

**Negotiating Group on Market Access**

**FOURTH REVISION OF DRAFT MODALITIES FOR  
NON-AGRICULTURAL MARKET ACCESS**

Revision

Please find attached the fourth revision of the draft modalities for NAMA. After an intensive process of consultations, the degree of convergence on many issues allows me to present a text which is almost complete. There are some issues where, based on the discussions held, I have put forward what I believe are the landing zones (for example SVEs, preference erosion). I had identified preference erosion as one of the more difficult issues in the initial stage of my consultations, and would like to further note that a solution for some Members claiming inclusion in Annex 4 could not be found, and neither could satisfaction be provided to certain Members currently included in Annex 4. Therefore, the solution on this issue found after the July Ministerial appears to me the only viable one and is the one reflected in the text. Anyhow, everything is conditional in the deepest sense.

Nevertheless, two areas remain where further work is required:

- (1) Sectorals (paragraphs 9 to 12): Even though the included text is accepted as a basis for further work, we are far from a consensus among Members. The main open questions in sectorals are:
  - An indication by some Members that their ability to finalize NAMA modalities depends on a commitment by those Members who took part in the negotiations on formula and flexibilities in July to negotiate an agreed list of sectors and to participate in the agreements that result from those negotiations. In this context, the language referring to a single undertaking in paragraph 9 meets resistance from the non-proponents.
  - How and when to define the commitment of Members to participate in sectorals without altering the non-mandatory character of these negotiations?
  - Annex 7: option 1 is the preferred option of the proponents, and option 2 the preferred one of the non-proponents.
- (2) Consultations with Argentina, South Africa and Venezuela will have to be pursued next week. I would observe that the discussions on South Africa are rather advanced.

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Chairman  
Negotiating Group on Market Access

**Draft NAMA modalities**  
**Fourth Revision**

**Introduction**

1. In paragraph 16 of the Doha Ministerial Declaration, Members agreed "to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed Members, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 of the Doha Ministerial Declaration. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations."
2. Further to the Doha Development Agenda (DDA) mandate, and building on the results reached in Annex B of the General Council Decision of 1 August 2004 (the "NAMA Framework") and paragraphs 13 to 24 of the Hong Kong Ministerial Declaration, Members hereby establish the following modalities for the non-agricultural market access (NAMA) negotiations which shall be applicable to all non-agricultural tariff lines as defined in Annex 1.
3. The results of the application of these modalities shall be reflected in schedules of concessions which shall be submitted and finalized in the Harmonized System 2002 nomenclature<sup>1</sup>.
4. These modalities do not create a new category or sub-category of WTO Members, nor do they create a precedent for future negotiations. In applying these modalities, existing bindings shall not be raised except as provided by Article XXVIII of GATT 1994.

**Formula**

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

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

where,

$t_1$  = Final bound rate of duty

$t_0$  = Base rate of duty

$a = 8$  = Coefficient for developed Members

$x = 20, y = 22, z = 25$  (to be chosen as provided in paragraph 7) = Coefficients for developing Members.

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<sup>1</sup> (a) The Secretariat is working on a revision to the technical guidelines (JOB(06)/99/Rev.1) on the preparation of schedules. The document will be issued soon after the adoption of the modalities.

(b) The date of submission of initial draft comprehensive schedules and the date of finalization of the scheduling process will need to be addressed horizontally.

**Elements regarding the formula**

6. (a) Product coverage shall be comprehensive without *a priori* exclusions.
- (b) Tariff reductions or elimination shall commence from the bound rates after full implementation of current concessions; however, for unbound tariff lines, a constant, non-linear mark-up shall be applied to establish base rates for commencing tariff reductions as follow: applied rate plus 25 percentage points.
- (c) The base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November).
- (d) All non-*ad valorem* duties shall be converted to *ad valorem* equivalents on the basis of the methodology outlined in document TN/MA/20 and bound in *ad valorem* terms.
- (e) The reference period for import data shall be 1999-2001.
- (f) The first reduction shall be implemented on 1 January of the year following the entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years, except as otherwise provided. The tariff reductions for developed Members shall be implemented in 5 years (i.e. 6 equal rate reductions) and for developing Members in 10 years (i.e. 11 equal rate reductions), except as otherwise provided.

**Coefficient and flexibilities for developing Members subject to the formula**

7. Developing Members subject to the formula shall be granted the flexibility to choose to apply the coefficient and flexibilities in paragraph 7(a) or 7(b) or 7(c).
  - (a) Coefficient x in the formula and either:
    - (i) less than formula cuts for up to 14 percent of non-agricultural national tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed 16 percent of the total value of a Member's non-agricultural imports;
    - or
    - (ii) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to 6.5 percent of non-agricultural national tariff lines provided they do not exceed 7.5 percent of the total value of a Member's non-agricultural imports<sup>2</sup>.

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<sup>2</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 applicable percent of tariff lines and total value of a Member's non-agricultural imports.

- (b) Coefficient y in the formula and either:
  - (i) less than formula cuts for up to 10 percent of non-agricultural national tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed 10 percent of the total value of a Member's non-agricultural imports;
  - or
  - (ii) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to 5 percent of non-agricultural national tariff lines provided they do not exceed 5 percent of the total value of a Member's non-agricultural imports<sup>3</sup>.
- (c) Coefficient z in the formula without recourse to flexibilities.
- (d) The flexibilities provided under paragraph 7 shall not be used to exclude entire HS Chapters. In order to ensure tariff reduction in every Chapter, without substantially limiting the flexibilities provided to developing Members, this provision shall be understood to mean that full formula tariff reductions shall apply to a minimum of either 20 percent of national tariff lines or 9 percent of the value of imports of the Member in each HS Chapter.
- (e) As an exception, Botswana, Lesotho, Namibia, South Africa and Swaziland shall include a common list of flexibilities in their schedules and shall have recourse to [.....].<sup>4</sup>
- (f) As an exception, Argentina, Brazil, Paraguay and Uruguay shall include a common list of flexibilities in their schedules and each shall calculate the percentage for the value of trade limitation in paragraph 7 using the total value of Brazil's non-agricultural imports.
- (g) As an exception, Oman shall not be required to reduce any bound tariff below 5 per cent after applying modalities under paragraph 7(b)(i). Flexibilities shall be used exclusively to cover tariff lines currently bound at 5 or 5.5 per cent. Oman shall implement its tariff reductions in accordance with paragraph 6(f).
- [(h) Argentina]
- [(i) Venezuela]

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<sup>3</sup> It is understood that the options in sub-paragraph 7(b)(ii) (keeping tariff lines unbound or not applying formula cuts) may be combined but cannot together exceed the applicable percent of tariff lines and total value of a Member's non-agricultural imports.

<sup>4</sup> The attention of Members is called to the loss of tariff revenue by Lesotho, Botswana, Namibia and Swaziland resulting from these tariff reductions, and in particular the LDC status of Lesotho. This loss of revenue may warrant a priority for targeted Aid-for-Trade assistance.

**Flexibilities for developing Members with low binding coverage**<sup>5</sup>

8. (a) As an exception, developing Members with a binding coverage of non-agricultural tariff lines of less than 35 percent will be exempt from making tariff reductions through the formula. Instead, developing Members with a binding coverage of non-agricultural tariff lines:
- (i) below 15 percent shall bind 75 percent of non-agricultural tariff lines;
  - (ii) at or above 15 percent shall bind 80 percent of non-agricultural tariff lines; and

Each Member shall bind at an average level that does not exceed 30 percent.

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

**Sectoral negotiations**

9. [The sectoral tariff reduction component is another key element to achieving the objectives of Paragraph 16 of the DDA, the results of which will form part of the single undertaking as provided for in paragraph 47 of the Doha Ministerial Declaration. 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. Participation in sectoral initiatives is on a non-mandatory basis, without prejudging the outcome. However, for some Members, sectoral initiatives that reach a critical mass of participation will help to balance the overall results of the negotiation on non-agricultural market access, which includes the coefficients in paragraph 5 and the levels of flexibilities and related provisions of paragraph 7. At the time of establishment of modalities the Members listed in Annex 7 have agreed to participate on a self-identified basis, in negotiating the terms of sectoral tariff initiatives, with a view to making them viable. Other Members are also

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<sup>5</sup> Developing Members concerned are: Cameroon; Congo; Côte d'Ivoire; Cuba; Ghana; Kenya; Macao, China; Mauritius; Nigeria; Sri Lanka; Suriname; and Zimbabwe.

encouraged to participate. Participation in the negotiation of the terms of a sectoral initiative shall not prejudice a Member's decision to participate in that sectoral initiative.]

