

**WORLD TRADE  
ORGANIZATION**

**TN/MA/W/103**  
8 February 2008

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**Negotiating Group on Market Access**

**DRAFT MODALITIES FOR NON-AGRICULTURAL MARKET ACCESS**

8 February 2008



Draft Modalities	Chairman's Comments
<p><b><u>Preamble</u></b></p> <p>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 <i>a priori</i> 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 <i>bis</i> 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."</p> <p>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.</p> <p>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.1. Initial, comprehensive, draft schedules shall be submitted no later than three months after the establishment of modalities.</p> <p>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.</p>	<p>Product coverage remains unresolved. As a possible solution to a long impasse on this issue, I have proposed that Annex 1 should be the agreed list of product coverage and that longstanding deviations from this list should be noted, without affecting the rights of Members.</p>

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<p><b><u>Formula</u></b></p> <p>5. The following formula shall apply on a line-by-line basis:</p> $t_1 = \frac{(a \text{ or } b) \times t_0}{(a \text{ or } b) + t_0}$ <p><i>where,</i>  <math>t_1</math> = Final bound rate of duty  <math>t_0</math> = Base rate of duty  <math>a</math> = [8-9] = Coefficient for developed Members  <math>b</math> = [19-23] = Coefficient for developing Members</p>	<p>There is no consensus on the coefficients in the formula. While most Members who will apply the formula have accepted the ranges proposed in the July text (8-9 for developed country Members and 19-23 for developing country Members) as a basis for negotiation, there has been no convergence on this issue. Members remain divided into three groups:</p> <ul style="list-style-type: none"> <li>• a group of Members seeking higher tariff reductions for developing countries and smaller differential between developed and developing country coefficients (a coefficient of 10 for developed country Members and 15 for developing country Members, a differential of 5 points), who have indicated a willingness to accept the ranges proposed in the July text as a basis for negotiation, provided other Members also agree to negotiate on these terms;</li> <li>• a group of Members who proposed ranges very close to those in the July text (originally proposing “lower than 10” for developed countries and “the high teens to low twenties” for developing countries, but more recently pressing for “a little less” than the 8-9 for developed country Members proposed in the July text), but who have accepted the ranges as a basis of negotiation; and</li> <li>• a group of Members seeking smaller tariff reductions for developing countries and a greater differential in coefficients between developed and developing countries (a coefficient of 30 to 35 for developing countries and a differential of at least 25 points), who have not accepted the ranges proposed in the July text as a basis for further negotiations. For some of these Members, the extent to which a coefficient within, or “approaching”, the range proposed in the July text could be considered is conditional upon an increase in flexibilities from formula reductions.</li> </ul>

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<p><b><u>Elements regarding the formula</u></b></p> <p>6.</p> <p>(a) Product coverage shall be comprehensive without <i>a priori</i> exclusions.</p> <p>(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 of [20] or [30] shall be applied to establish base rates for commencing tariff reductions.</p> <p>(c) The base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November).</p> <p>(d) All non-<i>ad valorem</i> duties shall be converted to <i>ad valorem</i> equivalents on the basis of the methodology outlined in document TN/MA/20 and bound in <i>ad valorem</i> terms.</p> <p>(e) The reference period for import data shall be 1999-2001.</p> <p>(f) The tariff reductions for developed Members shall be implemented in [5] equal rate reductions and for developing Members in [9] 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.</p>	<p>Members remain divided on the mark-up, but flexibility has been signalled. Based on my consultations with Members, it is my sense that the proposal submitted by the Philippines might provide the basis for a compromise on this issue: that is, a constant, non-linear mark-up of 20 percentage points to the MFN applied rate in the base year where the unbound rate is greater than <math>(b \times 0.5)</math> and 30 percentage points where the unbound rate is equal to or less than <math>(b \times 0.5)</math>.</p> <p>Some Members have proposed a longer implementation period – that is, 5 and 10 years (6 and 11 equal rate reductions) for developed and developing country Members respectively. However, most seem comfortable leaving this decision until the coefficients in the tariff reduction formula are agreed.</p>

