

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT



GUIDELINES TO COLLECT DATA ON OFFICIAL NON-TARIFF MEASURES

JANUARY 2016 VERSION

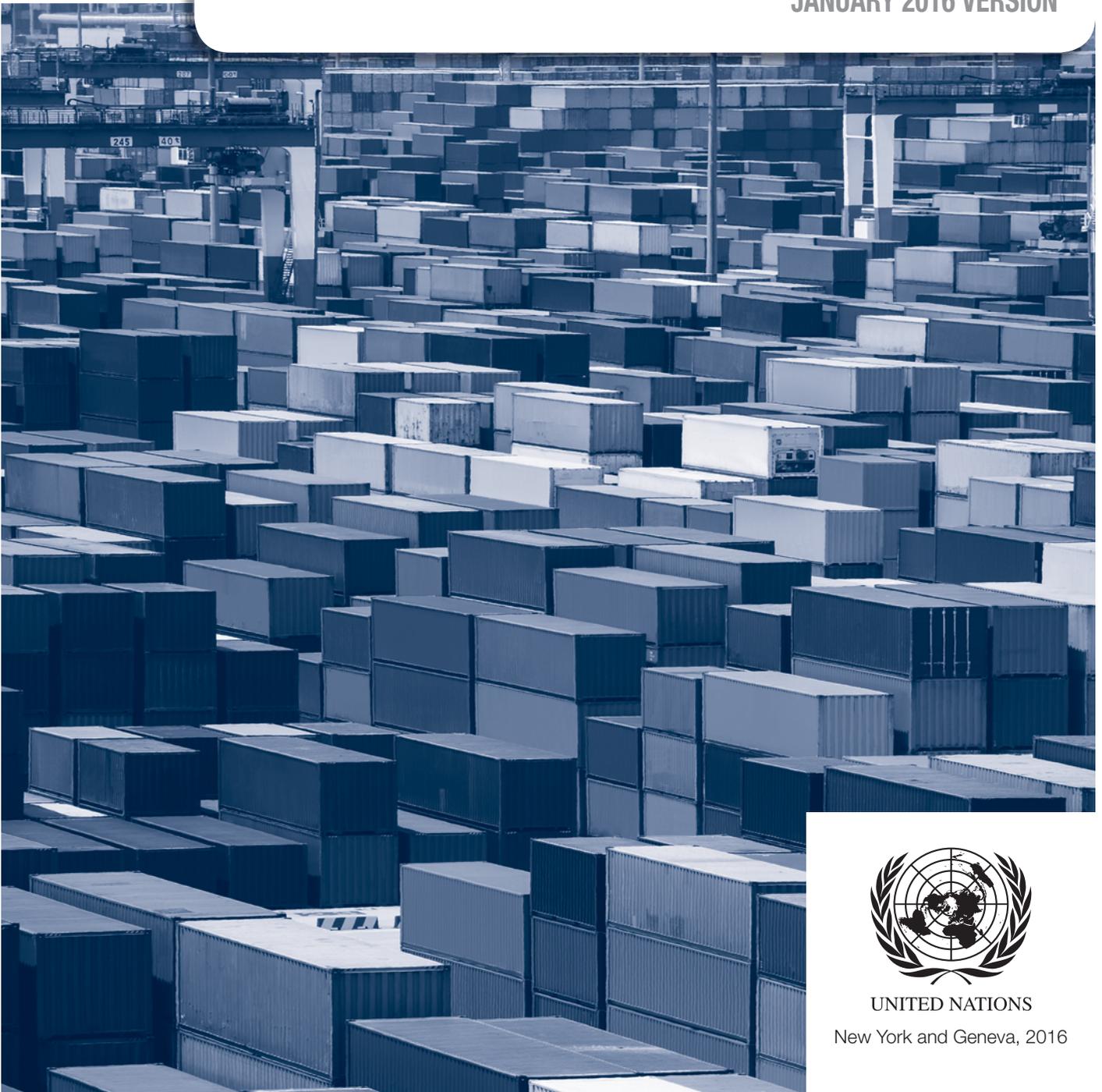


UNITED NATIONS



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TABLE OF CONTENTS

1. Introduction and purpose.....	1
2. Non-tariff measures definition and general considerations.....	1
3. Steps to collect information.....	2
3.1. Identify sources of information.....	3
3.2. Identify documents from each source.....	5
3.3. Identify regulations from each document	5
3.4. Identify and classify measures within each regulation	5
4. User guidelines to code measures.....	5
4.1. Structure of the non-tariff measures classification.....	6
4.2. Principles for classifying measures	9
5. Distinguishing between sanitary and phytosanitary measures and technical barriers to trade	15
5.1. Sanitary and phytosanitary measures.....	15
5.2. Technical barriers to trade	15
5.3. No possible overlap	15
5.4. Some difficult cases for sanitary and phytosanitary measures/technical barriers to trade.....	17
6. Selecting the corresponding product codes	18
6.1. What is the Harmonized System	18
6.2. How to select product codes	18
6.3. Tools to identify product codes.....	19
6.4. Principles for the use of “partial product coverage”	19
6.5. Difficulties in choosing the Harmonized System code for a product	21
7. Registering affected countries	22
8. Registering objectives of sanitary and phytosanitary measures and technical barriers to trade	23
9. Using the template	23
ANNEX: Non-tariff measures data collection template: Variables and required information	25

1. Introduction and purpose

During the last few decades, multilateral and regional trade negotiations and unilateral liberalization have substantially reduced tariff rates. Non-tariff measures (NTMs), however, represent a growing challenge for exporters and policy makers. The ability to gain and to benefit from market access depends increasingly on compliance with trade regulatory measures such as sanitary requirements and goods standards. UNCTAD has been actively involved in research and activities on issues related to NTMs. In 1994, UNCTAD began to collect and classify NTMs. While the UNCTAD Trade Analysis and Information System (TRAINS) database remains the most comprehensive database on NTMs, it has required substantial improvements to keep up with the increasing complexity of and need for NTM data. To develop a strategy to reduce the transparency gap, in 2006, UNCTAD established the Group of Eminent Persons on Non-tariff Barriers, composed of leading economists from international organizations. A Multi-agency Support Team provided substantial support. As a result, the Transparency in Trade initiative (TNT) was launched by UNCTAD, the African Development Bank, the International Trade Centre and the World Bank. UNCTAD leads the international effort on official NTM data collection.

Collection of data on NTMs requires the classification of legal documents (regulations, directives, rules, and the like) to appropriate predefined NTM codes. These codes are provided in the publication *Classification of Non-tariff Measures*.¹

The classification of NTMs was developed and agreed by several international organizations in the context of a multi-agency initiative on NTMs led by UNCTAD. The classification is designed to facilitate the collection, analysis and dissemination of data on NTMs, with the final objective to increase transparency and understanding about the subject.

A recurring problem for data collectors is that legal documents and regulations on NTMs are often based on legal and/or technical terms which may render it difficult to univocally assign the most appropriate code. For data collectors, some interpretation is often required when classifying

the measures described in the legal documents and regulations according to the predefined NTMs codes.

The purpose of this manual is to provide guidelines to data collectors to harmonize the NTM data collection process and to minimize uncertainty during the process of categorization and classification. In doing so, the manual presents the logic behind the classification of NTMs, and it explains how to choose the most appropriate code. This manual provides a large set of examples, and it is regularly updated to respond to queries and questions emerging during the data collection exercise.

This manual has been created with the intention of covering as many cases as possible. However, if uncertainties still persist, data collectors are encouraged to submit their questions to trains@unctad.org providing also a copy of the legal text and stating the proposed code.

2. Non-tariff measures definition and general considerations

Understanding the meaning of the terms “regulation” and “measure”

A regulation is a legal document issued officially by a Government, such as a law, decree or directive. An official regulation could bear several measures (or NTMs).

For the purpose of the classification, a measure is a mandatory trade control requirement enacted by an official regulation. Each regulation or legal document must be read to distinguish all measures within its text. All identified measures should be registered separately.

What data is collected?

The data that are collected are official measures currently imposed by the country and that affect imported or exported products. They include measures that may be checked at the customs point to allow entry or exit of the product, and behind the border measures/requirements for the

¹ UNCTAD (2013), *Classification of Non-tariff Measures: February 2012 Version*, UNCTAD/DITC/TAB/2012/2, New York and Geneva.

imported product to be allowed to be sold on the domestic market. Measures that affect only domestically produced goods will not be collected.

Only those measures backed by official mandatory regulations are to be collected and classified. Within sanitary and phytosanitary measures (SPS measures) and technical barriers to trade (TBTs) are included standards that are a compulsory condition for importing.²

Non-tariff measures definition

The concept of NTMs is neutral and does not imply a direction of impact. They are defined as “policy measures, other than customs tariffs, that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both”.³ Non-tariff barriers (NTBs) are a subset of NTMs, implying a negative impact on trade. All NTMs are collected and included in the UNCTAD TRAINS database, irrespective of their effect.

What data is not collected?

Voluntary measures are not included in this database. One example is that of private standards – requisites put forward by private organizations, such as retail companies, are not collected.

International standards are not included either. These are issued by international organizations, such as the International Organization for Standardization, CODEX Alimentarius, the International Electrotechnical Commission or ASTM, and no country is forced to adopt them. Even if countries are encouraged to follow them, they are at liberty to set a level higher or lower. For this reason they are not included in this database. However, if a country adopts an international standard, it becomes national legislation and it is then included in the database.

Measures falling within chapters J through O will not be collected (see figure 2).

Complaints from the private sector, perceptions, and any other non-official information related to NTMs are not considered valid sources and thus should not be coded.

How is the data collected?

UNCTAD will provide a form with all the required columns to be filled out, which is referred to as the “NTM data entry template”. UNCTAD will also provide the NTM code classifications and the product codes of the Harmonized Commodity Description and Coding System (known as the Harmonized System (HS)) and the national tariff line.

3. Steps to collect information

The steps are the following:

1. Identify sources of information
2. Identify documents from each source
3. Identify regulations from each document
4. Identify and classify measures within each regulation
5. Identify and classify affected products for each measure
6. Identify and classify affected countries for each measure
7. Identify and classify objectives for each measure

Each step is registered in a separate site or worksheet in the data template provided by UNCTAD.

The first three steps systematically register the origin of information. These steps are essential to make sure that the data is traceable, and can be verified and updated. From each source, one or more legal documents can be obtained. These documents may also contain one or more regulations.

