

**“USING THE HS IN TRADE
NEGOTIATIONS– LESSONS FROM
ATTEMPTS TO LIBERALIZE
ENVIRONMENTAL GOODS”**

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Panel One: “Is the HS still fit for purpose?”

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WHAT IS AN ENVIRONMENTAL GOOD?

- In 1996, the OECD/Eurostat Informal Working Group agreed on an interim definition of, and classification system for, the environment industry:
 - “The environmental goods and services industry consists of activities which produce goods and services to **measure, prevent, limit, minimise or correct environmental damage to water, air and soil, as well as problems related to waste, noise and eco-systems.** This includes cleaner technologies, products and services that reduce environmental risk and minimise pollution and resource use.”
- The Working Group went on to add, “For cleaner technologies, products and services, despite their importance, there is currently no agreed methodology which allows their contribution to be measured in a satisfactory way.” What they had in mind were products that were identical except for their life-cycle environmental impact, or performance in use.
- Hence class A+ energy-efficient refrigerators have not been separately identified to distinguish them from less energy-efficient refrigerators for the purposes of trade negotiations.
- However, intrinsically low-polluting technologies, such as solar photovoltaic cells, have been separately identified.

CATEGORIES OF ENVIRONMENTAL GOODS (FOR THE EGA)

1. Air-pollution control
2. Solid and hazardous waste management
3. Water management and water treatment
4. Environmental remediation and clean-up
5. Noise and vibration abatement
6. Cleaner and renewable energy
7. Energy efficiency
8. Environmental monitoring, analysis and assessment
9. Resource efficiency
10. Environmentally preferable products.

WHICH OF THESE ARE ENVIRONMENTAL GOODS?

Cardigans, etc. (HS 61.10)



Image source: Dirck Halstead / Time & Life Pictures / Getty Images

Bicycles (HS 87.12)



Combined technologies



Image source: www.morethangreen.es/en/liam-f1-small-wind-turbine-for-urban-environments/

A BRIEF HISTORY OF INTEREST IN ENVIRONMENTAL GOODS (EG) TRADE



**Asia-Pacific
Economic Cooperation**



THE OECD AND APEC INITIATIVES

- During the 1990s, coincident with growing efforts to monitor the environment and reduce pollution, OECD and APEC countries sought to define the kinds of goods and services being used for these purposes, and to monitor their consumption, production and trade.
- The OECD and Eurostat developed an indicative list of environmental goods (EGs), so as to facilitate collection of trade statistics and to monitor changes in tariff levels.
- About the same time, the Asia-Pacific Economic Forum (APEC) decided to include environmental goods as one of 12 sectors slated for an *early voluntary sectoral liberalization* (EVSL) initiative.
- The APEC initiative involved interested countries identifying goods by their HS (1992) sub-heading, in many cases limiting their coverage by specifying particular goods or technologies at the 8- or 10-digit level – i.e., as “ex outs”.
- Although a composite list of EGs was developed, the list failed to get approved by all APEC members, and the idea of EVSL was shifted to the World Trade Organization.

MULTILATERAL NEGOTIATIONS AT THE

WORLD TRADE
ORGANIZATION



- In November 2001, at their meeting in Doha, Qatar, WTO trade ministers adopted the so-called “Doha Development Agenda”, Paragraph 31 (iii) of which called for negotiations on “the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services”.
- The negotiations on EGs began in earnest in 2002, led by OECD-member countries plus a few other interested WTO members such as Qatar and Chinese Taipei.
- The negotiating approach followed that of the previous APEC initiative, with each member submitting a modest list (normally, a few tens of goods), identified by its associated HS (2002) sub-heading. Again, most of the goods proposed were not separately identifiable at the 6-digit level. One of the few major exceptions was wind turbines.
- Only a couple of handfuls of WTO members nominated lists of candidate goods, and in 2005 the WTO Secretariat compiled them into a composite list that covered over 400 HS sub-headings. Following the Hong Kong, China Ministerial meeting in December that year, however, it was clear that the Doha Round was in trouble and not likely to be concluded soon.
- Eventually the multilateral negotiations fizzled out, and the Doha Round is effectively dead.