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<p><b><u>Flexibilities for developing Members subject to the formula</u></b></p> <p>7.</p> <p>(a) Developing Members subject to the formula shall be given the following flexibility:</p> <p>(i) applying less than formula cuts for up to [ ] 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 [ ] percent of the total value of a Member's non-agricultural imports;</p> <p>or</p> <p>(ii) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [ ] percent of non-agricultural national tariff lines provided they do not exceed [ ] percent of the total value of a Member's non-agricultural imports<sup>1</sup>.</p>	<p>In view of the wide support of Members for the flexibilities proposed in the July 2004 Framework, the July text proposed flexibilities of 10 percent for 7(a) (i) and 5 percent for 7(a) (ii). However, as noted above, some Members seek increased flexibilities as a precondition to considering a coefficient within, or “approaching”, the range proposed in the July text. In this regard, there are several proposals, none of which enjoys a consensus:</p> <ul style="list-style-type: none"> <li>• The proposal by a group of Members that: the percentage of tariff lines should be expanded in line with the needs of developing countries; the related trade volume limitations should be removed or substantially relaxed; and developing countries should be provided the flexibility to use some combination of paragraphs 7(a) (i) and 7(a) (ii) (not specified in the proposal).</li> <li>• The proposal by SACU that, in view of the impact of tariff reductions on SVE and LDC Members of this customs union, South Africa be granted a higher coefficient and increased flexibilities (not specified in the SACU proposal or in discussions of the Negotiating Group), in addition to an implementation period of not less than 10 years.</li> <li>• The proposal by Mercosur that, in view of their common external tariffs and consequent loss of the full benefit of formula flexibilities for individual countries, members of customs unions be granted the flexibility to apply half the formula cut to 16% of tariff lines, without trade volume restrictions, provided they submit a common list of flexibilities.</li> <li>• The proposal by the Philippines to: increase the maximum value of developing country Members' non-agricultural imports under paragraph 7(a) (i) to 30% and under paragraph (a) (ii) to 20%; increase the flexibilities of paragraph 7(a) (i) and (ii) by 50% where the resulting average bound tariff is equal to or less than <math>(b \times 0.66)</math>; grant developing country Members subject to the formula that do not use the flexibility in paragraph 7 either a coefficient of <math>(b + 3)</math> for a maximum of 30% of tariff lines or <math>(b + 6)</math> for a maximum of 15% of tariff lines.</li> </ul>

<sup>1</sup> 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 [ ] percent of tariff lines and the [ ] percent of non-agricultural imports.

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<p data-bbox="190 788 869 815">This flexibility shall not be used to exclude entire HS Chapters.</p> <p data-bbox="190 1102 1043 1190">(b) [Developing Members subject to the formula who do not use the flexibility in paragraph 7 (a) above shall apply a coefficient of (b+ [3-5]) in the formula.]</p>	<p data-bbox="1126 240 2000 357">Members are divided on whether any additional flexibilities agreed should be available to all developing country Members equally, or whether exceptions could be extended to individual Members, based on their individual circumstances.</p> <p data-bbox="1126 373 2000 520">Many Members have expressed a willingness to consider additional flexibilities for South Africa. While these Members tend to reject, for “systemic” reasons, the argument that flexibilities should be granted to customs unions <i>per se</i>, they are prepared to give consideration to the special circumstances of South Africa, including their relatively large contribution in the Uruguay Round.</p> <p data-bbox="1126 536 2000 715">The Bolivarian Republic of Venezuela has also proposed that, in view of their exceptional economic circumstances, they should be granted treatment similar to Small, Vulnerable Economies, including a target average tariff and minimum line-by-line tariff reduction (not specified in the Venezuelan proposal or in discussions of the Negotiating Group). This proposal does not enjoy wider support than those listed above.</p> <p data-bbox="1126 767 2000 1038">Another issue on which there is no convergence is the proposal from the European Communities and the United States to give more specific effect to the “anti-concentration” clause agreed in the July 2004 Framework. Specifically, these Members have proposed that: these flexibilities should not be used to exclude from full formula cut entire HS Chapters, or to exclude from any four digit heading in a Member’s tariff schedule (1) more that [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 that [50] percent of the total value of the Member’s imports of goods classifiable within that heading.</p> <p data-bbox="1126 1091 2000 1362">There is no consensus on the proposal in 7(b), but my judgement is that it enjoys sufficiently wide support to include, in brackets, in the draft modalities. The proposal also serves to open a critically important discussion in the NAMA negotiation. There is an obvious relationship between the coefficient for developing country Members and the flexibilities in paragraph 7: many Members can accept a higher coefficient for eligible Members that do not use the flexibilities; other Members have indicated that they could accept, or approach, the range of coefficients proposed in the July text if the flexibilities were increased; and some Members have indicated that they could consider increased</p>

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	<p>flexibilities if the agreed coefficient was at the lower end of the proposed range. This strongly suggests a “sliding scale” approach to achieve consensus, especially as it might provide a basis upon which to agree different outcomes for different developing countries – a persistent demand of some developing countries. I urge Members to engage in the discussion of the formula and flexibilities and to explore the possible relationship between them, in concrete terms – not with a view to resolving them before the horizontal process, but to rehearse and give structure to the negotiation in that process and to increase the likelihood of a successful outcome by clarifying the options before Ministers when they are required to arbitrate the outcome.</p>
<p><b><u>Flexibilities for developing Members with low binding coverage<sup>2</sup></u></b></p> <p>8.</p> <p>(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, they shall bind [70-90] percent of non-agricultural tariff lines at an average level that does not exceed 28.5 percent.</p> <p>(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.</p> <p>(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.</p> <p>(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] 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.</p>	

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



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<p>(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.</p>	
<p><b><u>Sectoral negotiations</u></b></p> <p>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. 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.</p> <p>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.</p> <p>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; open access to enhanced health care; raw materials; sports equipment; toys; and textiles, clothing and footwear.</p>	