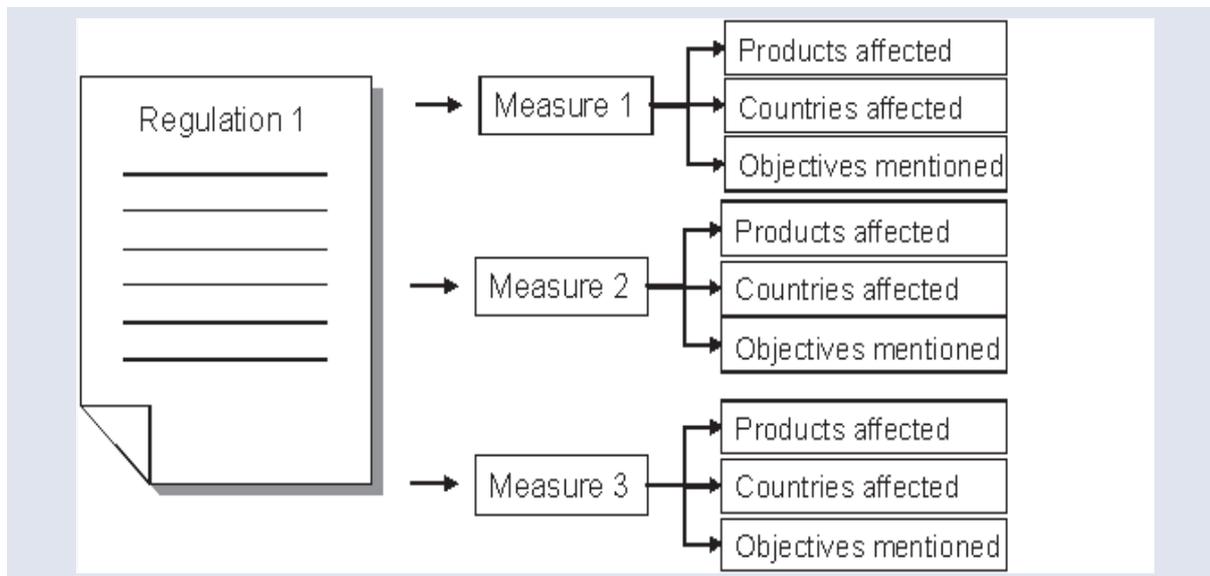
The remaining steps identify and classify all the relevant information from the legal text of each regulation.

Figure 1 illustrates the components and dimensions of steps 4 to 7. Within a regulation there may be one or more measures. Each one has to be classified according to the NTM classification. Each measure is likely to affect certain products and countries, and there may also be objectives mentioned explicitly in the text. All of these have to be registered.

² According to the World Trade Organization (WTO) definition, standards are voluntary. These are not registered. However, some national official and mandatory legislation may impose a regulation using the word “standard”. In this case, the measure is collected and registered in the database, as it is a condition for importation.

³ As defined by the Multi-agency Support Team and the Group of Eminent Persons on Non-tariff Barriers.

Figure 1. Principle work flow for each regulation



In the following sections, further details are provided on each step of the data collection process.

3.1. Identify sources of information

This first step may vary according to the country concerned. In some countries, the information may be available at a centralized location, where one official source compiles all legal measures. In others, the information needs to be obtained from different locations/institutions.

(a) Centralized sources

In many countries, an official journal regularly publishes new laws, regulations, acts, decrees, and the like, the information being contained in one publication, irrespective of the government department and the subject covered. Such centralized sources facilitate the task of NTM data collection and continuous updates.

Examples of countries using an official journal or other centralized source are the member States of ALADI (the Latin-American Integration Association – consisting of Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay and the Bolivarian Republic of Venezuela). Examples of the publication titles are as follows:⁴

⁴ See <http://nt5000.aladi.org/siimnaesp/> (accessed 16 January 2014).

⁵ Available at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR> (accessed 16 January 2014). Note that the Federal Register also includes proposed regulations open for public discussion, which are not of interest for this database.

⁶ Available at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> (accessed 16 January 2014).

- Argentina: *Boletín Oficial* (Official Journal);
- Plurinational State of Bolivia: *Circular de la Aduana Nacional de Bolivia* (Circular of the National Customs Office of Bolivia);
- Brazil: *Edições Aduaneiras – Publicações Sobre Comércio Exterior* and *Diário Oficial de la Unión* (Custom Editions – Publications on International Trade and Official Journal of the Union);
- Colombia: *Diario Oficial* (Official Journal);
- Ecuador: *Registro Oficial* (Official Registry);
- Paraguay: Presidencia de la República (www.presidencia.gov.py), *Decreto 2301* and *Ediciones El Foro* (Presidency of the Republic web site (www.presidencia.gov.py), Decree 2301 and Editions El Foro);
- Venezuela: *Gaceta Oficial* (Official Gazette).

Some countries compile all their current regulations in a centralized register or code, where they may be consulted.

Example: The United States of America publishes daily the Federal Register.⁵ There is also the Code of Federal Regulations,⁶ which consolidates the regulations which are currently in force. This latter codes by subject all general and permanent rules of the Federal Register.

(b) Decentralized sources

In the absence of a centralized source, information about NTMs needs to be obtained through various government institutions. This represents a challenge for NTM data collectors, but it is crucial to identify all relevant ministries and other institutions.

The following table provides an indication of the government agencies that are likely to deal with different NTM categories. This list is not exhaustive. Names of government agencies could be different according to the country. Each institution may disseminate legislative documents through their websites, or through other means.

(c) Other sources

NTM data collection must be based on official national documents. However, other sources can help lead to these official sources and help identify legislative documents, especially when the country's legal publishing is decentralized.

World Trade Organization (WTO) *Trade Policy Reviews* can be helpful in getting a good initial overview of the institutional framework, including

information about important trade-related laws.⁷ However, these reviews are not exhaustive and do not provide the necessary detail about regulations that the NTM data collection requires. General laws that are often listed in the *Trade Policy Reviews* also tend to be unspecific and are only a first step in identifying the relevant institutions that emit the required specific regulations.

Under WTO agreements countries are required to have official enquiry points for SPS and TBT measures.⁸ These enquiry points can also give consultants valuable information about where to find regulations related to SPS and TBT measures. However, experience shows that, due in part to the limited notification of SPS and TBT measures to WTO, the information from these sources is also incomplete.

Information may be purchased from a private company providing consolidated regulations with all amendments. It should nevertheless be assured that this source provides complete and official information.

Table 1. Examples of government agencies likely to deal with NTM categories

	NTM chapter	Government bodies potentially responsible
A	SPS measures	Ministry of Agriculture; Standardization Agency; Ministry of Health
B	TBT measures	Standardization Agency; Ministry of Health; Ministry of Ecology; Ministry of Industry
C	Pre-shipment inspection and other formalities	Customs Agency; Standardization Agency
D	Contingent trade protective measures	Ministry of Finance; Ministry of Economy or Trade
E	Non-automatic licensing, quotas, prohibitions and other quantity control measures	Ministry of the Economy (or Trade, Foreign Relations)
F	Price control measures including additional taxes and charges	Ministry of Economy (or Trade, Foreign Relations); Customs Agency
G	Finance measures	Ministry of Finance; National Bank
H	Measures affecting competition	Ministry of Economy (or Trade, Foreign Relations)
I	Trade-related investment measures	Ministry of Economy (or Trade, Foreign Relations)
P	Export-related measures	Ministry of Economy (or Trade, Foreign Relations); Customs Agency

⁷ WTO Trade Policy Reviews are available at http://www.wto.org/english/tratop_e/tpr_e/tp_rep_e.htm (accessed 16 January 2014).

⁸ Contact information about SPS and TBT enquiry points for each country can be found on the following websites: <http://spsims.wto.org/web/pages/settings/country/Selection.aspx> (SPS) (accessed 16 January 2014); http://www.wto.org/english/tratop_e/tbt_e/tbt_enquiry_points_e.htm (TBT) (accessed 16 January 2014).

3.2 Identify documents from each source

Each source may have one or several documents in which regulations have been published. All relevant documents identified under each source have to be listed.

Example: If the source is an official journal published by the president's office, all specific issues of the journal that contain NTM regulations need to be registered as documents. If government authorities publish each law, act or decree in separate documents, each of them has to be registered.

3.3 Identify regulations from each document

Each document may include one or several regulations. A regulation may be called a law, an act, a decree or a regulation, among other titles. Each regulation that contains NTMs needs to be identified and recorded.

Example: If an issue of an official journal is the document, the specific regulations containing NTMs within the document have to be registered here. If each regulation (law, act, decree, and the like) is published individually in separate documents, for each regulation the same publication is registered under documents and regulations.

The identified regulations should be sufficiently specific to identify measures, affected products and countries (see item 4). The text of some general laws only provides generic provisions or empowers institutions to impose actual regulations or requirements. Such laws are usually followed up by more detailed regulations that should instead be registered in the database.

3.4 Identify and classify measures within each regulation

All measures contained within each regulation need to be identified and classified. The legal text has to be transformed into a database format. The database should clearly reflect the following elements:

- Which measure? →
Classify the measure identified according to the UNCTAD coding list in the NTM classification;
- Which product? →
Find tariff line codes, Harmonized System codes, or predefined group codes to the product/s affected by this measure;
- Which partner? →
Assign country codes to the countries affected by this measure;
- Which objective? →
Categorize the reason why the measure was imposed, but only if it is officially stated in the regulation.

Since information required for each measure is multi-dimensional, it is more efficient to maintain a separate worksheet for each dimension, that is, a list of measures, affected products, affected countries and intended objectives. See section 9 and annex "NTM data collection template: variables and required information" for a description of each worksheet, how to maintain the links between worksheets, and the list of variables to be registered. UNCTAD will provide the structure of the database and the empty files to fill in.

Sections 4 and 5 below provide guidelines on how to use the NTM classification (step 4). Section 6 guides through the selection of the right product code (step 5). Section 7 and 8 briefly deal with the registering of affected countries and measure objectives, respectively (steps 6 and 7).

4. User guidelines to code measures

The following are guidelines to assign an NTM code to a measure identified in the text of a regulation. The first step is to be familiar with the classification of measures, and understand the basic structure of the classification as well as the different chapters.

