

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Communication from the European Communities and the United States

The following communication, dated 5 December 2007, is being circulated at the request of the delegations of the European Communities and the United States

1. In this submission to the Negotiating Group, the European Communities and the United States wish to propose an amendment to the final sentence of paragraph 7 (a) of the Draft NAMA Modalities contained in the WTO Secretariat's document JOB(07)/126 of 17 July 2007.

* * *

2. As the Chairman of the Negotiating Group on Market Access recognises, transparency in the use of flexibilities is a source of continuing concern for many delegations. In order to contribute to a solution, we submit this proposal in a constructive spirit hoping it will meet with the agreement of Members.

3. Paragraph 7 of the Draft NAMA Modalities contained in the WTO Secretariat's document JOB(07)/126 of 17 July 2007 reads as follows:

Flexibilities for developing Members subject to the formula

7.(a) Developing Members subject to the formula shall be given the following flexibility:

(i) applying 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.

We furthermore agree that this flexibility shall not be used to exclude entire HS Chapters.

¹ It is understood that the options in sub-paragraph 7(a)(ii) (keeping tariff lines unbound or not applying formula cuts) may be combined but cannot together exceed the 5 percent of tariff lines and the 5 percent of non-agricultural imports. (*Footnote included in the Chairman's text*)

- (b) Where developing Members subject to the formula do not use the flexibility in sub-paragraph (a) above, they shall apply a coefficient of $b + 3$ in the formula.

4. Without prejudice to the EC and United States' final position on flexibilities for developing Members, the EC and the United States propose to amend the final sentence of paragraph 7 (a) above as follows:

We furthermore agree that this flexibility 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 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.