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<p>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:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(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</li> <li>(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.</li> </ul>	
<p><b><u>Small, Vulnerable Economies</u></b></p> <p>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.</p>	<p>There is agreement on the basic architecture and flexibility has been expressed by Members on the target tariff averages proposed in the July text. Issues to resolve include:</p> <ul style="list-style-type: none"> <li>• Capping: in an effort to find consensus, SVE proponents have proposed higher target averages in exchange for withdrawing their proposal for caps in the average percentage reduction from bound rates – specifically, a 40% cap (a) (i) and 30% cap in (a) (ii). There is not wide support for the idea of caps, but some Members have expressed a willingness to consider additional “bands” in (a) to address the concerns of SVE Members most disproportionately affected by the current architecture.</li> </ul>

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<p>(a) Members with a bound tariff average of non-agricultural tariff lines.<sup>3</sup></p> <p>(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;</p> <p>(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; and</p> <p>(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.</p> <p>Fiji shall be deemed to fall under (a) (i).</p> <p>(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.</p> <p>(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.</p>	<ul style="list-style-type: none"> <li>• Minimum line-by-line cut: SVE proponents proposed a minimum line-by-line tariff cut, but I have detected little real interest in this additional modality, except in respect of (a) (iii) since this may be the only contribution of some Members in that band.</li> <li>• Bolivia: an informal proposal was submitted by Bolivia arguing that, in view of their exceptional economic circumstances, they should be granted the flexibility to substantially preserve (not specified) their current bound tariff rates. Members have had little opportunity to consider this proposal and I am unable to assess their support.</li> </ul>

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

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<p>(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] 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.</p> <p>(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 still being implemented. This grace period shall begin as of the date of full implementation of the accession commitment on that tariff line.</p> <p>(f) All duties shall be bound on an <i>ad valorem</i> basis. Existing bindings on a non <i>ad valorem</i> basis shall be converted to <i>ad valorem</i> equivalents on the basis of the methodology outlined in document TN/MA/20.</p>	
<p><b><u>Least Developed Countries (LDCs)</u></b></p> <p>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 <i>ad valorem</i> basis. For existing bindings which are not on an <i>ad valorem</i> basis, LDCs are encouraged to convert them to <i>ad valorem</i> equivalents on the basis of the methodology outlined in document TN/MA/20 and bind them in <i>ad valorem</i> terms.</p>	

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<p data-bbox="188 240 474 268"><b><u>Market Access for LDCs</u></b></p> <p data-bbox="188 316 1048 464">15. We reaffirm the need to help LDCs secure beneficial and meaningful integration into the multilateral trading system. In this regard, we recall the <i>Decision on Measures in Favour of Least-Developed Countries</i> contained in decision 36 of Annex F of the Hong Kong Ministerial Declaration (the "Decision"), and recommit:</p> <ul style="list-style-type: none"> <li data-bbox="286 504 837 531">(a) to fully implement the Decision as agreed;</li> <li data-bbox="286 544 1048 756">(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 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;</li> <li data-bbox="286 769 1048 855">(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</li> <li data-bbox="286 868 1048 924">(d) to permit developing country Members to phase in their commitments and enjoy appropriate flexibility in coverage.</li> </ul> <p data-bbox="188 975 1048 1031">16. Accordingly, developed-country Members shall and developing-country Members declaring themselves in a position to do so should:</p> <ul style="list-style-type: none"> <li data-bbox="286 1070 1048 1219">(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; and</li> <li data-bbox="286 1270 1048 1326">(b) notify the steps and possible time frames within which they will progressively achieve full compliance with the Decision.</li> </ul>	

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<p>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.</p>	<p>The monitoring procedure should be defined and agreed by the time of final schedules.</p>
<p><b><u>Recently Acceded Members (RAMs)<sup>4</sup></u></b></p> <p>18. The RAMs shall apply the modality provided for in either paragraphs 5, 6 and 7 or paragraph 13, as applicable.</p> <p>19. In addition, the RAMs applying the formula shall be given:</p> <p>(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; and</p> <p>(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.</p> <p>20. Albania, Armenia, Former Yugoslav Republic of Macedonia, Kyrgyz Republic, Moldova, Saudi Arabia, Tonga and Viet Nam shall not be required to undertake tariff reductions beyond their accession commitments.</p>	<p>Other flexibilities requested by RAMs applying the formula remain unresolved, including granting access to some or all of the following: a coefficient in the formula 1.5 times higher than the developing country coefficient; expanded paragraph 7(a) (i) and (ii) flexibilities; exemption from tariff reductions for low tariffs (unspecified). My consultations suggest that consensus could not likely be reached on these additional flexibilities. However, some proponents have expressed the view that a final decision on this issue should not be taken until the coefficients in the formula and paragraph 7 flexibilities are agreed, since this would determine the extent to which there is a need for further flexibilities for these Members.</p>

<sup>4</sup> Albania, Armenia, China, Chinese Taipei, Croatia, Ecuador, Former Yugoslav Republic of Macedonia, Georgia, Jordan; Kyrgyz Republic, Moldova, Mongolia, Oman, Panama, Saudi Arabia, Tonga and Viet Nam. 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.