4.1 Structure of the non-tariff measures classification

Measures are organized in various chapters according to their type (boxes 1 and 2). The chapters are labelled with letters from A to P.⁹

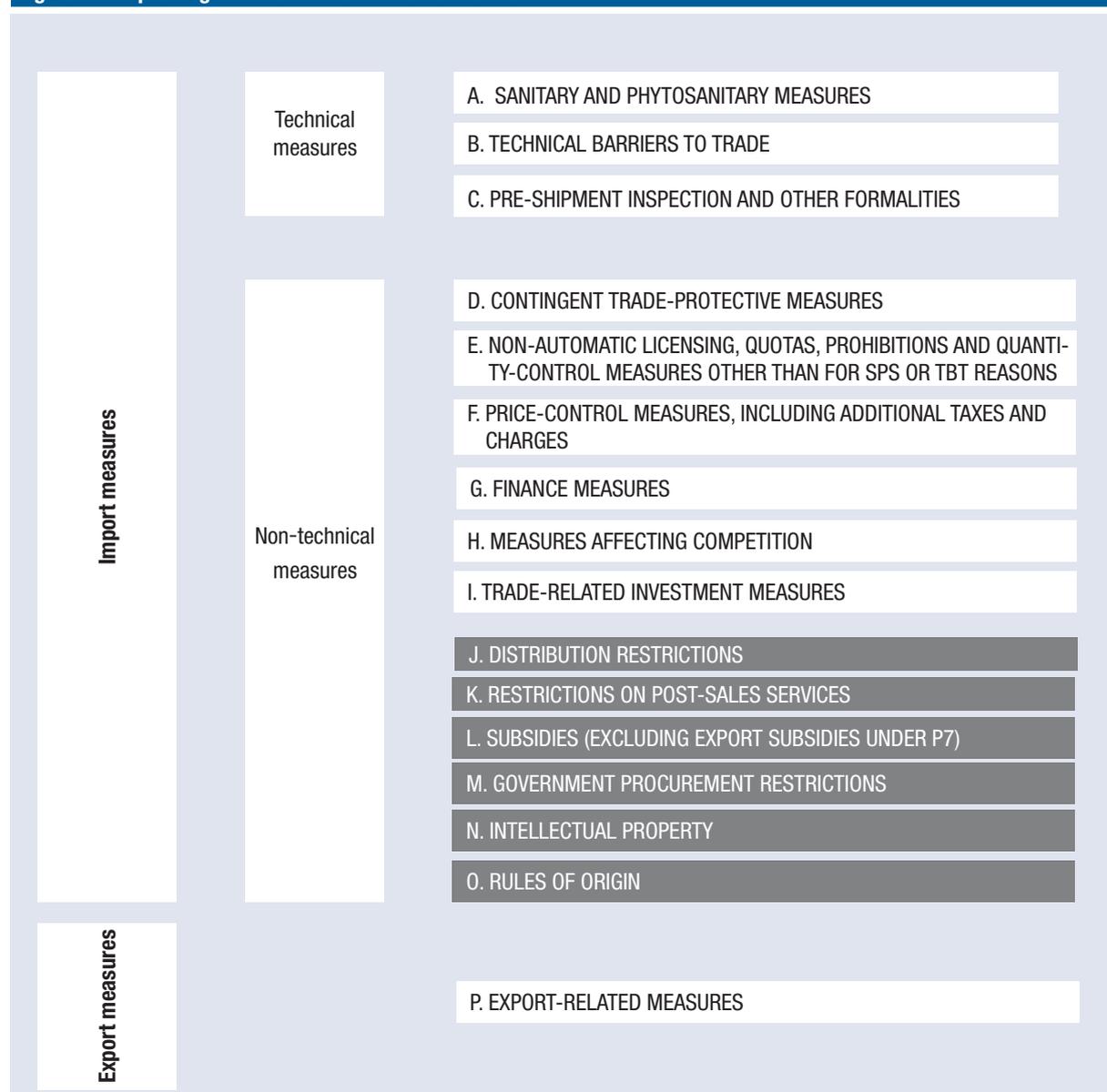
(a) Import and export measures

Measures are divided into two broad categories: import measures and export measures. This is the first distinction that needs to be made when classifying a measure.

All chapters from A to O reflect the requirements of the importing country on its imports. Only chapter P comprises export measures, which refer to requirements imposed solely by the exporting country on its own exports.

All measures imposed by the importing country, regardless of whether they are executed or verified in either the exporting or the importing country, are considered to be import measures since they relate to the importation of the product.

Figure 2. Chapter organization in the NTM classification



⁹For more information on the classification see UNCTAD (2013), Classification of Non-tariff Measures: February 2012 Version, UNCTAD/DITC/TAB/2012/2, New York and Geneva.

Example: For a regulation stating “Imports of products of animal origin into the country A must be accompanied by a health certificate signed by the representative of the competent authority in the exporting country certifying that the products in question are suitable to be exported to the country A”, this measure has to be classified in a code under import measures, as it is a requirement of the importing country.

(b) Chapters in the classification

Import measures are further subdivided into technical measures and non-technical measures. The first group comprises three chapters (A to C): SPS, TBT, and pre-shipment inspection and other formalities. Non-technical measures are subdivided into twelve chapters (D to O). Export measures comprise only one chapter (P).

Box 1 summarizes the measures comprised in each of the chapters of the classification.

Box 1. Brief description of each chapter in the classification

Chapter A on SPS measures, refers to measures affecting areas such as restrictions for substances, hygienic requirements, or other measures for preventing dissemination of diseases. It also includes all conformity assessment measures related to food safety, such as certification, testing and inspection, and quarantine.

Chapter B on technical measures, refers to measures such as labelling and other measures to protect the environment. It also includes conformity assessment that relates to technical requirements such as certification, testing and inspection.

Chapter C classifies the measures related to pre-shipment inspection and other formalities performed in the exporting country prior to shipment.

Chapter D refers to contingent measures, which are measures implemented to counteract particular adverse effects of imports in the market of the importing country, including measures aimed at unfair foreign trade practices. They include antidumping, countervailing, and safeguards measures.

Chapter E includes licensing, quotas, and other quantity control measures, group measures that have the intention of limiting the quantity traded, such as quotas. It also covers those licences and import prohibitions which are not SPS or TBT related.

Chapter F includes price control measures, which are those implemented to control or affect the prices of imported goods in order to, inter alia, support the domestic price of certain products when the import prices of these goods are lower; establish the domestic price of certain products because of price fluctuation in domestic markets, or price instability in a foreign market; or to increase or preserve tax revenue. This category also includes measures, other than tariff measures, that increase the cost of imports in a similar manner (para-tariff measures).

Chapter G concerns finance measures, referring to measures restricting the payments of imports, for example when the access and cost of foreign exchange is regulated. This chapter also includes restrictions on the terms of payment.

Chapter H concerns measures affecting competition. These measures grant exclusive or special preferences or privileges to one or more limited group of economic operators. They refer mainly to monopolistic measures, such as state trading, or sole importing agencies, or compulsory use of national services or transport.

Chapter I concerns trade-related investment measures, group measures that restrict investment by requiring local content or requesting that investment should be related to export to balance imports.

Chapter J includes distribution restrictions, referring to restrictive measures related to internal distribution of imported products.

Chapter K concerns restriction on post-sales services, for example, restrictions in the provision of accessory services.

Chapter L contains measures that relate to subsidies that affect trade.

Chapter M containing government procurement restriction measures, refers to the restrictions bidders may find when trying to sell their products to a foreign Government.

Chapter N concerns restrictions related to intellectual property measures and intellectual property rights¹⁰.

Chapter O on rules of origin, groups the measures that restrict the origin of products, or their inputs.

Chapter P includes export measures, grouping the measures a country applies to its exports. It includes export taxes, export quotas or export prohibitions.

(c) Tree structure

Each individual chapter (one digit, letters A–P) is divided into groupings using a tree/branch structure with depth of up to three additional levels (two, three and four numerical digits). More digits indicate more disaggregation, that is, more detailed measure categories. For example, chapter A includes nine two-digit codes, A1 through A9. Then, each two-

digit code is further differentiated by providing three-digit codes. For example, A8 includes A81 through A86, and also A89. Then, A85 is subdivided further into four-digit codes: A851, A852, A853 and A859 (see box 2). Only a few groupings reach the four-digit level of disaggregation. Most groupings stop at three digits.

Box 2. The classification's tree structure

A. SANITARY AND PHYTOSANITARY MEASURES

- A1. Prohibitions/restrictions of imports for SPS reasons
- A2. Tolerance limits for residues and restricted use of substances
- (...)
- A8. Conformity assessment related to SPS aspects
 - A81. Product registration requirement
 - A82. Testing requirement
 - A83. Certification requirement
 - A84. Inspection requirement
 - A85. Traceability requirement
 - A851. Origin of materials and parts
 - A852. Processing history
 - A853. Distribution and location of products after delivery
 - A859. Traceability requirements n.e.s.*
 - A86. Quarantine requirement
 - A89. Conformity assessments related to SPS aspects n.e.s.
- A9. SPS measures n.e.s.

B. TECHNICAL BARRIERS TO TRADE

C. PRE-SHIPMENT INSPECTION AND OTHER FORMALITIES

D. CONTINGENT TRADE PROTECTIVE MEASURES

E. NON-AUTOMATIC LICENSING, QUOTAS, PROHIBITIONS

F. PRICE CONTROL MEASURES INCLUDING ADDITIONAL TAXES

G. FINANCE MEASURES

H. MEASURES AFFECTING COMPETITION

I. TRADE-RELATED INVESTMENT MEASURES

(...)

*n.e.s.: not elsewhere specified.

¹⁰ Please note that those trading activities involving imitations or copies are classified in chapter E, under E315 for prohibition of copies or imitations of patented or trademarked products.

4.2. Principles for classifying measures

The following principles provide guidance on classifying measures and entering them correctly in the data entry template provided. Further help on distinguishing SPS and TBT measures is found under section 5.

4.2.1 Use the most detailed code available to classify the measure

(a) Selecting the most detailed code within a branch

A measure should preferably be classified using the most detailed code.

If a regulation states requirements falling under several codes, each has to be classified as a separate measure.

Example: If a regulation specifies labelling, marking and packaging requirements for SPS reasons, all three measure codes (A31, A32 and A33) have to be registered as separate measures. They cannot be summarized under the aggregate code A3.

(b) Using a more aggregated code/branch

A higher level code should only be used if a regulation does not provide enough information to assign the measure to a more disaggregated level.

Example: A regulation generically indicates “price setting by the authorities” for an imported good. Lacking more details, it needs to be classified as F1 “Administrative measures affecting customs value”. The classification defines the measures “minimum import prices” (F11) and “reference prices” (F12), but the regulation does not clearly state which one will be used. It should be coded as F1 because no decision can be made as to whether it will take the form of F11 or F12.

However, such cases should be rare exceptions, as only precise regulations should be used for data collection (see also section 3.3).

(c) Using measure codes “not elsewhere specified” (n.e.s.); codes ending in 9

Codes ending in 9 are used for measures “not-elsewhere specified”. That is, those measures that cannot be precisely categorized within the codes provided by the classification. Such codes are found at the end of most chapters (for example, A9, B9 or E9), and at the end of most branches (for example, A19, A89 or A859).