10. At the Hong Kong Ministerial Conference, Ministers instructed Members to identify sectoral initiatives which could garner sufficient participation. Progress has been made in a variety of sectoral initiatives, which is reflected in Annex 6. New proposals on sectors/subsectors may be submitted immediately or after the establishment of modalities.
11. After the adoption of modalities, Members shall define, sector by sector, special and differential treatment for developing country Members, for example “zero for x” tariff reductions, longer implementation period, later start of implementation and partial product coverage. Products contained in Annexes 2 and 3 will be excluded from these sectoral initiatives with respect to the EC and the US markets, respectively, until the end of the implementation period agreed in paragraph 28, and the participants in the relevant sectoral negotiations will determine additional differential treatment for these products in consultation with preference holders.
12. For scheduling purposes, Members participating in sectoral initiatives shall:
  - (a) No later than [45 days] from the date of the establishment of these modalities (i) submit any new proposals for sectoral initiatives and (ii) indicate, if not already done so, to the proponents of the relevant sectoral initiatives as well as to the Secretariat, the sectoral initiatives, including any sensitivities, on which they agree to participate in the negotiation of terms, without prejudice to their final decision to incorporate the results of the negotiations in their final comprehensive schedules.
  - (b) In the intervening period time between (a) and (c), in order to ensure transparency, a Chair-led multilateral process shall be undertaken.
  - (c) No later than [four months] from the date of the establishment of these modalities notify the terms of all final sectoral initiatives.
  - (d) No later than [five months] from the date of the establishment of these modalities, incorporate on a conditional basis their sectoral commitments in their comprehensive draft schedules. In the intervening period of time between (d) and (e), Members will hold a multilateral review to assess the sectoral outcome. One month should be provided after such a review to finalize the work.
  - (e) At the time of the submission of final comprehensive schedules, incorporate their sectoral commitments on an unconditional basis<sup>6</sup> for sectors that reach a critical mass.

### **Small, Vulnerable Economies**

13. With the exception of developed Members, those Members having a share of less than 0.1 percent of world NAMA trade for the reference period of 1999 to 2001 or best available data as contained in document TN/MA/S/18 may apply the following modality of tariff reduction instead of the formula modality which is contained in paragraphs 5, 6 and 7 above.

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<sup>6</sup>It is understood that “unconditional” refers to the Member’s firm commitment to participate in the sectoral initiative(s).

- (a) Members with a bound tariff average of non-agricultural tariff lines:<sup>7</sup>
- (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 30 percent;
  - (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 27 percent;
  - (iii) at or above 20 percent but below 30 shall bind all their non-agricultural tariff lines at an average level that does not exceed an overall average 18 percent; and
  - (iv) below 20 percent, shall apply a minimum line-by-line reduction of 5 percent on 95 percent of all non-agricultural tariff lines or bind at the overall average that would result from that line-by-line reduction.

As an exception, Bolivia shall not be required but is encouraged to apply the modalities in paragraph 13.

As an exception, Fiji shall be deemed to fall under (a)(i).

As an exception, Gabon shall engage in GATT Article XXVIII negotiations to reach the overall target average of 20 percent.

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

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<sup>7</sup> See document TN/MA/S/4 and Corr.1 for the bound tariff averages of Members.

- (f) All duties shall be bound on an *ad valorem* basis. Existing bindings on a non *ad valorem* basis shall be converted to *ad valorem* equivalents on the basis of the methodology outlined in document TN/MA/20.

#### **Least Developed Countries (LDCs)**

14. LDCs shall be exempt from tariff reductions. However, as part of their contribution to the DDA, LDCs are expected to substantially increase their level of tariff binding commitments. Individual LDCs shall determine the extent and level of tariff binding commitments in accordance with their individual development objectives. All new tariff binding commitments shall be on an *ad valorem* basis. For existing bindings which are not on an *ad valorem* basis, LDCs are encouraged to convert them to *ad valorem* equivalents on the basis of the methodology outlined in document TN/MA/20 and bind them in *ad valorem* terms.

#### **Market Access for LDCs**

15. We reaffirm the need to facilitate LDCs secure beneficial and meaningful integration into the multilateral trading system. In this regard, we recall the *Decision on Measures in Favour of Least-Developed Countries* contained in decision 36 of Annex F of the Hong Kong Ministerial Declaration (the "Decision"), and agree that developed Members shall, and developing country Member declaring themselves in a position to do so should:
- (a)(i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs no later than the start of the implementation period in a manner that ensures stability, security and predictability.
  - (ii) Members facing difficulties at this time to provide market access as set out above shall 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, no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.
  - (iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.
- (b) Provide meaningfully enhanced market access for all LDCs.
- (c) 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.
16. Accordingly, developed country Members shall inform WTO Members, by a date to be agreed, of the products that will be covered under the commitment to provide duty free and quota free market access for at least 97 percent of products originating from LDCs defined at the tariff line level. The agreement on the date by which this information shall be provided



shall be concluded prior to the date of the Special Session of the Ministerial Conference to be held to take decisions regarding the adoption and implementation of the results of the negotiations in all areas of the DDA (the “Single Undertaking”).

17. As part of the review foreseen in the Decision, the Committee on Trade and Development shall monitor progress made in its implementation, including in respect of preferential rules of origin. The details of the monitoring procedure shall be defined and agreed by the Negotiating Group on Market Access by the time of the submission of final schedules. Under the monitoring procedure, Members shall annually notify the Committee on Trade and Development (a) the implementation of duty free and quota free programs, including the steps taken and possible timeframes established to progressively achieve full compliance with the Decision and (b) the corresponding rules of origin. The first notification under this monitoring procedure shall be made by the start of the implementation of the results of the Doha Development Agenda. The Committee on Trade and Development shall review such notifications and shall report annually to the General Council for appropriate action.

#### **Recently Acceded Members (RAMs)**<sup>8</sup>

18. The RAMs shall apply the modality provided for in either paragraphs 5, 6 and 7 or paragraph 13, as applicable.
19. In addition, the RAMs applying the formula shall be granted an extended implementation period of 3 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. Each successive reduction shall be made effective on 1 January of each of the following years.
20. Albania, Armenia, Cape Verde, Former Yugoslav Republic of Macedonia, Kyrgyz Republic, Moldova, Mongolia, Saudi Arabia, Tonga, Viet Nam and Ukraine shall not be required to undertake tariff reductions beyond their accession commitments.

#### **Supplementary Modalities**

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

#### **Elimination of low duties**

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

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<sup>8</sup> Albania; Armenia; Cape Verde; China; Croatia; Ecuador; Former Yugoslav Republic of Macedonia; Georgia; Jordan; Kyrgyz Republic; Moldova; Mongolia; Oman; Panama; Saudi Arabia; Chinese Taipei; Tonga; Viet Nam; and Ukraine. LDC RAMs as well as other RAMs who have since their date of accession become Members of the EC are not included in this list.

**Non-tariff barriers (NTBs)**

23. The reduction or elimination of NTBs is an integral and equally important part of the objectives of paragraph 16 of the DDA. More specifically, initiatives in this area shall aim to reduce or eliminate, as appropriate, NTBs, in particular on products of export interest to developing Members and to enhance market access opportunities achieved through these modalities.
24. Members take note of the ongoing work on the proposals in Annex 5. Members consider that the following proposals<sup>9</sup> merit particular attention in text-based negotiations in order to achieve substantive NTB results:
- (a) The horizontal proposals on:
    - (i) Ministerial Decision on Procedures for the Facilitation of Solutions to Non-Tariff Barriers; and
    - (ii) Ministerial Decision on Trade in Remanufactured Goods.
  - (b) The vertical proposals on:
    - (i) Negotiating Proposal on Non-Tariff Barriers in the Chemical Products and Substances Sector;
    - (ii) Understanding on the Interpretation of the Agreement on Technical Barriers to Trade as Applied to Trade in Electronics;
    - (iii) Agreement on Non-Tariff Barriers Pertaining to the Electrical Safety and Electromagnetic Compatibility (EMC) of Electronic Goods;
    - (iv) Understanding on the Interpretation of the Agreement on Technical Barriers to Trade with Respect to the Labelling of Textiles, Clothing, Footwear, and Travel Goods; and
    - (v) Agreement on Non-Tariff Barriers pertaining to Standards, Technical Regulations and Conformity Assessment Procedures for Automotive Products.
  - (c) Text-based negotiations on vertical proposals would also pay attention to any systemic or cross-cutting issues, including those relating to the TBT Agreement, that may arise from these proposals. Negotiations on bilateral requests should proceed in tandem. This will allow for sufficient time to multilateralize the outcomes through *inter alia* incorporating them where appropriate into Part III of the schedules.
25. The text-based negotiations shall take place in the context of dedicated NTB sessions and work will continue in accordance with the following timetable:
- (a) text-based negotiations shall begin immediately on the NTB proposals in light of paragraph 24, on the basis of the proposed legal texts in Annex 5;

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<sup>9</sup> Cuba has requested that its proposal be listed in paragraph 24.

