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Greening the HS: What are the limits and the alternatives?

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* **Disclaimer:** The opinions in this presentation are the sole responsibility of the author and shall not be attributed to the WTO Secretariat or the Members of the WTO.

In this presentation:

- A. **Why** “green” the HS?
- B. **What** do we mean by “greening”?
- C. **Where** do we currently stand?
- D. **What** are the alternatives?





1. Why “green” the HS?

Main point: Consumers, businesses and governments have an increased interest in protecting the environment, and the HS can play an important role in facilitating the identification of products relevant to these policies.



Consumers, businesses and governments have an increased environmental awareness

- Consumers, businesses and governments increasingly agree on the need to take action to **protect the environment**, including by adopting new policies at the national level and increasing international cooperation (e.g. by negotiating new international agreements and conventions).
- Acknowledgement that **international trade** also has a role to play in solving global environmental problems.
- This leads to an increasing demand to monitor and measure international trade on specific products that either **pose a risk** or are considered to have a **positive impact** on the environment.
- The implementation of policies to either **restrict** or **facilitate** trade in products is greatly facilitated by having an internationally agreed way to identify them.

Why the Harmonized System?

- Because the HS is the “[lingua franca](#)” of international trade. It is used by Customs and other border agencies to identify the products and regulate trade.
- One of the most powerful trade facilitating measures introduced over the past 30 years ([clear, concise, non-ambiguous](#))
- Trade-related information necessary to monitor and assess the impact of trade policies typically relies on data gathered and organized around the HS codes.



Note: Follow this [link](#) for a WTO paper discussing trade data and the HS.



2. What do we mean by “greening the HS”?

Main point: People probably mean different things.

“Greening the HS” probably has multiple meanings

Based on past exercises and negotiations on the identification of “environmental goods”, it is likely that people have very different understandings on what they mean by “greening the HS”. I speculate there are at least three possible meanings:

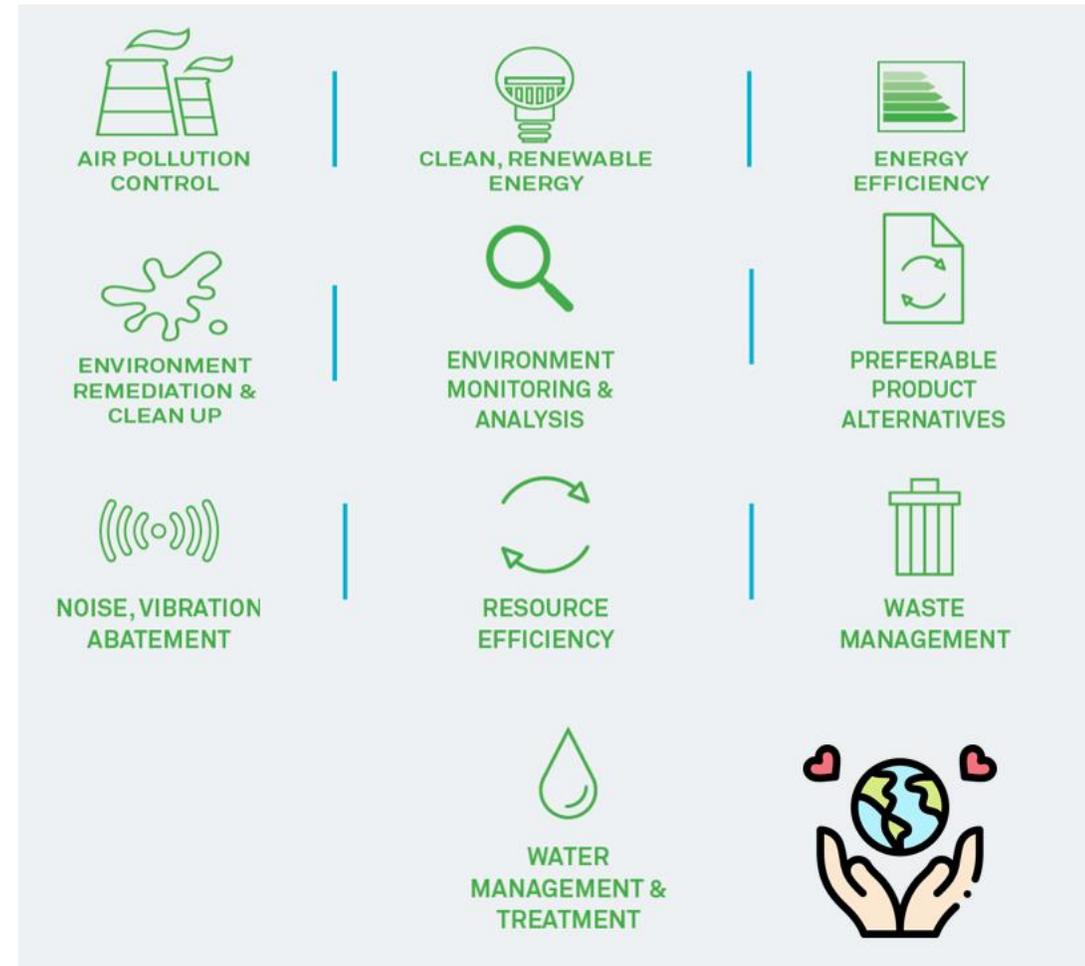
- 1 • Identify products that help to achieve a particular **environmental objective**
- 2 • Identify products that were **produced in an environmentally friendly way**
- 3 • Identify products that will be **used to protect the environment** or in a way that can harm it

