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Negotiating Group on Market Access

DRAFT MODALITIES FOR NON-AGRICULTURAL MARKET ACCESS

SECOND REVISION

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Draft NAMA modalities

Second Revision

Preamble

1. In paragraph 16 of the Doha Ministerial Declaration, we agreed "to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed Members, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 of the Doha Ministerial Declaration. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations."
2. Further to the Doha Development Agenda (DDA) mandate, and building on the results reached in Annex B of the General Council Decision of 1 August 2004 (the "NAMA Framework") and paragraphs 13 to 24 of the Hong Kong Ministerial Declaration, we hereby establish the following modalities for the non-agricultural market access (NAMA) negotiations which shall be applicable to all non-agricultural tariff lines as defined in Annex 1.
3. The results of the application of these modalities shall be reflected in schedules of concessions which shall be submitted and finalized in the Harmonized System 2002 nomenclature and prepared in accordance with document [JOB(06)/99/Rev.2]. Initial, comprehensive, draft schedules shall be submitted no later than three months after the establishment of modalities.
4. These modalities do not create a new category or sub-category of WTO Members, nor do they create a precedent for future negotiations. In applying these modalities, existing bindings shall not be raised except as provided by Article XXVIII of GATT 1994.

Formula

5. The following formula shall apply on a line-by-line basis:

$$t_1 = \frac{\{a \text{ or } (x \text{ or } y \text{ or } z)\} \times t_0}{\{a \text{ or } (x \text{ or } y \text{ or } z)\} + t_0}$$

where,

t_1 = Final bound rate of duty

t_0 = Base rate of duty

a = [7-9] = Coefficient for developed Members

x = [19-21], y = [21-23], z = [23-26] to be determined as provided in paragraph 7 = Coefficients for developing Members.

Elements regarding the formula

6. (a) Product coverage shall be comprehensive without *a priori* exclusions.
- (b) Tariff reductions or elimination shall commence from the bound rates after full implementation of current concessions; however, for unbound tariff lines, a constant, non-linear mark-up shall be applied to establish base rates for commencing tariff reductions as follow: applied rate plus [20 percentage points] [30 percentage points] [30 percentage points for those applied rates which are equal to or less than (the coefficient x 0.5) and either 20 percentage points for those applied rates higher than (the coefficient x 0.5) or (the coefficient x 0.5 + 30 percentage points), whichever is higher].
- (c) The base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November).
- (d) All non-*ad valorem* duties shall be converted to *ad valorem* equivalents on the basis of the methodology outlined in document TN/MA/20 and bound in *ad valorem* terms.
- (e) The reference period for import data shall be 1999-2001.
- (f) The first reduction shall be implemented on 1 January of the year following the entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years, except as otherwise provided. The tariff reductions for developed Members shall be implemented in [4 - 5] years (i.e. [5 - 6] equal rate reductions) and for developing Members in [8 - 10] years (i.e. [9 - 11] equal rate reductions), except as otherwise provided.

Coefficient and flexibilities for developing Members subject to the formula

7. Developing Members subject to the formula shall be granted the flexibility to choose to apply the coefficient and flexibilities in paragraph 7(a) or 7(b) or 7(c).
- (a) Coefficient x in the formula and either:
- (i) less than formula cuts for up to [12-14] percent of non-agricultural national tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [12-19] percent of the total value of a Member's non-agricultural imports;
- or
- (ii) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [6-7] percent of non-agricultural national tariff lines provided they do not exceed [6-9] percent of the total value of a Member's non-agricultural imports¹.

¹ It is understood that the options in sub-paragraph 7(a) (ii) and 7 (b) (ii) (keeping tariff lines unbound or not applying formula cuts) may be combined but cannot together exceed the applicable percent of tariff lines and total value of a Member's non-agricultural imports.

- (b) Coefficient y in the formula and either:
- (i) less than formula cuts for up to [10] percent of non-agricultural national tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's non-agricultural imports;
- or
- (ii) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of non-agricultural national tariff lines provided they do not exceed [5] percent of the total value of a Member's non-agricultural imports¹.
- (c) Coefficient z in the formula without recourse to flexibilities.
- (d) [As an exception, South Africa shall have recourse to [1-6] additional percentage points in the flexibility provided under paragraph 7(b)(i).]
- (e) [As an exception, the Bolivarian Republic of Venezuela shall apply a treatment similar to that for Small, Vulnerable Economies as follows: [target average bound tariff plus minimum line-by-line cut].]
- (f) [The flexibilities provided under paragraph 7 shall not be used to exclude entire HS Chapters.] [The flexibility in paragraph 7 shall not be used to exclude from the full formula cut entire HS Chapters, or to exclude from any four digit heading in a Member's tariff schedule: (1) more than [half] of the six-digit sub-headings in that heading; or (2) any combination of six-digit sub-headings or national tariff lines in that heading representing more than [50] percent of the total value of the Member's imports of goods classifiable within that heading. For the purposes of subparagraph (1), if a Member uses flexibilities with respect to any national tariff line in a six-digit subheading, it shall be deemed to have excluded that six-digit subheading.]
- (g) [Exclusively for the calculation of the value of trade limitation, a Member may choose between: (a) the 1999-2001 reference period specified in paragraph 6(e); or (b) the most recent three year period for which data is available.]
- (h) [A customs union which submits a single list of flexibilities shall calculate the percentage for the value of trade (VOT) limitation in paragraph 7 as follows:
- $$\text{VOT \%} = \frac{\text{Sum of total customs union NAMA imports under flexibilities}}{\text{Sum of total customs union NAMA imports}}$$
- Intra-customs union trade values are excluded.]
- (i) [Additional points in the coefficient in the formula shall be provided as a “credit” to developing countries participating in sectoral agreements as follows: [].]

Flexibilities for developing Members with low binding coverage²

8. (a) As an exception, developing Members with a binding coverage of non-agricultural tariff lines of less than 35 percent will be exempt from making tariff reductions through the formula. Instead, developing Members with a binding coverage of non-agricultural tariff lines:
- (i) below [12] percent shall bind [70-90] percent of non-agricultural tariff lines;
 - (ii) at or above [12] percent but below [25] percent shall bind [75-90] percent of non-agricultural tariff lines; and
 - (iii) at or above [25] percent but below [35] percent shall bind [80-90] percent of non-agricultural tariff lines.

Each Member shall bind at an average level that does not exceed 28.5 percent.

- (b) These tariff lines shall be bound on 1 January of the year following the entry into force of the DDA results at initial bound rates.
- (c) The initial bound rates shall be established as follows: for bound tariff lines the existing bindings shall be used, and for unbound tariff lines the Member subject to this modality will determine the level of the initial binding of those tariff lines.
- (d) [The overall binding target average shall be made effective at the end of the implementation period as follows: the tariff reductions shall be implemented in [9 - 11] equal rate reductions. The first reduction shall be implemented on 1 January of the second year following the entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.] [The overall binding target average shall be made effective at the end of an implementation period of [10] years.]
- (e) All duties shall be bound on an *ad valorem* basis. Existing bindings on a non *ad valorem* basis shall be converted to *ad valorem* equivalents on the basis of the methodology outlined in document TN/MA/20.

Sectoral negotiations

9. The sectoral tariff reduction component is another key element to achieving the objectives of Paragraph 16 of the DDA. Participation in sectoral initiatives is on a non-mandatory basis.

² Developing Members concerned are: Cameroon; Congo; Côte d'Ivoire; Cuba; Ghana; Kenya; Macao, China; Mauritius; Nigeria; Sri Lanka; Suriname; and Zimbabwe.

Such initiatives shall aim to reduce, harmonize or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, over and above that which would be achieved by the formula modality, in particular on products of export interest to developing Members.

10. Progress has been made in a variety of sectoral initiatives, where discussions among participants have focused on: defining the critical mass which may include the share of world trade and level of participation of competitive producers; the scope of product coverage; the implementation period for tariff reduction or elimination; and special and differential treatment for developing-country participants.
11. At the Hong Kong Ministerial Conference, Ministers instructed Members to identify sectoral initiatives which could garner sufficient participation. Sectoral initiatives currently proposed are: automotive and related parts; bicycles and related parts; chemicals; electronics/electrical products; fish and fish products; forest products; gems and jewellery; hand tools; industrial machinery, open access to enhanced health care; raw materials; sports equipment; toys; and textiles, clothing and footwear.
12. Members participating in sectoral initiatives are instructed to intensify their work in accordance with the following timetable and with a view to incorporating any outcomes of such negotiations on an unconditional basis in their final comprehensive draft schedules:
 - (a) by the establishment of modalities (EOM), the proponents of each sectoral initiative shall propose the specific modalities to be applied to the products covered in each initiative;
 - (b) by the EOM plus 2 months, Members intending to participate in a sectoral initiative shall so indicate to the proponents of the relevant sectoral initiative as well as to the Secretariat; and
 - (c) by the EOM plus 3 months, the participants in the sectoral initiatives shall incorporate any outcomes of such negotiations on a conditional basis in their comprehensive draft schedules.

Small, Vulnerable Economies

13. With the exception of developed Members, those Members having a share of less than 0.1 percent of world NAMA trade for the reference period of 1999 to 2001 or best available data as contained in document TN/MA/S/18 may apply the following modality of tariff reduction instead of the formula modality which is contained in paragraphs 5, 6 and 7 above.
 - (a) Members with a bound tariff average of non-agricultural tariff lines:³
 - (i) at or above 50 percent shall bind all of their non-agricultural tariff lines at an average level that does not exceed an overall average of [22 -32] percent [or

³ See document TN/MA/S/4 and Corr.1 for the bound tariff averages of Members.

shall reduce their average bound tariff by 40 percent, whichever is the lesser reduction];

- (ii) at or above 30 percent but below 50 percent shall bind all their non-agricultural tariff lines at an average level that does not exceed an overall average of [18-28] percent [or shall reduce their average bound tariff by 30 percent, whichever is the lesser reduction]; and
- (iii) below 30 percent shall bind all their non-agricultural tariff lines at an average level that does not exceed an overall average [14-20] percent and shall apply a minimum line-by-line reduction of [5-10] percent on [90-95] percent of all non-agricultural tariff lines.

Fiji shall be deemed to fall under (a)(i).

[As an exception, Bolivia shall apply [] which shall substantially preserve its bound tariff rates].

- (b) All tariff lines shall be bound on 1 January of the year following the entry into force of the DDA results at initial bound rates. Fiji shall have the flexibility to maintain 10 percent of non-agricultural tariff lines unbound.
- (c) The initial bound rates shall be established as follows: for bound tariff lines the existing bindings shall be used, and for unbound tariff lines the Member subject to this modality will determine the level of the initial binding of those tariff lines.
- (d) The overall binding target average shall be made effective at the end of the implementation period as follows: the tariff reductions shall be implemented in [9 -11] equal rate reductions. The first reduction shall be implemented on 1 January of the year following the entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years, except for lines covered under 13(e) where the first reduction shall be implemented on 1 January of the year following completion of the grace period.
- (e) For those Recently Acceded Members applying this modality, a grace period of 3 years shall be applied on those lines on which accession commitments are not fully implemented before entry into force of the DDA results. This grace period shall begin as of the date of full implementation of the accession commitment on that tariff line.
- (f) All duties shall be bound on an *ad valorem* basis. Existing bindings on a non *ad valorem* basis shall be converted to *ad valorem* equivalents on the basis of the methodology outlined in document TN/MA/20.

Least Developed Countries (LDCs)

- 14. LDCs shall be exempt from tariff reductions. However, as part of their contribution to the DDA, LDCs are expected to substantially increase their level of tariff binding commitments. Individual LDCs shall determine the extent and level of tariff binding commitments in

accordance with their individual development objectives. All new tariff binding commitments shall be on an *ad valorem* basis. For existing bindings which are not on an *ad valorem* basis, LDCs are encouraged to convert them to *ad valorem* equivalents on the basis of the methodology outlined in document TN/MA/20 and bind them in *ad valorem* terms.

Market Access for LDCs

15. We reaffirm the need to help LDCs secure beneficial and meaningful integration into the multilateral trading system. In this regard, we recall the *Decision on Measures in Favour of Least-Developed Countries* contained in decision 36 of Annex F of the Hong Kong Ministerial Declaration (the "Decision"), and recommit:
 - (a) to fully implement the Decision as agreed;
 - (b) to ensure that preferential rules of origin applicable to imports from LDCs will be transparent, simple and contribute to facilitating market access in respect of non-agricultural products. In this connection, [we urge Members to] [Members shall] use the model provided in document TN/MA/W/74, as appropriate, in the design of the rules of origin for their autonomous preference programs;
 - (c) to progressively achieve compliance with the Decision referred to above, taking into account the impact on other developing countries at similar levels of development; and
 - (d) to permit developing country Members to phase in their commitments and enjoy appropriate flexibility in coverage.
16. Accordingly, developed-country Members shall:
 - (a) inform WTO Members of the products that will be covered under the commitment to provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level by [2008, or no later than the start of the implementation period] [the time of final schedules]; and
 - (b) notify the steps and possible time frames within which they will progressively achieve full compliance with the Decision.
17. As part of the review foreseen in the Decision, the Committee on Trade and Development shall monitor progress made in its implementation, including in respect of preferential rules of origin. The monitoring procedure shall be defined and agreed by the Committee on Trade and Development, by the time of final schedules.

Recently Acceded Members (RAMs)⁴

18. The RAMs shall apply the modality provided for in either paragraphs 5, 6 and 7 or paragraph 13, as applicable.
19. In addition, the RAMs applying the formula shall be given⁵:
 - (a) a grace period of [2-3] years which shall apply [on a line-by-line basis and which shall begin as of the date of full implementation of the accession commitment on that tariff line] [to those tariff lines which were still in the process of implementation of the accession commitment as of 1 January, 2003 and the grace period shall begin as of the date of the entry into force of the DDA results];
 - (b) an extended implementation period of [2-5] equal rate reductions to that provided in paragraph 6(f) to implement their Doha commitments. The first reduction shall be implemented on 1 January of the year following the entry into force of the DDA results with the exception of those tariff lines covered by (a) above where the first reduction shall be implemented on 1 January of the year following completion of the grace period. In both these cases, each successive reduction shall be made effective on 1 January of each of the following years.
20. Albania, Armenia, Former Yugoslav Republic of Macedonia, Kyrgyz Republic, Moldova, Saudi Arabia, Tonga, Viet Nam and Ukraine shall not be required to undertake tariff reductions beyond their accession commitments.

Supplementary Modalities

21. Members may use the request & offer approach as a supplementary modality. Members engaging in such negotiations shall incorporate any outcomes in their final comprehensive draft schedules.

Elimination of low duties

22. Members are asked to consider the elimination of low duties.

Non-tariff barriers (NTBs)

23. The reduction or elimination of NTBs is an integral and equally important part of the objectives of paragraph 16 of the DDA. More specifically, initiatives in this area shall aim to reduce or eliminate, as appropriate, NTBs, in particular on products of export interest to

⁴ Albania; Armenia; China; Croatia; Ecuador; Former Yugoslav Republic of Macedonia; Georgia; Jordan; Kyrgyz Republic; Moldova; Mongolia; Oman; Panama; Saudi Arabia; Chinese Taipei; Tonga; Viet Nam; and Ukraine. LDC RAMs as well as other RAMs who have since their date of accession become Members of the EC are not included in this list.

⁵ There are other proposals to expand paragraph 7 flexibilities and to apply a formula coefficient higher than the developing country coefficient, but the RAMs have taken the view that these proposals should be taken up when the coefficients in the formula and paragraph 7 flexibilities are agreed.

developing Members and to enhance market access opportunities achieved through these modalities.