PLURILATERAL NEGOTIATIONS AT THE WTO

- Meanwhile, the dream of EG tariff liberalization in APEC never disappeared. In 2011, APEC leaders agreed to reduce **applied** most-favoured-nation (MFN) tariff rates to 5% or less by the end of 2015, and in 2012 they endorsed a list of EGs contained within 54 HS sub-headings – all but one in either chapters 84 or 85.
- Keen to keep up the momentum on EGs, thirteen WTO members (Australia; Canada; the People's Republic of China; Costa Rica, the EU and its 28 member states; Hong Kong, China; Japan; Korea; New Zealand; Norway; Singapore; Switzerland; Chinese Taipei; and the United States) announced in July 2014 that they were to commence a new set of plurilateral negotiations with the aim of forging an Environmental Goods Agreement (EGA). The initial 14 were later joined by Costa Rica, Iceland, Israel, Lichtenstein, and Turkey.
- The aim of the EGA was to reduce, ideally to zero, *bound* tariffs on ambitious set of environmental goods nominated by the participants and based on the HS 2012. The new tariff concessions would be applied on an MFN basis.
- After 18 negotiating rounds, yielding over 600 products before the list was scaled back, Ministers of the 18 economies tried but failed to conclude the EGA negotiations by the end of 2016.

ISSUES TIED TO THE HS

MANY ENVIRONMENTAL GOODS HAVE OTHER USES

Many, many products have important environmental uses, but not uniquely:

- **Mineral products** – e.g., limestone (25.21), lime (25.22)
- **Inorganic chemicals (Chapter 28), organic chemicals (Chapter 29)**
- **Plastics and articles thereof (Chapter 39)**
- **Ceramic products (Chapter 69); glass and glassware (Chapter 70)**
- **Base metals and articles of base metal (Chapters 73, 74, 75, 76, 83)**

Many other goods are contained in later chapters, but only a few do not have other uses:

- **Boilers, machinery and mechanical appliances; parts thereof (Chapter 84)**
- **Electrical machinery and equipment and parts thereof (Chapter 85)**
- **Optical, ... measuring, checking, precision ... instruments and apparatus; parts and accessories thereof (Chapter 90)**

HS Chapter	APEC (1999)	OECD (2001)	Friends' List (2007)	APEC (2012)
22 – Waters; Spirits	–	2	–	–
23 – Food industry wastes and residues	1	–	Examples of the coverage of four of the best-known EGs lists	
25 – Salt, earth and stone, lime	–	2		
28 – Inorganic chemicals	–	21		
29 – Organic chemicals	–	1		
32 – Paints and varnishes	–	2	–	–
38 – Miscellaneous chemical products	–	2	–	–
39 – Plastics and articles thereof	2	4	1	–
44 – Articles of wood; wood charcoal	–	–	–	1
45 – Cork and articles of cork	–	–	1	–
46 – Manufactures of straw	1	–	–	–
53 – Other vegetable textile fibres	–	–	3	–
56 – Wadding, felt, etc.	1	–	5	–
59 – Treated textile fabrics, etc.	1	–	–	–
63 – Other made-up textile articles; rags; etc.	–	–	1	–
69 – Ceramic products	7	–	1	–
70 – Glass and glassware	3	2	1	–
73 – Articles of iron or steel	–	5	22	–
76 – Aluminium and articles thereof	–	–	2	–
84 – Boilers, machinery, etc.	40	41	64	23
85 – Electrical machinery, etc.	8	8	21	11
87 – Vehicles other than rail and tram rolling stock	–	1	–	–
89 – Ships, boats, etc.	2	–	1	–
90 – Optical instruments, etc.	42	24	40	19
95 – Toys, games, and sports requisites	–	–	1	–
96 – Miscellaneous manufactured articles	–	3	–	–

FEW EGs ARE SPECIFICALLY IDENTIFIED IN THE HS ...

Very few products with unique or predominantly environmental uses are separately identified in the HS. Most of these relate to heat or sound insulation, electric power generation, or monitoring:

➤ **Heat- or sound-insulating or sound-absorbing materials:**

- Blocks, plates, etc. of agglomerated cork (4504.10); slag wool, rock wool and similar mineral wools (6806.10); multiple-walled insulating units of glass (7008.00); webs, mats, mattresses, boards, etc. of fiberglass (7019.31-39)

➤ **Technologies for generating electricity from renewable-energy sources:**

- Hydraulic turbines and water wheels (8410.11-90); wind-powered generating sets (8502.31)

➤ **Water or wastewater treatment:**

- Machinery and apparatus for filtering or purifying water (8421.21)

➤ **Monitoring equipment:**

- Gas or smoke analysis apparatus (9027.10); Instruments and apparatus for measuring or detecting ionizing radiations (9030.10); thermostats (9032.10)

... BUT COULD BE SPECIFIED

Example from Canada's *Departmental Consolidation of the Customs Tariff 2019*:

- 8421.39 -- Filtering or purifying machinery and apparatus for gases
 - 8421.39.90 - - - Other
 - 10 - - - - - Dust extractors or smoke filters
 - 30 - - - - - Electrostatic filters (precipitators)
 - 40 - - - - - Industrial gas cleaning equipment
 - 50 - - - - - Gas separation equipment
 - 90 - - - - - Other