Such codes should only be used if a requirement is precisely defined in a regulation, but does not correspond to any other code in the respective chapter or branch.

Example: If a country prohibits its own exports of hazardous waste for TBT reasons (environment and human safety), it is classified as P69. It is an export-related measure (chapter P), a technical measure (branch P6), but is neither classified as P61 (inspection) nor P62 (certification). Thus, P69 “Export technical measures n.e.s.” is the only option.

4.2.2 The principle of “one measure – one NTM code”, and exceptions

(a) Regulation, measure and NTM code

A regulation may contain one or several measures. In principle, each measure is to be classified into no more than one NTM code.

(b) One regulation imposing several measures falling under the same NTM code

As a rule of thumb, if a regulation imposes a set of similar requirements that would be classified under the same NTM code, they are registered only once as a single measure. The respective products are thus jointly entered under this one measure.

Example: If a regulation specifies several “maximum residue limits” (MRLs) of different chemicals for a variety of food products (for SPS reasons, NTM code A21), the measure is registered just once, listing all affected products under the same measure.

However, if a regulation imposes several rather distinct measures that classify under the same NTM code, they should be registered separately. This is the case if the respective measures differ with respect to their type or implementation. The following examples should illustrate these two respective cases:

Example 1 – different type: A regulation states that bananas exported from the country must comply with certain quality standards as well as packaging requirements. Both of these measures would be classified as “Export technical measures, n.e.s.” P69. Since they are substantially distinct measure types, they should be registered as two measures (both classified as P69).

Example 2 – separate implementation: A regulation requires a standard SPS certificate for all imported food products. In a different paragraph, the regulation additionally demands a special microbiological health certificate for fishery products. Both certificates classify as “Certification requirement for SPS reasons” A83. Given that both certificates are obtained separately, with a different set of procedures and probably from different institutions, they are registered separately. In this way, the double certification of fishery products is also reflected in the database.

It is crucial that the differences between measures with the same NTM code are clearly indicated in the “measure description” in the data template. Furthermore, the “measure reference” column in the template also helps to distinguish measures from the same regulation. In this part, the specific text within a regulation (for example, a section or paragraph) where each measure is described should be registered.

(c) Different regulations imposing the same measure

If two separate regulations impose measures that are slightly different but would be classified into the same NTM code, the measure code is registered twice, each with its corresponding official regulation.

Example: Regulation A imposes that the weight of the product be put on a label, and regulation B requires that the fat and sugar contents must also be indicated on the product. In this case, the code B31 is registered twice, once under each regulation.

Should two separate regulations jointly define exactly the same measure, the measure is only registered once under the most specific and trade-related regulation. The title of the other regulation may be indicated in the “notes” field next to the main regulation. Two examples shall illustrate which regulation should be registered:

Example 1: A general phytosanitary law empowers a country’s ministry of health to publish regulations on the MRLs of fertilizers in imported agricultural food products. The ministry then publishes such technical regulations with detailed MRLs for various food products. The measure A21 is then registered under the latter technical regulation, as it is more specific and still trade related.

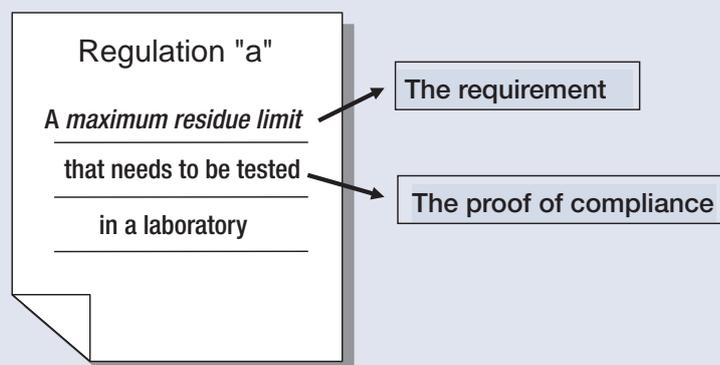
Example 2: A decree requires that imported food products need to follow a national norm, which until then only regulated national production. While the national norm is more specific, it is not trade related in itself. Therefore, the import-related decree needs to be registered as the main regulation, with the national norm being indicated in the notes field.

(d) Conformity assessment measures are registered together with the corresponding technical requirement

“Conformity assessment” (A8 and B8) is a verification process that goes with a technical requirement and is intended to prove its compliance (figure 3).

An MRL (the requirement) may be tested (the proof of compliance) in a laboratory, or a product quality (the requirement) may be assessed and proved by a certification (the proof of compliance). Normally,

Figure 3. A regulation’s requirement and conformity assessment (proof of compliance)



the regulation lists both. In this database both are registered.

Example: Raw hemp and hemp seeds for sowing are subject to a system of checks to verify that their tetrahydrocannabinol content does not exceed 0.2 per cent. This is registered both as code B21, "Tolerance limits for residues of or contamination by certain substances", and B82, "Testing requirement".

In some cases, although there is a requirement, no mandatory test or certification is required. In that case, only the technical requirement is registered in the database.

It is also possible that a regulation only states that a conformity assessment has to be performed, but without specifying the exact underlying technical requirements. In many of such cases, a general law assigns the authority for technical regulation and conformity assessment to a domestic institution, or refers to further forthcoming regulations. These more detailed technical regulations then need to be identified and registered instead of the general law.

If these more detailed regulations cannot be found, it is necessary to contact the authorities or implementing institution for clarification. There are three scenarios:

- (i) If the authorities provide the missing specific regulations, these should be registered;
- (ii) If the authorities indicate that there are no further technical regulations and that no conformity assessment is performed accordingly, no measures should be registered;
- (iii) If the authority confirms the application of the general law without further detailed regulations, it is permissible to register the respective conformity assessment (codes within branches A8 and B8) without the underlying technical requirements.

However, the source of such additional inquiries should be clearly indicated in the notes field.

(e) Leading and supporting measures: only the leading is registered

One regulation may list several measures, which normally have to be registered in the database as separate measures. However, it may be the case that one measure is leading, while others are supporting to serve the same purpose. In such cases, only the leading measure should be classified.

The key rule of thumb by which to distinguish leading measures from supporting measures is that when a leading measure is removed, then all supporting measures will automatically disappear.

The challenge is that the text of the regulation does not normally distinguish explicitly between leading and supporting measures, as all of them carry equal legal importance. Therefore, it is important to identify the measure which reflects the essence of the matter and classify only that measure as the leading one.

Example 1: When there is a quota (E2), there may also be a licence to be able to sell within the quota. Only the quota measure is registered in the database. As a rule, all licences that are meant to administer other measures are not registered per se.

Example 2: Measure A12, "Geographical restrictions on eligibility", implies a positive list of countries allowed to export, which comply with sufficient SPS safety conditions. This measure may be accompanied by a long list of requirements that need to be fulfilled by countries to actually be in that positive list. These are not registered. In this case, only A12 should be coded, which describes better the phenomenon.

There is one important exception: conformity assessment measures (A8 and B8) are not considered supporting measures and are always registered in addition to the underlying requirement (see above). In the case that conformity assessment may be considered a supporting measure according to the stated rule of thumb, such procedures tend to be a significant burden for companies and are therefore registered.

Example: A regulation states that imports are authorized if a certificate is provided to the authorities proving that pesticide residuals in fresh fruits are below a certain level. The leading measure is classified as a "tolerance limit for residues for SPS reasons" (A21). In addition, the "certification requirement" (A83) is also registered because it is a conformity assessment. The word "authorized" in the described regulation can be misleading: it does not refer to a "special authorization" (A14), but only to an administrative procedure, which would be considered a supporting measure.

4.2.3 Only actual applied measures are registered

(a) Potential or hypothetical measures are not registered

Potential or hypothetical measures are not registered in the database. If a legislation only indicates that measures may be imposed in case of certain events, the measures are not de facto applied.

Example 1: Food and agricultural products are freely imported, but a regulation says that the “authorities **might** suspend imports or take interim protective measures when products present any risk for public or animal health, as in the case of dangerous disease outbreaks”. This is not an actual prohibition/restriction, but a possibility in case of any health risks, which may never happen. It is thus not registered.

Example 2: When legislation states that an inspection, or any other conformity assessment measure, **may** be applied to ensure compliance of the product with the provisions of the regulation, then those measures are not registered in the database.

(b) Measures applied at random are registered

On the other hand, when the legal text states that a random check is imposed, the measure is registered, because it is considered actual, even if not all shipments are in fact controlled.

Example: A regulation specifies a list of products that are considered “sensitive” and others “non-sensitive”. While all shipments of “sensitive” products undergo a physical inspection, “non-sensitive” products are only checked randomly. Nevertheless, the respective “inspection requirement” (A84 or B84) is registered to apply for both product categories.

4.2.4 Comments on specific measures and wording

(a) What’s the difference between:

- (i) - **Certification requirement (A83 or B83);**
- **(Special) authorization requirement for SPS/TBT reasons (A14 and B14);**
- **Registration requirement for importers (A15 and B15);**
- **Non-automatic import licensing (E1).**

Certification (A83 or B83) is defined as a technical conformity assessment measure of SPS or TBT. Certificates provide proof that the individual shipment complies with specific product characteristics defined by underlying SPS or TBT requirements. Certificates can be obtained from public or accredited private technical institutions. They are part of the documentation that a company needs to show at customs to be allowed to import.

A (special) authorization (A14 or B14) needs to be obtained for importing certain products and is also based on SPS or TBT reasons. The authorization is granted at the discretion of a public authority. The authority may ask for a number of conformity-assessment procedures and may take into account further considerations such as those concerning local distribution behind the border.

A registration requirement for importers (A15 or B15) is also based on SPS or TBT criteria, but applies to the importing company rather than a product. This contrasts with certification and authorization requirements. Like an authorization, a registration is at the discretion of a public authority. To be registered the importer may have to provide further documentation and comply with a number of SPS or TBT requirements.

Non-automatic import licences (E1) fall under a completely different category. By definition, licences are quantitative restrictions for reasons other than those related to SPS or TBT. Among others, these include economic (E11), political (E122), and religious, moral or cultural reasons (E121). Since most quantitative restrictions are prohibited by the General Agreement on Tariffs and Trade/WTO, it should be carefully assessed whether the measure is not better described as one of the aforementioned SPS or TBT requirements.

- (ii) - **Tolerance limit for residues (A21 and B21);**
- **Restricted use of certain substances (A22 and B22).**

A tolerance limit for residues (A21 and B21), often referred to as MRL (Maximum Residue Limit), refers to contaminants that are not ingredients, such as pesticides. The “Restricted use of certain substances” (A22 and B22) is for ingredients and additives that could be harmful or unhealthy if used abundantly, such as colourants in food.

