

## **Best Practice Guidelines to Apply the APEC Cross-cutting Principles on Non-Tariff Measures**

*Reaffirming the principles and goals of the APEC Putrajaya Vision 2040, including through the Aotearoa Plan of Action.*

*Noting the APEC Cross-cutting Principles on Non-Tariff Measures endorsed by Ministers in 2018, which set out principles to support best practice on NTMs.*

*Responding to the 2025 APEC Ministers Responsible for Trade Statement on sharing innovative approaches that remove unnecessary barriers to trade while maintaining appropriate regulatory objectives.*

*Noting that NTMs are policy measures other than ordinary customs tariffs that can potentially have an economic effect on international trade in goods and services, by changing quantities traded, prices, or both.*

*Noting that unwarranted NTMs constitute non-tariff barriers (NTBs), which can be particularly burdensome for micro, small and medium-sized enterprises.*

*Recognising in this regard the concerns raised by the APEC Business Advisory Council on the impacts of trade restrictive NTMs on business, as well as impacts identified by international studies on the topic.*

To reduce the instances in which NTMs are applied in a manner that constitutes an unnecessary barrier to trade, APEC adopts the following best practice guidelines to apply the APEC Cross-cutting Principles on NTMs, as a reference for member economies' development and implementation of NTMs.

*Recognising that the cross-cutting principles on NTMs require a holistic approach aimed at applying all the principles to realize its cumulative benefits. The following guidelines provide a non-exhaustive list of questions to assist APEC member economies to determine whether any intended measure is meeting those principles:*

### **Principle 1: Transparency**

The processes to develop NTMs should be transparent, consultative (including with business and other affected stakeholders) and timely, resulting in predictable, coherent, and non-discriminatory application; and information about NTMs should be publicly available.

#### **Key benefits from applying Principle 1**

- 1.1 Improved stakeholder trust and cooperation
- 1.2 Better understanding by stakeholders of possible impacts of proposed NTMs
- 1.3 Enhanced trust among trading partners

#### **Points to consider to apply this principle:**

- Are timely and cost-effective consultation mechanisms incorporated into regulatory processes?
- Recognising that some NTMs are sector-specific, are there channels in place to foster sustained whole-of-economy coordination on NTMs?
- Are active and passive information sharing tools used to ensure timely and transparent consultation and publication of NTMs information?
- Are relevant information about NTMs publicly available for stakeholders to independently assess possible impacts of proposed NTMs and to ensure compliance?
- Are necessary notifications being made to relevant WTO committees, as per the transparency obligations under the WTO Agreements?
- Are measures in place to ensure that relevant stakeholders are notified and meaningfully involved in developing NTMs, including during FTA/RTA negotiations?
- Are draft measures published with an adequate amount of time (e.g., 60 days or more for TBT and SPS measures) for review and comment?

## **Principle 2: WTO commitments and obligations**

NTMs should be consistent with member economies' commitments and obligations as members of the WTO.

### **Key benefits from applying Principle 2**

- 2.1 Reduced risk of trade disputes and NTMs to be challenged
- 2.2 Increased certainty and predictability for the business sector
- 2.3 Enhanced international credibility among trading partners

### **Points to consider to apply this principle:**

- Are there ex-ante and ex-post evaluation processes in place to ensure that NTMs are designed in line with WTO commitments and agreements (e.g., non-discrimination, transparency and special and differential treatment)?
- Are there established cross-agency consultative channels with relevant stakeholders and legal experts to ensure that NTMs are developed in line with WTO commitments and obligations?
- Is there a mechanism to receive feedback from trade partners and relevant stakeholders on NTMs that may deviate from WTO commitments and obligations? Is there a process in place to handle such feedback?

## **Principle 3: Trade restrictiveness**

NTMs should not be more trade-restrictive than necessary to meet a legitimate objective, and where appropriate, should focus on outcomes, rather than mandating prescriptive approaches.

### **Key benefits from applying Principle 3**

- 3.1 Minimized risk of overregulation
- 3.2 Increased emphasis on policy outcomes rather than prescribing methods
- 3.3 Reduced compliance burden

### **Points to consider to apply this principle:**

- Have regulatory impact assessments been undertaken when developing NTMs? Does this include assessments to evaluate the cost-effectiveness of the NTM and the likely impacts on consumers, industry and trade?
- Are processes in place to ensure that NTMs, where appropriate, are outcomes-oriented, not prescriptive, and minimize procedural burdens and compliance costs for relevant stakeholders and businesses?
- Have alternative options that are less trade restrictive been explored to meet desired policy objectives?
- Are measures or changes in measures implemented in multiple phases or stages, recognizing the different capacities of affected businesses?

## **Principle 4: International Standards**

NTMs should be based on relevant international standards, where appropriate, and should be developed in accordance with the WTO TBT Agreement, the WTO SPS Agreement or recommendations and/or decisions of the WTO TBT Committee or the WTO SPS Committee.

### **Key benefits from applying Principle 4**

- 4.1 Deeper integration into global value chains through harmonization or mutual recognition
- 4.2 Reduced procedural complexity and burden of conformity assessments
- 4.3 Improved trade policy alignment

### **Points to consider to apply this principle:**

- Has an evaluation of NTMs' alignment with existing international standards been conducted? If the NTM deviates from international standards, is there a clear, evidence-based justification for doing so?
- Are there periodical review mechanisms to streamline conformity assessments, including the consideration of updated or newly introduced international standards and appropriate tools and technologies?
- Has an evaluation been made to increase the interoperability of cross-border mechanisms through alignment with the WTO TBT and SPS agreements, and the WTO TBT and SPS Committee recommendations and/or decisions?

### **Principle 5: Non-arbitrary and justifiable treatment**

NTMs should not arbitrarily or unjustifiably discriminate against imported products.

#### **Key benefits from applying Principle 5**

- 5.1 Enhanced market access
- 5.2 Level playing field for everyone
- 5.3 Improved trust and collaboration in facilitating trade

### **Points to consider to apply this principle:**

- Have assessments been undertaken to evaluate if NTMs treat local and imported goods equitably (i.e., if there are any differential treatments, they are based on justified reasons)?
- Have any regular public-private dialogue with service providers been established to assess whether NTMs treat local and imported services fairly (i.e., differential treatments are based on sufficient justification)?
- Have measures been adopted to create a fair competition environment for both local and imported goods and services?
- If arbitrary and unjustifiable treatment is perceived, are there available mediation and collaboration mechanisms under trade agreements to facilitate understanding between trade partners?

### **Principle 6: Innovation**

NTMs should not pose unwarranted barriers to the development of new technologies that drive innovation

#### **Key benefits from implementing Principle 6**

- 6.1 Adaptive and supportive policy environment conducive for innovation
- 6.2 Innovation-friendly implementation of NTMs
- 6.3 Stronger cross-border regulatory cooperation facilitative of innovation

### **Points to consider to apply this principle:**

- Have systems to pilot new NTMs been adopted to allow space for managing risks and course correcting for unwarranted barriers?
- Are there clear protocols to promote and facilitate the use of new technologies to minimise the procedural burden of implementing and complying with NTMs?
- Are there review mechanisms and processes in place to ensure that NTMs do not pose unjustified barriers to trade in new technologies?