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<p><b><u>Supplementary Modalities</u></b></p> <p>21. Members may use the request &amp; offer approach as a supplementary modality. Members engaging in such negotiations shall incorporate any outcomes in their final comprehensive draft schedules.</p>	
<p><b><u>Elimination of low duties</u></b></p> <p>22. Members are asked to consider the elimination of low duties.</p>	
<p><b><u>Non-tariff barriers (NTBs)</u></b></p> <p>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 developing Members and to enhance market access opportunities achieved through these modalities.</p> <p>24. Members agree that work should continue on the following proposals, with a view to finalizing them as early as possible before the submission of final comprehensive draft schedules: [ ]. Negotiations on bilateral requests should also proceed in tandem. This will allow for sufficient time to multilateralize the outcomes through <i>inter alia</i> incorporating them where appropriate into Part III of the schedules.</p> <p>25. These negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed Members.</p>	<p>Progress has been made in the identification, examination and categorization of NTBs. Discussions have focused on defining the nature of the barriers, the scope of products affected and potential solutions. Negotiating proposals, including some legal texts (see Annex 5) and bilateral requests, have been submitted on a number of measures.</p> <p>It is agreed that a decision will be taken, at the time modalities are established, on which of these horizontal and vertical proposals will proceed to final, text-based negotiation. This decision will establish a presumption of an outcome in respect of each proposal, without prejudging the exact nature of that outcome. This decision does not prevent any Member from submitting new proposals for consideration by the Negotiating Group at any time before final comprehensive draft schedules are submitted.</p> <p>By way of guidance to Members in assessing the support for specific proposals, I would offer the following comments:</p> <ul style="list-style-type: none"> <li>• The proposed <u>Ministerial Decision on Procedures for the Facilitation of Solutions to Non-Tariff Barriers</u> enjoys very wide support. However, important issues remain unresolved, the most significant being the scope of the procedure.</li> <li>• A number of proposals to recognize international standards and conformity assessment procedures (<u>Understanding on the Interpretation of the Agreement on Technical Barriers to Trade as Applied to Trade in</u></li> </ul>

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	<p><u>Electronics; Decision on Non Tariff Barriers Affecting Forestry Products used in Building Construction; Harmonization of Fireworks Standards and Conformity Assessment Procedures; Harmonization of Lighter Standards and Conformity Assessment Procedures; and the Understanding on the Interpretation of the Agreement on Technical Barriers to Trade with respect to Labelling of Textiles, Clothing, Footwear and Travel Goods)</u> enjoy some support. Some Members have expressed concern that such proposals might limit their existing rights under the Agreement on Technical Barriers to Trade, which may need to be further clarified in consultation with TBT experts. This having been said, in my view nothing prevents Members from agreeing on further clarifying the implementation of the TBT Agreement, particularly in the area of recognizing relevant international standards.</p> <ul style="list-style-type: none"> <li>• The proposed <u>Ministerial Decision on Trade in Remanufactured Goods</u> enjoys some support. However, many Members have expressed concern that the scope of remanufactured goods is not well defined or understood and that this lack of clarity prevents them from agreeing a work program in the Council for Trade in Goods. In my view, an agreement on the definition of such goods must be resolved – either through negotiation of the present proposal or by building the issue into the proposed work program - in order for this proposal to attract a consensus.</li> <li>• The proposed <u>WTO Agreement on Export Taxes</u> enjoys limited support. Often framed as a sterile debate over whether a tax is a tariff and, therefore, not a non-tariff barrier subject to this negotiation, the real obstacle is many Members' view that the issue of export taxes was not in the balance of concessions agreed in Doha and that there are insufficient incentives to alter that balance.</li> <li>• The proposal for <u>Increased Transparency on Export Restrictions</u> also enjoys limited support. While the proposal has been amended several times to address the concerns of Members that it would impose a heavy administrative burden, Members have displayed little interest in such transparency requirements.</li> </ul>



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	<ul style="list-style-type: none"> <li>Members have been unwilling to engage in a discussion of the proposed <u>Agreement on Eliminating Non-Tariff Barriers related to Non Trade Issues</u> in the Negotiating Group, and my consultations suggest that this is a signal of very limited support.</li> </ul>
<p><b><u>Capacity-Building Measures</u></b></p> <p>26. 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.</p>	
<p><b><u>Non-reciprocal preferences</u></b></p> <p>27. 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] equal rate reductions by the preference-granting developed Members concerned. 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 relevant tariff lines shall be those contained in Annex 2 for the European Communities and in Annex 3 for the United States.</p>	

Draft Modalities	Chairman's Comments
<p>28. 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 are urged to increase their assistance to these Members through mechanisms such as the Enhanced Integrated Framework for Least Developed Countries and other Aid-for-Trade initiatives. They are also urged to simplify the rules of origin in their preference programs so that preference receiving Members can make more effective use of such preferences.</p> <p>29. As a result of action taken under paragraph 27, 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 Members<sup>5</sup>, the reduction agreed in paragraph 5 on the relevant tariff lines shall be implemented in [5] 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.</p>	

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<sup>5</sup>[Pakistan and Sri Lanka].