**(iii) - Labelling (A31 and B31);
- Marking (A32 and B32).**

Labelling (A31 and B31) are legends on the consumer product sold at retail. Marking (A32 and B32) refers to legends or information displayed on the outer transport container useful for logistics handling.

**(iv) - Testing (A82 or B82);
- Inspection (A84 or B84).**

Testing (A82 or B82) is generally stricter than inspection (A84 or B84). Testing involves laboratory tests (for example, for chemical products) and procedures that “use” (test) the product (for machines or tools).

Note that testing or inspection may take place in the exporting or importing country. However, those measures are generally imposed by the importing country as a prerequisite for importation and therefore should be entered in the database as import measures, even when testing is performed in the exporting country.

**(v) - Product identity requirement (B6);
- Quality/performance requirement (B7).**

“Product identity requirement” (B6) is used when the regulation sets the conditions that the product should meet to be denominated by a certain name. If it does not comply with those conditions, the product is still allowed to be sold, but under another name.

Example: A product should have a minimum of 80 per cent orange juice to be called “orange juice”. If its content is lower, it may still be imported under the name of “orange drink”.

“Product quality or performance requirement” (B7) sets the minimum quality conditions under which the product can be allowed for importation.

Example: These include the specific red colour in tomatoes required to be admitted for importation, and requirements such as durability, power consumption, size for agricultural products, or sugar content in fruit.

However, “Product quality or performance requirement” should not be used if another measure code better describes the particular requirement.

Example: A legal text may begin by generally stating that “minimum quality standards have to be met”. Later on, the precise requirements are defined and, for example, actually refer to maximum transport temperatures for fresh food products. Thus, the measure should be coded as “Storage and transport conditions” A64.

(b) Misleading words

The use of certain words may confuse the data collector. Legislation may use some words to define codes of the classification in a way that does not correspond to their normal definition. The following are some examples:

(i) Prohibition: The wording of regulations may “prohibit” imports if certain requirements are not met. In turn, however, if the importer or the product does comply with the requirements, the import is allowed. In this case, the actual requirement is that the import should be registered, which is not a prohibition.

Example: The text may say that it is prohibited to import fish containing more than 1 µg per g of mercury. This is not a “Temporary geographic prohibitions for SPS reasons”, A11, but a “Tolerance limit for residues of or contamination by certain (non-microbiological) substances”, A21.

(ii) Marking: European Community texts often mention the EC marking. In spite of the word “marking” used in the legal texts, it is a proof of compliance to a certification procedure. Therefore, it should be coded as “Certification requirements” (A83 or B83), instead of “Marking requirements” (A32 or B32).

(c) Export-related measures (P)

If a country applies requirements to its own exports, these are to be classified as export-related measures under a code in chapter P (see further note in section 4.1(a) of these guidelines). Export measures are quite common and are almost as diverse as import-related measures. Despite being rather short, chapter P covers a wide range of measures, many of which have parallels to similar chapters of import measures.

A particularly important subchapter is P6 “Export technical measures”. It includes all SPS and TBT measures applied to exports, which correspond to the import-related measures listed in chapters A and B. While P61 and P62 respectively cover export inspections and certifications, all remaining export-related SPS and TBT measures need to be classified as P69.

Example 1: A regulation in the exporting country requires that exports of coffee are packaged and labelled in a certain way. This is a technical export requirement. There is no further distinction between an SPS and a TBT. Since it is neither inspection nor certification, it is classified as “Export technical measures, n.e.s.” P69.

Subchapter P1 “Export licence, quota, prohibition and other quantitative restrictions” refers to quantitative measures and therefore notably excludes all measures for SPS or TBT objectives.

Example 2: For food security reasons (quantitative), a country regulates exports of staple foods through export licensing or an export quota. Such measures are classified as “Export quotas” P12 or “Licensing or permit requirement to export” P13, respectively.

Example 3: A country prohibits the export of endangered animal and plant species. As a measure for the protection of the environment, this is a TBT measure. Therefore, it has to be classified as “Export technical measures, n.e.s.” P69, not “Export prohibition” P11.

(d) Systems approach A13

This measure is defined to contain several simultaneous requirements. This code should be used only when either “Systems approach” or “HACCP” (hazard analysis and critical control points) words are found in the text of the regulation. Having this measure in the classification helps to classify those specific cases where the country uses this as an approach to the regulation of food and agriculture. Specific requirements should also be recorded under the corresponding code.

(e) What happens if I do not find the code for my measure?

In case of remaining doubts, an email may be sent to trains@unctad.org for clarification on how

to classify the measure. Please refer to section 2.1(c) on the principle for using “n.e.s.” or more aggregated codes.

4.2.5 Indicating if measures are also applied to products that are produced and sold domestically

Some types of NTMs only affect traded goods, whereas others may also apply to products that are produced and sold domestically.

The variable “Measure_also_domestic” in the data collection template shall indicate if the measure is equally applied to the domestic market. If the measure is also applied to domestic producers selling on the domestic market, ‘Yes’ should be indicated. If the measure only applies to imported or exported goods ‘No’ should be entered.

The question about the domestic application of measures is particularly interesting for the case of SPS and TBT measures (chapters A and B).

Measures that are generally applied to imported goods only (Measure_also_domestic: ‘No’) are the following: pre-shipment inspections (chapter C), contingent trade protective measures (chapter D), quantitative restrictions (chapter E), most price-control measures and additional taxes (codes F1-F6), finance measures (chapter G) and measures affecting competition (chapter H).

By contrast, the definition of ‘internal taxes and charges levied on imports’ (codes F7) implies that the measure is also applied domestically (Measure_also_domestic: ‘Yes’).

It may also be the case that a regulation does not specify or mention whether a measure is domestically applied or not. Then, ‘Not specified’ should be registered in the data template.

Example 1: A legislative text states “The regulations in this part prohibit or restrict the importation of certain plants, plant products, and other articles to prevent the introduction and dissemination of plant pests and noxious weed.” For all the respective measures in this part of the regulation it should be indicated that they do not affect domestic products: Measure_also_domestic: ‘No’.

Example 2: A regulation reads “ Raw livestock and poultry carcasses and parts that retain water

from post-evisceration processing and that are sold, transported or received in commerce, must bear a statement on the label in prominent letters stating the maximum percentage of water that may be retained". In this case, the labelling requirement applies to both imported and domestic products: Measure_also_domestic: 'Yes'.

5. Distinguishing between sanitary and phytosanitary measures and technical barriers to trade

The difference between SPS and TBT chapters might be elusive in some cases. As a rule, the principles set out in the WTO SPS and TBT agreements are respected.

The WTO SPS Agreement covers all measures that have as purpose the protection of human or animal health from food-borne risks, human health from diseases carried by animals or plants, and animals and plants from pests or diseases, whether or not these are technical requirements.

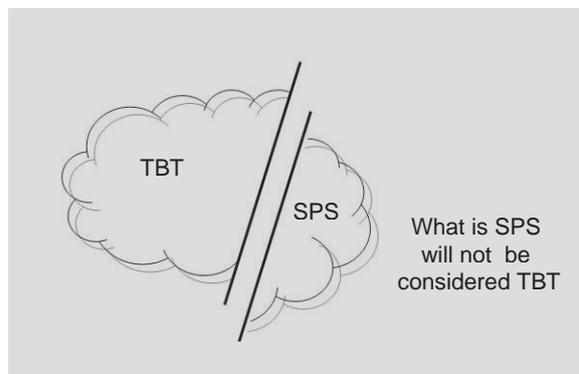
The WTO TBT Agreement covers all technical regulations and conformity assessment procedures that are not covered by the SPS Agreement (figure 4). Governments may introduce TBT regulations for national security, the prevention of deceptive practices, the protection of the environment, and the protection of human health for products other than food, drinks and feed.

5.1. Sanitary and phytosanitary measures

The WTO SPS Agreement covers measures applied in the case of:

- **Food safety:** Risks to human or animal health borne on food, for example, additives, contaminants, toxins or disease-causing organisms in food, beverages or feed;
- **Diseases:** Risks to human health from animal or plant carried diseases, and products thereof;

Figure 4. Technical regulations



- **Pests.** Risks to animals or plants from pests (entry, establishment or spread), diseases, and disease-causing and disease-carrying organisms. (The health of animals includes fish and wild fauna. The health of plants includes forests and wild flora.) (See box 3.)

5.2. Technical barriers to trade

The WTO TBT Agreement permits the introduction of TBT regulations to meet a variety of legitimate objectives, including:

- National security;
- Prevention of deceptive practices;
- Protection of human health or safety;
- Protection of the environment.

See box 4.

5.3. No possible overlap

The definitions of the SPS and TBT Agreements implies that there cannot be an overlap between SPS and TBT measures. Figure 5 provides a simple decision-making diagramme on whether a measure falls under SPS or TBT.

As illustrated, neither SPS nor TBT are defined according to product coverage alone. While there could hardly be any SPS measures on products other than food, drinks and feed, it is possible to find TBT measures on food products, if the measure does not relate to food safety.

Example: Labelling on nutritional content of foods or a certain size for fruits is required. The measures relate to the composition or quality of food, but not to health risks or diseases. It is therefore classified as a TBT (B31).

Box 3. Examples of SPS measures

- Requiring animals and animal products to come from disease-free areas;
- Inspection requirements of products for microbiological contaminants;
- Mandating a specific fumigation treatment for products;
- Setting maximum allowable levels of pesticide residues in food;
- Restrictions on additives in food or drink;
- Restrictions on contaminants in food or drink;
- Restrictions on toxic/poisonous substances in food or drink;
- Restrictions on residues of veterinary drugs or pesticides in food or drink;
- Certification requirement for food safety, and animal or plant health;
- Required processing methods with implications for food safety;
- Labelling requirements directly related to food safety;
- Plant and animal quarantine;
- Preventing disease or pests spreading to a country.

Box 4. Examples of technical barriers to trade

- Labelling of composition or quality of food, drink and drugs;
- Quality requirements for fresh food;
- Volume, shape and appearance of packaging;
- Packaging and labelling for dangerous chemicals and toxic substances, pesticides and fertilizer;
- Regulations for electrical appliances;
- Regulations for cordless telephones, radio equipment, and the like;
- Textiles and garments labelling;
- Testing vehicles and accessories;
- Regulations for ships and ship equipment;
- Safety regulations for toys.