1. By identifying an environmental objective

Possibility 1: Identify products that help to attain some broadly defined environmental goals or objectives (e.g. OECD, APEC, EGA)

Challenges:

- The HS does not specifically identify these products (visibility), so it is necessary to have detailed discussions to define them
- Requires coordination by environmental, customs and trade experts
- How keep the list relevant and updated (how to have “a living list”?)



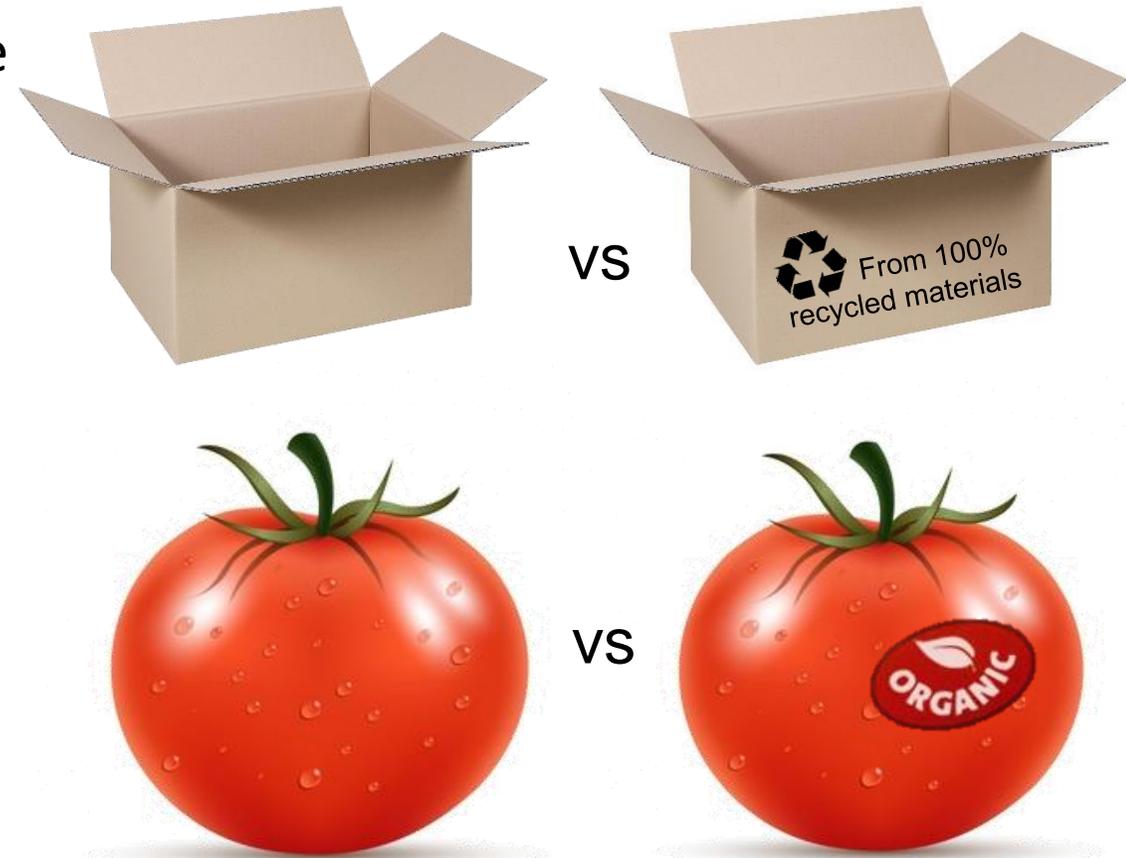
Note: For a detailed explanation of these issues, see WTO document [INF/TE/SSD/W/18](#)