- (b) no later than two months from the date of the establishment of these modalities Members shall table any revised legal text suggestions; and
  - (c) Members shall finalize the negotiating texts for the purpose of legal revision as early as possible before the submission of final comprehensive draft schedules.
26. These negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed Members.

### **Capacity-Building Measures**

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

### **Non-reciprocal preferences**

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

of each of the following years. The relevant tariff lines on which such staging in the relevant preference granting markets shall be implemented are listed in Annex 4.

**Non-agricultural environmental goods**

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

**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>10</sup>

(a) Fish and fish products defined as:

<b><u>Code/ Heading</u></b>	<b><u>Product Description</u></b> <sup>11</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:

<b><u>Code/ Heading</u></b>	<b><u>Product Description</u></b> <sup>11</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

<sup>10</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 (a) and (b) as agricultural products: Tunisia (0511.91, ex1603.00 and 2301.20); Turkey (ex1603.00, 1604 and 1605) and Switzerland (05.08, 0511.91, 1504.10, 1504.20 and 2301.20).

<sup>11</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>11</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
0302.69.19	Other fish, excluding livers and roes, other than carp
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
0303.79.87	Swordfish ( <i>Xiphias gladius</i> ), frozen
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
0306.13.40	Deepwater rose shrimps ( <i>Parapenaeus longirostris</i> )
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
0307.99.18	Other molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption, frozen
0307.99.90	Other molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption, 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'
1604.20.70	Preparations of tunas, skipjack or other fish of the genus <i>Euthynnus</i>
2932.12.00	2-Furaldehyde (furfuraldehyde)

<b>Tariff line</b>	<b>Indicative product description</b>
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
5209.42.00	Woven fabrics of cotton, containing 85 % or more by weight of cotton, weighing more than 200 g/m <sup>2</sup> - Denim
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 fibres.
6106.10.00	Women's or girls' blouses, shirts, and shirt-blouses, knitted or crocheted, of cotton
6109.10.00	T-shirts, singlets and other vests, knitted or crocheted, of cotton
6109.90.10	T-shirts, singlets and other vests, knitted or crocheted, of wool or fine animal hair
6109.90.30	T-shirts, singlets and other vests, knitted or crocheted, of man-made fibres
6109.90.90	T-shirts, singlets and other vests, knitted or crocheted, of other fibres
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
6110.12.90	Women's or girls' Jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of Kashmir (cashmere) goats
6110.19.90	Women's or girls' jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of final animal hair
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 fibres
6110.30.99	Women's or girls' Jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted, of man-made fibres
6203.42.11	Men's and boys' trousers, bib and brace overalls, breeches and shorts, of cotton, industrial and occupational
6203.42.31	Men's and boys' trousers, bib and brace overalls, breeches and shorts, of cotton, of denim
6203.42.35	Men's or boys' trousers, bib and brace overalls, breeches and shorts, of other cotton
6204.52.00	Women's or girls' skirts and divided skirts, of cotton
6204.62.39	Women's or girls' trousers, bib and brace overalls, breeches and shorts, of cotton, other
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



<b>Tariff line</b>	<b>Indicative product description</b>
6206.30.00	Women's or girls' blouses, shirts and shirt-blouses, of cotton
6212.10.90	Other brassieres, whether or not knitted or crocheted
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 57 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>
6101.30.20	Men's or boy's overcoats, carcoats, capes, cloaks, windbreakers and similar articles, knitted or crocheted, of man-made fibres, nesoi.
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
6105.20.20	Men's or boys' shirts, knitted or crocheted, of man-made fibres, nesoi
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
6114.20.00	Other garments, knitted or crocheted, of cotton
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

<b>Tariff line</b>	<b>Indicative product description</b>
6206.40.30	Women's or girls' blouses and shirts, not knitted or crocheted, of manmade fibers, nesoi
6209.20.30	Babies' trousers, breeches and shorts, except those imported as parts of sets, not knitted or crocheted, of cotton
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 29 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. Bangladesh, for the following tariff lines in Annex 3 (US):

<b>Tariff line</b>	<b>Indicative product description</b>
6103.43.15	Men's or boys' trousers, breeches and shorts, knitted or crocheted, of synthetic fibers, nesoi
6108.21.00	Women's or girls' briefs and panties, knitted or crocheted, of cotton
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
6205.30.20	Men's or boys' shirts, not knitted or crocheted, of manmade fibers, 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

2. Cambodia, for the following tariff lines in Annex 3 (US):

<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
6104.63.20	Women's or girls' trousers, breeches and shorts, knitted or crocheted, of synthetic fibers, nesoi
6106.10.00	Women's or girls' blouses and shirts, knitted or crocheted, of cotton
6114.20.00	Other garments, knitted or crocheted, of cotton
6204.63.35	Women's or girls' trousers, breeches and shorts, not knitted or crocheted, of synthetic fibers, nesoi

3. Nepal, for the following tariff lines in Annex 3 (US):

<b>Tariff line</b>	<b>Indicative product description</b>
6103.42.10	Men's or boys' trousers, breeches and shorts, 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
6205.20.20	Men's or boys' shirts, not knitted or crocheted, of cotton, nesoi

4. Pakistan, for the following tariff lines in Annex 2 (EC):

<b>Tariff line</b>	<b>Indicative product description</b>
0306.13.80	Other shrimps and prawns
5208.12.99	Plain weave of cotton, weighing more than 100 g/m <sup>2</sup> , exceeding 165 cm

<b>Tariff line</b>	<b>Indicative product description</b>
5701.10.90	Other carpets and other textile floor covering, knotted, whether or not made up, of wool or fine animal hair
6109.10.00	T-shirts, singlets and other vests, knitted or crocheted, of cotton
6203.42.31	Men's and boys' trousers, bib and brace overalls, breeches and shorts, of cotton, of denim

And for the following lines in Annex 3 (US):

<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

5. Sri Lanka, for the following tariff lines in Annex 2 (EC):

<b>Tariff line</b>	<b>Indicative product description</b>
0304.10.38	Other fish fillets and other fish meat, fresh or chilled
6109.10.00	T-shirts, singlets and other vests, knitted or crocheted, of cotton
6203.42.35	Men's or boys' trousers, bib and brace overalls, breeches and shorts, of other cotton
6204.62.39	Women's or girls' trousers, bib and brace overalls, breeches and shorts, of cotton, other
6212.10.90	Other brassieres, whether or not knitted or crocheted

And for the following tariff lines in Annex 3 (US):

<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:** All the tariff lines mentioned above correspond to the tariff structure notified by the European Communities and 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>12</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 proposal in this Annex does not presume a consensus around it.

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<sup>12</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>13</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 measures vary significantly in form, effects and objectives, and that non-tariff measures can serve legitimate and important purposes pursued by Members, whilst non-tariff measures may also constitute barriers that affect market access opportunities for other WTO Members and potentially impair benefits sought to be achieved from the reduction or elimination of tariffs,

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

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

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

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

*Decide* as follows:

### GENERAL PROVISIONS

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'), as specified in Annex 1 of this Decision, 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<sup>14</sup> in the context of relevant WTO Committees<sup>14</sup>.

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<sup>13</sup> Submitted by the African Group, Canada, European Communities, LDC Group, NAMA-11, Group of Developing Countries, New Zealand, Norway, Pakistan and Switzerland (document TN/MA/W/106).

<sup>14</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.

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

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>15</sup> which shall circulate it to all Members. The responding Member shall equally notify its response to the relevant WTO Committee, which shall circulate it to all Members. Following the receipt of these notifications, upon the request of either the requesting or the responding Member (hereinafter referred to as "the parties"), the Chairperson or one of the Vice Chairpersons of the relevant WTO Committee shall convene a meeting with the parties to *inter alia* address any outstanding issues and explore possible next steps.

### ***Stage II: Resolution Procedures***

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.

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<sup>15</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.



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

#### *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. The selection of facilitator shall take place in accordance with Annex 2 of this Decision.

#### *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.

#### ***Application and Review***

23. The Council for Trade in Goods and the relevant Committees<sup>15</sup> shall apply this Decision and implement it within the framework of their work from the date of the adoption of this Decision. The Council for Trade in Goods and each Committee to which this Decision applies may decide, by consensus, to modify certain procedural aspects of this Decision. Any modifications shall apply only within the Council or Committee that has adopted the modifications and only to procedures initiated after the date of effectiveness of the decision on the modifications.