24. Members agree that text-based negotiation should continue on the following proposals, with a view to finalizing them as early as possible before the submission of final comprehensive draft schedules: [Ministerial Decision on Procedures for the Facilitation of Solutions to Non-Tariff Barriers]; [Negotiating Proposal on Non-Tariff Barriers in the Chemical Products and Substances Sector]; [Understanding on the Interpretation of the Agreement on Technical Barriers to Trade as Applied to Trade in Fireworks]; [Understanding on the Interpretation of the Agreement on Technical Barriers to Trade as Applied to Trade in Lighter Products]; [Decision on the Elimination of Non-Tariff Barriers Imposed as Unilateral Trade Measures]; [Understanding on the Interpretation of the Agreement on Technical Barriers to Trade as Applied to Trade in Electronics]; [Revised Submission on Export Taxes]; [Understanding on the Interpretation of the Agreement on Technical Barriers to Trade with Respect to the Labelling of Textiles, Clothing, Footwear, and Travel Goods]; [Protocol on Transparency in Export Licensing to the General Agreement on Tariffs and Trade 1994]; [Decision on Non-Tariff Barriers Affecting Forestry Products Used in Building Construction]; [Agreement on Non-Tariff Barriers Pertaining to the Electrical Safety and Electromagnetic Compatibility (EMC) of Electronic Goods]; [Ministerial Decision on Trade in Remanufactured Goods]; [Automotive NTBs]. Negotiations on bilateral requests should proceed in tandem. This will allow for sufficient time to multilateralize the outcomes through *inter alia* incorporating them where appropriate into Part III of the schedules.
25. The text-based negotiations shall take place in the context of dedicated NTB sessions; and work will continue in accordance with the following timetable:
 - (a) by the establishment of modalities (EOM), text-based negotiations shall begin on the NTB proposals contained in paragraph 24, on the basis the legal texts in Annex 5;
 - (b) by EOM plus [one] month, Members shall table any revised legal text suggestions to the Chair's compilation; and
 - (c) by EOM plus [five] months, Members shall finalize the negotiating texts for the purpose of legal revision before, as appropriate, their inclusion in any final package in NAMA.
26. These negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed Members.

Capacity-Building Measures

27. Members are committed to enhancing trade capacity-building measures to assist Members in the early stages of development, and in particular Least Developed Country Members, to address their inherent supply side capacity constraints and the challenges that may arise from increased competition as a result of MFN tariff reductions. These measures, including the Enhanced Integrated Framework for Least Developed Countries and other Aid-for-Trade initiatives, shall be designed to enable such Members to take advantage of increased market access opportunities, including through diversification of export products and markets, and to meet technical standards/requirements and address other non-tariff measures.

Non-reciprocal preferences

28. MFN liberalization resulting from the DDA will erode non-reciprocal preferences in respect of a limited number of tariff lines which are of vital export importance for developing Members beneficiaries of such preferences. As a result, and in order to provide these Members with additional time for adjustment, the reduction of MFN tariffs on those tariff lines shall be implemented in [7 - 9] equal rate reductions by the preference-granting developed Members concerned. The first reduction shall be implemented [two years after] the first reduction required under paragraph 6(f) and each successive reduction shall be made effective on 1 January of each of the following years. The relevant tariff lines shall be those contained in [Annex 2] for the European Communities and in [Annex 3] for the United States.
29. To further assist preference receiving countries to meet the challenges that will arise from increased competition as a result of MFN tariff reductions, preference granting Members [and other Members in a position to do so] [are urged to] [shall] increase their assistance to these Members through mechanisms including the Enhanced Integrated Framework for Least Developed Countries and other Aid-for-Trade initiatives. They [are also urged to] [shall also] simplify the rules of origin in their preference programs so that preference receiving Members can make more effective use of such preferences. [Progress in the implementation of such assistance, and its effectiveness in achieving the objectives of this paragraph, shall be reviewed periodically in the Committee on Trade and Development.]
30. As a result of action taken under paragraph 28, some developing Members who do not benefit from these preferences and who export under some of those same tariff lines to those preference granting markets, may be disproportionately affected. For these Members⁶, the reduction agreed in paragraph 5 on the relevant tariff lines shall be implemented, by waiver of Article I of the GATT of sufficient duration to cover the full implementation period, in [5 - 6] equal rate reductions, in the relevant preference granting markets. The first reduction shall be implemented on 1 January of the year following the entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years. The relevant tariff lines on which such staging in the relevant preference granting markets shall be implemented are listed in [Annex 4].

Non-agricultural environmental goods

31. The Committee on Trade and Environment in Special Session (CTESS) is working with a view to reaching an understanding on environmental goods. Members are instructed to take guidance from this work and initiate negotiations, without prejudging their outcome, on the reduction or, as appropriate, elimination of tariffs and NTBs on non-agricultural environmental goods.

⁶ [Pakistan and Sri Lanka].

Annex 1

**Product Coverage of Non-Agricultural Products at the tariff line level
in the Harmonized System 2002 Nomenclature**

The modalities for non-agricultural products shall cover the following products:⁷

(a) Fish and fish products defined as:

<u>Code/ Heading</u>	<u>Product Description</u> ⁸
Chapter 3	Fish and crustaceans, molluscs and other aquatic invertebrates
05.08	Coral and similar materials, unworked or simply prepared but not otherwise worked; shells of molluscs, crustaceans or echinoderms and cuttle-bone, unworked or simply prepared but not cut to shape, powder and waste thereof
05.09	Natural sponges of animal origin
0511.91	-- Products of fish or crustaceans, molluscs or other aquatic invertebrates; dead animals of Chapter 3
1504.10	- Fish-liver oils and their fractions
1504.20	- Fats and oils and their fractions, of fish, other than liver oils
ex 1603.00	- Extracts and juices fish or crustaceans, molluscs or other aquatic invertebrates
16.04	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs
16.05	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved
2301.20	- Flours, meals and pellets, of fish or of crustaceans, molluscs or other aquatic invertebrates

(b) Chapters 25 to 97, except the following agricultural products:

<u>Code/ Heading</u>	<u>Product Description</u> ⁷
2905.43	-- Mannitol
2905.44	-- D-glucitol (sorbitol)
2905.45	-- Glycerol
33.01	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils
ex 3302.10	--Of a kind used in the manufacture of beverages

⁷ [The following deviations are noted without prejudice to the rights and obligations of Members and without creating a precedent for future negotiations. Firstly, Japan will schedule as non-agricultural products the following HS2002 Codes: 1212.20 (Seaweeds and other algae), 1302.31 (Agar-agar) and ex 2106.90 (Other food preparations not elsewhere specified or included, with the largest single ingredient consisting of products specified in sub-heading 1212.20 by weight; Hijikia fusi-formisu; and seaweed products). Secondly, the following Members will schedule some of the HS2002 Codes and Headings covered by paragraphs (i) and (ii) as agricultural products: the European Communities (ex1603.00 and 3302.10), Mexico (ex1603.00), Tunisia (0511.91, ex1603.00 and 2301.20); Turkey (ex1603.00, 1604 and 1605) and Switzerland (05.08, 0511.91, 1504.10, 1504.20 and 2301.20).]

⁸ The product descriptions for HS Codes with ex-outs are specific and do not cover the entire 6-digit HS Code.

<u>Code/ Heading</u>	<u>Product Description</u> ⁷
35.01	Casein, caseinates and other casein derivatives; casein glues
35.02	Albumins (including concentrates of two or more whey proteins, containing by weight more than 80% whey proteins, calculated on the dry matter), albuminates and other albumin derivatives
35.03	Gelatin (including gelatine in rectangular (including square) sheets, whether or not surface-worked or coloured) and gelatin derivatives; isinglass; other glues of animal origin, excluding casein glues of heading 35.01
35.04	Peptones and their derivatives; other protein substances and their derivatives, not elsewhere specified or included; hide powder, whether or not chromed
35.05	Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches
3809.10	- With a basis of amylaceous substances
38.23	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols
3824.60	- Sorbitol other than that of subheading 2905.44
41.01	Raw hides and skins of bovine (including buffalo) or equine animals (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split
41.02	Raw skins of sheep or lambs (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not with wool on or split, other than those excluded by Note 1 (c) to this Chapter.
41.03	Other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split, other than those excluded by Note 1 (b) or 1 (c) to this Chapter
43.01	Raw furskins (including heads, tails, paws and other pieces or cuttings suitable for furriers' use), other than raw hides and skins of heading 41.01, 41.02 or 41.03
50.01	Silk-worm cocoons suitable for reeling
50.02	Raw silk (non-thrown)
50.03	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
51.01	Wool, not carded or combed
51.02	Fine or coarse animal hair, not carded or combed
51.03	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
52.01	Cotton, not carded or combed
52.02	Cotton waste (including yarn waste and garnetted stock)
52.03	Cotton, carded or combed
53.01	Flax, raw or processed but not spun; flax tow and waste (including yarn waste and garnetted stock)
53.02	True hemp (<i>Cannabis sativa L.</i>), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock)

Annex 2

European Communities

Tariff line	Indicative product description
[0302.32.90	Yellowfin tunas (<i>Thunnus albacares</i>), fresh or chilled, other than for the industrial manufacture of products of heading 16.04
ex 0302.69.99	The following fish, fresh or chilled, excluding livers and roes: Lesser African threadfin, Sompat grunt, Sea Catfish, Yellow croaker, Largehead hairtail, Cassava croaker, White grouper, Red Pandora, Flagfin mojarra
0303.79.19	Other fish, frozen, excluding livers and roes
ex 0303.79.98	The following frozen fish: Lesser African threadfin, Sompat grunt, Sea Catfish, Yellow croaker, Largehead hairtail, Cassava croaker, White grouper, Red Pandora, Flagfin mojarra
0304.10.19	Fish fillets and other fish meat (whether or not minced), fresh or chilled, of other freshwater fish
0304.10.38	Other fish fillets and other fish meat, fresh or chilled
0304.20.19	Frozen fillets, of other freshwater fish
0304.20.45	Frozen fillets, of tuna (of the genus <i>Thunnus</i>) and of fish of the genus <i>Euthynnus</i>
ex 0304.20.94	Frozen fillets of the following fish: Lesser African threadfin, Sompat grunt, Sea Catfish, Yellow croaker, Largehead hairtail, Cassava croaker, White grouper, Red Pandora, Flagfin mojarra
0306.13.50	Shrimps of the genus <i>Penaeus</i>
0306.13.80	Other shrimps and prawns
0307.49.18	Other cuttle fish (<i>Sepia officinalis</i> , <i>Rossia macrosoma</i> , <i>Sepiola spp.</i>), frozen
0307.59.10	Other octopus (<i>Octopus spp.</i>), frozen
1604.14.11	Tunas and skipjack, in vegetable oil
1604.14.16	Tunas and skipjack, fillets known as 'loins'
1604.14.18	Other preserved or prepared tunas and skipjack
1604.19.31	Other fish fillets known as 'loins'
5208.12.96	Plain weave of cotton, weighing more than 100 g/m ² , not exceeding 165 cm
5208.12.99	Plain weave of cotton, weighing more than 100 g/m ² , exceeding 165 cm
5701.10.10	Carpets, of wool or fine animal hair, containing a total of more than 10 % by weight of silk or of waste silk other than noil
5701.10.90	Other carpets and other textile floor covering, knotted, whether or not made up, of wool or fine animal hair
6105.10.00	Men's or boys' shirts, knitted or crocheted, of cotton
6105.20.10	Men's or boys' shirts, knitted or crocheted, of synthetic fibers
6109.10.00	T-shirts, singlets and other vests, knitted or crocheted, of cotton
6110.11.30	Men's or boys' jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of wool
6110.12.10	Men's or boys' jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted; of Kashmir (cashmere) goats

Tariff line	Indicative product description
6110.12.90	Women's' or girls' Jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of Kashmir (cashmere) goats
6110.20.91	Men's or boys' jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of cotton
6110.20.99	Women's' or girls' jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of cotton
6110.30.91	Men's or boys' jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of man-made fibers
6110.30.99	Women's' or girls' Jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of man-made fibres
6203.42.35	Men's or boys' trousers, bib and brace overalls, breeches and shorts, of cotton
6204.52.00	Women's' or girls' skirts and divided skirts, of cotton
6204.63.18	Women's' or girls' trousers, bib and brace overalls, breeches and shorts, of synthetic fibres (excluding industrial and occupational)
6205.20.00	Men's or boys' shirts, of cotton
6206.30.00	Women's or girls' blouses, shirts and shirt-blouses, of cotton
6214.20.00	Shawls, scarves, mufflers, mantillas, veils and the like, of wool or fine animal hair
7601.10.00	Unwrought aluminium, not alloyed
7601.20.10	Aluminium alloys, primary
7601.20.91	Aluminium alloys, secondary, in ingots or in liquid state]

Note: The [40] tariff lines listed correspond to the tariff structure notified by the European Communities to the Integrated Database (IDB) for the year 2005, which is in the HS2002 nomenclature. The product descriptions are indicative only.

Annex 3

United States

Tariff line	Indicative product description
6102.20.00	Women's or girls' overcoats, carcoats, capes, cloaks, anoraks, windbreakers and similar articles, knitted or crocheted, of cotton
6103.42.10	Men's or boys' trousers, breeches and shorts, knitted or crocheted, of cotton
6103.43.15	Men's or boys' trousers, breeches and shorts, knitted or crocheted, of synthetic fibers, nesoi
6104.62.20	Women's or girls' trousers, breeches and shorts, knitted or crocheted, of cotton
6104.63.20	Women's or girls' trousers, breeches and shorts, knitted or crocheted, of synthetic fibers, nesoi
6105.10.00	Men's or boys' shirts, knitted or crocheted, of cotton
6106.10.00	Women's or girls' blouses and shirts, knitted or crocheted, of cotton
6107.11.00	Men's or boys' underpants and briefs, knitted or crocheted, of cotton
6108.21.00	Women's or girls' briefs and panties, knitted or crocheted, of cotton
6109.10.00	T-shirts, singlets, tank tops and similar garments, knitted or crocheted, of cotton
6109.90.10	T-shirts, singlets, tank tops and similar garments, knitted or crocheted, of man-made fibers
6110.20.20	Sweaters, pullovers and similar articles, knitted or crocheted, of cotton, nesoi
6110.30.30	Sweaters, pullovers and similar articles, knitted or crocheted, of manmade fibers, nesoi
6201.92.20	Men's or boys' anoraks, windbreakers & similar articles nesoi, not knitted or crocheted, of cotton, not cont. 15% or more by wt of down, etc
6203.42.20	Men's or boys' bib and brace overalls, not knitted or crocheted, of cotton, not containing 10 to 15% or more by weight of down, etc
6203.42.40	Men's or boys' trousers and shorts, not bibs, not knitted or crocheted, of cotton, not containing 15% or more by weight of down, etc
6203.43.40	Men's or boys' trousers, breeches & shorts, of synthetic fibers, con under 15% wt down etc, cont under 36% wt wool, n/water resist, not k/c
6204.62.40	Women's or girls' trousers, breeches and shorts, not knitted or crocheted, of cotton, nesoi
6204.63.35	Women's or girls' trousers, breeches and shorts, not knitted or crocheted, of synthetic fibers, nesoi
6205.20.20	Men's or boys' shirts, not knitted or crocheted, of cotton, nesoi
6205.30.20	Men's or boys' shirts, not knitted or crocheted, of manmade fibers, nesoi
6206.40.30	Women's or girls' blouses and shirts, not knitted or crocheted, of manmade fibers, nesoi
6211.32.00	Men's or boys' track suits or other garments nesoi, not knitted or crocheted, of cotton
6211.33.00	Men's or boys' track suits or other garments nesoi, not knitted or crocheted, of man-made fibers
6212.10.90	Brassieres, not containing lace, net or embroidery, containing under 70% by wt of silk or silk waste, whether or not knitted or crocheted]

Note: The [25] tariff lines correspond to the tariff structure notified by the United States to the Integrated Database (IDB) for the year 2005, which is in the HS2002 nomenclature. The product descriptions are indicative only.