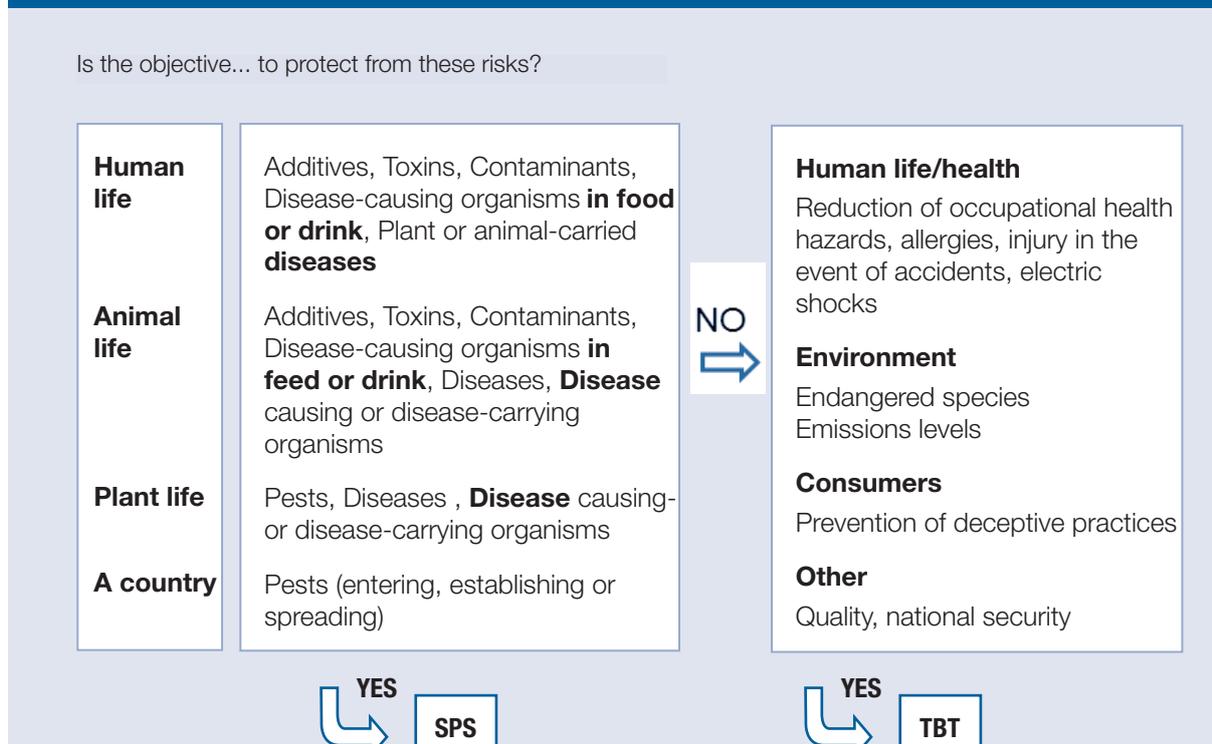
While there is no overlap in coverage between the SPS and TBT agreements, it is possible that the same government regulation contains both SPS and TBT measures together.

Example: Labelling requirements for food often include both SPS and TBT measures (A31 and B31). Usually some of the information mandated to be stated in a label pertains to SPS and some to TBT. A food label may include information about calories or salt content, which is TBT, and also allergy warnings, which are SPS. Unless a labelling regulation precisely states only either SPS or TBT, it should be registered as both by default.

The protection of human health can fall under SPS or TBT depending on whether or not the measure relates to food, drinks or feed (SPS) or other products (TBT).

Examples: Health-related TBT measures include pharmaceutical restrictions and the labelling of cigarettes. Measures related to human disease control are under the WTO TBT Agreement, unless they concern diseases which are carried by plants or animals (such as rabies). On the other hand, regulations which address microbiological contamination of food, or set allowable levels of pesticide or veterinary drug residues, or identify permitted food additives, fall under the WTO

Figure 5. SPS and TBT distinction diagramme



Source: UNCTAD based on WTO (2010), The WTO Agreement Series: Sanitary and Phytosanitary Measures, available on http://www.wto.org/english/res_e/booksp_e/agrmntseries4_sps_e.pdf (accessed 16 January 2014).

SPS Agreement. If packaging requirements are related to the safety of food, drinks or feed, they are classified as SPS measures. If not, they are considered TBTs.

5.4. Some difficult cases for sanitary and phytosanitary measures/technical barriers to trade

Food labelling:

- Health warnings on allergies, use, dosage for permitted food → **SPS**
- Regulation on label's position, lettering, nutrient content, quality → **TBT**;
- Health warnings and nutritional value labelling → **both SPS and TBT** (registered as two separate measures).

Fertilizer:

- Fertilizer residue in food and animal feed → **SPS** (on food and feed products);

- Specifications to ensure fertilizer works effectively → **TBT (on fertilizer)**;
- Safe-handling instructions to protect farmers from possible harm from handling fertilizer → **TBT** (on fertilizer).

Containers for shipping grain:

- Regulation on fumigation, disinfectant, to prevent disease spreading → **SPS**
- Regulation on size, construction/structure, safe handling → **TBT**.

Fruit:

- Regulation on treatment of imported fruit to prevent pests spreading → **SPS**
- Regulation on quality, grading and labelling of imported fruit → **TBT**.

Bottled water – specifications for the bottles:

- Materials that can be used because they are safe for human health → **SPS**

- Permitted sizes to ensure standard volumes → **TBT**;
- Permitted shapes to allow stacking and displaying shapes → **TBT**.

Fumigation:

- To kill insects or pests → **SPS**
- Minimum temperature to do a fumigation → **TBT**.

Animal welfare:

- Any regulation on how the animals should be raised or slaughtered, only for their benefit, not for any nutritional or safety purposes → **TBT**.

Genetically modified organisms (GMOs):

- To protect humans from potentially contaminated/toxic foods, animals from (GMO-related) toxins in the plants they eat, and the like → **SPS**
- Concerns that GMO foods may be less nutritious → **TBT**;
- Biodiversity → **TBT**;
- Requirement that GMO products that have been determined to present no health risk, but nonetheless have to be labelled, the labelling requirement also falls under TBT → **TBT**.

Toys:

- Although many measures related to toys are meant to protect children's health, it should be assumed that requirements on toys do not fall under SPS measures, but are related to TBTs → **TBT**.

Cigarettes:

- Pharmaceutical restrictions or the labelling of cigarettes are considered TBTs despite their objectives to protect human health because they do not involve food-borne diseases or diseases carried by plants or animals → **TBT**.

6. Selecting the corresponding product codes

6.1. What is the Harmonized System

The Harmonized Commodity Description and Coding System, generally referred to as the Harmonized System or simply HS, is a multipurpose international product nomenclature developed by the World Customs Organization.¹¹ It comprises about 5,000 commodity groups, each identified by a six-digit code, arranged in a legal and logical structure, and it is supported by well-defined rules to achieve uniform classification.

The system is used by more than 200 countries and economies as a basis for their customs tariffs and for the collection of international trade statistics. Over 98 per cent of the merchandise in international trade is classified in terms of the Harmonized System.

6.2. How to select product codes

All measures should be matched with Harmonized System product codes or national tariff lines. UNCTAD will provide the respective classifications in the NTM data entry template. If the data collector intends to use a different classification, this must be explicitly agreed with UNCTAD in advance.

The database will record the measures affecting products at the national tariff line level whenever possible. Often, affected products correspond to more than one national tariff line/Harmonized System code item.

A Harmonized System code may be used at the two-, four- or six-digit level only if all tariff lines within the selected code are affected by a measure.

Example: Harmonized System code 0201 "Meat of bovine animals, fresh or chilled" may be used only if all Harmonized System six-digit products within it (that is, 020110 "Fresh or chilled bovine carcasses and half carcasses", 020120 "Other cuts with bone in", and 020130 "Boneless") and all corresponding national tariff lines within each of these six-digit codes are affected by the measure.

¹¹ More information about the Harmonized System is available online at <http://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx> (accessed 16 January 2014).

Normally, the regulation does not provide product codes but a description of the product. It may give a general description which may not correspond to the tariff line or Harmonized System six-digit code description. Therefore, it is important that the original text describing the affected products is preserved and recorded in the database for checking and updating purposes.

The data collector may also use some product groups that are often found in the trade regulations text and that UNCTAD will make available in the data entry template. These groups comprise many Harmonized System codes, often from different chapters. In order to facilitate the work, UNCTAD has identified corresponding Harmonized System codes to those product groups. The most frequently used product groups in trade regulations are as follows:

- Agricultural products
- Dangerous chemicals
- Fish products and fresh or chilled fish
- Fishery products
- Food products
- Foodstuffs of non-animal origin
- Fresh fruit and vegetables
- Iron and steel products
- Meat products and fresh or chilled meat
- Ozone-depleting products (Montreal Protocol)
- Ozone-depleting substances (Montreal Protocol)
- Poultry meat
- Textile products
- Narcotics drugs and psychotropic substances (Narcotics Convention)
- Endangered species (Convention on International Trade in Endangered Species of Wild Fauna and Flora)
- Chemical weapons (Chemical Weapons Convention)
- Alcoholic beverages
- Hazardous chemicals and pesticides (Rotterdam Convention)
- Persistent organic pollutants (Stockholm Convention)
- Radioactive substances

These product groups are by no means exhaustive, and the list will be expanded as more groups of products are identified.

6.3. Tools to identify product codes

UNCTAD provides in the data entry template the product codes and descriptions of the Harmonized System and the tariff line level used in the specific country of data collection.

The data-collector may also use external tools that provide a search option to help identify the correct code/s. One very useful tool is Eurostat Combined Nomenclature Search Engine:

- Go to <https://eurostat.prod.3ceonline.com/>
- Search for keywords and specify further details in the online tool in order to identify product codes; the tool is only available in English
- It can be searched by word or browsing
- Important note: Only use this tool to identify products down to the six-digit level. Codes with more digits refer to the tariff line level of the European Union, not the country of data collection. Furthermore, the identified Harmonized System codes should be compared to the national classification provided by UNCTAD in the data template before use. The national classification must be used for the data collection.

6.4. Principles for the use of “partial product coverage”

The products indicated in a regulation are sometimes very specific and the Harmonized System and national tariff line product classifications do not always provide the necessary detail to appropriately classify them. In some cases, such details need to be further specified as “partial coverage” of registered product codes. However, the use of partial product coverage should be avoided unless it is absolutely necessary. The following principles and examples provide guidance.

(a) When to use partial product coverage

- (i) The affected products are more specific than the products defined at the national tariff line or Harmonized System six-digit level.

Example 1: If a tariff line defines apples, but a measure only affects green apples, the corresponding product codes should be marked as partial coverage. The reason should be explained in the “Partial_coverage_indication” column, for example, “exclusively applied to green apples”.