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

### **Annex 1**

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

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

### **Annex 2**

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

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

## **II. NEGOTIATING PROPOSAL ON NON-TARIFF BARRIERS IN THE CHEMICAL PRODUCTS AND SUBSTANCES SECTOR<sup>16</sup>**

### **A. INTRODUCTION**

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

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

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

The global chemical industry is essential to a broad range of manufacturing and agricultural industries, which use chemical inputs for practically all their products. By virtue of their capacity to transfer state-of-the-art technology to all parts of the world, chemical industries in countries at all levels of development can be internationally competitive.<sup>17</sup> The global output of this sector for 2006 is estimated at US\$3 billion, 41 per cent of which – US\$1.2 billion – is traded internationally. Chemical exports account for 10.6 per cent of total world goods exports and 15.1 per cent of world trade in manufactures. Moreover, this sector employs more than 7 million people throughout the world. Developing countries' share of world trade in chemicals has increased considerably in recent years, from 16.5 per cent in 1990 to nearly 2 per cent in 2006.<sup>18</sup>

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

### **B. PRODUCT COVERAGE**

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

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<sup>16</sup> Submitted by Argentina (document TN/MA/W/104).

<sup>17</sup> Based on the United States communication in the NAMA negotiations (TN/MA/W/58).

<sup>18</sup> Based on WTO statistics.

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

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

**1. Substance labelling requirements**

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

**2. Requirements with regard to conformity assessment procedures**

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

**3. Substance registration and cost of registration**

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

**4. Laboratory accreditation**

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

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

**1. Substance labelling requirements**

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

**2. Requirements with regard to conformity assessment procedures**

Members should undertake to:

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

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

### **3. Substance registration and cost of registration**

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

### **4. Laboratory accreditation**

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

### III. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE AS APPLIED TO TRADE IN FIREWORKS<sup>19</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>19</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.

#### IV. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE AS APPLIED TO TRADE IN LIGHTER PRODUCTS<sup>20</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 lighter products on human life, safety and health, and on transportation;

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

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

Hereby *agree* as follows:

##### **Article 1 - General Provisions**

1.1 The products covered by this understanding:

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

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

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

##### **Article 2 - Technical Regulations**

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

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

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

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<sup>20</sup> Submitted by the People's Republic of China (document TN/MA/W/90/Add.1).

### **Article 3 - Conformity Assessment Procedures**

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

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

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

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

### **Article 4 - Transparency**

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

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

### **Article 5 - Technical Cooperation**

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

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

**V. DECISION ON THE ELIMINATION OF NON-TARIFF BARRIERS IMPOSED AS UNILATERAL TRADE MEASURES**<sup>21</sup>

Members,

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

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

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

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

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

Agree as follows:

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

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<sup>21</sup> Submitted by Cuba (document TN/MA/W/94/Rev.1).

**VI. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE AS APPLIED TO TRADE IN ELECTRONICS<sup>22</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>22</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>23</sup>

### **Conformity Assessment Procedures**

4. In respect to all products covered under this Understanding, where a Member<sup>24</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>25</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>26</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>23</sup> This does not preclude that Members, individually or collectively, may also recognize other relevant international standard-setting bodies.

<sup>24</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>25</sup> This may be in the form of certificate or other forms of statements of conformity.

<sup>26</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>27</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 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.

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<sup>27</sup> Members shall encourage their competent bodies to participate in international accreditation systems and to become signatories of international accreditation schemes.

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



HS2002 No.	PRODUCT DESCRIPTION
850164	Ac generators 'alternators', of an output > 750 kva
850231	Generating sets, wind-powered
850239	Generating sets (excl. Wind-powered and powered by spark-ignition internal combustion piston engines)
850240	Electric rotary converters
850421	Liquid dielectric transformers, having a power handling capacity <=650kva
850422	Liquid dielectric transformers, having a power handling capacity>650kva to 1600kva
850423	Liquid dielectric transformers, having a power handling capacity>1600kva to 10,000kva
850431	Transformers having a power handling capacity <= 1kva
850432	Transformers, having a power handling capacity > 1kva to 16kva
850433	Transformers having a power handling capacity > 16kva
850434	Transformers having a power handling capacity > 500kva,nes.
850440*	Static converters
850450*	Inductors (excl. Inductors for discharge lamps or tubes)
850490	Parts of electrical transformers and inductors, nes.
850530	Electro-magnetic lifting heads
850590	Electromagnets and their parts (excl. Magnets for medical use)
850610	Manganese dioxide cells and batteries (excl. Spent)
850630	Mercuric oxide cells and batteries (excl. Spent)
850640	Silver oxide cells and batteries (excl. Spent)
850650	Lithium cells and batteries (excl. Spent)
850660	Air-zinc cells and batteries (excl. Spent)
850680	Primary cells and primary batteries, electric (excl. Spent)
850690	Parts of primary cells and primary batteries, n.e.
850710	Lead-acid accumulators of a kind used for starting piston engines
850720	Lead acid accumulators (excl. Spent and starter batteries)
850730	Nickel-cadmium accumulators (excl. Spent)
850740	Nickel-iron accumulators (excl. Spent)
850780	Electric accumulators (excl. Spent and lead-acid, nickel-cadmium, nickel-iron, nickel-hydride, lithium-ion accumulators)
850910	Domestic vacuum cleaners, incl. Dry cleaners and wet vacuum cleaners, with self-contained electric motor
850920	Domestic floor polishers, with self-contained electric motor
850930	Domestic kitchen waste disposers, with self-contained electric motor
850940	Domestic food grinders and mixers and fruit or vegetables juice extractors, with self-contained electric motor
850980	Electro-mechanical household appliances, with self-contained electric motor
851010	Electric shavers
851020	Hair clippers with self-contained electric motor
851030	Hair-removing appliances with self-contained electric motor
851090	Parts of electric shavers, hair clippers and hair-removing appliances
851310	Portable electrical lamps, battery or magneto powered, nes.
851410	Resistance heated industrial or laboratory furnaces and ovens
851420	Furnaces and ovens functioning by induction or dielectric loss
851430	Electric industrial or laboratory furnaces and ovens
851440	Industrial or laboratory induction or dielection heating equipment, nes.
851511	Soldering irons and guns, electric
851519	Brazing or soldering machines (excl. Soldering irons)
851521	Fully or partly automatic machines for resistance welding of metal, fully or partly automatic
851529	Machines for resistance welding of metals, neither fully nor partly automatic
851531	Fully or partly automatic machines for arc welding of metals
851539	Machines for arc welding of metals, incl. Plasma arc welding
851580	Electric machines and apparatus for laser or other
851610	Electric instantaneous or storage water heaters and immersion heaters

HS2002 No.	PRODUCT DESCRIPTION
851621	Electric storage heating radiators,
851629	Electric space-heating and soil-heating apparatus
851631	Electric hairdryers
851632	Electro-thermic hair dressing apparatus (excl. Hairdryers)
851633	Electric hand-drying apparatus
851640	Electric smoothing irons
851650	Microwave ovens
851660	Electric ovens, cookers, cooking plates and boiling rings and hobs
851671	Electro-thermic coffee or tea makers, for domestic use
851672	Electric toasters, for domestic use
851679	Electro-thermic appliances, for domestic use
851680	Electric heating resistors (excl. Those of agglomerated carbon or graphite)
851810*	Microphones and stands therefore (excl. Cordless microphones with built-in transmitter)
851821	Single loudspeakers, mounted in their enclosures
851822	Multiple loudspeakers, mounted in the same enclosures
851829	Loudspeakers, without enclosure
851830*	Headphones and earphones, whether or not combined
851840	Audio-frequency electric amplifiers
851850	Electric sound amplifier sets
851910	Coin-operated or disc-operated record-players
851921	Record players without loudspeaker
851929	Record players with loudspeaker (excl. Coin-operated)
851931	Turntables 'record-decks', with automatic record-changer
851939	Turntables 'record-decks', without automatic record-changer
851940	Transcribing machines
851992	Pocket-size cassette players 'dimensions <= 170 mm
851993	Cassette players "play only" (excl. Pocket-size and dictating machines)
851999	Sound-reproducing apparatus, not incorporating a sound recording device)
852010	Dictating machines not capable of operating without external power source
852032	Magnetic tape recorders incorporating sound-reproducing
852033	Cassette recorders incorporating sound-reproducing
852039	Magnetic tape recorders incorporating sound-reproducing
852090	Magnetic sound recording or reproducing equipment, nes.
852110	Magnetic tape-type video recording or reproducing apparatus for magnetic tape
852190	Video recording or reproducing apparatus, whether or not incorporating a video turning
852510*	Transmission apparatus for radio-telephony, radio-broadcasting or television
852530	Television cameras (excl. Video camera recorders)
852540*	Still image video cameras and other video camera recorders
852610	Radar apparatus
852691	Radio navigational aid apparatus
852692	Radio remote control apparatus
852712	Pocket-size radiocassette players
852713	Radio-broadcast receivers capable of operating without external source of power, nes
852719	Radio-broadcast receivers capable of operating with batteries
852731	Radio-broadcast receivers, for mains operation only, with analogue/digital reading system
852732	Radio-broadcast receivers, for mains operation only, with clock
852739	Radio-broadcast receivers, for mains operation only, without clock
852790	Receivers for radio-telephony, radio-telegraphy
852812	Television receivers, colour, whether or not incorporating a video recorder or reproducer
852813	Television receivers, black and white or other monochrome
852821	Video monitors, colour
852822	Video monitors, black and white or other monochrome
852830	Video projectors

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

\* These are, in part, covered by ITA.