Annex 4

1. Pakistan, for the following tariff lines in Annex 3:

Tariff line	Indicative product description
[6105.10.00	Men's or boys' shirts, knitted or crocheted, of cotton
6109.10.00	T-shirts, singlets, tank tops and similar garments, knitted or crocheted, of cotton
6110.20.20	Sweaters, pullovers and similar articles, knitted or crocheted, of cotton, nesoi
6203.42.40	Men's or boys' trousers and shorts, not bibs, not knitted or crocheted, of cotton, not containing 15% or more by weight of down, etc
6204.62.40	Women's or girls' trousers, breeches and shorts, not knitted or crocheted, of cotton, nesoi]

2. Sri Lanka, for the following tariff lines in Annex 3:

Tariff line	Indicative product description
[6110.20.20	Sweaters, pullovers and similar articles, knitted or crocheted, of cotton, nesoi
6203.42.40	Men's or boys' trousers and shorts, not bibs, not knitted or crocheted, of cotton, not containing 15% or more by weight of down, etc
6204.62.40	Women's or girls' trousers, breeches and shorts, not knitted or crocheted, of cotton, nesoi
6205.20.20	Men's or boys' shirts, not knitted or crocheted, of cotton, nesoi
6212.10.90	Brassieres, not containing lace, net or embroidery, containing under 70% by wt of silk or silk waste, whether or not knitted or crocheted]

Note: These tariff lines correspond to the tariff structure notified by the United States to the Integrated Database (IDB) for the year 2005, which is in the HS2002 nomenclature. The product descriptions are indicative only.

Annex 5

NTB TEXTUAL PROPOSALS⁹

This compilation is without prejudice to the positions of Members and to their rights and obligations under the WTO Agreement. The inclusion of a proposal in this Annex does not presume a consensus around it.

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⁹ The proposals have been compiled in alphabetical order of the submitting Member(s).

I. MINISTERIAL DECISION ON PROCEDURES FOR THE FACILITATION OF SOLUTIONS TO NON-TARIFF BARRIERS¹⁰

Ministers,

Recalling that in paragraph 16 of the Doha Ministerial Declaration, Annex B of the Framework Agreement and paragraph 22 of the Hong Kong Ministerial Declaration, Members agreed to negotiations on, *inter alia*, reduction or as appropriate elimination of non-tariff barriers, in particular on products of export interest to developing countries,

Conscious of the fact that non-tariff measures vary significantly in form, effects and objectives, and that non-tariff measures can serve legitimate and important purposes pursued by Members, whilst non-tariff measures may also constitute barriers that affect market access opportunities for other WTO Members and potentially impair benefits sought to be achieved from the reduction or elimination of tariffs,

Recognizing that flexible and expeditious procedures of a conciliatory and non-adjudicatory nature, involving a facilitator, may promote mutually acceptable solutions to Members' concerns regarding non-tariff barriers that aid exporters and importers, while respecting the legitimate objectives of the Members maintaining the measures,

Recognizing that these procedures neither alter nor address the rights and obligations of Members under the WTO Agreement,

Recognizing that these procedures build upon and further the objectives of existing procedures in WTO bodies,

Emphasizing that the procedures under this Decision are not intended to replace or otherwise affect the Understanding on Rules and Procedures Governing the Settlement of Disputes, and Members' rights and obligations thereunder,

Decide as follows:

GENERAL PROVISIONS

2. Pursuant to this Decision, any Member may seek to address through recourse to the procedures set out below its concerns regarding any non-tariff barrier ('NTB'), as specified in Annex 1 of this Decision, which it believes adversely affects its trade.
3. These procedures shall neither enforce any rights or obligations under the WTO Agreement nor add to or diminish the rights and obligations of Members, and shall be without prejudice to Members' rights and obligations under the Understanding on Rules and Procedures concerning the Settlement of Disputes ("DSU").
4. These procedures shall be applied¹¹ in the context of relevant WTO Committees¹¹.

¹⁰ Submitted by the African Group, Canada, European Communities, LDC Group, NAMA-11, Group of Developing Countries, New Zealand, Norway, Pakistan and Switzerland (document TN/MA/W/106).

¹¹ The relevant WTO Committee is the one overseeing the operation of the WTO agreement most closely related to the measure at issue. If there is no such Committee for a particular measure, the request shall be notified to the Council for Trade in Goods.

5. Any time limit referred to in this Decision may be modified by mutual agreement between the Members involved in these procedures.

6. At all stages of these procedures, the special situation of least-developed country Members involved in these procedures shall be given particular consideration. In this regard, Members shall exercise due restraint in raising matters under these procedures involving a least-developed country Member and solutions explored shall take into consideration the specific situation of the least developed country Member involved, if any.

PROCEDURES FOR ADDRESSING CONCERNS REGARDING NTBS

Stage I: Request and Response on a Specific NTB

7. Any Member (the 'requesting Member') may, individually or jointly with other Members, initiate Stage I of these procedures by submitting in writing to another Member (the 'responding Member') a request for information regarding a non-tariff barrier. The request shall identify and describe the specific measure at issue and provide a detailed description of the requesting Member's concerns regarding the measure's impact on trade.

8. The responding Member shall provide, within [20] days, to the extent practicable, a written response containing its comments on the information contained in the request. Where the responding Member considers that a response within [20] days is not practicable, it shall inform the requesting Member of the reasons for the delay, together with an estimate of the period within which it will provide its response.

9. Upon submission, the requesting Member shall notify its request to the relevant WTO Committee,¹² which shall circulate it to all Members. The responding Member shall equally notify its response to the relevant WTO Committee, which shall circulate it to all Members. Following the receipt of these notifications, upon the request of either the requesting or the responding Member (hereinafter referred to as "the parties"), the Chairperson or one of the Vice Chairpersons of the relevant WTO Committee shall convene a meeting with the parties to *inter alia* address any outstanding issues and explore possible next steps.

Stage II: Resolution Procedures

10. Following this initial information exchange under Stage I, the parties shall decide on whether to proceed to Stage II of these procedures. Stage II of these procedures may only be initiated by mutual agreement of the parties. However, if one of the parties requests to proceed to Stage II of these procedures, the other party shall accord sympathetic consideration to that request.

11. The parties shall notify any decision to proceed to Stage II to the relevant WTO Committee.

12. Any other Member may submit a written request to the parties, within [10] days of notification under paragraph 10, that it be permitted to participate in these procedures as a third party. Such other Member may participate in these procedures if both parties so agree and on the terms agreed to by the parties.

¹² If the Committee to which these communications were notified considers itself not to be the relevant Committee, it shall forward the notifications to the Committee overseeing the operation of the WTO agreement most closely related to the measure at issue, or if it is unclear which WTO agreement is most closely related, to the Council for Trade in Goods.

11bis. Once initiated, Stage II shall be terminated upon request of either party.

Appointment of a Facilitator

13. Upon their agreement to initiate Stage II of these procedures, the parties may request that the Chairperson of the relevant WTO Committee, (or if it is unclear which agreement is most closely related, the Chairperson of the Council for Trade in Goods), or one of the Vice Chairpersons, serve as facilitator. Alternatively, the parties may request that a Friend of the Chair agreed upon by the parties serve as facilitator. If the parties cannot agree on the appointment of a facilitator within [15] days of the initiation of Stage II of these procedures, and if one of the parties so requests, the [Chairperson of the Council for Trade in Goods] shall appoint the facilitator within an additional [10] days and after consulting the parties. The selection of facilitator shall take place in accordance with Annex 2 of this Decision.

Seeking Mutually Agreed Solutions

14. The facilitator, in consultation with the parties, shall have full flexibility in organizing and conducting the deliberations under these procedures, which normally should take place at the WTO headquarters, unless the parties agree on any other place of mutual convenience, taking into account possible capacity constraints of developing country parties. The facilitator and the parties may rely on existing working procedures of any WTO Committee concerned, to the extent they are relevant for the prompt resolution of the NTB in question. Video conferencing and other telecommunication facilities may be utilized, if considered suitable and agreed to between the parties.

15. Either party may present to the facilitator and the other party any information that it deems relevant.

16. In assisting the parties, in an impartial and transparent manner, in bringing clarity to the NTB concerned and its possible trade-related impact, the facilitator may:

- (a) offer advice and propose possible solutions for the parties' consideration, taking into account the information presented by the parties; *provided* any such opinion shall not pertain to the WTO consistency of the NTB, the parties' rights and obligations under the WTO Agreement, or to any possible legitimate objectives for the maintenance of the measure;
- (b) organize meetings between, and meet individually or jointly with, the parties, in order to facilitate discussions on the NTB and to assist in reaching mutually agreed solutions;
- (c) seek assistance of the WTO Secretariat and, after consulting with the parties, consult with relevant experts and stakeholders; and
- (d) provide any additional support requested by the parties.

17. All meetings and information (whether provided in oral or written form) acquired pursuant to paragraphs 14, 15 and 16 of these procedures shall be confidential and without prejudice to the rights of any party or other WTO Member in any dispute settlement proceeding under the DSU.

18. The parties shall endeavour to reach a mutually agreed solution within [60] days from the appointment of the facilitator. Pending final resolution of the NTB, the parties may consider possible interim solutions, especially if the NTB relates to perishable goods.

Outcome and Implementation

19. Upon termination of Stage II of these procedures by a party or in the event that the parties reach a mutually agreed solution, the facilitator shall issue to the parties, in writing, a draft factual report, providing a brief summary of (1) the NTB at issue in these procedures; (2) the procedures followed; and (3) any mutually agreed solution reached as the final outcome of these procedures, including possible interim solutions. The facilitator shall provide the parties [15] days to comment on the draft report. After considering the comments of the parties, the facilitator shall submit, in writing, a final factual report to the relevant WTO Committee.

20. If the parties reach a mutually agreed solution, such solution shall be implemented in conformity with the WTO Agreement.

FINAL PROVISIONS

Transparency

21. Notifications pursuant to this Decision and the facilitators' final factual reports shall constitute regular items on the agenda of the relevant WTO Committees. Adequate opportunity shall be provided for an exchange of views amongst Members in the relevant WTO Committee.

22. For the purpose of transparency, the Chairpersons of the relevant WTO Committees [or, when applicable, the Council for Trade in Goods] shall provide to Members, on an annual basis, a status report of notified requests and responses and of ongoing and recently completed procedures, together with a list of any reports from facilitators.

Technical Assistance

23. Developing country Members and in particular least-developed country Members may request assistance from the WTO Secretariat to promote their understanding of the use and functioning of these procedures. Technical assistance required by least-developed country Members will be made available through the Technical Assistance Programmes of the WTO. Developed country Members are encouraged to provide technical assistance, *inter alia*, to share with developing country Members their experience for effective participation in these procedures.

Application and Review

23. The Council for Trade in Goods and the relevant Committees¹ shall apply this Decision and implement it within the framework of their work from the date of the adoption of this Decision. The Council for Trade in Goods and each Committee to which this Decision applies may decide, by consensus, to modify certain procedural aspects of this Decision. Any modifications shall apply only within the Council or Committee that has adopted the modifications and only to procedures initiated after the date of effectiveness of the decision on the modifications.

24. In light of experience gained from the operation of these procedures, the [Council for Trade in Goods] will undertake a review of the effectiveness of the procedures under this Decision no later than [5] years after the adoption of this Decision. Based on this review, Members may decide on whether to extend these procedures to other matters falling under the WTO Agreement or otherwise modify these procedures.

ANNEX 1

These procedures shall cover all NTBs affecting trade in goods and falling under the remit of the Council for Trade in Goods, except:

- Any measure regulated by the Agreement on Agriculture;
- Countervailing measures adopted pursuant to Part V of the Agreement on Subsidies and Countervailing Measures;
- Antidumping measures within the meaning of Article 1 of the Agreement on Implementation of Article VI of the GATT 1994; and
- Safeguard measures within the meaning of Article 1 of the Agreement on Safeguards.

ANNEX 2

In so far as the facilitator agreed upon by the parties or appointed by the Chairperson of the Council for Trade in Goods in accordance with paragraph 12 of this Decision is not the Chairperson of the relevant WTO Committee, or one of the Vice Chairpersons:

1. Facilitator shall be well-qualified governmental or non-governmental individuals.
2. Facilitator shall serve in their individual capacity and not as government representatives, nor as representatives of any organization.
3. Facilitator shall not be citizens of Members whose governments are parties to these procedures, unless the parties agree otherwise.
4. Facilitator's expenses, including travel and subsistence allowance, shall be met from the WTO budget in accordance with the criteria adopted for panellists under Article 8.11 of the DSU.

II. NEGOTIATING PROPOSAL ON NON-TARIFF BARRIERS IN THE CHEMICAL PRODUCTS AND SUBSTANCES SECTOR¹³

A. INTRODUCTION

Pursuant to paragraph 16 of the Work Programme adopted at the Doha Ministerial Conference and paragraph 22 of the Decision adopted at the Hong Kong Ministerial Conference, Member States agreed to conduct negotiations to reduce or eliminate tariff and non-tariff barriers, particularly with regard to products of export interest to developing countries. This document is a specific negotiating proposal by the Argentine Republic on non-tariff barriers in the chemicals sector.

Non-tariff barriers distort international trade inasmuch as they impede access to markets of vital importance to developing and least developed countries, increase export-related transaction costs and place domestic industries at a clear disadvantage at the expense of other WTO Members' producers. Consequently, the elimination of non-tariff barriers is essential to achieve a fairer distribution of the benefits of opening up international trade.

In the chemicals sector, the continued existence of non-tariff barriers acts as a disincentive to participation in international trade, to the point of preventing any type of commercial exchange. This has a seriously adverse impact on the international competitive environment in a sector of vital importance for developing countries, whose chemical industries are mainly composed of small and medium-sized enterprises.

The global chemical industry is essential to a broad range of manufacturing and agricultural industries, which use chemical inputs for practically all their products. By virtue of their capacity to transfer state-of-the-art technology to all parts of the world, chemical industries in countries at all levels of development can be internationally competitive.¹⁴ The global output of this sector for 2006 is estimated at US\$3 billion, 41 per cent of which – US\$1.2 billion – is traded internationally. Chemical exports account for 10.6 per cent of total world goods exports and 15.1 per cent of world trade in manufactures. Moreover, this sector employs more than 7 million people throughout the world. Developing countries' share of world trade in chemicals has increased considerably in recent years, from 16.5 per cent in 1990 to nearly 2 per cent in 2006.¹⁵

The negotiating proposal set out below is aimed at addressing distortions in the international trade in chemical products. A coherent and reasonable line of action would provide guarantees for trade in chemical products and substances, enabling other industrial sectors to diversify and produce finished goods at lower cost.

B. PRODUCT COVERAGE

Given the complexity of the sector, this proposal covers only chemical substances and preparations on which sufficient information is available and which pose minimum risk to human health and the environment. The list of such substances should be agreed by consensus between WTO Members and their minimum risk status should be substantiated by technical reports with appropriate scientific authority.

¹³ Submitted by Argentina (document TN/MA/W/104).

¹⁴ Based on the United States communication in the NAMA negotiations (TN/MA/W/58).

