



WWF-UK
Registered office
The Living Planet Centre
Rufford House, Brewery Road
Woking, Surrey GU21 4LL

Tel: +44 (0)1483 426444
info@wwf.org.uk
wwf.org.uk

Core standards, WTO law and support for developing countries

WWF Briefing - August 2023

SUMMARY

- Core environmental standards - minimum environmental requirements for imports - are needed to ensure that the UK does not offshore its food consumption footprint, and that UK products and imports are competing on a level playing field. Major businesses, farmers, eNGOs and independent commissions have called for the development of core environmental standards. This briefing focusses on how developing country interests should be considered under WTO law in the design of such standards.
- The WTO recognises the possibility of unilateral measures for protecting the environment. To be WTO-compliant, such measures need to be necessary to achieve the legitimate objective, treat imports no worse than like domestic products, ensure that countries are treated without discrimination, and be based on international standards (where they exist).
- To help developing countries adapt to any new environmental standards, transition periods and technical support are necessary under WTO law. Other support should also be provided to ensure that the adaptation process is smoother, for example targeted financial support through Aid for Trade.

THE NEED FOR CORE STANDARDS AND COMPLIANCE WITH WTO LAW

Food and commodities used to produce food are some of the most traded products in the world. Yet the global food system is the major cause of biodiversity loss and accounts for **around a third of global greenhouse gas emissions**. It is generally agreed that transitions to sustainable forms of food production and consumption globally are needed to meet global climate, nature and nutritional security goals, while respecting the particular circumstances of each nation.

At the same time, the UK's **global food footprint** - the impact of the food that we consume - needs to be reduced by three quarters by 2030 in order to stay within accepted global planetary limits. Much of this relates to the global impacts of the food we import. As part of reaching this goal, the UK needs to support high standard producers – at home and abroad – who can care for the countryside and create the resilient and sustainable farming systems we need to meet our net zero and nature restoration commitments.

The UK’s approach to food trade globally should reflect our values and standards, in particular that the food we consume should be produced in ways that wherever possible are aligned with natural processes and adhere to strict environmental, social and welfare criteria. This is why WWF-UK, alongside other NGOs, **major food businesses, farmers’ groups**, and several independent commissions (**NFS, TAC, CCC, Breakthrough Agenda**) has been calling for the development of **core environmental standards**. These would set sustainability thresholds for all food sold in the UK- whether produced at home or imported from abroad. By requiring imports to meet production standards comparable to those mandatory in the UK, core standards would prevent imported goods from undermining the UK's farming and environmental standards.

Last year, we published a **report on the design of core environmental standards**, including an analysis of the WTO legal framework for such standards and two in-depth case studies: on pesticides and nitrogen use. Roundtables on this report showed that there was particular interest in WTO law and how core standards would work for developing countries, and this briefing is based on further research that we commissioned from Prof Emily Reid on how developing country interests should be considered under WTO law in the design of core standards.

While the WTO’s default approach is to focus on multilateral approaches and international consensus, it clearly recognises the space for unilateral action when these cannot be achieved. Unilateral measures are allowed under the GATT¹, the TBT², and the SPS³ agreements, but they need to be subject to certain conditions. The following table provides an overview of the key criteria:

Necessity	The measures need to be limited to what is necessary to achieve the desired, legitimate objective.
National treatment of like products	Imported products shouldn’t be treated any worse than the like domestic products.
Even-handedness	There shouldn’t be any arbitrary or unjustifiable discrimination between countries which export to the UK, within which the same conditions prevail.
Default to international standards (where the exist)	Unilateral measures should be based where possible on international standards, notwithstanding the right of Members to determine their chosen level of protection. Where there is no international standard, or a state seeks to impose a higher standard, this should be supported by sufficient scientific evidence. Provisional precautionary measures are possible where insufficient scientific evidence exists.

¹ General Agreement on Tariffs and Trade

² Agreement on Technical Barriers to Trade

³ Agreement on Sanitary and Phytosanitary Measures

For a fuller analysis of the WTO legal framework for core environmental standards, please see **the report** (authored by TULIP and IEEP).

THE IMPACT OF INTRODUCING CORE STANDARDS FOR DEVELOPING COUNTRIES

Recognition of the needs of developing countries runs through the WTO agreements, from the Preamble to the WTO Agreement, to the specifics of the GATT, TBT and SPS. This includes an emphasis on technical assistance to support developing or least-developed states to adapt to any new standards.

The requirement of **even-handedness, mentioned above, also requires consideration of the different conditions present in each country**. In the **US Shrimp** case, the US had brought in requirements for shrimp trawlers wishing to export to the US to use technology that did not endanger turtles. The Appellate Body confirmed that under WTO rules, countries have the right to take trade action to protect the environment, but the US lost the case because it discriminated between WTO members. It provided countries in the western hemisphere (in the Caribbean) technical and financial assistance and longer transition periods for their fishermen to start using new devices, but it did not provide the same to countries in Asia, such as Malaysia, India, Pakistan and Thailand who brought the case.

Therefore, **providing appropriate transition periods and assistance to developing countries to adapt to meet new standards is key for the measure to comply with WTO law, and this support cannot discriminate unfairly between countries**.

Core environmental standards would need to be accompanied by transition periods and assistance for developing countries to adjust to them. **Transition periods** are very commonly used under the SPS and other agreements. There could be several ways of providing for transition periods for countries implementing core environmental standards. For example, the UK could decide what the transition periods should be for all trading partners, setting longer periods for developing countries, or it could allow countries to apply for a transition period and to state their case for how long it should be.

Another option would be to provide for **an exemption that is related to the level of exports of relevant commodities** coming from a given country to the UK. Such an exemption could apply if the exports to the UK are below a certain threshold, which would mean that the impact of the exemption on achieving the objective of core standards would be very small. For this type of exemption to function, it would need to be subject to regular review to ensure that the level of exports has not changed. The criterion for the exemption would need to be well-defined and transparent.

OTHER SUPPORT FOR DEVELOPING COUNTRIES

In addition to transition periods and exemptions, other technical and financial assistance to support developing and least developed countries to meet core environmental standards would also be beneficial. This may be done through building on existing **Aid for Trade** programming to ensure that it includes the support for producers to meet environmental standards.

There are also many existing initiatives in standards relating to deforestation that the UK could learn from. For example, producers of some commodities have come together to create consistent voluntary standards for such commodities. E.g., the **Africa Palm Oil Initiative** is a set of principles developed by African countries to design what standards should look like. The UK could consult with these types of initiatives when designing core standards to ensure that there is buy-in from developing countries for this type of policy.

Contact	Anna Sands, Senior Policy Adviser on Trade
Email/Tel	Asands@wwf.org.uk
Date	30 August 2023