Example 2: A measure affects all textile

products except folklore textiles, but there is no tariff line distinguishing folklore and non-folklore textiles. For the corresponding product codes for textiles partial coverage should be indicated. The exception should be explained in the Partial_coverage_indication column, for example, “except folklore textiles”.

- (ii) Products may be affected only if they are used for certain purposes. Product codes may be identified, but the measure is only applied in case the product has a specific use or application.

Example 1: Plastics that come into contact with food need to comply with certain purity requirements. In this case, for the corresponding product codes of plastics, partial coverage should be indicated. The reason should be explained in the Partial_coverage_indication column, for example, “only applied to materials supposed to be in contact with food”.

Example 2: There is an importer registration requirement for hemp seeds when they are not intended for sowing. In this case, for the corresponding product codes of hemp partial coverage should be indicated. The reason should be given in the Partial_coverage_indication column, for example, “exclusively related to hemp seeds that are not intended for sowing”.

(b) Do not use “partial product coverage” if more disaggregated product codes give a sufficient description of the product

In many cases, a thorough review of products classified in the Harmonized System will reveal product codes that are specific enough to describe the relevant products without the need to indicate partial product coverage.

Example 1: A regulation requires that soya and cotton seeds used for sowing must undergo laboratory tests to prove that they are free of pests (SPS “Testing requirement” A82).

Example 2: A regulation requires that sesamum seeds used for sowing must undergo laboratory tests to prove that they are free of pests (SPS “Testing requirement” A82).

(c) Avoid using “partial product coverage” with all products, product groups and aggregated Harmonized System product codes (especially at the Harmonized System two-digit level)

In principle, it is not wrong to use partial product coverage with product groups or aggregated Harmonized System product codes. However, it is very likely that at least one of the included products at the six-digit or tariff line level is either not affected at all or fully affected by the measure. If this is

Wrong	Right
 <p>It is incorrect to register HS 1201 for soya seeds and specify “partial product coverage” with the indication “used for sowing”</p>	 <p>Both soya and cotton seeds have a specific HS six-digit code if they are used for sowing: HS 120110 and 120721. These must be selected with full coverage.</p>
Wrong	Right
	 <p>By contrast to the above example, there is no distinction of uses at the HS six-digit level with respect to sesamum seeds (HS 120740 – “Sesamum seeds, whether or not broken”). Unless the national tariff line product codes further distinguish sesamum seed for sowing, using partial product coverage is necessary in this case.</p>

the case, it is not permissible to use the product group or aggregated Harmonized System code. The affected products must then be registered individually, with the respective correct indication (full coverage or partial coverage).

Example: A regulation affects “fresh edible nuts”. All edible nuts are included in HS 0801 (coconuts) and HS 0802 (other nuts).

(d) Do not confuse the non-tariff measure requirement with partial product coverage

Measures usually define conditions (SPS/TBT requirements, obtaining a licence, and the like) under which imports are allowed. However, the wording of regulations is often negative, referring to a prohibition unless certain conditions are fulfilled. This should not be confused with a prohibition of a subset of the respective products, and this subset should not be indicated as partial product

coverage. Instead, the adequate NTM code should be selected to define the import conditions. The respective affected products are accordingly registered without partial product coverage.

Example: A regulation prohibits the import of refrigerators and freezers that contain chlorofluorocarbon (CFC).

6.5. Difficulties in choosing the Harmonized System code for a product

(a) Measures concerning residues or additives

- (i) A “tolerance limit for residues” not allowing more than a certain percentage of a chemical in food should be classified under the food product that contains the restricted chemical, and not under the code for the chemical (for example, pesticide).

Wrong	Right
 <p>It is incorrect to register HS 0801 and 0802 and indicate “partial product coverage” with the indication “only fresh nuts” for both HS four-digit codes.</p> <p>At the HS six-digit level, not all descriptions refer to “fresh or dried” varieties of the respective nuts. There are products fully covered and other/s fully excluded.</p>	 <p>In the case of HS 0802 it is correct to register the HS four-digit code with “partial product coverage” with the indication “only fresh nuts”. Indeed all product descriptions refer to “fresh or dried” at the six-digit level.</p> <p>However, for HS 0801 it is different: HS 080112 and 080119 refer only to fresh coconuts and must be fully included without “partial product coverage”.</p> <p>HS 080111 only refers to “desiccated coconuts” and must be fully excluded.</p>

Wrong	Right
 <p>It is incorrect to specify the measure “Prohibition for TBT reasons” B11 with a “partial product coverage” indicating “only those containing CFCs”.</p> <p>The word “prohibits” is misleading in this case, as imports are allowed under the specified condition.</p>	 <p>This measure should be interpreted as “Restricted use of certain substances” B22, applied to all refrigerators and freezers:</p> <p>Full coverage of HS codes 841810, 841821, 841822, 841829, 841830 and 841840.</p>

- (ii) If there is a requirement with respect to a “restricted use of certain substances”, such as additives in foods, it is under the food code that it should be classified, not under the additives.
- (iii) Only in the cases where the restrictions apply directly to the chemical or substance itself, irrespective of its use and not being part of another product, should it be classified under the Harmonized System code for this substance or chemical.

(b) Packaging

The product that should be chosen is the good being packaged. The exception is a regulation on the packaging itself (wood, metal, paper) without any reference to the product being packaged.

7. Registering affected countries

(a) Identifying the countries of origin to which the measure applies

In most cases, NTMs follow the principle of non-discrimination and are applied to all countries. “World” is then registered as an affected region in the data.

However, there are exceptions:

- (i) **Only certain countries are included:** If a measure only affects certain countries, only these should be registered as “inclusion”. This implies that the rest of the world is not affected by the measure. If a list of countries is included in the regulation this insertion is straightforward. Should the regulation not provide a specific list of countries, but refers to certain characteristics or criteria about the affected countries, the relevant domestic authorities need to be contacted for clarification.

Example: A regulation prohibits banana imports from countries where the oriental fruit fly (*Bactrocera/Dacus dorsalis*) exists. However, the regulation does not contain a list of affected

countries. It is, therefore, necessary to contact the responsible authorities, in this case the ministry of agriculture, to obtain a current list of countries to which the measure applies. It is important to inquire with domestic authorities as only these can confirm a list that is actually used at the border of the country. The source of the information obtained should then be indicated clearly in a note in the data file.

- (ii) **Some countries are excluded:** In the data template, the exempted countries should be registered as “exclusion”. This implies that the measure applies to all other countries.

Example: Countries of origin that belong to the same regional trade agreement as the importing country may be exempted from certain additional taxes or certification requirements. Another example is the SPS measure “Geographical restrictions on eligibility” A12. Such restrictions are imposed upon all countries until a country proves that it complies with certain levels of protection against health hazards. Countries that have proven their eligibility are included in a so-called “positive list”. This list corresponds to registering the respective countries as “exclusion”. Should such a “positive list” not be found in the regulation, it is required that the relevant authorities be contacted for clarification.

(b) Export-related measures: registering destination countries

Again, in most cases, export-related measures apply to all exports irrespective of the destination country. “World” should then be registered as the affected region.

If the measure only affects certain destination countries, these need to be specified as “inclusion”. If some destinations, for example a regional trade agreement, are excluded, they are listed as “exclusion”.

Example: Exports of arms to certain countries, for example Somalia, are prohibited through embargoes (“Export prohibition” P11). Somalia is registered as “inclusion” in this case.

8. Registering objectives of sanitary and phytosanitary measures and technical barriers to trade

The measure objective should only be registered for SPS and TBT measures. This includes measures from chapters A and B, and from branch P6.

For other measures no objective should be indicated.

As discussed above (section 5), SPS and TBT measures in particular can have several objectives as described in the respective WTO agreements. Among SPS and TBT measures, the NTM data collection intends to identify measure objectives at a more detailed level. The data template provides a drop-down list of the relevant objective categories.

For each SPS and TBT measure, one or several objectives may be selected if, and only if, this objective is stated in the regulation. However, it is very common that regulations do not explicitly indicate an objective. An objective should not be presumed or interpreted if it is not clearly expressed in the regulation. If no objective is stated, “no objective specified” should be indicated in the data entry template.

If an SPS or TBT objective is explicitly specified in the regulation, but none of the provided options corresponds, “For purposes n.e.s.” should be selected. In this case the description of the objective should be provided in the data entry template (under the “Notes” column).

9. Using the template

(a) There are several worksheets named as follows:

- Sources
- Documents
- Regulations
- Measures
- Measures affected products
- Measures affected countries
- Measures objectives

(b) The ID columns are automatic. When inputting new information, this cell fills in automatically. The first column in every worksheet is an ID column, not to be filled in by hand.

(c) Some information is linked through two or more worksheets. Some columns are to be inputted in one worksheet. This information is automatically included in the drop-down list to be selected in the other worksheets, without rewriting. This makes it possible to identify the multi-dimensional connexion between sources, documents, regulations, measures, products and country/ies affected. If this is not done properly it will not be possible to link them:

- (i) In the Sources Worksheet, the “source name” has to be filled in by hand. In the Documents and Regulations Worksheets the “source name” should then be selected from the drop-down list that appears in the respective cells.
- (ii) In the Documents Worksheet, the “document title” has to be filled in by hand. In the Regulations and Measures Worksheets the “documents title” should then be selected from the drop-down list that appears in the respective cells.
- (iii) In the Regulations Worksheet, the “regulation short title” has to be filled in by hand. In the Measures Worksheet the “regulation short title” should then be selected from the drop-down list that appears in the respective cells.

Also note that other values are to be selected from a drop-down list and are not to be entered manually, as follows:

- “NTM code” in the Measures Worksheet;
- “Product code type” in the Measures Affected Products Worksheet;
- “Country” in the Measures Affected Countries Worksheet;
- “Objective” in the Measures Objectives Worksheet.

(d) The multi-dimensional connexion allowed by the linking through the worksheets allows for:

- Selecting multiple measures for the same regulation;
- Selecting multiple products for the same measure;
- Selecting multiple countries and objectives for the same measure.

In this way, for example, the regulation does not need to be entered twice if two measures are identified in one regulation. The same value for “document title” shall be selected through the worksheets to identify the same regulation. Please refer to the annex for a detailed description.