¹⁵ Based on WTO statistics.

C. PRINCIPAL OBSTACLES TO NAMA NEGOTIATIONS ON NON-TARIFF BARRIERS

On the basis of an analysis conducted for the chemicals sector, a number of obstacles have been identified which could usefully be considered in the NAMA negotiations on non-tariff barriers.

1. Substance labelling requirements

Although the labelling of chemical substances and preparations has the function of informing the consumer and/or user of essential product characteristics, labelling requirements may in many instances be excessive. This problem is exacerbated by the multiple requirements of certain Members, which bear no relation to internationally agreed standards. It is further compounded by constant changes in labelling regulations for such substances, which leads to a considerable increase in production costs.

2. Requirements with regard to conformity assessment procedures

Conformity assessment procedures play an important role in ensuring that products pose no risk to human health or the environment. They may, however, create unnecessary trade barriers by virtue of: (i) the use of standards that are not internationally recognized; (ii) non-recognition of third party tests and certificates; (iii) wastage of samples due to excess sampling; and (iv) unnecessary testing and certification procedures. All these requirements constitute a major obstacle to trade, particularly for small and medium-sized enterprises.

3. Substance registration and cost of registration

The registration requirement for chemical substances and preparations may constitute a complicated and costly market access procedure. If the costs of conformity assessment, laboratory accreditation and labelling are added to the registration cost, the feasibility of market access is practically undermined.

4. Laboratory accreditation

In some cases, laboratories are required to comply with national regulations which often go beyond the national requirements, thereby placing an additional obligation on enterprises through increased market access costs. At the same time, laboratory accreditation becomes a *sine qua non* for the products to gain access to the markets concerned.

D. PARAMETERS FOR DISMANTLING NON-TARIFF BARRIERS IN THE CHEMICALS SECTOR

1. Substance labelling requirements

Labelling requirements should be kept to the minimum necessary to meet the policy objective sought. Members should agree on the maximum coverage of compulsory labelling requirements. In addition, as regards the content of their respective requirements, Members should undertake to start negotiations in order to define new standards where none exists.

2. Requirements with regard to conformity assessment procedures

Members should undertake to:

- Agree on the nature of minimum risks for which a supplier declaration may be regarded as sufficient; as mentioned under heading II (Product Coverage), the list of minimum-risk products should be substantiated by sound scientific evidence;

- gradually phase out conformity assessment procedures for products posing no serious risk to human health and/or the environment;
- use internationally recognized test methods for conformity assessment;
- recognize third country test methods, to the extent that they comply with international standards;
- abolish re-certification and re-declaration requirements for products which have not substantially changed.

3. Substance registration and cost of registration

The mandatory registration of chemical substances and preparations should be standardized in such a way that each Member's domestic regulations comply with internationally accepted standards. Once approved in the producer's country of origin, registration should be valid internationally, with no need for re-registration in third countries. The excess costs that affect international trade in such products would thus be eliminated.

4. Laboratory accreditation

Agreement should be reached on laboratories being required to comply with internationally agreed standards and to phase out requirements based on national regulations. The principles of good laboratory practice (GLP), adopted under Decision C(97)114/Final of the Organisation for Economic Co-operation and Development (OECD), are a good benchmark for harmonizing laboratory accreditation on the basis of the procedures set forth in Standard ISO 17025.

III. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE AS APPLIED TO TRADE IN FIREWORKS¹⁶

Members,

Recalling Paragraph 16 of the Doha Ministerial Declaration and Paragraph 22 of the Hong Kong Ministerial Declaration, where Members agreed to negotiate with a view to reducing or as appropriate eliminating tariffs and non-tariff barriers to trade in non-agricultural products;

Considering the significant impact of fireworks on human safety, property and the environment and the lack of applicable international standards on fireworks;

Noting that unreasonable and duplicative technical regulations, standards and conformity assessment procedures on fireworks greatly impede the international trade in fireworks;

Desiring to facilitate international trade in fireworks through the establishment of universally accepted technical regulations, standards and conformity assessment procedures;

Hereby *agree* as follows:

Article 1 - General Provisions

- 1.1 The Understanding applies to fireworks under HS 360410.
- 1.2 The Understanding applies to technical regulations, standards, and conformity assessment procedures related to the production and trade of fireworks that impede international trade.
- 1.3 The provisions specified in the Understanding shall constitute an interpretation of the Agreement on Technical Barriers to Trade set out in Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization.

Article 2 - Terms and Definitions

- 2.1 Firework refers to any article containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas, or smoke, or a combination of such effects, through self-sustained exothermic chemical reactions intended for entertainment purposes.
- 2.2 The terms and definitions referred to in the WTO Agreement on Technical Barriers to Trade and those in relevant ISO/IEC standards shall apply to this Understanding.

Article 3 - International Standards

- 3.1 The WTO shall draw the attention of relevant international standard-setting organizations to the absence of international standards of fireworks and encourage them to prioritize fireworks standards development.
- 3.2 WTO Members are encouraged to participate actively in the development of international standards for fireworks.

¹⁶ Submitted by the People's Republic of China (document TN/MA/W/102).

Article 4 - Conformity Assessment Procedures

4.1 Given the risks and costs inherent in long-distance transportation of hazardous fireworks test samples, a Member shall give positive consideration to recognize an assurance of conformity issued by a conformity assessment body approved for that purpose by the authorities of another Member in accordance with relevant international standards (e.g. ISO/IEC17025). A Member may, however, require as a condition for accepting such a declaration of conformity that the conformity assessment body that issued it participates in or being a member of relevant international accreditation systems (e.g., systems linked to the International Laboratory Accreditation Cooperation, ILAC).

4.2 A Member shall accept fireworks hazard classification certificates issued by competent laboratories of another Member in accordance with UN Series 6 Test of the United Nations Recommendations on the Transport of Dangerous Goods.

4.3 In case that there is a registration requirement on fireworks, a Member should finish its registration process and release the registration code within 60 days upon the acceptance of relevant documents.

4.4 A Member shall avoid re-testing fireworks on which another Member are competent to carry out compliance testing according to the technical requirements of that Member and has already undertaken the relevant testing accordingly.

Article 5 - Labelling

5.1 Considering the difficulty of manufacturers and exporters to meet Members' divergent labelling requirements with respect to the information, format, colour difference and position of labelling, Members shall take positive measures to harmonize their labelling requirements.

5.2 Before the imposition of international labelling standards on fireworks, a Member shall make best effort to ensure the consistency of its domestic labelling requirements. If a Member proposes to adopt or amend a technical regulation or conformity assessment procedures with respect to labelling, it shall notify other Members through the Secretariat or through its WTO Enquiry Point no less than 60 days before the formal adoption of the requirements.

Article 6 - Transparency

6.1 Before amending an existing or adopting a new technical regulation, standards or conformity assessment procedure, Members shall allow reasonable time for consultations with and interested party and take other Members' comments into consideration. A Member shall notify the WTO of the technical regulations, standards and conformity assessment procedures on fireworks adopted or amended thereafter.

6.2 Upon request of other Members, a Member shall provide in a timely manner copies of:

- its latest versions of its technical regulations, standards and test manuals on fireworks, and
- the deadline for conducting each conformity assessment procedure.

Article 7 - Technical Cooperation

7.1 A Member shall conduct necessary consultations with interested Members in developing domestic technical regulations, standards and conformity assessment procedures on fireworks.

7.2 As provided for in Article 11 of the TBT Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions with developing and least-developed country Members, technical cooperation in the preparation of the plans as well as the implementation of the commitments under this Understanding.

7.3 WTO Members should strengthen exchange of technology, experience and information with respect to technical regulations, standards and conformity assessment procedures on fireworks.

Article 8 - Final Provisions

8.1 The Committee on Technical Barriers to Trade shall review the operation and implementation of this Understanding on an annual basis.

IV. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE AS APPLIED TO TRADE IN LIGHTER PRODUCTS ¹⁷

Members,

Recalling Paragraph 16 of the Doha Ministerial Declaration and Paragraph 22 of the Hong Kong Ministerial Declaration, where Members agreed to negotiate with a view to reducing or as appropriate eliminating tariffs and non-tariff barriers to trade in non-agricultural products;

Considering the significant impact of lighter products on human life, safety and health, and on transportation;

Noting that some members apply diverse technical measures which greatly affect the international trade of lighter products;

Desiring to facilitate international trade of lighter products through the establishment of universally accepted technical regulations, standards and conformity assessment procedures;

Hereby *agree* as follows:

Article 1 General Provisions

1.1 The products covered by this understanding:

<u>HS Code</u>	<u>Description</u>
961310	Pocket lighters, non refillable
961320	Pocket lighters, gas fuelled, refillable
961380	Other lighters

1.2 This understanding applies to the technical regulations, standards and conformity assessment procedures concerning lighter products.

1.3 The provisions specified in the Understanding shall constitute an interpretation of the Agreement on Technical Barriers to Trade set out in Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization.

Article 2 Technical Regulations

2.1 According to Article 2.4 of the TBT Agreement, members shall use the existing international standard ISO9994 as basis for the preparation and revision of their technical regulations and standards, with a view to facilitating the international trade of lighter products.

2.2 Recognized that the international standard ISO9994 has already satisfied the safe use of lighter products, the importing members shall allow the access to their markets of products manufactured by the exporting members according to ISO9994.

2.3 According to Article 2.8 of the TBT Agreement, members shall specify technical regulations based on product requirements in terms of performance rather than price or outward appearance.

¹⁷ Submitted by the People's Republic of China (document TN/MA/W/90/Add.1).

Article 3 Conformity Assessment Procedures

3.1 To facilitate international trade and reduce the risk and cost of sample lighter products being transported to other countries for test, importing members shall positively consider the possibilities of accrediting laboratories, designated or accredited by the government of the exporting members and run under ILAC agreements as per Standard ISO/IEC17025, and on this basis recognize their testing results.

3.2 Where the importing members do not have the testing capacities, priority shall be given to accrediting testing reports issued by laboratories in compliance with ISO/IEC17025 and accredited by ILAC and designated or accredited by government of the exporting members.

3.3 Importing members shall avoid duplicative testing where the exporting members are capable of meeting their technical requirements and have already carried out the relevant tests.

3.4 The importing members shall make full use of the technical resources (such as the laboratory) of the exporting members, conduct joint tests or comparative tests, etc.

Article 4 Transparency

4.1 According to Articles 2.9 and 5.6 of the TBT Agreement, when preparing lists of types or models of lighter products forbidden to put on their markets, members shall fulfil their obligation of transparency and notify the WTO, and offer a period for comments of at least 60 days, and publish the results of their treatment of the comments.

4.2 To facilitate international trade of lighter products, the importing members shall provide the exporting members with the list of lighter products and its updates denied by their regulations to their markets.

Article 5 Technical Cooperation

5.1 When developing members have difficulties in meeting the requirements of lighter products imposed by developed members in the technical regulations, standards and conformity assessment procedures they prepared, upon request, the developed members shall provide necessary technical assistance.

Members shall take effective measures to enhance the exchange of technology, experience and information in the field of technical regulations, standards and conformity assessment procedures for lighter products.

V. DECISION ON THE ELIMINATION OF NON-TARIFF BARRIERS IMPOSED AS UNILATERAL TRADE MEASURES¹⁸

Members,

Recalling that the Marrakesh Agreement is desirous of contributing to sustainable development and growth in international trade by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations;

Noting that, pursuant to paragraph 16 of the Doha Ministerial Declaration, Members agreed to negotiations on non-agricultural products aimed at reducing or, as appropriate, eliminating tariffs and non-tariff barriers on non-agricultural products, in particular on products of interest to developing countries;

Stressing that the international community has repeatedly called for urgent and effective measures to ensure that its members refrain from applying and eliminate unilateral coercive economic measures;

Emphasizing that such actions not only undermine basic WTO principles and principles enshrined in the Charter of the United Nations and international law, but also severely threaten the freedom of trade and transit;

Mindful of the fact that the WTO Agreements do not authorize the application of unilateral measures;

Agree as follows:

1. Members shall not adopt or apply any unilateral economic or trade measures against any other Member, given that such measures are inconsistent with the letter and spirit of the WTO Agreements.
2. Members shall eliminate all unilateral trade measures imposed on other Members within the first year following the adoption of this Decision, thereby enhancing market access opportunities, in particular for developing countries, and shall notify this fact in writing to the Council for Trade in Goods.
3. Members shall regularly review their non-tariff measures to ensure that they do not constitute disguised restrictions on international trade.
4. Members shall ensure that no trade measure against another Member affects the commercial interests or the rights and obligations of third parties.
5. Members shall refrain from having recourse to Articles XX and XXI of the GATT 1994 in order to impose unilateral trade measures in a manner which would constitute a means of arbitrary or unjustifiable discrimination, unless the grounds therefor are substantiated or there is a general international understanding with regard to the justification for recourse thereto, respectively.
6. Members seeking to apply a unilateral measure shall notify the Council for Trade in Goods of their intention in writing, indicating the nature of the measure and its legal basis, scope and objectives, so that Members' considerations can be taken into account.

¹⁸ Submitted by Cuba (document TN/MA/W/94/Rev.1).

7. The Council for Trade in Goods shall conduct an annual review of the progress made in respect of compliance with the provisions of this Decision and report to the General Council.

VI. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE AS APPLIED TO TRADE IN ELECTRONICS¹⁹

Members,

Recalling that pursuant to paragraph 16 of the Doha Ministerial Declaration, Members agreed to negotiations aimed at reducing or as appropriate eliminating tariffs and non-tariff barriers on non agricultural products;

Desiring to further the expansion of production and trade in the area of electrical and electronics equipment, electrical household appliances and consumer electronics (hereinafter electronics), so as to promote growth and employment and bridge global digital divides;

Convinced that reduction and, as appropriate, elimination of obstacles to trade in electronics caused by divergent, duplicative and burdensome national standards, technical regulations and conformity assessment procedures will be to the benefit of all Members, taking into account the importance of trade in electronics for developing countries and of the global nature of the industry;

Recalling the current obligations in the Agreement on Technical Barriers to Trade that standards, technical regulations and conformity assessment procedures be based, where appropriate, on relevant international standards and be performance-based rather than prescriptive, and not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade;

Recalling the work by the ITA Committee on conformity assessment procedures and the guidelines on electromagnetic compatibility agreed among ITA Members;

Recognizing the important role of the TBT Committee in providing Members an opportunity to consult on matters related to the operation of the TBT Agreement and the furtherance of its objectives, as well as the Committee's ability to establish working parties or other bodies as may be appropriate;

Noting that the reduction and, as appropriate, elimination of non-tariff barriers in electronics does not prevent Members from taking measures consistent with the Agreement on Technical Barriers to Trade that are necessary to, *inter alia*, protect human, animal, or plant life or health or the environment; or to prevent deceptive practices; or to protect essential security interests;

Desiring to interpret the provisions of the Agreement on Technical Barriers to Trade as they apply to standards, technical regulations and conformity assessment procedures for trade in electronics products;

Hereby *agree* as follows:

1. This Understanding applies to standards, technical regulations, and conformity assessment procedures related to the safety of electrical equipment and their electromagnetic compatibility (EMC) and covers the electrical and electronics equipment, electrical household appliances and consumer electronics specified in Annex 1 of this Understanding.
2. The terms used in this Understanding shall have the same meaning as in the Agreement on Technical Barriers to Trade, unless otherwise specified in Annex 2 of this Understanding.

¹⁹ Submitted by the European Communities (document JOB(07)/42/Rev.1).