ANNEX 2

**TERMS AND THEIR DEFINITIONS FOR THE PURPOSE OF THIS UNDERSTANDING**

For the purpose of this Understanding, the following definitions<sup>28</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>28</sup> Based on ISO/IEC 17000:2004.

## VII. REVISED SUBMISSION ON EXPORT TAXES<sup>29</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.

### B. EC POSITION ON EXPORT TAXES

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

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

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<sup>29</sup> Submitted by the European Communities (document TN/MA/W/101).

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

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

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

#### C. POSSIBLE FURTHER REVISIONS OF THE EC PROPOSAL

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

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

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

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

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

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

#### D. CONCLUDING REMARKS

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

## VIII. UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE WITH RESPECT TO THE LABELLING OF TEXTILES, CLOTHING, FOOTWEAR, AND TRAVEL GOODS<sup>30</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>31</sup>;

2.2 with respect to footwear, predominant materials of core parts<sup>32</sup> and country of origin; and

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

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<sup>30</sup> Submitted by the European Communities, Sri Lanka and the United States (document TN/MA/W/93 and TN/MA/W/93/Add.1).

<sup>31</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>32</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>33</sup> label rather than a permanent label.<sup>34</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>35</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>33</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>34</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>35</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>36</sup>

8. The Annex to this Understanding constitutes an integral part thereof.

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<sup>36</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

**IX. PROTOCOL ON TRANSPARENCY IN EXPORT LICENSING TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994<sup>37</sup>**

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

*Members,*

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

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

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

*Hereby agree as follows:*

Article 1: Definition of Export Licensing

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

Article 2: Notification

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

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

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

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<sup>37</sup> Submitted by Japan; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and the United States (TN/MA/W/15/Add.4/Rev.2)

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

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

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

#### Article 3: Requests for Information

1. A Member shall provide to any Member, upon request:

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

#### Article 4: Confidential Information

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

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

Article 5: Review

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

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

3. The Secretariat shall record in the registry and make available to the public, through the internet or other electronic means, the information notified by Members under this Protocol.<sup>38</sup>

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<sup>38</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 2.

**X. DECISION ON NON-TARIFF BARRIERS AFFECTING FORESTRY PRODUCTS USED IN BUILDING CONSTRUCTION**<sup>39</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;

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<sup>39</sup> Submitted by New Zealand (document JOB(07)/158).



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

## XI. AGREEMENT ON NON-TARIFF BARRIERS PERTAINING TO THE ELECTRICAL SAFETY AND ELECTROMAGNETIC COMPATIBILITY (EMC) OF ELECTRONIC GOODS<sup>40</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 goods;

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

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

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

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

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

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

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

**Agree as follows:**

### I. DEFINITIONS

For purposes of this Agreement:

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

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

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<sup>40</sup> Submitted by the United States (document TN/MA/W/105/Rev.1).

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

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

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

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

## II. SCOPE AND COVERAGE

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

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

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

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

## III. STANDARDS, TECHNICAL REGULATIONS, AND CONFORMITY ASSESSMENT PROCEDURES

### *Assessing Costs*

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

### *International Standards*

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

*Transparency*

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

- (1) publish, in print or electronically, the proposed standard, technical regulation or conformity assessment procedure at the earliest appropriate stage, in such a manner as to enable interested parties in other Members to become acquainted with it and to submit written comments before the Member finalizes the standard, technical regulation or conformity assessment procedure;
- (2) notify other Members through the Secretariat at the earliest appropriate stage of the proposed standard, technical regulation or conformity assessment procedure, including the electronic good or goods the proposal covers, together with a brief indication of its objective and rationale and, to the extent applicable, any provisions of the standard, technical regulation or conformity assessment procedure that deviate in substance from relevant international standards, guides, or recommendations;
- (3) upon request from another Member, provide copies of and particulars concerning the proposed standard, technical regulation or conformity assessment procedure, including how it took into account the costs of complying with the proposed technical regulation or conformity assessment procedures pursuant to paragraph A;
- (4) (i) allow reasonable time (normally not less than 60 days) for Members and interested parties to comment in writing on the proposal,<sup>41</sup> and (ii) take into account any such comments in finalizing the standard, technical regulation or conformity assessment procedure;
- (5) upon request, discuss written comments it receives from Members and take the results of those discussions into account; and
- (6) publish, in print or electronically, any written comments it received from Members or interested persons on the proposed standard, technical regulation or conformity assessment procedure.

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

- (1) immediately following preparation or adoption of the measure, notify other Members through the Secretariat of the standard, technical regulation or conformity assessment procedure, including the electronic good or goods the standard, technical regulation or conformity assessment procedure covers, together with: (i) a brief indication of its objective and

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<sup>41</sup> Each Member shall publish, in print or electronically, a notification specifying the comment period and give favourable consideration to reasonable requests to extend the comment period.

rationale; (ii) to the extent applicable, any provisions of the standard, technical regulations or conformity assessment procedure that deviate in substance from relevant international standards, guides, or recommendations; and (iii) the nature of the urgent problem;

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

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

- (1) its responses to any significant and relevant issues raised in comments it received from Members or interested parties during the comment period;<sup>42</sup> and
- (2) the objective and rationale for preparing or adopting the particular standard, technical regulation or conformity assessment procedure.

#### *Treatment of Conformity Assessment Bodies*

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

#### *Test Results*

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

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<sup>42</sup> For greater certainty, if raised in comments received from a Member or an interested person, a Member's response shall include: (i) where applicable an explanation of why deviation from relevant international standards was necessary and (ii) how it took into account the costs of complying with the standard, technical regulation or conformity assessment procedure.

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

*SDoC*

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

*Third-Party Certification*

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

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

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

*Procedures for Review*

J.

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

#### **IV. INFORMATION AND ASSISTANCE**

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

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

#### **V. MONITORING AND OVERSIGHT**

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

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

#### **VI. DISPUTE SETTLEMENT**

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

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

#### **VII. FINAL PROVISIONS**

##### *Annexes*

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

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

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

#### **Annex I - Electronic Goods**

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

#### **Annex II - Treatment of Conformity Assessment Bodies**

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

#### **Annex III - Acceptance of SDoC**

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

#### **Annex IV – Acceptance of Third-Party Certification**

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



## XII. MINISTERIAL DECISION ON TRADE IN REMANUFACTURED GOODS <sup>43</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:

1. Each Member's trade regime should evolve in a manner that enhances market access opportunities for remanufactured goods.<sup>44</sup>
2. 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.
3. 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.
4. 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.
5. 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>43</sup> Submitted by the Japan, Switzerland and the United States (document TN/MA/W/18/Add.16/Rev.2)

<sup>44</sup> This paragraph does not require a Member to reduce or eliminate tariffs on remanufactured goods.

### **XIII. AGREEMENT ON NON-TARIFF BARRIERS PERTAINING TO STANDARDS, TECHNICAL REGULATIONS, AND CONFORMITY ASSESSMENT PROCEDURES FOR AUTOMOTIVE PRODUCTS<sup>45</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 automotive products to global economic growth and development;

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

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

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

**Recognizing** that no country should be prevented from taking measures necessary for the protection of its essential security interests; and

**Seeking** to supplement and elaborate on the TBT Agreement with respect to standards, technical regulations, and conformity assessment procedures pertaining to automotive products;

**Agree as follows:**

#### **I. DEFINITIONS**

For purposes of this Agreement:

**Appropriate international standardizing body** means a body that when preparing a standard applies the principles set out in the *Decisions and Recommendations adopted by the Committee since 1 January 1995, G/TBT/1/Rev.8, 23 May 2002, Section IX (Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement) (Committee Decision)* issued by the WTO Committee on Technical Barriers to Trade (TBT Committee), including paragraph 11 of the *Committee Decision* as elaborated in paragraph III.A, and observes the principle of openness set out in paragraph 6 of the *Committee Decision*;

**Automotive product** includes any product classifiable under the Harmonized System subheadings specified in Annex I of this Agreement;

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<sup>45</sup> Submitted by the United States (document JOB(08)/46).