2. By identifying environmentally friendly production methods

Possibility 2: Differentiate the products that have been produced in an “environmentally friendly way”; i.e. distinction based on the processes and production methods (PPMs), even if they are not reflected in the product itself.

Challenges:

- Not easy (or impossible) to differentiate the products at the border.
- Lack of internationally agreed standards or definitions on what is preferred or environmentally friendly.



Note: Some countries have defined these in national or regional technical regulations and are controlled through certification schemes. But there is no international standard and they tend to vary considerably.

3. By identifying the end-use or intent of the importer

Possibility 3: Differentiate the products based on how they are going to be used after importation (i.e. by “end-use” or “intent”)

Challenges:

- Not easy (or impossible) to differentiate the products at the border.
- Difficult for customs to control post-importation how the product was actually used or what is the intention, in particular if there is a large number of importers.





3. Where do we currently stand?

Main point: Any process for greening the HS should begin by fully understanding how it works and what are its limitations

HS CODE

01.201



What is tariff classification?

- A **legal process** undertaken by Customs to determine the correct tariff code for an imported or exported good -> classification has legal consequences.
- **All** physical products can be classified in the HS.
- The tariff classification of a good determines **not only the applicable tariff**, but also the application of import/export licenses, internal taxes, and other requirements and controls.

The commodity categories in the Harmonized System are based on:

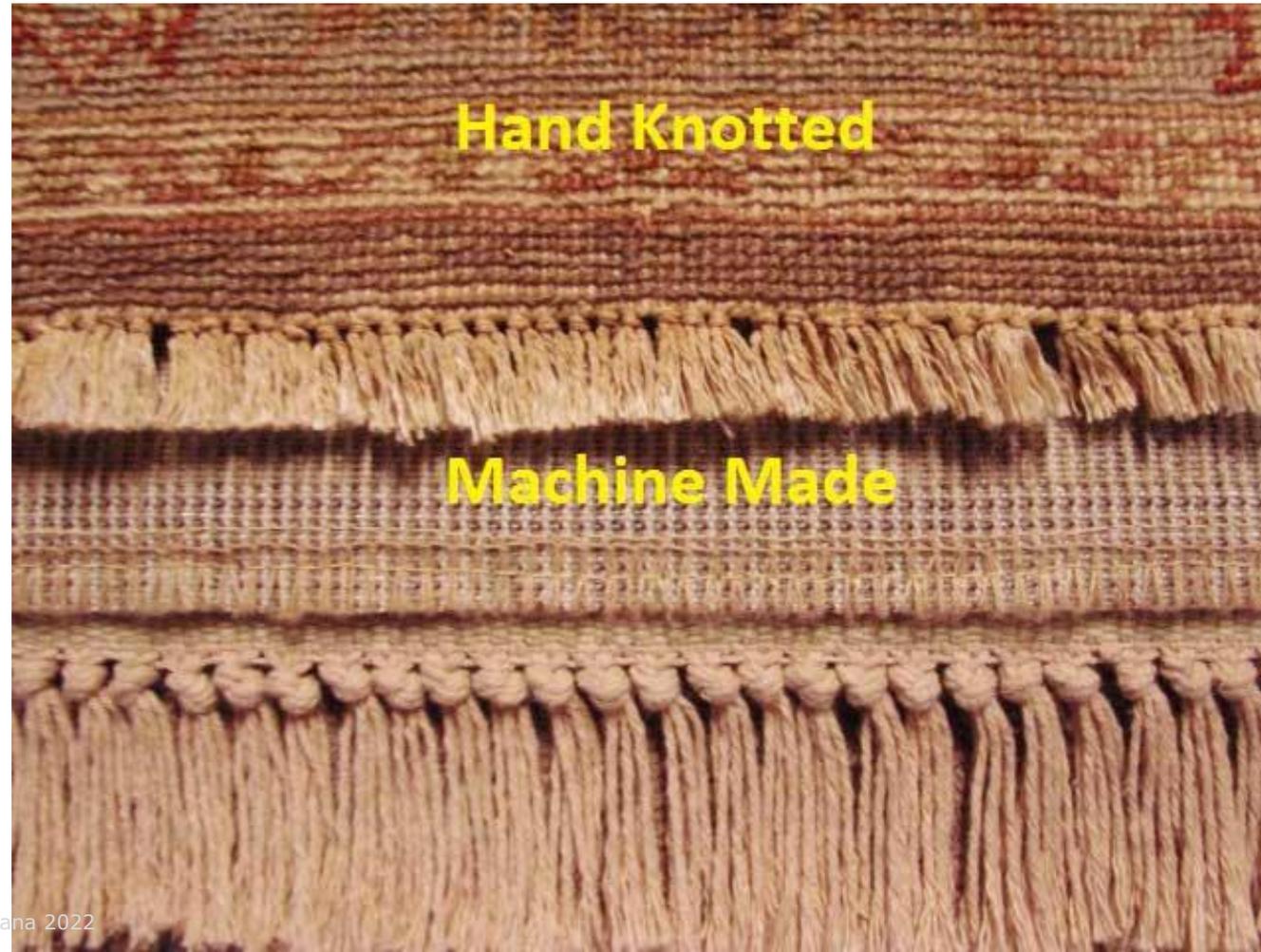


The objective
characteristics of the
product being classified

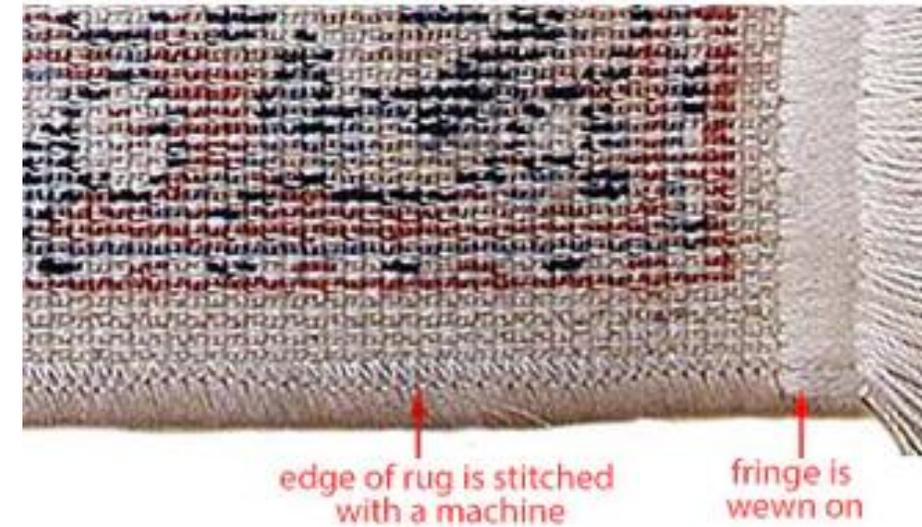


- The process and production methods
 - End-use
 - New / used / refurbished / remanufactured / other conditions
- (Unless they have an impact on the objective characteristics" ...)