Relevant International Standards and Standard-Setting Bodies

3. For the purpose of applying Articles 2.4, 5.4 and point F of Annex 3 of the TBT Agreement regarding safety of electrical equipment and their electromagnetic compatibility for the products under this Understanding, the International Organization for Standards (ISO), International Electrotechnical Commission (IEC) and the International Telecommunication Union (ITU) shall be considered relevant international standard-setting bodies.²⁰

Conformity Assessment Procedures

4. In respect to all products covered under this Understanding, where a Member²¹ requires positive assurance of conformity with its applicable technical regulations or standards relating to safety of electrical equipment and electromagnetic compatibility (EMC) for accepting the product on its market, that Member shall for the purpose of applying Article 5.1.2 of the TBT Agreement accept any one or more of the following options as a means for providing such positive assurance of conformity:

(a) a supplier's declaration of conformity as assurance of conformity with such standards or technical regulations;

and/or

(b) an assurance of conformity²² with such standards and technical regulations issued by a conformity assessment body approved for that purpose by the authorities of another WTO Member.

5. Where a supplier's declaration is accepted in accordance with paragraph 4(a), the Member shall accept that the supplier in that country has sole responsibility for issuing, changing or withdrawing the declaration of conformity. The Member may require that the declaration of conformity shall identify the supplier, or the supplier's authorised representative, the goods covered by the declaration, and the technical regulations with which conformity is declared.²³ Registration of the product with the authorities of the Member shall not be required. Testing of the product by recognized testing laboratories on the territory of the Member shall not be mandatory; if testing is undertaken, the choice of the test laboratory shall rest with the supplier.

6. Where a declaration of conformity is required in accordance with paragraph 4(b), the Member shall accept that the supplier declares that the product meets the technical regulations on the basis of an assurance of conformity issued by a conformity assessment body approved for that purpose by the authorities of another Member. A Member may, however, require as a condition for accepting such a declaration of conformity that the conformity assessment body that issued it participates in relevant international accreditation systems (e.g., systems linked to the International Laboratory Accreditation Cooperation, ILAC, and the International Accreditation Forum, IAF) or is signatory of international accreditation schemes (such as multilateral agreements (MLA) of regional accreditation associations, or the IECEE Certification Body ("CB") scheme for the conformity testing and certification of electrical equipment or the IEC Ex Scheme for certification to standards relating to equipment for use

²⁰ This does not preclude that Members, individually or collectively, may also recognize other relevant international standard-setting bodies.

²¹ These paragraphs only apply in so far and when a Member has adopted standards, technical regulations or conformity assessment procedures on any product falling under this Understanding.

²² This may be in the form of certificate or other forms of statements of conformity.

²³ When a suppliers' declaration of conformity is for a batch of products, it shall cover each article of the batch.

in explosive atmospheres).²⁴ Testing of the product by recognised testing laboratories on the territory of the Member shall in no case be mandatory. Registration of the product with the authorities of the Member shall not be required.

7. When practicable, especially taking into account possible capacity constraints of developing countries, Members requiring positive assurance of conformity for products covered by this Understanding should endeavour to accept supplier's declaration of conformity in accordance with paragraphs 4(a) and 5 of this Understanding.

Transparency

8. Notwithstanding Articles 2.9 and 5.6 of the TBT Agreement, before amending an existing or adopting a new standard, technical regulation or conformity assessment procedure that may have a significant effect on trade, Members shall allow reasonable time for consultations with any interested party and, whenever possible, conduct an assessment of their expected impact.

9. For the purpose of enabling interested parties to become acquainted with all technical regulations, in accordance with Article 2.11 of the TBT Agreement, Members shall ensure that any standard, technical regulation or conformity assessment procedure in force is publicly available and easily accessible to interested parties.

Transitional Arrangements and Technical Cooperation

10. No Member shall be obliged to apply the provisions of this Understanding before the expiry of a period of one year following its entry into force.

11. Developing country Members are entitled to extend the transition period provided for in paragraph 10 by one additional year for the application of paragraphs 3 of this Understanding and two years for the application of paragraphs 4 to 7 of this Understanding.

12. Developing country Members shall, no later than the expiry of the period provided for in paragraph 10, notify a plan for the implementation of the commitments undertaken in paragraphs 4 to 7 of this Understanding. As provided for by Article 11 of the TBT Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions with developing and least-developed country Members, technical cooperation in the preparation of the plans as well as the implementation of the commitments under this Understanding.

Working Party on Electrical and Electronics Goods

13. Pursuant to Article 13.2 of the TBT Agreement, the TBT Committee, in coordination with the ITA Committee, shall establish a Working Party on Electrical and Electronics Goods. The Working Party shall oversee the operation and implementation of this Understanding and the list of products contained in Annex 1, and to address any developments in global trade in electronics of importance to this Understanding, with particular emphasis on issues of interest and concern to developing Members.

14. On a triennial basis following the expiry of the general period provided in paragraph 10 of this Understanding, the Working Party shall examine Members' regimes with respect to the paragraphs contained herein and the listed products contained in Annex 1 of this Understanding with the aim of gradually expanding the product list.

²⁴ Members shall encourage their competent bodies to participate in international accreditation systems and to become signatories of international accreditation schemes.

15. The Annexes to this Understanding constitute an integral part thereof.

ANNEX 1

**ELECTRICAL AND ELECTRONIC EQUIPMENT, ELECTRICAL HOUSEHOLD APPLIANCES
AND CONSUMER ELECTRONICS COVERED UNDER THIS AGREEMENT**

[Scope to be determined:

This Agreement covers the products contained in the WTO Information Technology Agreement and the products listed below, except for those with a voltage range of higher than 1000 voltage for alternating current and 1500 voltage for direct current, parts and components for motor vehicles, and products for specific uses when duly justified and appropriate to the potential level of risk.]

HS2002 No.	PRODUCT DESCRIPTION
841451	Table, floor, wall, window, ceiling or roof fans,
841459	Fans (excl. Table, floor, wall, window, ceiling or roof fans)
841460	Hoods incorporating a fan
841510	Window or wall air conditioning machines, self-contained
841581	Air conditioning machines incorporating a refrigerating unit and valve for reversal of the cooling/heat cycle, nes.
841582	Air conditioning machines incorporating a refrigerating unit, nes.
841583	Air conditioning machines comprising a motor-drive
841810	Combined refrigerator-freezers, with separate external doors
841821	Household refrigerators, compression-type
841822	Household electrical refrigerators, absorption-type
841829	Household refrigerators, non-electrical, absorption type
841830	Freezers of the chest type, of a capacity <= 800 l
841840	Freezers of the upright type, of a capacity <= 900l
841850	Refrigerated or freezing chests, cabinets, display
842211	Dish-washing machines of the household type
842219	Dish-washing machines (excl. Those of the household)
842430	Water cleaning appliances with built-in motor
845011	Fully-automatic household or laundry-type washing machines
845012	Household or laundry-type washing machines, with built-in centrifugal dryer
845019	Household or laundry-type washing machines, of a dry linen capacity <=10kg, nes.
845020	Laundry-type washing machines, of a dry linen capacity >10kg
845121	Drying machines, of a dry linen capacity <= 10 kg
845129	Drying machines for textile yarns, fabrics or made up textiles articles
846912	Typewriters, automatic (excl. Word-processing machines)
846920	Typewriters, electric (excl. Automatic typewriters)
850110	Motors of an output <= 37,5 w
850120	Universal ac/dc motors of an output > 37,5 w
850131	Dc motors of an output > 37,5 w but <= 750 w
850132	Dc motors and dc generators of an output > 750 w b
850133	Dc motors and dc generators of an output > 75 kw b
850134	Dc motors and dc generators of an output > 375 kw
850140	Ac motors, single-phase, of an output > 37,5 w
850151	Ac motors, multi-phase, of an output > 37,5 w but
850152	Ac motors, multi-phase, of an output > 750 w but <75kw
850153	Ac motors, multi-phase, of an output > 75 kw
850161	Ac generators "alternators", of an output <= 75 kva
850162	Ac generators 'alternators', of an output > 75 kva
850163	Ac generators 'alternators', of an output > 375 kva

HS2002 No.	PRODUCT DESCRIPTION
850164	Ac generators 'alternators', of an output > 750 kva
850231	Generating sets, wind-powered
850239	Generating sets (excl. Wind-powered and powered by spark-ignition internal combustion piston engines)
850240	Electric rotary converters
850421	Liquid dielectric transformers, having a power handling capacity <=650kva
850422	Liquid dielectric transformers, having a power handling capacity>650kva to 1600kva
850423	Liquid dielectric transformers, having a power handling capacity>1600kva to 10,000kva
850431	Transformers having a power handling capacity <= 1kva
850432	Transformers, having a power handling capacity > 1kva to 16kva
850433	Transformers having a power handling capacity > 16kva
850434	Transformers having a power handling capacity > 500kva,nes.
850440*	Static converters
850450*	Inductors (excl. Inductors for discharge lamps or tubes)
850490	Parts of electrical transformers and inductors, nes.
850530	Electro-magnetic lifting heads
850590	Electromagnets and their parts (excl. Magnets for medical use)
850610	Manganese dioxide cells and batteries (excl. Spent)
850630	Mercuric oxide cells and batteries (excl. Spent)
850640	Silver oxide cells and batteries (excl. Spent)
850650	Lithium cells and batteries (excl. Spent)
850660	Air-zinc cells and batteries (excl. Spent)
850680	Primary cells and primary batteries, electric (excl. Spent)
850690	Parts of primary cells and primary batteries, n.e.
850710	Lead-acid accumulators of a kind used for starting piston engines
850720	Lead acid accumulators (excl. Spent and starter batteries)
850730	Nickel-cadmium accumulators (excl. Spent)
850740	Nickel-iron accumulators (excl. Spent)
850780	Electric accumulators (excl. Spent and lead-acid, nickel-cadmium, nickel-iron, nickel-hydride, lithium-ion accumulators)
850910	Domestic vacuum cleaners, incl. Dry cleaners and wet vacuum cleaners, with self-contained electric motor
850920	Domestic floor polishers, with self-contained electric motor
850930	Domestic kitchen waste disposers, with self-contained electric motor
850940	Domestic food grinders and mixers and fruit or vegetables juice extractors, with self-contained electric motor
850980	Electro-mechanical household appliances, with self-contained electric motor
851010	Electric shavers
851020	Hair clippers with self-contained electric motor
851030	Hair-removing appliances with self-contained electric motor
851090	Parts of electric shavers, hair clippers and hair-removing appliances
851310	Portable electrical lamps, battery or magneto powered, nes.
851410	Resistance heated industrial or laboratory furnaces and ovens
851420	Furnaces and ovens functioning by induction or dielectric loss
851430	Electric industrial or laboratory furnaces and ovens
851440	Industrial or laboratory induction or dielection heating equipment, nes.
851511	Soldering irons and guns, electric
851519	Brazing or soldering machines (excl. Soldering irons)
851521	Fully or partly automatic machines for resistance welding of metal, fully or partly automatic
851529	Machines for resistance welding of metals, neither fully nor partly automatic
851531	Fully or partly automatic machines for arc welding of metals
851539	Machines for arc welding of metals, incl. Plasma arc welding
851580	Electric machines and apparatus for laser or other

HS2002 No.	PRODUCT DESCRIPTION
851610	Electric instantaneous or storage water heaters and immersion heaters
851621	Electric storage heating radiators,
851629	Electric space-heating and soil-heating apparatus
851631	Electric hairdryers
851632	Electro-thermic hair dressing apparatus (excl. Hairdryers)
851633	Electric hand-drying apparatus
851640	Electric smoothing irons
851650	Microwave ovens
851660	Electric ovens, cookers, cooking plates and boiling rings and hobs
851671	Electro-thermic coffee or tea makers, for domestic use
851672	Electric toasters, for domestic use
851679	Electro-thermic appliances, for domestic use
851680	Electric heating resistors (excl. Those of agglomerated carbon or graphite)
851810*	Microphones and stands therefore (excl. Cordless microphones with built-in transmitter)
851821	Single loudspeakers, mounted in their enclosures
851822	Multiple loudspeakers, mounted in the same enclosures
851829	Loudspeakers, without enclosure
851830*	Headphones and earphones, whether or not combined
851840	Audio-frequency electric amplifiers
851850	Electric sound amplifier sets
851910	Coin-operated or disc-operated record-players
851921	Record players without loudspeaker
851929	Record players with loudspeaker (excl. Coin-operated)
851931	Turntables 'record-decks', with automatic record-changer
851939	Turntables 'record-decks', without automatic record-changer
851940	Transcribing machines
851992	Pocket-size cassette players 'dimensions <= 170 mm
851993	Cassette players "play only" (excl. Pocket-size and dictating machines)
851999	Sound-reproducing apparatus, not incorporating a sound recording device)
852010	Dictating machines not capable of operating without external power source
852032	Magnetic tape recorders incorporating sound-reproducing
852033	Cassette recorders incorporating sound-reproducing
852039	Magnetic tape recorders incorporating sound-reproducing
852090	Magnetic sound recording or reproducing equipment, nes.
852110	Magnetic tape-type video recording or reproducing apparatus for magnetic tape
852190	Video recording or reproducing apparatus, whether or not incorporating a video turning
852510*	Transmission apparatus for radio-telephony, radio-broadcasting or television
852530	Television cameras (excl. Video camera recorders)
852540*	Still image video cameras and other video camera recorders
852610	Radar apparatus
852691	Radio navigational aid apparatus
852692	Radio remote control apparatus
852712	Pocket-size radiocassette players
852713	Radio-broadcast receivers capable of operating without external source of power, nes
852719	Radio-broadcast receivers capable of operating with batteries
852731	Radio-broadcast receivers, for mains operation only, with analogue/digital reading system
852732	Radio-broadcast receivers, for mains operation only, with clock
852739	Radio-broadcast receivers, for mains operation only, without clock
852790	Receivers for radio-telephony, radio-telegraphy
852812	Television receivers, colour, whether or not incorporating a video recorder or reproducer
852813	Television receivers, black and white or other monochrome
852821	Video monitors, colour
852822	Video monitors, black and white or other monochrome

HS2002 No.	PRODUCT DESCRIPTION
852830	Video projectors
852910*	Aerials and aerial reflectors of all kinds; parts
852990*	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, others
853110	Burglar or fire alarms and similar apparatus
853180	Electric sound or visual signalling apparatus (excl. Flat/indicator LEC/LED panels)
853510	Fuses for a voltage > 1.000 v
853521	Automatic circuit breakers for a voltage > 1.000 v
853529	Automatic circuit breakers for a voltage >= 72,5 k
853530	Isolating switches and make-and-break switches, for a voltage >1000v
853540	Lightning arresters, voltage limiters and surge suppressors for a voltage>1000v
853590	Electrical apparatus for switching, protecting or making connections to or in electrical circuits, for a voltage >1000v
853610	Fuses for a voltage <= 1.000 v
853620	Automatic circuit breakers for a voltage <= 1000 v
853630	Apparatus for protecting electrical circuits for a voltage <1000v
853641	Relays for a voltage <= 60 v
853649	Relays for a voltage > 60 v but <= 1.000 v
853650*	Switches for a voltage <= 1.000 v (excl. Relays and automatic circuit breakers)
853669*	Plugs and sockets for a voltage <= 1.000 v (excl. Those for coaxial cables and printed circuits)
853690*	Electrical apparatus for switching electrical circuits
853710	Boards, cabinets and similar combinations of apparatus (excl. Numerical control panels)
853720	Boards, cabinets and similar combinations of apparatus for electric control or the distribution of electricity
853810	Boards, panels, consoles, desks, cabinets and other bases for electric control
853910	Sealed beam lamp units
853921	Tungsten halogen filament lamps (excl. Sealed beam lamps units)
853922	Filament lamps of a power <= 200 w and for a voltage >100v
853929	Filament lamps, electric (excl. Tungsten halogen lamps)
853931	Discharge lamps, fluorescent, hot cathode
853932	Mercury or sodium vapour lamps; metal halide lamps
853939	Discharge lamps (excl. Fluorescent, hot cathode lamps)
853941	Arc-lamps
853949	Ultraviolet or infra-red lamps
854011	Cathode ray television picture tubes, incl. Video, colour
854012	Cathode-ray television picture tubes, incl. Video, black and white or other monochrome
854020	Television camera tubes; image converters and intensifiers and other photo cathode tubes
854040	Data/graphic display tubes, colour, with a phosphor dot screen pitch<0.4mm
854050	Data/graphic display tubes, black and white or other monochrome
854060	Cathode-ray tubes (excl. Television and video-monitors)
854071	Magnetrons
854072	Klystrons
854079	Microwave tubes
854081	Receiver or amplifier tubes
854089	Electronic valves and tubes (excl. Receiver or amplifier tubes)
854320	Signal generators, electrical
854330	Machines and apparatus for electroplating
854340	Electric fence energisers
854381	Proximity cards and tags, generally consisting of an integrated circuit
854389*	Electrical machines and apparatus, having individual functions
854420	Coaxial cables, antenna feeders
854441*	Telecommunications cables, optical cables (other electric conductors, voltage <80v)
900912	Laser multifunction printers

* These are, in part, covered by ITA.