Draft Modalities	Chairman's Comments
<p><b><u>Non-agricultural environmental goods</u></b></p> <p>30. 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.</p>	

## 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:<sup>6</sup>

(a) Fish and fish products defined as:

<u>Code/ Heading</u>	<u>Product Description</u> <sup>7</sup>
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> <sup>7</sup>
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
35.01	Casein, caseinates and other casein derivatives; casein glues

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<sup>6</sup> [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), Turkey (ex1603.00, 1604 and 1605) and Switzerland (05.08, 0511.91, 1504.10, 1504.20 and 2301.20)."]

<sup>7</sup> 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> <sup>7</sup>
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**

<b>Tariff line</b>	<b>Indicative product description</b>
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 <sup>2</sup> , not exceeding 165 cm
5208.12.99	Plain weave of cotton, weighing more than 100 g/m <sup>2</sup> , 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

<b>Tariff line</b>	<b>Indicative product description</b>
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**

<b>Tariff line</b>	<b>Indicative product description</b>
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:

<b>Tariff line</b>	<b>Indicative product description</b>
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:

<b>Tariff line</b>	<b>Indicative product description</b>
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 PROPOSALS<sup>8</sup>**

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

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<sup>8</sup> 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 BARRIERS<sup>9</sup>

*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 barriers affect market access opportunities for all WTO Members and may negate 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 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

1. 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') [*scope to be determined*], which it believes adversely affects its trade.
2. 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").
3. These procedures shall be applied in the context of relevant WTO Committees<sup>10</sup>.
4. Any time limit referred to in this Decision may be modified by mutual agreement between the Members involved in these procedures.

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<sup>9</sup> Submitted by the African Group, Canada, European Communities, LDC Group, NAMA-11 Group of Developing Countries, New Zealand, Norway, Pakistan and Switzerland (document JOB(07)/194).

<sup>10</sup> 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. 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***

6. 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.

7. 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.

8. Upon submission, the requesting Member shall notify its request to the relevant WTO Committee,<sup>11</sup> which shall circulate it to all Members. The responding Member shall equally notify its response to the relevant WTO Committee,<sup>S11</sup> 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***

9. 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.

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

11. 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.

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

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<sup>11</sup> 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.

### *Appointment of a Facilitator*

12. 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. Citizens of Members whose governments are parties shall not serve as the facilitator, unless the parties agree otherwise.

### *Seeking Mutually Agreed Solutions*

13. 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.

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

15. 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.

16. 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.

17. 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*

18. 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.

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

### **Final Provisions**

#### *Transparency*

20. 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.

21. 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*

22. 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.

#### *Review*

23. 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.

## II. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE AS APPLIED TO TRADE IN FIREWORKS<sup>12</sup>

*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.

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<sup>12</sup> 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.

### **III. HARMONIZATION OF LIGHTER STANDARDS AND CONFORMITY ASSESSMENT PROCEDURES<sup>13</sup>**

#### **I. INTRODUCTION**

1. In line with paragraph 16 of the Doha Ministerial Declaration in November 2001 and paragraph 22 of the Hong Kong Ministerial Declaration in December 2005, tariff as well as non-tariff barriers (“NTBs”) should be reduced or as appropriate eliminated, in particular with respect to products of export interest to developing Members, and the special needs and interests of developing and least-developed Members should be taken fully into account. Some Members create and apply NTBs in the form of standards, inspection, testing, certification and accreditation, which fail to take due account of the national condition of developing Members, and which pose de facto or disguised restrictions on exports of interests to developing Members and constitute unnecessary obstacles to the market access of products from developing Members.

2. In regard to the international trade of lighters (HS codes 961310 and 961320), some Members have established their domestic technical regulations, beyond those specified in existing international standards. The following proposal is made with a view to possible solutions to NTBs affecting trade in lighters.

#### **II. BACKGROUND**

3. The annual consumption of lighters in the world is about 18 billion units. China, France, Thailand, Viet Nam, Indonesia, the Philippines and Brazil are the major producers and exporters.

4. Some Members have established technical regulations that restrict the international trade in lighters. Some Members impose child-resistant (“CR”) standards, requiring the installation of CR devices on lighters below a certain unit price. However, such safety restrictions serve to discriminate against lower-priced lighters and thereby form an obstacle to the trade in lighters.