Process and Production Methods (PPMs): the HS distinguishes some “hand woven” (5702.10) from “machine-made” rugs, *because* they can be distinguished based on their objective characteristics; it *does not* mean that it can be done in all cases.



Machine Made Imitation Area Rug

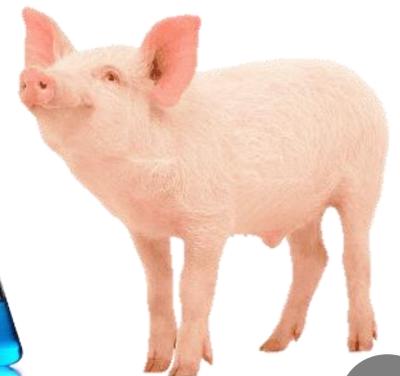


Authentic Handmade Oriental Rug



The HS is policy neutral

- The HS allows for the classification of *all* products into categories, irrespective of their legality and whether they are considered “good” or “bad” for any purpose (even if most of them are not specifically mentioned).
- The legality and value judgement of a particular product can vary considerably across countries.
- It is up to individual administrations and international agreements to determine what is legal, what should be restricted and what should be promoted.



The HS categories have to be applied around the World

Because the HS is applied by more than 200 countries, the product categories have to be designed in a way that the objective characteristics can be tested by *all* Customs administrations, and not only by those with the most sophisticated laboratories. Testing capacity varies considerably around the World.

In here



But also in here!

The HS has already become greener over the years!



1992
(mostly editorial)



**HS
1988**

HS96

HS2002

HS2007

HS2012

HS2017

Not starting from zero: several new product categories have been introduced in the HS over the past amendments to give visibility to products or products categories that are relevant for environmental purposes, e.g. “e-waste” and LEDs lightings in HS2022.

4. What are the alternatives?

Main point: Perhaps more thought should also be given to coordinating in the use of other tools in the Green Customs toolkit



Alternatives and complements to greening the HS

While it's true that there is scope to create new product categories in the HS (i.e. to give visibility of certain products), the HS is not enough by itself and it is not well-equipped to deal with demands relating to production methods and end-use.

What else is in the **Green Customs** toolkit?

- 1 • Creating national tariff lines (beyond HS 6-digit) based on national or regional standards; mutual recognition / harmonization of standards; e.g. airworthiness certification scheme (Agreement on Trade in Civil Aircraft)
- 2 • Use **import licenses** regulate importation based on “end-use” coupled with post importation audits (e.g. use relief schemes); since it's resource intensive, easier to apply when there are few importers of that product.
- 3 • Define products and specific treatments **outside of the HS framework**, e.g. like in the ITA Attachment B and the Agreement on Pharmaceuticals (Pharma).



International cooperation and public-private partnerships needed to better understand the options.

Also see: - Consolidated list of Pharma products in [JOB/MA/142](#)

- Santana (2015), [Options for defining products covered by the Environmental Goods Agreement](#)

Thank you!

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Interested on these issues?
You may also want to check:



INF/TE/SSD/W/18

23 March 2022

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TRADE AND ENVIRONMENTAL SUSTAINABILITY STRUCTURED DISCUSSIONS (TESSD)

This factual note has been prepared by the Secretariat at the request of the Coordinators of the TESSD initiative. It does not represent the official position of the WTO or of the WTO Secretariat.

EXPERIENCES IN THE PROMOTION AND FACILITATION OF ENVIRONMENTAL GOODS AND SERVICES

Note by the Secretariat

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BIORES

NEWS ARCHIVE

ENVIRONMENTAL GOODS AND SERVICES (EGS) | BIORES, VOLUME 9 - NUMBER 5

Options for defining products covered by the Environmental Goods Agreement

3 June 2015

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Groups of WTO members have in the past negotiated tariff-liberalising deals on select goods. What lessons from these talks for a planned EGA?