ANNEX 2

TERMS AND THEIR DEFINITIONS FOR THE PURPOSE OF THIS UNDERSTANDING

For the purpose of this Understanding, the following definitions²⁵ shall apply:

"Safety of electrical equipment" means that equipment, having been constructed in accordance with good engineering practice in safety matters, does not endanger the safety of persons, domestic animals or property when properly installed and maintained and used in applications for which it was made.

"Electromagnetic compatibility" means the ability of a device, unit of equipment or system to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbances to anything in that environment.

"Supplier" means any party that supplies the product and may be a manufacturer, distributor, importer, assembler, etc., as defined in ISO/IEC Guide 22:1996

"Conformity assessment" means the demonstration that specified requirements relating to a product, process, system, person or body are fulfilled. Conformity assessment can be performed as a first-party, second-party or third-party activity and covers activities such as testing, inspection and certification. [Why is the definition different from Annex 1, para 3 of the TBT?]

"Test laboratory" means a conformity assessment body that performs testing services and which has received attestation conveying formal demonstration of its competence to carry out these specific tasks.

"Designation" means governmental authorisation of a conformity assessment body or test laboratory to perform specified conformity assessment activities.

"International accreditation system": ILAC, International Laboratory Accreditation Cooperation, and IAF, International Accreditation Forum.

"International accreditation scheme": ILAC International Mutual Recognition Agreements and IAF Multilateral Recognition Arrangement (MLA)

"Interested party" means any legal or natural person affected by the policy, those who will be involved in implementation of the policy, and bodies that have stated objectives giving them a direct interest in the policy.

²⁵ Based on ISO/IEC 17000:2004

VII. REVISED SUBMISSION ON EXPORT TAXES²⁶

A. INTRODUCTION

1. All import-dependent WTO Members are sensitive to the measures imposed by a few countries that restrict exports. In the extreme case, export taxes may be set at prohibitive levels and, hence, be tantamount to export restrictions or even export prohibitions. Export taxes can thus have serious distortive effects on global commodity trade when applied by major suppliers. In addition, when used for industrial or trade policy purposes, export taxes can serve as indirect subsidization of processing industries and influence international trading conditions of these goods. As in the case of import tariffs, export taxes have similar effect to tariff escalation. Thereby, the measures may obstruct the aspirations of WTO Members, in particular developing countries, to build new (infant) processing industries in specific sectors where export taxes by other countries are prevalent on the raw materials or other inputs (as illustrated by the Joint Statement by the leather associations of West Africa and the EU previously submitted by the EC to the NGMA). Furthermore, export taxes can serve to displace imports on the market of the country imposing the taxes, both for imported goods in direct competition with the taxed products and for imported processing products. In such cases, export taxes are similar other forms of NTBs on imports.

2. These various negative effects of export taxes are not new. But among the reasons for the growing importance of export taxes today are *inter alia*:

- the recent proliferation in the use of these instruments, which is possible under the weaker WTO rules on export taxes compared to those on import restrictions or other forms of NTBs; and
- the short global supply of some specific commodities, despite their abundance in a few countries – a situation that is aggravated by export taxes in key supplying countries.

3. Finally, it should be underscored that the current proliferation of export taxes and their increased distortions to global trade are in contradiction to the developments on import barriers. Serious efforts are underway in DDA to reduce duties, eliminate tariff escalation and minimise NTBs on import. In contrast, very little progress has so far been made on export taxes.

B. EC POSITION ON EXPORT TAXES

4. The EC proposal on export taxes in the NAMA negotiations tabled in April 2006, and the subsequent legal draft tabled in March 2007, aims to fully reflect the importance of establishing balanced and proportionate WTO rules for Members' use of export taxes. The main elements of the EC proposal on export taxes are threefold:

- (1) Confirmation and operationalisation of basic GATT disciplines to apply to those situations where WTO Members use export taxes for industrial or trade policy purposes with negative effects on other WTO Members and especially on developing countries. In line with core objectives of the WTO and GATT, this would prevent "beggar thy neighbour" practices. In particular, the approach proposed builds upon existing GATT rules on export duties and charges, *inter alia* GATT Articles I, VII, VIII and XVII, as well as incorporates other key elements of the GATT acquis. Under the EC proposal, this also includes a number of legitimate situations under existing GATT rules where export taxes could be maintained or introduced, such as financial

²⁶ Submitted by the European Communities (document TN/MA/W/101).

crises, infant industry, environment (preservation of natural resources) and local short supply.

- (2) Incorporation of additional flexibility for small developing country Members and least-developed country Members to maintain or introduce export taxes in other situations, i.e. over and beyond what would be allowed through the strict application of GATT rules to export taxes.
- (3) Limitation of the GATT disciplines for export taxes to non-agricultural products in recognition of the mandate for NAMA (hence, agricultural products are excluded where export taxes are currently in force in many developing countries).

5. Thereby, the EC proposal seeks to establish a workable compromise in the area of export taxes between those many countries affected by the “beggar thy neighbour” measures adopted by a few major suppliers and other large economies, and the use of export taxes by small economies, which includes the majority of developing countries. Nothing in the EC proposal prejudices the use of export taxes for legitimate policy reasons under relevant GATT provisions. As such, it should be recalled that the current proposal represents a major refinement of the initial EC submission on export taxes in NAMA in 2003, in reflection of the constructive engagement by and discussions with many Members, not least small and vulnerable developing countries.

C. POSSIBLE FURTHER REVISIONS OF THE EC PROPOSAL

6. The EC remains ready to explore with Members other approaches, whether alternative or complementary, for addressing the global trade problems caused by export taxes. Of course, in doing so, the EC considers that any revised proposal would still have to provide appropriate remedies to the specific problem related to the use of export taxes as “beggar thy neighbour” instruments. As for possible horizontal approaches to NTBs in line with paragraph 14 of the July Framework, the EC also believes that any negotiated solution for export taxes would have to build upon existing GATT concepts and rules. Therefore, any revised approach should ensure, as a minimum, increased transparency and predictability.

7. Concerning transparency, it is a core objective of the WTO to ensure that Members are fully informed of measures taken by any other Member that may influence trade. In this context, it is also worth recalling that all WTO Members have already agreed to notify export taxes, as well as other export measures. The Ministerial Decision on Notification Procedures adopted on 15 December 1993 establishes that the introduction or modification of such measures is subject to the notification undertakings of the Understanding Regarding the Notification, Consultation, Dispute Settlement and Surveillance adopted on 28 November 1979 (BISD 26S/210). On the other hand, the Ministerial Decision of 1993 has had little, if any, practical effect on Members’ level of transparency. Hence, the EC believes that future transparency provisions on export taxes would need to ensure that existing obligations are made operational and enforced in a satisfactory manner. The Uruguay Round Understanding on the Interpretation of Article XVII of GATT 1994, which pertains to the notification requirements of Members’ state trading enterprises that influence the level or direction of imports and exports, could serve as a point of reference in this respect. Finally, the EC considers that all WTO Members would be able to comply with such basic transparency commitments, in line with what already applies for other trade policy instruments, although appropriate special and differential treatment should be envisaged for developing country and least-developed country Members.

8. Regarding predictability, it is a core objective of the WTO to ensure that Members can reasonably expect what measures any other Member may impose that influence trade. Therefore, EC considers that scheduling and binding of Members’ export taxes could offer an appropriate route of ensuring adequate predictability. Under such a negotiated solution, similar to import duties, the EC

deems that export taxes would have to be bound at a level that “reduce or eliminate tariff peaks, high tariffs, and tariff escalation” in line with paragraph 16 of the DDA mandate. Moreover, in accordance with the spirit of the July Framework and in recognition that export taxes have to date only been scheduled or bound by a few Members, the EC would be ready to support specific flexibilities for small and vulnerable economies.

9. Thereby, this revised approach would represent a shift from a general prohibition of export taxes, albeit with exceptions based on GATT rules, to the establishment of rules on transparency and predictability based on WTO objectives, concepts and principles. In practical terms, besides maintaining the right of WTO Members to apply export taxes when exceptional circumstances under GATT rules are invoked, the approach would imply that:

- (1) WTO Members should notify the introduction or modification of export taxes;
- (2) WTO Members should undertake to schedule export taxes on non-agricultural products in their Schedules of Concessions and bind the export taxes at a level to be negotiated, except that:
 - (a) Least-developed countries would undertake to schedule export taxes but may maintain these export taxes unbound; and
 - (b) Paragraph 6 countries would schedule export taxes but may maintain these export taxes unbound for a certain number of tariff lines (the number is to be negotiated), in reflection of their specific developmental interests and concerns.

D. CONCLUDING REMARKS

10. Finally, the EC would like to underline that, in line with paragraph 16 of the DDA mandate, Members have agreed to “to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries”. Hence, no matter how Members may want to define export taxes, tariffs and non-tariff barriers are included in the DDA mandate, which has no reference as to whether such measures are imposed on imports or exports. As clearly demonstrated in the introduction, apart from other effects including distortions to global trade, export taxes also often displace exports of other WTO members through the artificial price advantage provided to domestic industries. Therefore, the EC considers claims that export taxes are a priori excluded from negotiations to be in contradiction with the mandate. Such claims could set a dangerous precedent for other mandated parts of the negotiations on non-agricultural market access. However, the EC fully recognizes that Members’ positions may differ on the appropriate level of ambition and approach to export taxes. To respond to Members’ different interests and concerns, the EC is thus prepared to thoroughly revise its proposal following the general parameters set out above and to consult with all interested Members on specific legal drafting.

VIII. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE WITH RESPECT TO THE LABELLING OF TEXTILES, CLOTHING, FOOTWEAR, AND TRAVEL GOODS²⁷

Members,

Recalling that pursuant to paragraph 16 of the Doha Ministerial Declaration, Members agreed to negotiations aimed at reducing or, as appropriate, eliminating tariffs and non-tariff barriers on non-agricultural products;

Recognizing the important contribution of the textile, clothing, footwear, and travel goods sectors to global economic growth and development;

Desiring to promote cooperative and effective approaches to address unnecessary obstacles to international trade and enhance trade in textiles, clothing, footwear, and travel goods;

Taking into account that labelling has an important function of informing consumers of certain characteristics of textiles, clothing, footwear, and travel goods;

Reaffirming their existing obligation under the Agreement on Technical Barriers to Trade (TBT Agreement) to ensure that technical regulations and conformity assessment procedures are not prepared, adopted, or applied with a view to or with the effect of creating unnecessary obstacles to international trade;

Desiring to interpret the provisions of the TBT Agreement as they apply to labelling requirements for textiles, clothing, footwear, and travel goods;

Hereby *agree* as follows:

Scope

1. This Understanding applies to the labelling of products specified in the Annex to this Understanding.

Labelling

2. If a Member requires information on a label, a Member's requirement to include any of the following information shall be rebuttably presumed to be not more trade-restrictive than necessary under Articles 2.2 and 2.5 of the TBT Agreement:

2.1 with respect to textiles and clothing, fiber content, country of origin, and care instructions²⁸;

2.2 with respect to footwear, predominant materials of core parts²⁹ and country of origin; and

2.3 with respect to travel goods, fiber content and country of origin.

²⁷ Submitted by the European Communities, Sri Lanka and the United States (document TN/MA/W/93 and TN/MA/W/93/Add.1).

²⁸ This presumption covers requirements using relevant international standards, or the relevant parts of such standards, as a basis for the Member's technical regulations regarding care instructions on labels.

²⁹ There are three "core parts" of footwear: (1) upper, (2) lining and sock, and (3) outer sole.

A Member may only require additional information on a label when it is not inconsistent with Article 2.2 of the TBT Agreement.

3. Members shall give positive consideration to permitting any required information to be included on a non-permanent³⁰ label rather than a permanent label.³¹

4. A technical regulation of a Member that:

4.1 prohibits the information included on a label from being in more than one language, for example by prohibiting such information from being in a language other than the Member's official language(s);

4.2 requires a label to be pre-approved, registered or certified;

4.3 prohibits a label from including information that is not required by the Member, such as brand names;³² or

4.4 specifies requirements that a label be of one or more materials;

shall be rebuttably presumed to be more trade-restrictive than necessary to fulfil a legitimate objective within the meaning of Article 2.2 of the TBT Agreement.

5. Notwithstanding Articles 2.9 and 5.6 of the TBT Agreement, if a Member proposes to adopt or amend a technical regulation or conformity assessment procedure with respect to labelling, in whole or in part, it shall:

5.1 publish the proposed technical regulation or conformity assessment procedure in a publication at the earliest appropriate stage, in such a manner as to enable interested persons in other Members to become acquainted with it and to submit comments before the Member finalizes the technical regulation or conformity assessment procedure;

5.2 notify other Members through the Secretariat of the products to be covered by the proposed technical regulation or conformity assessment procedure, together with a brief indication of the measure's objective and rationale and an identification of the parts of the regulation or procedure which in substance deviate from relevant international standards and, in the case of a permanent label, the reason for requiring information other than that covered by paragraphs 2.1-2.3 of this Understanding. Such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;

³⁰ "Non-permanent label" means any label on a product attached or affixed through stickers, hangtags, or through other similar means that can be removed or on the package of the product.

³¹ "Permanent label" means any label on a product that is securely attached or affixed through gluing, printing, sewing, embossing, silk screening, or other similar means.

³² "Information" for purposes of subparagraph 4.3 means information related to the product or the marketing of the product and does not include information that is false, deceptive or misleading.

- 5.3 allow no less than 60 days for Members to submit comments in writing. The Member shall give favourable consideration to reasonable requests to extend the comment period; and
 - 5.4 discuss these comments upon request with the Member or interested person providing them, and take these written comments and the results of these discussions into account in finalizing the measure, and publish or otherwise make available to the public, either in print or electronically, its responses to significant comments it receives no later than the date it publishes the final technical regulation or conformity assessment procedure.
6. Notwithstanding Articles 2.10 and 5.7 of the TBT Agreement, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 as it finds necessary, provided that the Member upon adoption of a technical regulation or conformity assessment procedure shall:
- 6.1 publish the final technical regulation or conformity assessment procedure in a publication at the earliest appropriate time, in such a manner as to enable interested persons in other Members to become acquainted with it;
 - 6.2 notify other Members through the Secretariat of the products to be covered by the final technical regulation or conformity assessment procedure, together with a brief indication of the measure's objective and rationale, including the nature of the urgent problems, and an identification of the parts of the regulation or procedure which in substance deviate from relevant international standards.
 - 6.3 allow interested persons and other Members to submit comments in writing and discuss these comments upon request with the Member or interested person providing them, and take these written comments and the results of these discussions into account in deciding whether to modify the regulation or procedure, and publish or otherwise make available to the public, either in print or electronically, its responses to significant comments it receives at the earliest appropriate date after it publishes the final technical regulation or conformity assessment procedure.