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

**Standard, technical regulation, or conformity assessment procedure** means respectively a standard, technical regulation, or conformity assessment procedure as defined in Annex 1 of the TBT Agreement that pertains to an automotive product; and

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

## II. SCOPE AND COVERAGE

- A. This Agreement shall apply with respect to any automotive product.
- B. Members assume obligations under this Agreement only with respect to standards, technical regulations, and conformity assessment procedures of central government bodies.
- C. This Agreement shall not apply to purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies.
- D. Any reference in this Agreement to standards, technical regulations, or conformity assessment procedures shall be construed to include any amendment thereto and any additions to product coverage or other provisions thereof, except amendments and additions of an insignificant nature, to the extent such amendment or addition pertains to an automotive product.

## III. STANDARDS, TECHNICAL REGULATIONS, AND CONFORMITY ASSESSMENT PROCEDURES

### *International Standards*

A. In determining whether an international standard, guide or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists pertaining to automotive products, each Member shall base its determination on the principles set out in the *Committee Decision*, including whether the standardizing body takes into account relevant regulatory or market needs and scientific and technological developments as set out in paragraph 11 of the *Committee Decision* when preparing a standard, guide or recommendation. “Relevant regulatory or market needs and scientific and technological developments” shall include the technical and economic feasibility of alternative approaches to the standard under development, the relative benefits and cost-effectiveness of alternative approaches, and the best available technology.

### *Good Regulatory Practice*

- B. Where a Member prepares or proposes to adopt a technical regulation or conformity assessment procedure, it shall:
  - (1) consider, *inter alia*, costs of complying with the proposed technical regulation or conformity assessment procedure; and
  - (2) assess the available regulatory and non-regulatory alternatives to the proposed technical regulation or conformity assessment procedure that may fulfil the Member’s legitimate objective, such as market incentives or other voluntary mechanisms, or considering a product to meet the Member’s requirements if it conforms with a relevant alternative international standard.

Members are also encouraged to ensure that their technical regulations and conformity assessment procedures are based on the principles of “good regulation” set out in the *OECD Guiding Principles for Regulatory Quality and Performance* (2005).

*Harmonizing Technical Regulations and Conformity Assessment Procedures*

C. With a view to harmonizing technical regulations and conformity assessment procedures on as wide a basis as possible, Members shall play a full part, within the limits of their resources, in the preparation by appropriate international standardizing bodies of international standards, guides and recommendations pertaining to automotive products.

D. Where a technical regulation or conformity assessment procedure is required and a relevant international standard, guide or recommendation does not exist or its completion is not imminent or it would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, a Member shall consider using, as a basis for its technical regulation or conformity assessment procedure, another Member’s technical regulation or conformity assessment procedure, or the relevant parts of it, that is not inconsistent with the WTO Agreement [*Note: need to reference this agreement and other DDA agreements as well, with the precise name of those agreements to be determined later*] and has been developed in accordance with paragraphs E and G.

*Transparency*

E. This paragraph shall apply in lieu of Articles 2.9 and 5.6 and paragraphs L through N of Annex 3 of the TBT Agreement where a Member prepares or proposes to adopt a standard, technical regulation, or conformity assessment procedure, and shall apply regardless of whether relevant international standards, guides or recommendations exist or the technical content of the proposed standard, technical regulation, or conformity assessment procedure is in accordance with relevant international standards, guides or recommendations. Where a Member prepares or proposes to adopt a standard, technical regulation, or conformity assessment procedure that may have a significant effect on trade of other Members, the Member shall, with a view to providing meaningful opportunity for comment and without discrimination among Members or interested parties:

- (1) publish, in print or electronically, the proposed standard, technical regulation, or conformity assessment procedure at the earliest appropriate stage, in such a manner as to enable interested parties in other Members to become acquainted with it and to submit written comments before the Member finalizes the standard, technical regulation, or conformity assessment procedure;
- (2) notify other Members through the Secretariat at the earliest appropriate stage of the proposed standard, technical regulation, or conformity assessment procedure, including the automotive product(s) the proposal covers, together with a brief indication of its objective and rationale and, to the extent applicable, any provisions of the standard, technical regulation, or conformity assessment procedure that deviate in substance from relevant international standards, guides or recommendations;
- (3) upon request from another Member or interested party, provide copies of and particulars concerning the proposed standard, technical regulation, or conformity assessment procedure, including:
  - (i) how the Member took into account the elements set out in paragraph B;
  - (ii) where applicable, the Member’s reasons for determining that relevant international standards, guides or recommendations do not exist or are not

imminent or that using relevant international standards, recommendations or guides as a basis for its measure would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued; and

- (iii) any provisions of the measure that are based on another Member's standard, technical regulation, or conformity assessment procedure and, if the Member based its measure on two or more Members' standards, technical regulations, or conformity assessment procedures, the Member's reasons therefore.
- (4) (i) allow reasonable time (normally at least 60 days) for Members and interested parties to comment in writing on the proposal,<sup>46</sup> and (ii) take into account any such comments;
- (5) upon request, discuss written comments it receives from Members and take the results of those discussions into account; and
- (6) publish, in print or electronically, any written comments it received from Members or interested parties on the proposed standard, technical regulation, or conformity assessment procedure.

F. Where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise for a Member, that Member may omit such steps enumerated in paragraph E as it finds necessary, provided that the Member shall without discrimination among Members or interested parties:

- (1) immediately following adoption of the measure, notify other Members through the Secretariat of the standard, technical regulation, or conformity assessment procedure, including the automotive product(s) the standard, technical regulation, or conformity assessment procedure covers, together with: (i) a brief indication of its objective and rationale; (ii) to the extent applicable, any provisions of the standard, technical regulation, or conformity assessment procedure that deviate in substance from relevant international standards, guides or recommendations; and (iii) the nature of the urgent problem;
- (2) upon request, provide other Members and interested parties with copies of and particulars concerning the standard, technical regulation, or conformity assessment procedure;
- (3) (i) allow other Members and interested parties to submit comments in writing on the standard, technical regulation, or conformity assessment procedure; and (ii) take these comments into account in deciding whether to modify the standard, technical regulation, or conformity assessment procedure; and
- (4) upon request, discuss written comments it receives from Members and take the results of those discussions into account.

G. When publishing a standard, technical regulation, or conformity assessment procedure that it has adopted, or if paragraph F applies, as soon as possible after publication of the adopted standard, technical regulation, or conformity assessment procedure, each Member shall publish, in print or electronically:

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<sup>46</sup> Each Member shall publish, in print or electronically, a notification specifying the comment period and give favourable consideration to reasonable requests to extend the comment period.

- (1) its responses to any significant issues raised in comments it received from Members or interested parties during the comment period;<sup>47</sup> and
- (2) the objective and rationale for preparing or adopting the standard, technical regulation, or conformity assessment procedure.

H. Each Member shall ensure that its proposed and final standards, technical regulations and conformity assessment procedures, as well as any relevant penalties, are published in a single official journal of national circulation, and shall encourage their distribution through additional outlets.

I. Except in those urgent circumstances referred to in paragraph F, Members shall allow a reasonable period of time between the publication of a technical regulation or conformity assessment procedure and the date(s) on which compliance with the technical regulation or conformity assessment procedure becomes mandatory to allow time for producers in exporting Members, and particularly in developing country Members, to adapt to the requirements of the importing Member. Where conformity with a technical regulation would require a substantial change in automobile design or technology, a reasonable period of time shall usually be not less than 18 months after the date of publication. A Member shall consider reasonable requests from a Member or interested party to extend the period between publication and the date(s) on which compliance with the technical regulation or conformity assessment procedure becomes mandatory, particularly in circumstances where conformity with the technical regulation would require a substantial change in automobile design or technology.

J. Each Member shall publish, on an annual basis, a regulatory agenda which includes any standard, technical regulation, or conformity assessment procedure that it reasonably expects to issue in proposed or final form within no less than the following 12 month period.

#### *Testing*

K. If a Member requires test results (alone or in conjunction with other assurances of conformity) or other assurances of conformity that are based on test results as an assurance that an automotive product conforms with a standard or technical regulation, it shall not require the testing to be performed in a testing facility within its territory and shall accept the test results if the testing is performed in another Member's territory by a facility that the importing Member deems competent or approves for that purpose. Each Member shall permit a testing facility in another Member's territory to demonstrate that it meets any requirements to be deemed competent or otherwise approved by the Member. If the importing Member requires the testing facility to comply with requirements concerning the testing of automotive products for conformity with the standard or technical regulations or requires the body that accredits the testing facility to comply with requirements concerning that accreditation, it shall ensure that such requirements are based on:

- (1) a relevant international standard, guide or recommendation that has been developed in accordance with the TBT Agreement and the *Committee Decision*; or
- (2) a conformity assessment procedure that the Member has adopted and published in accordance with the provisions of paragraphs E and G.