5. In some cases, Members require, with respect to imported lighters, a test report issued by specific laboratories that the importing Members recognized, and refuse to accept test reports issued by other laboratories that are in complete compliance with the ISO/IEC17025 and ISO 9994:2005 standards. Thus, lighter companies must first obtain certification for their lighters from specific laboratories recognized by the importing Members, which greatly increase the companies’ costs.

6. In addition, some Members require a test report for each and every type of lighter. While the report is valid for only six months, the testing lasts for a period of from three to six months and costs more than 1,000 U.S. dollars.

7. All of these NTBs have greatly affected the international trade of lighters and, specifically, the production and marketing of lighters by companies in developing Members. For example, according to one study, 75 percent of China’s lighter manufacturers have encountered NTBs in the process of exporting their lighter products, representing a total annual value of 100 million U.S. dollars. The technical requirements, testing and alteration of packing and labelling, increase the cost of exports by approximately 10 percent.

#### **III. MODALITIES**

8. All WTO Members shall take relevant existing international standards (such as ISO 9994:2005), guides and recommendations as the basis for domestic technical regulations, standards and conformity assessment procedures.

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<sup>13</sup> Submitted by the People's Republic of China (document TN/MA/W/90).

9. Members, when developing or revising their domestic technical measures concerning lighter products, shall ensure that the installation of CR devices must be on the basis of appropriate safety standards, rather than the unit price of the lighters. The ISO 9994:2005 standard specifies the general requirements for lighters so as to ensure that lighters are safe when handled properly or even improperly in certain predictable ways. Therefore, Members must recognize lighters as safe if they meet the requirements stipulated under the ISO 9994:2005 standard.
10. For the purpose of child protection, patents for safety devices, such as the CR devices, should be shared or subject to a shorter duration, and some mature CR technologies that can be widely used should be promoted gradually as generic safety standards.
11. Members shall take effective measures to recognize technical regulations and conformity assessment procedures of other Members as equivalent to their own, if these procedures fulfill the same regulatory objectives, and accept the conformity assessment results of other Members. Developed Members shall accept testing reports issued by laboratories in developing countries as in complete compliance with the ISO/IEC17025 and ISO 9994:2005 standards.
12. Before enforcing new technical measures against lighters, Developed Members should provide developing Members with a grace period of at least 6 months and should provide technical assistance to facilitate the conformity with these measures.

NON-TARIFF BARRIER NOTIFICATIONS CONCERNING LIGHTERS

No.	Tariff item (HS2002)	Description of product	Non-tariff measure on which action is requested	Specific action requested	Remarks
1	2	3	4	5	6
[1]	961310 961320	pocket lighters, gas fuelled, non refillable pocket lighters, gas fuelled, refillable	<p>1. Novelty lighters are forbidden by some Members to enter their markets. But the term “novelty lighters” is too vague in definition and scope, and may cause discrepancies in application.</p> <p>2. Certain Members require each consignment of import lighters to be tested against the ISO9994 standard, and liquid-fuelled lighters are subject to some restrictive mandatory procedures.</p> <p>3. Some Members make a linkage between the safety requirements and the price of lighters. Lighters below a certain price are required to include a child-resistant (CR) device, or obtain a certificate of CR device before they are allowed to be produced, sold or imported. And this certificate must be kept for 3 years from the date of production or importation.</p>	Adopt positive measures, with a view to form a more open international market of lighters	
[2]	961310 961320	pocket lighters, gas fuelled, non refillable pocket lighters, gas fuelled, refillable	<p>1. Some Members transform their formerly voluntary standards into mandatory ones. These standards are substantially different from the international standard ISO9994. For instance, the CR requirements in these standards exceed the requirement of ISO9994 standard.</p> <p>2. Some Members apply two technical standards for lighters. One is the international standard ISO9994 covering the quality, reliability and safety of lighters, and containing some appropriate safety test procedures but no CR requirements. The other is Members’ domestic standard, which establishes the CR requirements. Lighters placed on the markets must comply with Members’ domestic standard as well as the international standard ISO9994.</p>	<p>1. Adopt the international standards where appropriate</p> <p>2. Adopt the international standards where appropriate</p>	
[3]	961310 961320	pocket lighters, gas fuelled, non refillable pocket lighters, gas fuelled, refillable	Certain Members maintain regulations requiring mandatory certification of lighters, which stipulate that lighters can be placed on their markets only if they comply with the relevant standards and obtain a certificate of conformity issued by a certification body. The test results provided by export members are not accepted.	<p>1. Conduct MRAs between certification bodies. Accept the relevant foreign conformity assessment results</p> <p>2. Encourage cooperation and mutual recognition</p>	

#### IV. AGREEMENT ON ELIMINATING NON-TARIFF BARRIERS RELATED TO NON TRADE ISSUES<sup>14</sup>

Members,

*Recalling* the Marrakech Agreement desires of contributing to WTO objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to Cuba asks that this proposal that we have presented today in this small group be circulated to the rest of the Members. trade and to the elimination of discriminatory treatment in international trade relations;