ANNEX: Non-tariff measures data collection template: Variables and required information

(Mandatory entries indicated in bold)

1. Sources table: Identifies sources of information

A source of information specifies how access to information collected has been achieved. Each entry for a source of information has the following fields:

- (a) **Source ID** (mandatory, integer value automatically generated, not to be entered manually)
Unique ID of a source of information.
- (b) **Source Name** (mandatory, text value, maximum length 255 characters)
Short source name. This field is referred to in other worksheets.
- (c) **Source Description** (mandatory, text value, no maximum length)
Indications on the type of information available from the source, on who's maintaining it and the frequency of updates.
- (d) Source Website (optional, text value, no maximum length)
Website address where regulations or other documents from the source are available.
- (e) Is Source Authoritative (optional, Boolean (yes/no) value)
Indicates whether the source arises from an official authority.
- (f) Source Contact Person (optional, text value, no maximum length)
Contact person at the source.
- (g) Notes (optional, text value, no maximum length)
Optional additional notes.

2. Documents table: Identifies documents from each source

Listed here will be the available background materials that have been found in the sources and used for data collection. A document must be linked to one source in the sources table through the column "Source name". Each entry in the documents table has the following fields:

- (a) **Document ID** (mandatory, integer value automatically generated, not to be entered manually)
This field is the unique ID of a document.
 - (b) **Source Name** (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Source name as indicated in the sources table.
 - (c) **Document Title** (mandatory, maximum length 255 characters)
Short title of the document.
 - (d) Document Title Full (optional, text value, no maximum length)
When the official title of the document is long, it can be entered here.
 - (e) Document Symbol (optional, text value, no maximum length)
Official symbol of the document when it exists.
 - (f) Document Description (optional, text value, no maximum length)
Overview of the document content.
-

- (g) Document Language (optional, value to be picked up in the dropdown list, not to be entered manually)
Language in which the document is available. If the document is available in multiple languages, this can be specified in the “Notes” field.
- (h) Document Publication Date (optional, date value)
Publication date of the document.
- (i) Document Url (optional, text value, no maximum length)
When a direct link to the document itself is available its website address can be entered here.

3. Regulations table: Identifies regulations within each document, or directly available in the source

Each document may contain several regulations. Each regulation needs to be identified with the following elements:

- (a) **Regulation ID** (mandatory, integer value automatically generated, not to be entered manually)
This field is the unique ID of a regulation.
 - (b) **Source Name** (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Source name as indicated in the sources table.
 - (c) **Document Title** (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Document Title as indicated in the documents table.
 - (d) **Regulation Short title** (mandatory, text value, 255 characters)
Short title of the regulation.
 - (e) Regulatory Agency (optional, text value, no maximum length)
Name of the responsible public authority.
 - (f) Regulation Symbol (optional, text value, no maximum length)
Symbol attached to the regulation which serves as a unique identifier.
 - (g) **Regulation Implementation date** (mandatory, date value)
Date when the regulation came into force.
 - (h) Regulation Repeal Date (optional, date value, greater than Regulation Implementation Date)
If the regulation is no longer in force, date when it has been repealed.
 - (i) Regulation Official Title (optional, text value, no maximum length)
Title of the regulation as it appears in the document.
 - (j) Regulation Description (optional, text value, no maximum length)
Short description of the regulation.
 - (k) Regulation Full Text (optional, text value, no maximum length)
When the regulation is available in electronic format, its full text can be copied/pasted into this field.
 - (l) Regulation Url (optional, text value, no maximum length)
When a direct link to the regulation itself is available its website address can be entered here.
 - (m) Notes (optional, text value, no maximum length)
Optional additional notes.
-

4. Measures table: Identifies measures within each regulation

List of NTMs. These must be linked to either a regulation (“Regulation short title”), a document (“Document title”) or both. Each measure must be identified with the following elements:

- (a) Measure ID (mandatory, integer value automatically generated, not to be entered manually)
This field is the unique ID of a measure.
- (b) Document Title (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Document name as indicated in the documents table.
- (c) Regulation Short Title (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Regulation short title as indicated in the regulations table.
- (d) NTM Code (mandatory, value to be picked up in the drop-down list, not to be entered manually)
NTM Code as indicated in the NTM classification table.
- (e) Measure Implementation Date (mandatory, date value)
Usually the same as the regulation implementation date.
- (f) Measure Repeal Date (optional, date value, greater than regulation implementation date)
If the measure is no longer in force, date when it has been repealed.
- (g) Measure Description (mandatory, text value, no maximum length)
Description of the measure in the regulation.
- (h) Measure Reference (mandatory, text value, no maximum length)
Reference to specific place within the regulation that refers to the respective measure (for example, articles, paragraphs or pages in regulation).
- (i) Affected Products Description (mandatory, text value, no maximum length)
Description of affected products as stated in the regulation.
- (j) Affected Regions Description (mandatory, text value, no maximum length)
Description of affected countries/regions as stated in the regulation.
- (k) Measure objectives (optional, text value, no maximum length)
Rational of the measure, only when specifically stated in the text of the regulation.
- (l) Notes (optional, text value, no maximum length)
Optional additional notes.
- (m) Measure_also_domestic (mandatory, (yes/no/not specified) value)
Indicates if the respective measure is also applied to products that are produced and sold domestically.

5. Measure-affected products table: Identifies which products are affected by the measures

- (a) Measure Affected Product ID (mandatory, integer value automatically generated, not to be entered manually)
This field is the unique ID of an affected product.
 - (b) Measure ID (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Measure ID from the measures table.
-

- (c) Product Code Type (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Select “HS code” if it is wished to enter an Harmonized System code or “Product group” to enter a predefined product group.
- (d) Product Code (mandatory, value to be picked up in the dropdown list, not to be entered manually)
HS two, four or six digit. For predefined groups, the provided group code.
- (e) Partial Coverage (mandatory, Boolean (yes/no) value)
Specifies that only some products of the indicated product code may be affected.
- (f) Partial coverage indication (optional, text value, no maximum length)
If “yes” is selected in partial coverage, more indications may be given here.
- (g) Date in (mandatory, date value)
Usually the same as the regulation implementation date. Different for a new product.
- (h) Date out (optional, date value)
If a product is no longer affected, indicate since when.

6. Measure Affected Countries table: Identifies which countries are affected by the measures (not necessary if all countries are affected)

- (a) Measure Affected Country ID (mandatory, integer value automatically generated, not to be entered manually)
This field is the unique ID of an affected country.
- (b) Measure ID (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Measure ID from the measures table.
- (c) Inclusion/exclusion (mandatory, Boolean (inclusion/exclusion) value)
Inclusion: the country is specifically affected by the measure. Exclusion: the country is specifically not affected by the measure.
- (d) Country (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Name of the country.
- (e) Date in (mandatory, date value)
Usually the same as the regulation implementation date. Different for a new country.
- (f) Date out (optional, date value)
If a country is no longer affected, indicate since when.

7. Measures Objectives table: Identifies the objectives of the measures (if explicitly stated)

- (a) Measure Objective ID (mandatory, integer value automatically generated, not to be entered manually)
This field is the unique ID of an objective.
 - (b) Measure ID (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Measure ID from the measures table.
 - (c) Objective (mandatory, value to be picked up in the dropdown list, not to be entered manually)
Objective code, as indicated in the objective codes table.
-

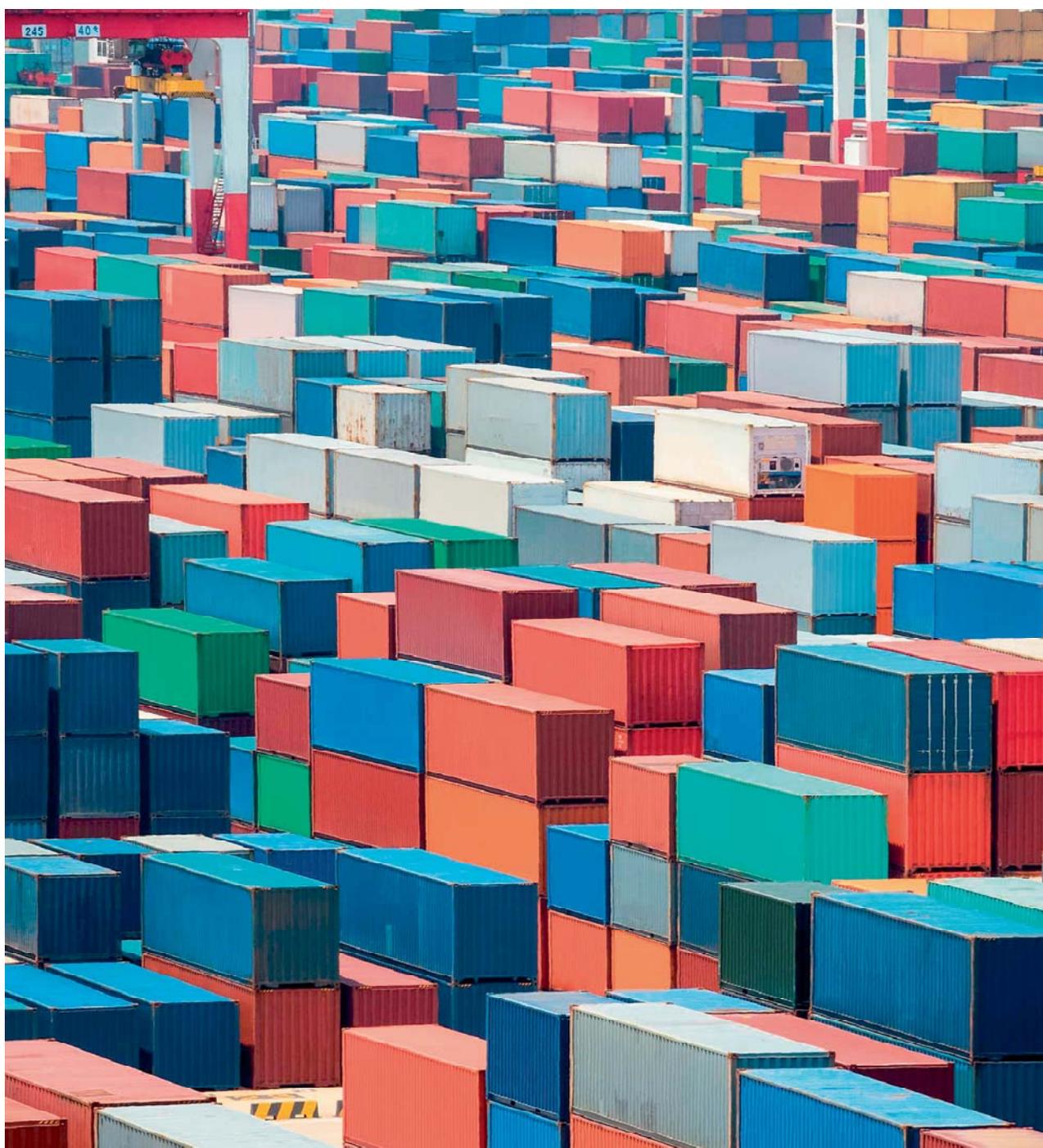


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