SPECIFICITY IS A BIT BETTER FOR ENVIRONMENTALLY PREFERABLE PRODUCTS

➤ *Air conditioning:*

- Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W (8414.51)

➤ *Lighting:*

- Fluorescent lamps (8539.31); light-emitting diode (LED) lamps (8539.50)

➤ *Transport:*

- Electric locomotives (86.01; 8603.01); all-electric and hybrid vehicles (8702.20-40; 8703.40-80; 8709.11; 8711.60); bicycles (87.12), and lighting and visual signalling equipment for bicycles (8512.10); sailboats (8903.91)

➤ *Natural fertilisers (31.01); products of bamboo (e.g., 4412.10; 4418.73; 9401.52; 9403.82); woven or knotted fabrics of jute, etc. (53.10; 5608.11).*

Many more “environmentally preferable” products (e.g., granite dust; electric scooters) could be separately identified with a bit more precision in the HS.

HOWEVER, “ENVIRONMENTALLY PREFERABLE” IS RELATIVE, MAY INVOLVE TRADE-OFFS, AND IS EVER-CHANGING

HS 8539.31 – Compact fluorescent lamps



Photo source:
https://www.kirklandwa.gov/depart/Public_Works/solidwaste/singlefamily/Recycle/Compact_Fluorescent_Lamp_Bulbs.htm

HS 8539.90 – LED lamps



Photo source:
<https://www.ledhut.co.uk/blog/top-ten-questions-about-led-lights-answered/>

“ENVIRONMENTALLY PREFERABLE” IS RELATIVE, AND EVER-CHANGING

HS 9503.00 ex – Scooters



Photo source:
<https://www.aliexpress.com/item/Aluminum-thickening-child-tricycle-scooter-kids-thick-aluminum-scooters-kids-wheel-pulley-kidssports-toys-1-8/1347380955.html>

HS 9503.00 ex – Scooters (electric powered)



Photo source:
<https://www.ft.com/content/b3429504-f6a3-11e8-af46-2022a0b02a6c>

BICYCLES: FROM NICHE TO URBAN NECESSITY

HS 8712.00 – Traditional bicycle



Photo source:

<https://www.heritagebicycles.com/products/chief>

HS 8712.00 – Shared bicycle



Photo source:

<https://www.mesopinions.com/petition/social/abandonner-abonnes-velib/38037>

HS 8711.60 – Electric-assisted shared bicycle



Photo source:

https://www.velib-metropole.fr/en_GB/discover/service

VELOS vs VEHICLES

Various safety features are standard on cars, but are purchased separately for bicycles

Theft protection:

- Ignition and door locks

Head protection:

- Roof

Collision avoidance:

- Horn



Photo source:
<https://electrek.co/2017/11/17/new-tesla-roadster-halo/>

- HS 83.01 ex – Padlocks (for bicycles)
- HS 65.06 ex – Headgear (for bicyclist)
- HS 8306.10 ex – Bells (for bicycles)



Photo source:
<https://www.heritagebicycles.com/products/chief>

WHAT'S IN A NAME?



HS 89.03 – **Yachts** and other vessels for pleasure or sports;
rowing boats and canoes

LESSONS FOR FUTURE HS REVISIONS

LESSONS FOR WTO NEGOTIATORS

- Negotiating a tariff-liberalization agreement is more difficult the less precise is the definition of the category of goods you want to include.
- Negotiating an agreed list of goods is a logical approach, therefore, but still hampered by the squishiness of the term “environmental good”. Extensive reliance on ex outs comes with its own set of problems.
- Producing a list of countries’ existing ex outs within the HS sub-headings for the products concerned would have facilitated quicker development of product descriptions.
- Customs officials (i.e., experts on the HS) and environmental experts should be more involved, and involved earlier in the process.
- Stressing offensive (i.e., mercantalistic) and defensive (i.e., protectionistic) trade interests is understandable, but should be balanced by environmental benefits.
- In any case, trade importance will be only impressionistic if **statistics** are not at hand.

POSSIBLE ACTIONS FOR THE WCO/HSC AND DELEGATES

- Reach out to your trade negotiators before revising the HS to ask what amendments to the HS would be useful.
- Consider creating a standing WCO-WTO expert group to review emerging environmentally relevant technologies, and to better understand the supply chains and components and services needed for those technologies.
- Consider creating space for more-specific pollution-control and environmental monitoring equipment in the HS.
- To the extent that is not possible, consider assisting sub-groups of WCO members to help standardize commodity descriptions and codes in their national (i.e., 8- and 10-digit) schedules, so as to facilitate **better statistics** at the very least.
- In lieu of end-use designations, distinguish key goods by performance criteria where possible, such as energy consumed per unit of work.

THANK YOU – MERCI – GRACIAS –
БЛАГОДАРИЮ ВАС

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