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<sup>47</sup> For greater certainty, if raised in comments received from a Member or an interested party, a Member's response shall include a response to the items described in subparagraphs 3(i)-(iii).

L. If a Member determines that:

- (1) test results or other information that a supplier of an automotive product has submitted to the Member to demonstrate that the product conforms to the Member's technical regulations fails to demonstrate such conformity; or
- (2) a testing facility in the territory of another Member does not meet the Member's requirements to be deemed competent or otherwise approved,

it shall immediately notify, in the case of subparagraph (1), the supplier of the automotive product and, in the case of subparagraph (2), the testing facility the reasons for its determination and indicate the corrective action that if taken would remedy the deficiency.

*National Treatment of Conformity Assessment Bodies*

M. Each Member shall accord to conformity assessment bodies in the territory of any other Member treatment no less favourable than that it accords to conformity assessment bodies in its own territory with respect to the procedures, criteria, and other conditions with which conformity assessment bodies must comply in order for the Member to accredit or otherwise approve them as competent to test or certify that an automotive product conforms with the Member's standard or technical regulation.

*Procedures for Review*

N.

- (1) Each Member shall establish or maintain judicial, quasi-judicial, or administrative tribunals and procedures for the purpose of the prompt review and, where warranted, correction of its final administrative actions relating to technical regulations and conformity assessment procedures. Each Member shall ensure that such tribunals are impartial and independent of the office or authority entrusted with administrative enforcement and do not have any substantial interest in the outcome of the matter, and that proceedings before such tribunals are transparent and comply with due process of law.
- (2) Each Member shall establish or maintain procedures for it to review, at regularly-scheduled intervals, its technical regulations and conformity assessment procedures to determine whether such measures should be modified or eliminated so as to make the Member's regulatory program more effective in achieving the legitimate objective(s) pursued. In reviewing its technical regulations and conformity assessment procedures to determine whether such measures should be modified or eliminated, relevant elements of consideration include whether such technical regulations and conformity assessment procedures have become unnecessary or outdated by reason of changed circumstances, such as fundamental changes in technology.

**IV. INFORMATION**

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

## **V. MONITORING AND OVERSIGHT**

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

- (1) comprise representatives of each Member;
- (2) elect its own Chairman and apply the TBT Committee working procedures;
- (3) meet to review the implementation and operation of this Agreement (a) at least every six months during the first 30 months after the date this Agreement enters into force, and (b) thereafter at least once every 12 months; and
- (4) report to the TBT Committee with a view to complementing and not duplicating the work of that Committee, and to this end, communicate to the TBT Committee the results of its review conducted pursuant to subparagraph (3).

## **VI. DISPUTE SETTLEMENT**

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

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

## **VII. FINAL PROVISIONS**

*[Note: Need to consider A final provisions@ to be included in this Agreement, such as entry into force, withdrawal, amendment, WTO Secretariat to service Agreement, deposit etc. B items included, for example, in the various UR WTO agreements]*



**Annex I**

Harmonized System Subheadings			
Vehicles	Parts	Parts	Parts
870120	381900	842123	854430
870210	382000	842131	870710
870290	400950	842139	870790
870322	401010	842549	870810
870323	401110	842691	870821
870324	401120	843110	870829
870331	401210	848210	870831
870332	401220	848220	870839
870333	401310	848240	870840
870390	401593	848250	870850
870421	401693	848310	870860
870422	401699	850132	870870
870423	681310	850710	870880
870431	681390	850730	870891
870432	700711	850790	870892
870490	700721	851110	870893
870600	700910	851120	870894
	731816	851130	870899
	732010	851140	871690
	732020	851150	871899
	830120	851180	902910
	830210	851190	902920
	830230	851220	902990
	840734	851230	910400
	840820	851240	940120
	840990	851290	940190
	840991	851991	940340
	840999	851993	940350
	841330	852520	940390
	841391	852721	980200
	841430	852729	
	841459	853180	
	841520	853641	
	841583	853910	
	841590	853921	

**ANNEX 6**  
**SECTORAL PROPOSALS<sup>48</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 proposal in this Annex does not presume a consensus around it.

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<sup>48</sup>The proposals have been compiled in alphabetical order by subject.

## **I. DRAFT MODALITIES FOR THE SECTORAL TARIFF ELIMINATION IN AUTOMOTIVES AND RELATED PARTS<sup>49</sup>**

1. As proposed in the previous communication of 13 April 2006 (JOB(06)/87), tariff elimination in the automotives and related parts sector is an important component of a successful outcome of the Doha Development Agenda. The automotives and related parts sector is a highly globalized sector that makes a significant contribution to quality of life. Elimination of tariffs world-wide will play an important role for the benefit of consumers as well as the industry.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on automotives and related parts identified in paragraph 9 (“covered products”) as one of the non-mandatory sectoral initiatives.

### **Procedure/Process**

3. Participants in automotives and related parts sectoral initiative are expected to fulfil the commitments described in these modalities if “critical mass” is reached, that is, if WTO Members representing [99] per cent of global trade in automotives (Annex 1) and [98] per cent of global trade in related parts (Annex 2) have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation in the automotives and related parts sectoral initiative no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each Member that notified its participation (“participants”) shall have its commitments relating to automotives and related parts incorporated on a conditional basis in conformity with the modalities therein.

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality**

6. Participants will eliminate tariffs on the products identified in paragraph 9 in [5] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

### **Special and Differential Treatment**

7. Developing Member participants may apply the following flexibility options with respect to paragraph 6:

- (i) Bind up to [1] six-digit sub-heading of covered products in Annex 1 at [10] per cent.
- (ii) Bind up to [10] per cent of national tariff lines of covered products in Annex 2 at [5] per cent, provided that these lines do not exceed [10] per cent of the total value of the Members imports of covered products in Annex 2.

8. In any year in which an affected tariff would be reduced further by commitments resulting from agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

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<sup>49</sup> Submitted by Japan (document JOB(08)/59).

**Product Coverage**

9. A possible product coverage list is contained in the attached annexes. The ultimate decision on product coverage rests with the participants in the agreement.

**Annex 1****Product coverage for automotives**

<b>TL</b>	<b>Description</b>
870321	Motor cars and other motor vehicles principally designed for the transport of persons with spark-ignition internal combustion reciprocating piston engine, of a cylinder capacity not exceeding 1,000 cc
870322	Motor cars and other motor vehicles principally designed for the transport of persons with spark-ignition internal combustion reciprocating piston engine, of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc
870323	Motor cars and other motor vehicles principally designed for the transport of persons with spark-ignition internal combustion reciprocating piston engine, of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc
870324	Motor cars and other motor vehicles principally designed for the transport of persons with spark-ignition internal combustion reciprocating piston engine, of a cylinder capacity exceeding 3,000 cc
870331	Motor cars and other motor vehicles principally designed for the transport of persons with compression-ignition internal combustion piston engine, of a cylinder capacity not exceeding 1,500 cc
870332	Motor cars and other motor vehicles principally designed for the transport of persons with compression-ignition internal combustion piston engine, of a cylinder capacity exceeding 1,500 cc but not exceeding 2,500 cc
870333	Motor cars and other motor vehicles principally designed for the transport of persons with compression-ignition internal combustion piston engine, of a cylinder capacity exceeding 2,500 cc
870390	Motor cars and other motor vehicles principally designed for the transport of persons, including incomplete motor vehicles without engine, other than those with sparkignition internal combustion reciprocating piston engine and with compression-ignition internal combustion piston engine

**Annex 2****Product coverage for related parts**

<b>TL</b>	<b>Description</b>
400912	Tubes, pipes and hoses, of vulcanised rubber other than hard rubber, not reinforced or otherwise combined with other materials, with fittings
400922	Tubes, pipes and hoses, of vulcanised rubber other than hard rubber, reinforced or otherwise combined only with metal, with fittings
400931	Tubes, pipes and hoses, of vulcanise rubber other than hard rubber, reinforced or otherwise combined only with textile materials, without fittings
400932	Tubes, pipes and hoses, of vulcanise rubber other than hard rubber, reinforced or otherwise combined only with textile materials, with fittings