*Also 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, in particular on products of interests to developing countries;

*Considering* that the international community has firmly and widely rejected the imposition of laws and regulations and all other forms of coercive economic measures, including unilateral sanctions and has reiterated the urgent need to eliminate them immediately;

*Emphasizing* that such actions not only undermine the principle of Most Favoured Nation of the WTO Agreements and the principles enshrined in the charter of the United Nations and international law, but also severely threaten the freedom of trade and transit;

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

*Recognizing* that the WTO Agreement does not establish any distinction between WTO Members;

*Underlining* that there are several provisions in the WTO Agreements which impede these types of measures;

Agree as follows:

1. Members shall refrain from adopting or implementing any unilateral economic or trade restrictive measures against any other member for reasons of non commercial nature inconsistent with the WTO Agreements;
2. Members shall ensure that any restrictive measures do not affect commercial interests and rights and obligations of third parties;
3. Urges all Members to remove any existing discriminatory unilateral commercial measures and to enhance market access opportunities for all Members, especially for developing countries;
4. Members shall review regularly their non-tariff measures with a view to ensure that they do not constitute disguised restrictions on international trade,
5. Members shall also refrain from to using Article XXI of GATT 1994 arbitrarily unless there is a common international understanding about the causes of any relevant issue;

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<sup>14</sup> Submitted by Cuba (document TN/MA/W/94).

6. Members are obliged to report in advance to the General Council - to take into account its considerations - of their intentions to apply any unilateral coercive commercial measures;

7. The General Council through the Council on Trade in Goods, shall review yearly Members' progress in enhancing market access opportunities by eliminating non tariff barriers.

**V. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE AS APPLIED TO TRADE IN ELECTRONICS<sup>15</sup>**

*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.

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<sup>15</sup> 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.<sup>16</sup>

### **Conformity Assessment Procedures**

4. In respect to all products covered under this Understanding, where a Member<sup>17</sup> 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 conformity<sup>18</sup> 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.<sup>19</sup> 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

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<sup>16</sup> This does not preclude that Members, individually or collectively, may also recognize other relevant international standard-setting bodies.

<sup>17</sup> 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.

<sup>18</sup> This may be in the form of certificate or other forms of statements of conformity.

<sup>19</sup> When a suppliers' declaration of conformity is for a batch of products, it shall cover each article of the batch.



electrical equipment or the IEC Ex Scheme for certification to standards relating to equipment for use in explosive atmospheres).<sup>20</sup> 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

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<sup>20</sup> Members shall encourage their competent bodies to participate in international accreditation systems and to become signatories of international accreditation schemes.

paragraphs contained herein and the listed products contained in Annex 1 of this Understanding with the aim of gradually expanding the product list.

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.]

<b>HS2002 No.</b>	<b>PRODUCT DESCRIPTION</b>
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
850164	Ac generators 'alternators', of an output > 750 kva
850231	Generating sets, wind-powered

HS2002 No.	PRODUCT DESCRIPTION
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
851610	Electric instantaneous or storage water heaters and immersion heaters
851621	Electric storage heating radiators,
851629	Electric space-heating and soil-heating apparatus

HS2002 No.	PRODUCT DESCRIPTION
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
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

HS2002 No.	PRODUCT DESCRIPTION
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 definitions<sup>21</sup> 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.

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<sup>21</sup> Based on ISO/IEC 17000:2004

## VI. REVISED SUBMISSION ON EXPORT TAXES<sup>22</sup>

### 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.

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

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<sup>22</sup> Submitted by the European Communities (document TN/MA/W/101).



- (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.

#### B. 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.

#### C. 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.

## VII. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE WITH RESPECT TO THE LABELLING OF TEXTILES, CLOTHING, FOOTWEAR, AND TRAVEL GOODS<sup>23</sup>

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 instructions<sup>24</sup>;

2.2 with respect to footwear, predominant materials of core parts<sup>25</sup> and country of origin; and

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

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<sup>23</sup> Submitted by the European Communities and the United States (document TN/MA/W/93).

<sup>24</sup> 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.

<sup>25</sup> 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-permanent<sup>26</sup> label rather than a permanent label.<sup>27</sup>

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;<sup>28</sup> 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;

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<sup>26</sup> "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.

<sup>27</sup> "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.

<sup>28</sup> "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.<sup>29</sup>
8. The Annex to this Understanding constitutes an integral part thereof.

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<sup>29</sup> 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

## VIII. AGREEMENT ON INCREASED TRANSPARENCY ON EXPORT RESTRICTIONS<sup>30</sup>

*Members,*

Taking into account the ongoing activities performed at the Trade Facilitation groups relating to areas covered under this Agreement;

Recognizing the usefulness of export restrictions for certain purposes, including, but not limited to, the conservation of natural resources and the protection of the environment, and that such restrictions should not be used to restrict trade or used in any manner contrary to the principles and obligations of GATT 1994;

Taking into account the particular trade, development and financial needs of developing country Members in the context of such export restrictions;

Desiring to bring transparency to the administrative procedures and practices used in international trade, where they relate to export restrictions, and to ensure the fair and equitable application and administration of such procedures and practices, while taking into account the special concerns of Members in operating this Agreement arising from their particular systems of government.

