

# Environmental Goods Agreement

September 2015

## Summary

Launched in July 2014, the Environmental Goods Agreement (EGA) is being negotiated between the European Union – on behalf of its 28 member states – and 16 other members of the World Trade Organisation (WTO). The agreement aims to reduce tariffs on environmental goods, in order to increase their uptake in the global market.

Tariffs can have a huge and sometimes even decisive impact on the attractiveness of goods and hence the environment. For example, the EU levies import tariffs on Chinese solar panels and on biofuels. This keeps prices of these products higher than would otherwise be the case, but it also protects domestic producers and raises public revenue.

The selection of goods for the EGA list is therefore key for the environmental outcome. Despite the fact that the negotiations have been undertaken in complete secrecy, it is clear that the EGA still has not established a definition for an environmental good or specific selection criteria. The lack of a definition and selection criteria undermines the credibility of the current EGA as-proposed, while the lack of transparency increases suspicion and hostility to the negotiations.

A leak to Transport & Environment has enabled a detailed assessment of the 650 goods that are being discussed. We have identified around 120 items on the list for which we do not see any environmental justification for lowering tariffs. Examples include products containing asbestos, aviation engines, biodiesel and the equipment to burn the fuel – to name a few.

Negotiations should open up and the assessment of what is an environmental good should be conducted by recognised experts in full transparency, on the basis of a widely accepted methodology.

## 1. Context

### 1.1. Background

The Environmental Goods Agreement (EGA) is a trade agreement currently being negotiated by 17 members<sup>i</sup> of the World Trade Organisation (WTO). These parties are estimated to represent almost 90% of the global trade in environmental goods and services, and will extend eventual tariff-obligations laid out in the EGA to all WTO Members through the Most-Favoured Nation principle.<sup>ii</sup>

At the start of the 9<sup>th</sup> round, the EGA is comprised of a list of around 650 items proposed for tariff reductions. This represents an ambitious expansion of the Asia-Pacific Economic Cooperation (APEC) forum's previous agreement on a list of 54 environmental goods, which serves as an acknowledged inspiration to the EGA negotiations. More than half of the negotiating parties to the EGA have already agreed to the APEC list, establishing a 5% tariff ceiling on specific environmental goods that will enter into force by the end 2015. It is projected that the EGA will mirror this 5% bound tariff rate. The key difference between the two agreements, apart from scope and participating countries, is that the APEC is voluntary and the EGA is legally binding.

## 2. Concerns

### 2.1. A list with no definition or criteria

Lacking definition, the EGA list has ballooned into a laundry-list of 650 items. This, coupled with a general absence of transparency surrounding the EGA negotiations, makes monitoring a tedious endeavour. Many countries have made submissions that are, in fact, environmentally *harmful* or with benefits to the spirit of the EGA that are quite dubious. The inclusion of biodiesels, for example, has questionable environmental benefits and would create a dangerous legal precedent wherein future regulatory and standard-setting efforts might come under attack from WTO complainants as disguised barriers to trade.

The lack of robust submission criteria on the nature of environmental goods undermines the credibility of the current EGA as-proposed and risks provoking hostility towards the agreement among the environmental movement. The EGA list includes an abundance of items that do not necessarily do any harm as they are, but also seem to have only tenuous potential towards the advancement of environmental objectives. In many cases, these submissions are made by Negotiating Parties on behalf of domestic industries that already enjoy large comparative advantages over their international counterparts. Consider, for example, the large volume of submissions made by Japan pertaining to electric cars or that of China pertaining to photovoltaic equipment.

Finally, the current EGA list is organised according to the Harmonised Commodity Description and Coding System (HS-6). This classification scheme covering the entirety of traded goods is quite broad and unspecific. Under a single HS-6 headings, several goods can be included, meaning that an HS-6 heading might contain goods which are environmentally positive but also products which are environmentally negative. For example, one code for ‘Automatic regulating or controlling instruments and apparatus’ includes regulating systems for ventilation, heating and lights; battery units for electric vehicles, oil discharge pumps, electric vacuum pumps, and temperature sensors for solar heaters. All these various items are somewhat related as control and regulating units, however, their application varies widely as does their environmental impact. Liberalisation of trade in this regard will not necessarily lead to net environmental gains unless the negotiating parties are more forthcoming about how tightly defined goods and obligations will be within the EGA.

Many of the problems that the EGA suffers from, therefore, arise from definitional issues – particularly those stemming from the inadequacy of the current HS-6. The EGA would benefit from revising the HS-6 code with specific headings for environmental goods. This revision should remove any ambiguity of applying tariff reductions to environmental goods, but also ease compliance and infringement proceedings, as this would enable better data collection, monitoring and reporting on trade in environmental goods – something which is currently impossible and absent from the process.

## 3. EGA analysis

### 3.1. Goods with positive effects

Around 140 items were identified as having the potential to deliver environmental gains and therefore merit tariff reductions. Of these, we identified around 70 items within the transport sector. These include rail equipment, products to improve the hydrodynamic efficiency of ships, as well as a range of items to encourage alternative modes of transport to those powered by fossil fuels.

However, it is important to note that within the items identified as positive, we would specify that rail equipment is only endorsed where it is powered electrically – especially locomotives. It is also important to distinguish between Open, Closed, and Hybrid Loop scrubber systems for maritime shipping; Open Loop systems are unacceptable, and scrubbing emissions is a short-term solution whereas medium-to-

long-term solutions will depend on cleaner resource consumption. This caveat in our assessment further highlights the need for a robust definition and selection criteria.