Final Provisions

7. The Committee on Technical Barriers to Trade shall review the operation and implementation of this Understanding, including the list of products contained in the Annex, on an annual basis. The Committee shall also review other developments in technical regulations and conformity assessment procedures involving international trade in textiles, clothing, footwear, and travel goods of importance to this Understanding in accordance with the Committee's procedures.³³
8. The Annex to this Understanding constitutes an integral part thereof.

³³ It is understood that, for this purpose and to facilitate transparency, exchanges of information, and discussions among Members, the WTO Secretariat will prepare an annual report of the notifications received by the WTO Secretariat with respect to the labelling of textiles, clothing, footwear, and travel goods.

ANNEX

**TEXTILES, CLOTHING, FOOTWEAR AND
TRAVEL GOODS SUBJECT TO THE UNDERSTANDING**

1. With respect to textiles and clothing, this Understanding shall cover all products contained in the Annex to the former WTO Agreement on Textiles and Clothing.
2. With respect to footwear, this Understanding shall cover all products contained in Chapter 64 of Harmonized Commodity Description and Coding System (HS) Nomenclature, except for HS6406 (Footwear Parts).
3. With respect to travel goods, this Understanding shall cover all products listed below:

<u>HS Number</u>	<u>Product Description</u>
ex 3926.90	Handbags made of beads, bugles and spangles, of plastics
42.02	Trunks, suit-cases, vanity-cases, executive-cases, brief-cases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; travelling-bags, insulated food or beverage bags, toilet bags, rucksacks, handbags, shopping bags, wallets, purses, map-cases, cigarette-cases, tobacco-pouches, tool bags, sports bags, bottle-cases, jewellery boxes, powder-boxes, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper. - Trunks, suit-cases, vanity-cases, executive-cases, brief-cases, school satchels and similar containers:
4202.11	With outer surface of leather, of composition leather, or of patent leather
4202.12	With outer surface of plastics or of textile materials
4202.19	Other - Handbags, whether or not with shoulder strap, including those without handle:
4202.21	With outer surface of leather, of composition leather or of patent leather
4202.22	With outer surface of sheeting of plastic or of textile materials
4202.29	Other - Articles of a kind normally carried in the pocket or in the handbag:
4202.31	With outer surface of leather, of composition leather or of patent leather
4202.32	With outer surface of sheeting of plastic or of textile materials
4202.39	Other - Other:
4202.91	With outer surface of leather, of composition leather or of patent leather
4202.92	With outer surface of sheeting of plastic or of textile materials
4202.99	Other
ex 4602.11	Luggage, handbags and flat goods, whether or not lined, of bamboo
ex 4602.12	Articles of a kind normally carried in the pocket or in the handbag, of rattan
ex 4602.12	Luggage, handbags and flat goods, whether or not lined, of rattan, nesoi
ex 4602.19	Luggage, handbags and flat goods, whether or not lined, of willow
ex 4602.19	Articles of a kind normally carried in the pocket or in the handbag, of palm leaf
ex 4602.19	Luggage, handbags and flat goods, whether or not lined, of palm leaf, nesoi

ex 4602.19 Luggage, handbags and flat goods, whether or not lined, made from plaiting materials
nesoi
9605.0 Travel sets for personal toilet, sewing or shoe or clothes cleaning

IX. PROTOCOL ON TRANSPARENCY IN EXPORT LICENSING TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994³⁴

**Protocol on Transparency in Export Licensing
to the General Agreement on Tariffs and Trade 1994**

Members,

Desiring to ensure that export licensing procedures are not utilized in a manner contrary to the principles and obligations of GATT 1994;

Convinced that export licensing should be implemented in a transparent and predictable manner; and;

Desiring to bring transparency to the procedures and practices related to export licensing so as to inform traders and Members and facilitate trade in these products;

Hereby agree as follows:

Article 1: Definition of Export Licensing

For the purposes of this Protocol, export licensing means any administrative procedures involving the submission of an application or other documentation (i.e., other than that required for customs purposes) to the relevant administrative body or bodies as a prior condition for exportation from the customs territory of the exporting Member.

Article 2: Notification

1. Within 60 days after the entry into force of this Protocol, each Member shall notify, in writing, the [Committee on Market Access] (referred to in this Protocol as [“the Committee”]) of its existing measures on export licensing, if any. Thereafter, each Member shall notify the [Committee] in writing of any new measures on export licensing or modification to an existing measure on export licensing within 60 days after the effective date of the new measure or modification thereof.

2. Members shall include in a notification under paragraph 1 the:

- (a) list of products subject to the licensing procedure, including to the extent possible by HS number;
- (b) description of the procedures for the submission of applications or other documentation, including eligibility criteria for applicants (including any criteria that reflect requirements that differ from those applied to products that are exported without a requirement of a license (e.g., requirements for an activity license, investment or a particular form of establishment in the exporting Member, or other similar requirements));
- (c) contact point for information on eligibility;
- (d) administrative body(ies) to which applications must be submitted;
- (e) date and name of publication(s) in which the licensing procedure is published;

³⁴ Submitted by Japan and the United States (TN/MA/W/15/Add.4/Rev.1)

- (f) description of the measure, if any, being implemented through the export license and the reasons for the measure;
- (g) expected duration of the export licensing if this can be estimated with some probability, and if not, reason(s) why this information cannot be provided;
- (h) overall amount of the quota to be applied by quantity and/or value and the opening and closing dates of the quota if a Member administers a quota by means of export licensing; and
- (i) possibility, if any, for persons, firms or institutions to request exceptions or derogations from an export licensing requirement, as well as information on how to make such a request and a description of the circumstances under which requests would be granted.

3. When a Member notifies a new or existing measure on export licensing or modification thereto, the Member shall provide a copy of the relevant measure (e.g., law and implementing regulations) to the [Committee].

4. Any interested Member which considers that another Member has not notified a new or existing measure on export licensing or modification thereto in accordance with the provisions of paragraphs 1 and 2 may bring the matter to the attention of such other Member. If notification is not made promptly thereafter, the interested Member may itself notify the measure on export licensing or changes therein, including all relevant information.

Article 3: Requests for Information

1. A Member shall provide to any Member, upon request:
 - (a) All relevant information concerning:
 - (i) the administration of the measure on export licensing , including the information listed in Paragraph 2 of Article 2;
 - (ii) the export licenses granted over a recent period; and
 - (iii) measures, if any, taken in conjunction with export licensing, including but not limited to restrictions on domestic production or consumption, and governmental stabilization plans for a good; and
 - (b) Where available, all relevant information concerning:
 - (i) the distribution of such licenses among importing countries, including importing countries' shares, i.e., by quantity and/or value as relevant, of any quota currently allocated; and
 - (ii) the most recent available statistics (i.e., value and/or volume) on the amount expected to be produced, actually produced, expected to be exported, and actually exported with respect to the product subject to export licensing.

Article 4: Confidential Information

1. Nothing in this Protocol shall be construed to require any Member to disclose confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. Nothing in this Protocol shall be construed to require any Member to furnish any information the disclosure of which it considers contrary to its essential security interests.

Article 5: Review

1. The [Committee] shall review as necessary, but at least once every two years, the implementation and operation of this Protocol, taking into account the objectives thereof, and the rights and obligations contained therein.

2. To facilitate the [Committee]'s review and to help ensure that interested parties can become acquainted with each Member's requirements, if any, for export licensing, the [Committee] shall establish a registry of notifications submitted pursuant to Article 2.

3. The Secretariat shall record in the registry and make available to the public, through the internet or other electronic means, the information notified by Members under this Protocol.³⁵

³⁵ The URL (Uniform Resource Locator) of the official internet site where relevant information of such measure is sufficiently available may be recorded alternatively, but this is without prejudice to the notification obligation under the Article 2.

X. DECISION ON NON TARIFF BARRIERS AFFECTING FORESTRY PRODUCTS USED IN BUILDING CONSTRUCTION³⁶

Recalling the requirements in the Agreement on Technical Barriers to Trade that standards and technical regulations should, where appropriate, be based on international standards and be performance-based rather than prescriptive, facilitate international harmonisation and improve transparency of standards;

Recognising that voluntary prescriptive standards can have a facilitative role in building codes when they are cited as one method of conformance with overarching performance-based requirements.

Desiring to contribute towards the development of safe and affordable dwellings in WTO Member economies;

Recognising Members' rights and obligations under the TBT Agreement;

Recognising the important, sustainable, environmentally beneficial, and low cost role that timber building construction does play and could play in Member economies and the importance to such economies of free and open trade in component materials;

Recognising that differences in, and proliferation of, domestic standards and technical regulations, can lead to market segmentation and unintentional barriers to trade;

Recognising the leading role that International Standardisation Organisation (ISO) technical committees play in the development of performance-based international timber, timber product, and timber building construction standards;

Recognising mutual recognition arrangements already in place, and wishing to strengthen their status;

Recognising the trade benefits that wider International Laboratory Accreditation Cooperation (ILAC) and International Accreditation Forum (IAF) membership would provide;

Members decide:

- To recognise, among the appropriate international standard setting bodies developing performance-based standards in respect of the forest products sector, ISO Technical Committees [TC 89, 165, 218] as [leading] bodies developing international performance-based standards for timber, timber products and timber building construction as they relate to building codes.
- To give primary consideration to adoption of standards developed by these committees when upgrading or replacing existing regulations that make use of domestic timber, timber product and timber building construction standards and related tests;
- To increase the resources available to those committees through participation pursuant to Article 2.6 of the Agreement on Technical Barriers to Trade in order to accelerate work on the development of new standards and the enhancement of existing ones;

³⁶ Submitted by New Zealand (document JOB(07)/158).

- The Committee on Technical Barriers to Trade (TBT) will invite the aforementioned technical committees to consult with it on at least an annual basis. The purpose of those consultations will be to identify and progress ways to work together towards accelerating the adoption of performance-based timber, timber product and timber building construction standards in Member economies.
- Timber products tested and certified by any facility accredited by a signatory to an International Laboratory Accreditation Cooperation (ILAC) mutual recognition arrangement, or certified by a signatory to an International Accreditation Forum (IAF) multilateral arrangement shall be accorded no less favourable treatment than products tested or certified by facilities accredited by the domestic accreditation agency of any WTO Member.
- To promote acceleration of wider ILAC and IAF membership as a way of ensuring universal mutual recognition of accreditation agencies.
- To establish a list of internationally accepted test and certification methods for timber products where these are used in relation to building codes. This list will be developed by an internationally recognised group of timber experts. Members will nominate experts including members of the aforementioned technical committees, for participation in this group. The list of internationally accepted test and certification methods will be available via Members' TBT enquiry points. The list shall be updated by the designated expert group based on biannual notifications from WTO Members of additional internationally accepted test and certification methods for timber products proposed for inclusion in the list. The timber products tested using the methods identified on the list will be accepted for use in building construction without the need for further testing by the importing country.

XI. AGREEMENT ON NON-TARIFF BARRIERS PERTAINING TO THE ELECTRICAL SAFETY AND ELECTROMAGNETIC COMPATIBILITY (EMC) OF ELECTRONIC GOODS³⁷

Members,

Recalling that pursuant to paragraph 16 of the Doha Ministerial Declaration, Members agreed to negotiations aimed at reducing or as appropriate eliminating tariffs and non-tariff barriers on non-agricultural goods;

Recognizing the important contribution of electronic goods to global economic growth and development;

Desiring to ensure that technical regulations, standards, and conformity assessment procedures do not create unnecessary obstacles to international trade in electronic goods;

Affirming their existing rights and obligations under the WTO Agreement, including the Agreement on Technical Barriers to Trade (TBT Agreement);

Recognizing that no Member should be prevented from taking measures that are necessary for the protection of human, animal or plant life or health, of the environment, at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade, and are otherwise in accordance with the provisions of this Agreement, or that are necessary for the protection of its essential security interest;

Recognizing that a Member's selection of an appropriate conformity assessment procedure may involve the consideration of a number of factors, such as the risks associated with non-conformity or the product for which conformity is sought;

Seeking to supplement and elaborate on the TBT Agreement with respect to standards, technical regulations, and conformity assessment procedures affecting electronic goods; and

With a view to expanding the products listed in Members' schedules to Annex I, II, III, and IV to this Agreement in the future.

Agree as follows:

A. DEFINITIONS

For purposes of this Agreement:

Central government body means a central government body as defined in Annex 1 of the TBT Agreement;

Electronic good means any information technology, telecommunications, audio-visual, or other electronic or electrical product, whether for business or personal use, listed in Annex I of this Agreement; [*Note: Annex I would cover a range of products falling under Chapter 84, 85, or 90 of the World Customs Organization's Harmonized Commodity Description and Coding System and apply to all Members*];

³⁷ Submitted by the United States (document TN/MA/W/105/Rev.1).

Supplier means any party that supplies the product and may include a manufacturer, distributor, or importer;

Supplier's declaration of conformity (SDoC) means a declaration by a supplier based on an evaluation of the results of conformity assessment procedures that a product meets a specified standard or technical regulation or other specification;

Standard, technical regulation, or conformity assessment procedure means respectively a standard, technical regulation, or conformity assessment procedure as defined in Annex 1 of the TBT Agreement that pertains to the electrical safety or electromagnetic compatibility (EMC) of an electronic good; and

Third-party certification means a declaration by a body, which the Member accepting the declaration has determined is independent of suppliers and users, that a product meets a specified standard or technical regulation or other specification based on an evaluation of the results of conformity assessment procedures.

B. SCOPE AND COVERAGE

A. This Agreement shall apply to any standard, technical regulation, or conformity assessment procedure, as defined in paragraph I.

B. This Agreement shall impose obligations on Members only with respect to standards, technical regulations, and conformity assessment procedures of central government bodies.

C. This Agreement shall not apply to purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies.

D. Any reference in this Agreement to standards, technical regulations, or conformity assessment procedures shall be construed to include any amendment thereto and any additions to the rules or product coverage thereof, except amendments and additions of an insignificant nature, to the extent such amendment or addition pertains to electrical safety or EMC for electronic goods.

C. STANDARDS, TECHNICAL REGULATIONS, AND CONFORMITY ASSESSMENT PROCEDURES

Assessing Costs

A. Where a Member proposes to prepare or adopt a technical regulation or conformity assessment procedure, it shall take into account, *inter alia*, costs of complying with the proposed technical regulation or conformity assessment procedure.

International Standards

B. In determining whether an international standard, guide or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists pertaining to electrical safety or EMC of an electronic good, each Member shall base its determination on the principles set out in *Decisions and Recommendations adopted by the Committee since 1 January 1995*, G/TBT/1/Rev.8, 23 May 2002, Section IX (*Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement*) (*Committee Decision*) issued by the WTO Committee on Technical Barriers to Trade (TBT Committee).

