an important role in the decarbonization journey of developing economies by providing financial and non-financial support. In this regard, Ms Harrington stressed the need to develop standards and regulations that will not reduce South Africa's market access opportunities. For example, South Africa could become a global leader in green hydrogen production, having both solar and wind endowments, Platinum Group Metals (needed for producing green hydrogen) and access to Fischer Tropsch facilities and Intellectual Property. However, affordability and regulatory developments in key potential export markets are a critical challenge to developing this industry. In this context, she also indicated that the Just Energy Transition Partnership (JETP) established at COP26 is helping to fund South Africa's green hydrogen efforts and that access to markets needs to be considered as a non-financial support through, for example, transitionary dispensations for low carbon products produced from developing economies.

3.5. Dr Storm Potts elaborated on some of the issues South Africa is facing in its energy transition, including lack of local incentives and certain regulatory developments in potential export markets. South Africa has expertise in a type of technology (called Fischer Tropsch (FT)), which could be used to produce sustainable aviation fuels and chemicals. The business case for the uptake of this technology requires using a "flexible allocation" method that maximizes sustainable product volumes. However, she noted that the regulatory system of the European Union, which is an important potential export market for South Africa, does not allow for this method to be used. This poses a problem for South Africa's decarbonization strategy. Dr Potts thus called for the acceptance of the use of the "flexible allocation" related to sustainable inputs. In addition, Dr Potts raised a concern around the implications for South Africa related to meeting the EU requirements for accounting and paying a carbon price for CO2 feedstock for sustainable aviation fuel production. Unlike EU requirements, South African GHG reporting, and carbon tax systems only cater for emissions that are actually emitted. This difference in requirements create GHG accounting complexities that could be a barrier to South Africa's participation in the EU market, with potential implications for achieving NDC commitments.[13]

3.6. **Ms Alexa Burr** (United States)[14] presented the work of the American Petroleum Institute (API) in developing standards related to low-carbon technologies and addressing climate change for natural gas and oil industry. She noted that API helps to drive climate action through development of standards that can be used to build necessary infrastructure to deliver lower-carbon energy products. API currently focuses its low-carbon research and standards development on areas such as hydrogen technologies, methane and flaring, refining energy efficiency, new energy vehicles and differentiated natural gas. In addition, API established the Climate Action Framework to explore which policies ensure energy delivery and emissions reductions.

3.7. In addition, Ms Burr noted that international participation in the standards development process is essential to reduce unnecessary duplication and divergences. In this context, she noted that API coordinates its work with many national standard-setting bodies in the new low-carbon technology areas. She also highlighted that increased international standardization and trade will help to deliver new energy products to markets quicker and reduce emissions from existing operations.

[11] Chair, Environment Committee, Business Unity South Africa (BUSA).

[12] Climate Policy Expert, BUSA.

[13] The Moderator notes that, during the regular meeting of the Committee that followed this thematic session, the European Union made a statement addressing the presentation by South Africa's speakers.

[14] Vice President, Standards & Segment Services Global Industry Services, American Petroleum Institute.

3.8. **Ms Kala Pendakur** (Canada)[15] spoke about the experience of the Standards Council of Canada (SCC) in advancing climate action through standards. The SCC has a number of important activities in this area, including coordinating standardization activities in Canada, accrediting standards development organizations and conformity assessment bodies, approving national standards, advising federal and provincial governments, supporting strategic priorities of industry and governments, and representing Canada in international and regional forums. She underscored the importance of supporting MSMEs through standardization. This allows MSMEs, including clean technology innovators, to create new markets, drive innovation and improve productivity, and influence marketplace rules. She underscored that government support from MSMEs to understand and navigate through the standardization system is increasingly being sought. An expansion, and market uptake, of cleantech activity will contribute to clean growth and the transition to a low-carbon economy. By way of example, she noted that the SCC assisted an innovator in updating a national standard with the addition of a new annex to allow for their process that sequesters carbon dioxide into concrete as it is mixed.