We identified around another 80 items that could deliver positive environmental impacts such as waterless urinals and composting toilets, whale detection buoys, and, of course, a whole range of parts and components for the renewable energy sector such as wind turbine towers and solar photovoltaic glass. The full list of goods with positive effects can be found in Annex 1.

### **3.2. Goods with negative effects**

During the analysis T&E identified over 20 items that have a negative impact on the environment from a transport perspective and, as such, should be removed from the EGA list; these include aviation engines, biodiesels, biofuels, and equipment to burn them.

Additionally we detected over 100 items that do not have a direct impact on the sustainability of transport but do have significant potential negative impacts on the environment or provide no real environmental benefits; anthracite, products containing asbestos, parts of fuel-elements for nuclear reactors, bamboo chopsticks and brooms. The full list of goods with negative effects can be found in Annex 2.

We also noted a number of items included that have a clear public health benefit such as medical wheelchairs. Should the EGA expand its remit to also address public health then we would support the inclusion of these items; however, as the EGA's current primary focus is on environmental goods, such items should be removed.

These items need to be removed immediately to improve the credibility of the EGA negotiations and to affect environmental progress in the transport sector.

## **4. Solution**

### **4.1. Definition, criteria, transparency, uptake**

The EGA has the potential to bring about significant tariff reductions for environmentally sound goods. However, as things stand, the negotiations could fail due to 'pollution' of the draft list of environmental goods, which is a consequence of the lack of procedure and transparency in developing this list.

The Organisation for Economic Co-operation and Development (OECD) and the and the Statistical Office of the European Communities (Eurostat) have taken the lead in defining and classifying the environmental industry for analytical purposes as "activities which produce goods and services to measure, prevent, limit, minimise or correct environmental damage to water, air and soil, as well as problems related to waste, noise and ecosystems"<sup>iii</sup>.

With regards to goods related to transport, we would support goods that minimise the harmful impact of transport, and reduce greenhouse gas emissions while minimising land use and maximising efficiency.

In practice this would mean technologies or products that assist the transition to transport that is not reliant on combustion such as bikes, electric trains and vehicles; and increase transport energy efficiency. We believe that a robust assessment methodology would ensure that biofuels generically be excluded as they often are worse than fossil fuels from a climate perspective and surely from a land use perspective. Likewise the inclusion of aviation engines, with aviation being the most energy- and climate-intensive mode of transport, does not support the transition to an energy efficient or electrified transport system.

The EGA must as a priority establish a clear definition. Without a specific definition, items that could be environmentally negative or neutral could be included, therefore undoing all the positive impact the agreement could bring about. This includes, for instance, waste incinerators, centrifuges, gas turbines, sludge compactors and a variety of machinery.

An impartial set of criteria, impact assessment and life cycle analysis must be developed to understand the full impact of each good under consideration.

In addition to these set of rules an independent assessment board needs to be set up to undertake the analysis to ensure that the inclusion or exclusion of goods is not fueled by political motivation but on sound assessment. Negotiators have invited several industry representatives from industry associations and individuals companies to discuss the list of environmental products<sup>iv</sup>, however non-industry experts have not been afforded such privilege. This type of behind-closed door meeting further demonstrates why a board should be made up of independent experts, not linked to any industry or government, and should function in a fully transparent manner by publishing all relevant materials on a dedicated website: requests for goods to be assessed and by whom; methodology for assessment; final decisions. The board should also be a contact point for civil society in line with the United Nations Economic Commission for Europe Aarhus Convention.

The long-term durability of the EGA will depend on its ability to balance contradicting approaches to increasing the uptake of environmental goods. Whereas the OECD<sup>v</sup> identifies domestic incentives such as tax waivers and state subsidies as the primary instruments for growing commerce in environmental goods, the WTO framework intends to secure flows of capital, goods, and services that are free from precisely those market distortions. Consequently, a successful EGA will need to mediate these approaches and ensure that environmental protections measures in-line with the OECD ethos are not attacked in the WTO as “disguised restrictions on international trade”.

## Further information

Ms. Cécile Toubeau  
Senior Better Trade and Regulation Officer  
Transport & Environment  
[cecile@transportenvironment.org](mailto:cecile@transportenvironment.org)  
Tel: +32 (0)2 851 02 23

## Annexes

See attached documents.

## Endnotes

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<sup>i</sup> Australia, Canada, China, Chinese Taipei, European Union—including all 28 Member-States, Hong Kong, Iceland, Israel, Japan, Korea, Norway, New Zealand, Singapore, Sweden, Turkey, and the United States

<sup>ii</sup> ICTSD: BioRes, Securing climate benefits in the Environmental Goods Agreement, Date: 27/11/2014.

<http://www.ictsd.org/bridges-news/biores/news/securing-climate-benefits%E2%80%A8-in-the-environmental-goods-agreement>

<sup>iii</sup> OECD; An Assessment of the environmental, economic and development benefits of further global trade liberalization. Date: 05/10/2000. Page 5. <http://www.oecd.org/tad/envtrade/1861110.pdf>

<sup>iv</sup> ICTSD; Negotiators make progress on ‘which list in Environmental Goods Agreement trade talks, Date: 08/12/2014. <http://www.ictsd.org/bridges-news/biores/news/negotiators-make-progress-on-%E2%80%9Cwish-list%E2%80%9D-in-environmental-goods-agreement>

<sup>v</sup> OECD; Environmental Goods and Services – An Assessment of the Environmental Economic and Development Benefits of further Global Trade Liberalisation. Date: 05/10/2000. <http://www.oecd.org/tad/envtrade/1861110.pdf>