Transparency

C. This paragraph shall apply in lieu of Articles 2.9 and 5.6 and Paragraphs L through N of Annex 3 of the TBT Agreement where a Member proposes to prepare or adopt a standard, technical regulation or conformity assessment procedure, and shall apply regardless of whether relevant international standards, guides, or recommendations exist or the technical content of the proposed technical regulation or conformity assessment procedure is in accordance with relevant international standards, guides, or recommendations. Where a Member proposes to prepare or adopt a standard, technical regulation or conformity assessment procedure that may have a significant effect on trade of other Members, the Member shall, with a view to providing meaningful opportunity for comment:

- (1) publish, in print or electronically, the proposed standard, technical regulation or conformity assessment procedure at the earliest appropriate stage, in such a manner as to enable interested parties in other Members to become acquainted with it and to submit written comments before the Member finalizes the standard, technical regulation or conformity assessment procedure;
- (2) notify other Members through the Secretariat at the earliest appropriate stage of the proposed standard, technical regulation or conformity assessment procedure, including the electronic good or goods the proposal covers, together with a brief indication of its objective and rationale and, to the extent applicable, any provisions of the standard, technical regulation or conformity assessment procedure that deviate in substance from relevant international standards, guides, or recommendations;
- (3) upon request from another Member, provide copies of and particulars concerning the proposed standard, technical regulation or conformity assessment procedure, including how it took into account the costs of complying with the proposed technical regulation or conformity assessment procedures pursuant to paragraph A;
- (4) (i) allow reasonable time (normally not less than 60 days) for Members and interested parties to comment in writing on the proposal,³⁸ and (ii) take into account any such comments in finalizing the standard, technical regulation or conformity assessment procedure;
- (5) upon request, discuss written comments it receives from Members and take the results of those discussions into account; and
- (6) publish, in print or electronically, any written comments it received from Members or interested persons on the proposed standard, technical regulation or conformity assessment procedure.

D. Where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise for a Member, that Member may omit such steps enumerated in paragraph C as it finds necessary, provided that the Member, upon finalizing the standard, technical regulation or conformity assessment procedure, shall:

- (1) immediately following preparation or adoption of the measure, notify other Members through the Secretariat of the standard, technical regulation or conformity assessment procedure, including the electronic good or goods the standard, technical regulation or conformity

³⁸ Each Member shall publish, in print or electronically, a notification specifying the comment period and give favourable consideration to reasonable requests to extend the comment period.

assessment procedure covers, together with: (i) a brief indication of its objective and rationale; (ii) to the extent applicable, any provisions of the standard, technical regulations or conformity assessment procedure that deviate in substance from relevant international standards, guides, or recommendations; and (iii) the nature of the urgent problem;

- (2) upon request, provide other Members with copies of and particulars concerning the standard, technical regulation or conformity assessment procedure;
- (3) (i) allow other Members and interested persons to submit comments in writing on the final standard, technical regulation or conformity assessment procedure; and (ii) take these comments into account in deciding whether to modify the standard, technical regulation or conformity assessment procedure; and
- (4) upon request, discuss written comments it receives from Members and take the results of those discussions into account.

E. When publishing a technical regulation or conformity assessment procedure, or if paragraph D applies, as soon as possible after publication of the final standard, technical regulation or conformity assessment procedure, each Member shall publish, in print or electronically:

- (1) its responses to any significant and relevant issues raised in comments it received from Members or interested parties during the comment period;³⁹ and
- (2) the objective and rationale for preparing or adopting the particular standard, technical regulation or conformity assessment procedure.

Treatment of Conformity Assessment Bodies

F. Each Member shall accord to conformity assessment bodies in the territory of any other Member treatment no less favourable than that it accords to conformity assessment bodies in its own territory with respect to the procedures, criteria, and other conditions with which conformity assessment bodies must comply in order for the Member to accredit or otherwise approve them as competent to test or certify that a product conforms with the Member's standard or technical regulation. This paragraph shall apply only with respect to products listed for electrical safety, EMC or both in the Member's schedule to Annex II.

Test Results

G. If a Member requires test results (alone or in conjunction with other assurances of conformity) or other assurances of conformity that are based on test results as an assurance that a electronic good conforms with a standard or technical regulation, it shall not require the testing to be performed in a testing facility within its territory and shall accept the test results if they are performed by a facility that the Member deems competent, or otherwise approves, for that purpose. If the Member requires the testing facility to comply with requirements concerning the testing of electronic goods for conformity with the standard or technical regulations or requires the body that accredits the testing facility to comply with requirements concerning that accreditation, it shall ensure that such requirements are based on:

³⁹ For greater certainty, if raised in comments received from a Member or an interested person, a Member's response shall include: (i) where applicable an explanation of why deviation from relevant international standards was necessary and (ii) how it took into account the costs of complying with the standard, technical regulation or conformity assessment procedure.

- (1) a relevant international standard, guide or recommendation that has been developed in accordance with the TBT Agreement and the Committee Decision; or
- (2) a conformity assessment procedure established by the Member in accordance with the procedures set out in paragraphs III.C and III.E.

SDoC

H. If a Member requires a positive assurance that a product listed for electrical safety, EMC or both in its schedule to Annex III conforms with a standard or technical regulation, it shall accept as such assurance a supplier's declaration of conformity (SDoC). The Member shall base any requirements for an SDoC on a relevant international standard, guide or recommendation that has been developed in accordance with the TBT Agreement and the *Committee Decision*, and may refuse to accept a declaration from any supplier if, upon request from the Member's regulatory or enforcement authorities, the supplier does not provide to those authorities documentation necessary to demonstrate the basis for a declaration or declarations (e.g., relevant test results) within a reasonable period after the date of the request.

Third-Party Certification

I. If a Member requires third-party certification as positive assurance that a product listed for electrical safety, EMC, or both, in its schedule to Annex IV, conforms with a standard, technical regulation, or conformity assessment procedure, it shall not require the body performing the third-party certification to be within its territory and shall accept the third party certification if it is performed by a body that the Member deems competent, or otherwise approves, for that purpose. The Member shall ensure that it bases any requirements that the body must meet to be deemed competent or otherwise approved on:

- (1) a relevant international standard, guide or recommendation that has been developed in accordance with the TBT Agreement and the Committee Decision; or
- (2) a conformity assessment procedure established by the Member in accordance with the procedures set out in paragraphs III.C and III.E.

Members shall give positive consideration to allowing certification bodies to base certifications, where such certifications are required, on test results from any testing facility that the certification body deems competent or otherwise approves.

Procedures for Review

J.

- (1) Each Member shall establish or maintain judicial, quasi-judicial, or administrative tribunals and procedures for the purpose of the review of its administrative actions relating to technical regulations and conformity assessment procedures. Each Member shall ensure that such tribunals are impartial and independent of the office or authority entrusted with administrative enforcement and not have any substantial interest in the outcome of the matter and that proceedings before such tribunals comply with due process of law.
- (2) Each Member shall also establish or maintain procedures for it to review, at regularly-scheduled intervals, its technical regulations and conformity assessment procedures to determine whether such measures should be modified or eliminated so as to make the Member's regulatory program more effective in achieving the legitimate objective(s) pursued.

D. INFORMATION AND ASSISTANCE

Nothing in this Agreement shall be construed to require a Member to furnish or allow access to confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

[We may want to include other provisions under this heading along the lines of those in TBT Articles 10 and 11]

E. MONITORING AND OVERSIGHT

A Subcommittee on Electronic Goods (Subcommittee) is hereby established as a subcommittee to the TBT Committee to oversee the operation and implementation of this Agreement and further its objectives and to provide a forum for discussions on any matter related to this Agreement. The Subcommittee shall:

- (1) comprise representatives of each Member;
- (2) elect its own Chairman and apply the TBT Committee working procedures;
- (3) meet 12 months after the date of entry into force of this Agreement, and at the end of each one-year period thereafter, or earlier as necessary, to:
 - (a) review the implementation and operation of this Agreement, and where appropriate, consider proposals for amending it; and
 - (b) review Annexes I, II, III, and IV and consider whether they should be modified; and
- (4) report to the TBT Committee and the Committee of Participants on the Expansion of Trade in Information Technology Products established pursuant to the *Communication to the Chairman of the Council on Trade in Goods: Implementation of the Ministerial Declaration on Trade in Information Technology Products* G/L/160 (March 26, 1997) (ITA Committee) with a view to complementing and not duplicating the work of those committees, and to this end, communicate to the TBT and ITA Committees the results of its review conducted pursuant to subparagraph (3) and, as appropriate, any proposed amendments to this Agreement or recommendations to modify Annex I, II, III, or IV.

F. DISPUTE SETTLEMENT

Article 14 of the TBT Agreement shall apply *mutatis mutandis* to this Agreement.

[Note: Need to further consider relationship with Dispute Settlement Understanding]

G. FINAL PROVISIONS

Annexes

Annexes I, II, III, and IV shall constitute an integral part of this Agreement. To the extent a Member seeks to modify its schedule to Annex II, III, or IV and the modification would expand the products subject to this Agreement, the Member may do so by notifying other Members through the Secretariat of the Member's modified schedule. The Secretariat shall modify Annex II, III, or IV, as

necessary, to include the Member's modified schedule. A Member may modify its schedule to Annex II, III, or IV in a manner that would reduce the products subject to this Agreement in accordance with Article [] (Modification of Schedules) of this Agreement.

[Note: Need to consider additional "final provisions" to be included in this Agreement, such as entry into force, withdrawal, amendment, modifications of schedules, WTO Secretariat to service Agreement, deposit etc. - items included, for example, in the various UR WTO agreements]

Annex I B Electronic Goods

[Add positive list of electronic goods subject to the Agreement. This list would apply to all Members.]

Annex II B Treatment of Conformity Assessment Bodies

[Add positive list of electronic goods covered for each agency of the Member with respect to the obligations in III.F. Each agency and its covered products may be listed separately with respect to EMC and electrical safety.]

Annex III B Acceptance of SDoC

[Add positive list of electronic goods covered for each agency of the Member with respect to the obligations in III.H. Each agency and its affected products may be listed separately with respect to EMC and electrical safety. For example, SDoC accepted for x product with respect to EMC and for y product with respect to electrical safety.]

Annex IV – Acceptance of Third-Party Certification

[Add positive list of electronic goods covered for each agency of the Member with respect to the obligations in III.I. Each agency and its affected products may be listed separately with respect to EMC and electrical safety. For example, Third-Party Certification accepted for x product with respect to EMC and for y product with respect to electrical safety.]

XII. MINISTERIAL DECISION ON TRADE IN REMANUFACTURED GOODS ⁴⁰

Members,

Recalling that pursuant to paragraph 16 of the Doha Ministerial Declaration, Members agreed to negotiations aimed at reducing or as appropriate eliminating tariffs and non-tariff barriers on non-agricultural products;

Recognizing the objectives of protecting and preserving the environment, promoting sustainable development by preventing unnecessary waste and conserving energy and raw materials, raising standards of living, and expanding the production of and trade in goods;

Noting the development of remanufacturing as an important new field in manufacturing;

Considering the benefits to the environment and to consumers of the production of and trade in remanufactured goods;

Recognizing that remanufacturing takes place in developed and developing countries alike, creating jobs and facilitating economic growth;

Desiring to enhance opportunities for trade in remanufactured products by reducing or, as appropriate, eliminating non-tariff barriers in respect of those goods;

Mindful of Members' right to adopt measures for the protection of human, animal or plant life or health, or of the environment, consistent with the WTO Agreement;

Decide as follows:

24. Each Member's trade regime should evolve in a manner that enhances market access opportunities for remanufactured goods.⁴¹

25. Members should review their non-tariff measures with a view to ensuring that they do not impose prohibitions or restrictions on the importation of remanufactured goods that are proscribed by the Multilateral Agreements on Trade in Goods.

26. Members shall meet every six months under the auspices of the Council on Trade in Goods to discuss Members' progress in reducing or, as appropriate, eliminating non-tariff barriers in respect of remanufactured goods. The discussions shall be conducted using procedures that take fully into account the special needs and interests of developing and least-developed country participants.

27. Members shall afford sympathetic consideration to any request for consultation from other Members concerning their non-tariff measures affecting remanufactured goods. Such consultations shall be without prejudice to a Member's rights and obligations under the WTO Agreement.

28. For purposes of this Decision, *remanufactured good* means [a non-agricultural good that (1) is entirely or partially comprised of parts (i) that have been obtained from the disassembly of used goods; and (ii) that have been processed, cleaned, inspected, or tested to the extent necessary to ensure they are in original working condition; and (2) has a warranty.]

[NB: Definition subject to further discussion.]

⁴⁰ Submitted by the Japan, Switzerland and the United States (document TN/MA/W/18/Add.16/Rev.2)

⁴¹ This paragraph does not require a Member to reduce or eliminate tariffs on remanufactured goods.

XIII. AUTOMOTIVE NTBS ⁴²

Since 2002, many Members have in the Negotiating Group on Market Access shown an interest in reducing or eliminating barriers to trade in automotive products. Several Members, both developed and developing, submitted non-tariff barrier indicative lists, as compiled in JOB(05)/85/Rev.3, citing barriers affecting trade in automotive products. Some Members have also tabled bilateral request related to trade in automotive products. The Global Automotive Industry Dialogue (GAID)⁴³, which consists of auto companies from across the globe, has consistently expressed a strong interest in opening markets through the elimination of a variety of NTBs affecting trade in automotive products. In response to industry's requests for work on automotive NTBs, two delegations submitted proposals:

- The United States in January 2005 submitted a concept paper proposing that Members investigate a wide range of autos NTBs.
- The European Communities in April 2006 submitted a concept paper on automotive standards harmonization in TN/MA/W/11/Add.4.

In addition to these proposals, delegations have reviewed a large number of specific bilateral automotive NTBs, many of which relate to market segmentation caused by differing standards, technical regulations, and conformity assessment procedures. The industry then and today assigns high importance to the resolution of automotive NTBs related to the implementation of the WTO Agreement on Technical Barriers to Trade.

In this light the United States is working closely with its industry on a new proposal aiming to reduce NTBs in the automotive sector. We believe that this proposal will be of interest to many Members, as it pertains to a global industry with trade, production, and employment in both the developed and developing worlds.

While respecting Members' ability to regulate and determine appropriate levels of protection in order to fulfil their legitimate objectives in accordance with Article 2.2 of the TBT Agreement, the proposal seeks to facilitate trade in the automotive sector through the following:

- Encouraging the harmonization of technical regulations,
- Ensuring that regulators take into account, *inter alia*, costs of compliance in their decision-making processes,
- Encouraging the use of good regulatory practices,
- Requiring greater transparency, and
- Providing national treatment for conformity assessment bodies and greater acceptance of test results.

⁴² Submitted by the United States (document JOB(08)/39).

⁴³ The Global Automotive Industry Dialogue (GAID) is a working group composed of seven major national auto and auto parts manufacturing associations that jointly represent 85% of global motor vehicle production. These include: **Brazil** - Associação Nacional dos Fabricantes de Veículos Automotores (ANFAVEA); **Canada** - Canadian Vehicle Manufacturers Association (CVMA); - **European Union**: Association of European Motor Vehicle Manufacturers (ACEA); **India** - Society of Indian Automotive Manufacturers (SIAM); **Japan** - Japan Automobile Manufacturers Association (JAMA); **Korea** - Korean Automobile Manufacturers Association (KAMA); **Mexico** - Asociación Mexicana de la Industria Automotriz; **Turkey** - Turkey Automotive Manufacturers Association (OSD); **United States** - Automotive Trade Policy Council (ATPC).

We hope to provide Members with a text-based version of this proposal in the near future for Members to review and consider. We would welcome any comments and questions Members may have on this issue at any point of time. The United States looks forward to working with Members to pursue this important issue that would provide substantial benefits to the global automotive sector.