3.9. Ms Pendakur also noted that the SCC is partnered with BSI in the context of the Our 2050 World Initiative to contribute to the development of the ISO Net-Zero Guiding Principles aiming to provide a common reference for collective efforts to harmonize, understand, and plan efforts to achieve net-zero emissions by state, regional, city and organizational actors. She ended her presentation by noting that common and aligned regulatory approaches are important, including through the use of relevant international standards. In order to break down trade barriers in this area, the SCC also supports international cooperation to enhance transparency in standards and mutual recognition of conformity assessment.

4 COMMENT BY THE MODERATOR

4.1. The thematic session on regulatory cooperation between Members on climate change had nine speakers. The Secretariat put great effort in coordination and design of the session and it was a pleasure working with the team handling this thematic session. I would like to thank all speakers and the organizing individuals of the Secretariat for their stellar contribution and commitment.

4.2. I would also like to congratulate Mr David Jankowski who moderated the first thematic session on regulatory cooperation on plastic regulation. His job of working with fourteen speakers was tougher than my own and I commend him for his contribution.

4.3. I would like to share with you a number of key takeaway points from the thematic session:

- Regulatory measures are increasingly used in Members' efforts to tackle climate change. Such measures, however, can create trade barriers if not designed and implemented with reference to international standards and WTO rules. Most speakers underscored the need for the government and the private sector to work in a more coordinated fashion.

- In particular, regulatory divergence and fragmentation can discourage efforts to move towards net-zero economy. We heard an example that wind turbine components are subject to more than 400 different regulatory requirements around the world. In practice, this means that exporters will need to navigate through all these different regulations to ensure that they can export to all importing countries.

- It was encouraging to hear about the initiatives from United Kingdom to bring the international environment law and international trade closer. If trade has to play an active role in supporting the larger environmental goals, achieving such cohesion will be critical.

- It is important to maintain global regulatory cooperation and increase harmonization of technical requirements based on international standards. This can help to reduce duplication and divergences in regulatory measures and eventually promote more trade in products and technologies needed to address climate change. In this regard, speakers

[15] Manager, Infrastructure and Climate Change, Programs and Operations, Strategy and Stakeholder Engagement, Standards Council of Canada.

highlighted the important role of the TBT Committee and the TBT Committee's Six Principles for the Development of International Standards, Guides and Recommendations.

- In this context, it was also useful to hear about the important work of the International Electrotechnical Commission and the American Petroleum Institute in developing standards that underpin the development and dissemination of renewable energy products and new low-carbon technologies that can help to drive climate action.

- We also discussed that it is crucial to ensure the effective participation of developing countries in international standard-setting process in order to develop standards that reflect the wide variety of needs and conditions in Members across the world. In this context, the importance of providing additional support to developing countries was underscored.

- We also learned about the work undertaken in the context of the TESSD in the area of trade-related climate measures. In particular, TESSD is currently exploring challenges that MSMEs and developing countries are facing in quantifying their carbon emissions and meeting an increasing number of different standards and labelling schemes in export markets.

- Members also shared their experiences in designing, adopting and implementing regulatory measures and standards in the area of trade and climate change:

    - The European Union presented its work on the development of a Digital Product Passport that is aimed at increasing the sustainability and circularity of products placed on the EU market.

    - China presented its Green Products Labelling System that is aimed at fulfilling its international emissions reduction goals and enhancing its participation in global governance system.

- We also discussed how energy efficiency standards and labels are the key pillars in the climate change policies of many Members. In this context, it was similarly noted that policy alignment based on international standards and capacity building are essential for ensuring effectiveness of such measures.

- The speakers from South Africa explained its challenges in implementing certain technical regulations related to hydrogen. They also highlighted the challenges of complying with instruments like border carbon adjustments for their business sector, despite being committed to the transition to a low-carbon economy.

4.4. Before I end, I would like to offer one suggestion. The Committee may consider appointing the moderators for the next set of thematic sessions in the previous session of the Committee. This will give the moderators almost three months to prepare for the upcoming session. This may help with even better planning and event organization.

4.5. I found the discussions to be very rich, and I would like to express my appreciation for the insightful contributions from our speakers. They left us with a lot to reflect on for further work in the Committee to regulatory cooperation on climate change.