*Hereby agree as follows:*

### Article 1: Definition of Export Restrictions

For the purpose of this Agreement, export restrictions are defined as administrative procedures used for the operation of export restriction regimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for exportation from the customs territory of the exporting Member.

### Article 2: General Provisions

1. Members shall ensure that the administrative procedures used to implement export restriction regimes are in conformity with the relevant provisions of GATT 1994 including its annexes and protocols, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing country Members.<sup>31</sup>

2. With regard to general and security exceptions, the provisions of Articles XX and XXI of GATT 1994 apply.

3. The provisions of this Agreement shall not require any Member to disclose confidential information 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.

### Article 3: Notification

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<sup>30</sup> Submitted by Japan (document JOB(07)/141/Rev.1)

<sup>31</sup> Nothing in this Agreement shall be taken as implying that the basis, scope or duration of a measure being implemented by a licensing procedure is subject to question under this Agreement.



1. Members which institute export restriction procedures or changes in these procedures shall notify the [Council for Trade in Goods] (referred to in this Agreement as "the Council") of such within 60 days of after the entry into force of this Agreement or introduction of such export restriction, whichever is later.
2. Notifications of the institution of export restriction procedures or changes therein shall include the following information:
  - (a) list of products subject to restriction procedures;
  - (b) procedures for the submission of applications, including the eligibility of persons, firms and institutions to make such applications;
  - (c) contact point for information on eligibility;
  - (d) administrative body(ies) for submission of applications;
  - (e) date and name of publication where restriction procedures are published;
  - (f) indication of the measure being implemented through the restriction procedure;
  - (g) expected duration of the restriction procedure if this can be estimated with some probability, and if not, reason why this information cannot be provided;
  - (h) when Members administer export restrictions by means of quotas, the overall amount of quotas to be applied by quantity and/or value and the opening and closing dates of quotas; and
  - (i) when Members provide the possibility for persons, firms or institutions to request exceptions or derogations from an export restriction requirement, information regarding this possibility, as well as information on how to make such a request and, to the extent possible, an indication of the circumstances under which requests would be considered.

For the avoidance of doubt, the foregoing notification itself shall be without prejudice to views on the consistency of measures with or their relevance to rights and obligations under GATT 1994.

3. Any interested Member which considers that another Member has not notified the institution of an export restriction procedure or changes therein in accordance with the provisions of paragraphs 1 and 2 may bring the matter to the attention of such another Member. If notification is not made promptly thereafter, such Member may itself notify the export restriction procedure or changes therein, including all relevant and available information.

#### Article 4: Requests for Information

Members shall provide, upon the request of any Member having an interest in the trade in the product concerned, all relevant information concerning:

- (i) the administration of the restrictions, including, at a minimum, the information listed in Paragraph 2 of Article 3;
- (ii) the export licences granted over a recent period;
- (iii) the distribution of such licences among importing countries, including the shares in the quota currently allocated;
- (iv) where practicable, recently available statistics (i.e. value and/or volume) on the amount expected to be produced, actually produced, and actually exported with respect to the products subject to export restrictions. Developing country Members would not be expected to take additional administrative or financial burdens on this account such as to set up new statistics only for this purpose; and
- (v) if any, measures taken in conjunction with export restrictions, such as restrictions on domestic production or consumption, or governmental stabilization plans.

Article 5: Facilitation of Solutions to Problems

Any interested Member which experiences any difficulty in relation to export restriction procedures taken by another Member in connection with any of the provisions of this Agreement may bring the matter to the attention of such other Member. The Council shall undertake consideration expeditiously of this case and search for a creative and pragmatic solution to such case with the cooperation of the Members concerned.

Article 6: Review

1. The Council shall review as necessary, but at least once every two years, the implementation and operation of this Agreement, taking into account the objectives thereof, and the rights and obligations contained therein.
2. The Council shall establish and maintain a registry of notifications for export restriction measures. The registry shall record and make available to public through the internet the information notified by Members under this Agreement.<sup>32</sup>

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<sup>32</sup>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 3.

**IX. DECISION ON NON TARIFF BARRIERS AFFECTING FORESTRY PRODUCTS USED IN BUILDING CONSTRUCTION**<sup>33</sup>

*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;
- 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

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<sup>33</sup> Submitted by New Zealand (document JOB(07)/158).

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.

## X. MINISTERIAL DECISION ON TRADE IN REMANUFACTURED GOODS<sup>34</sup>

*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.<sup>35</sup>
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.]

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<sup>34</sup> Submitted by the United States (document TN/MA/W/18/Add.16/Rev.1)

<sup>35</sup> This paragraph does not require a Member to reduce or eliminate tariffs on remanufactured goods.