TL	Description
400941	Tubes, pipes and hoses, of vulcanised rubber other than hard rubber, reinforced or otherwise combined with other materials, without fittings
400942	Tubes, pipes and hoses, of vulcanised rubber other than hard rubber, reinforced or otherwise combined with other materials, with fittings
401110	New pneumatic tyres, of rubber, of a kind used on motor cars (including station wagons and racing cars)
401161	New pneumatic tyres, of rubber, other, having a "herring-bone" or similar tread, of a kind used on agricultural or forestry vehicles and machines
401162	New pneumatic tyres, of rubber, other, having a "herring-bone" or similar tread, of a kind used on construction or industrial handling vehicles and machines and having a rim size not exceeding 61cm
401163	New pneumatic tyres, of rubber, other, having a "herring-bone" or similar tread, of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61cm
401169	Other new pneumatic tyres, of rubber, other, having a "herring-bone" or similar tread:
401192	New pneumatic tyres, of rubber, without a "herring bone" or similar tread, of a kind used on agricultural or forestry vehicles and machines
401193	New pneumatic tyres, of rubber, without a "herring bone" or similar tread, of a kind used on construction or industrial handling vehicles and machines and having a rim size not exceeding 61cm
401194	New pneumatic tyres, of rubber, without a "herring bone" or similar tread, of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61cm
401199	New pneumatic tyres, of rubber, without a "herring bone" or similar tread, other
401211	Retreaded pneumatic tyres, of rubber, of a kind used on motor cars (including station wagons and racing cars)
401310	Inner tubes, of rubber, of a kind used on motor cars (including station wagons and racing cars), buses or lorries
401691	Floor coverings and mats, of vulcanised rubber other than hard rubber
401699	Other articles, of vulcanised rubber other than hard rubber
6813	Friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textile or other materials
700711	Toughened (tempered) safety glass, of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels
700721	Laminated safety glass, of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels
700910	Rear-view mirrors for vehicles
7320	Springs and leaves for springs, of iron or steel
830120	Locks of a kind used for motor vehicles, of base metal
830230	Mountings, fittings and similar articles suitable for motor vehicles, of base metal
840731	Spark-ignition reciprocating internal combustion piston engines of a kind used for the propulsion of vehicles of Chapter 87 of a cylinder capacity not exceeding 50 cc
840732	Spark-ignition reciprocating internal combustion piston engines of a kind used for the propulsion of vehicles of Chapter 87, of a cylinder capacity exceeding 50 cc but not exceeding 250 cc
840733	Spark-ignition reciprocating internal combustion piston engines of a kind used for the propulsion of vehicles of Chapter 87, of a cylinder capacity exceeding 250 cc but not exceeding 1,000 cc

TL	Description
840734	Spark-ignition reciprocating internal combustion piston engines of a kind used for the propulsion of vehicles of Chapter 87, of a cylinder capacity exceeding 1,000 cc
840790	Spark-ignition reciprocating or rotary internal combustion piston engines, other than those for aircraft or for marine propulsion or reciprocating engines for the propulsion of vehicles of chapter 87
840820	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines), of a kind used for the propulsion of vehicles of Chapter 87
840991	Parts suitable for use solely or principally with spark-ignition internal combustion piston engines other than those for aircraft engines
840999	Parts suitable for use solely or principally with the engines of heading 84.07 or 84.08, other than suitable for use solely or principally with spark-ignition internal combustion piston engines and those for aircraft engines
841330	Fuel, lubricating or cooling medium pumps for internal combustion piston engines
841430	Compressors of a kind used in refrigerating equipment
841459	Fans(other than table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W)
841520	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, of a kind used for persons, in motor vehicles
841581	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, other than those of subheadings 8415.10 and 8415.20, incorporating a refrigerating unit and a valve for reversal of the cooling/heat cycle (reversible heat pumps)
841582	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, other than those of subheadings 8415.10 and 8415.20, not incorporating a valve for reversal of the cooling/heat cycle but incorporating a refrigerating unit
841583	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, other than those of subheadings 8415.10 and 8415.20, not incorporating a refrigerating unit
841590	Parts of air conditioning machines
842123	Oil or petrol-filters for internal combustion engines
842129	Filtering or purifying machinery and apparatus for liquids, other than those for filtering, purifying water or beverages
842131	Intake air filters for internal combustion engines
842199	Parts of filtering or purifying machinery and apparatus for liquids or gases, other than those of centrifuges
848310	Transmission shafts (including cam shafts and crank shafts) and cranks
848320	Bearing housings, incorporating ball or roller bearings
848330	Bearing housings, not incorporating ball or roller bearings; Plain shaft bearings
848350	Flywheels and pulleys, including pulley blocks
848390	Toothed wheels, chain sprockets and other transmission elements presented separately; parts
848490	Sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings
850710	Lead-acid electric accumulators, of a kind used for starting piston engines
8511	Electrical ignition or starting equipment of a kind used for spark-ignition or compression-ignition internal combustion engines (for example, ignition magnetos, magneto-dynamos, ignition coils, sparking plugs and glow plugs, starter motors); generators (for example, dynamos, alternators) and cut-outs of a kind used in conjunction with such engines

TL	Description
851220	Lighting or visual signalling equipment, other than those of a kind use on bicycles and articles of heading 85.39
851230	Sound signalling equipment of a kind use for cycles or motor vehicles
851240	Windscreen wipers, defrosters and demisters of a kind use for cycles or motor vehicles
851290	Parts of electrical lighting or signalling equipment (excluding articles of heading 85.39), wind-screen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles
851821	Single loudspeakers, mounted in their enclosures
851822	Multiple loudspeakers, mounted in the same enclosure
851829	Loudspeakers whether or not mounted in their enclosure other than those of subheadings 8518.21 and 8518.22
851840	Audio-frequency electric amplifiers
852721	Radio-broadcast receivers, combined with sound recording or reproducing apparatus not capable of operating without an external source of power, of a kind used in motor vehicles
852729	Radio-broadcast receivers not capable of operating without an external source of power, of a kind used in motor vehicles, other than those combined sound recording or reproducing apparatus
853910	Sealed beam lamp units
853921	Tungsten halogen filament lamps, excluding ultra-violet or infra-red lamps, other than sealed beam lamp units
853929	Filament lamps, excluding ultra-violet or infra-red lamps, other than those of subheadings 8539.21 and 8539.22
853990	Parts of electric filament lamps, electric discharge lamps or arc lamps
854221	Monolithic integrated circuits, digital
854430	Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships
8707	Bodies (including cabs), for the motor vehicles of headings 87.01 to 87.05
8708	Parts and accessories of the motor vehicles of headings 87.01 to 87.05
902910	Revolution counters, production counters, taximeters, mileometers, pedometers and the like
902990	Parts and accessories of revolution counters, production counters, taximeters, mileometers, pedometers and the like
903180	Measuring or checking instruments, appliances and machines not specified or included elsewhere in this chapter, other than machines for balancing mechanical parts , test benches and optical instruments and appliances
903190	Parts and accessories of measuring or checking instruments, appliances and machines not specified or included elsewhere in this Chapter and of profile projectors
903289	Automatic regulating or controlling instruments and apparatus, other than hydraulic or pneumatic instruments
9104	Instrument panel clocks and clocks of a similar type for vehicles, aircraft, spacecraft or vessels
940120	Seats of a kind used for motor vehicles

## **II. DRAFT MODALITIES FOR THE LIBERALIZATION OF TARIFFS IN THE BICYCLE AND RELATED PARTS SECTOR<sup>50</sup>**

1. As proposed in the previous communications of 5 April 2007 (ref. TN/MA/W/85) and 21 September 2005 (ref. JOB(05)/202), tariff elimination in the bicycle and related parts sector would help to create greater economic value and lower production costs for this industry, present customers with a wider and more affordable choice of products, and bring about considerable benefits for developing countries and for WTO Members in general.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on bicycle and related parts products identified in paragraph 10 as part of a non-mandatory bicycle and related parts sectoral initiative.

### **Procedure/Process**

3. Participants in the bicycle and related parts sectoral initiative are expected to fulfil the commitments described in these modalities if 'critical mass' is reached, that is, if WTO Members representing at least [90] percent of world trade in bicycle and related parts have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to bicycle and related parts on a conditional basis in conformity with the modalities herein.<sup>51</sup>

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality**

6. Participants will eliminate tariffs on the products identified in paragraph 10 in [5] equal rate reductions or the final implementation period for general tariff reductions by formula, whichever is the shorter.

7. The reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

### **Special and Differential Treatment**

8. Developing Member participants may apply one of the following flexibility options with respect to paragraph 7:

- (i) Bind up to [5] percent of national bicycle and related parts product tariff lines at [5] percent, provided these lines do not exceed [5] percent of the total value of the Member's bicycle and related parts product imports.
- (ii) Extend the implementation period for tariff reduction by up to an additional [2] annual rate reductions on up to [10] percent of national bicycle and related parts

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<sup>50</sup> Submitted by Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Mastu and Thailand (document JOB(08)/73).

<sup>51</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.



product tariff lines, provided these lines do not exceed [10] percent of the total value of the Member's bicycle and related parts product imports.

- (iii) Another possible flexibility option could be further discussed while the participants in the agreement will ultimately decide all elements of special and differential treatment.

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

### Product Coverage

10. Without prejudice to the positions of co-sponsors, the product coverage of the bicycle and related parts sectoral initiative should cover articles contained in the table below. The ultimate decision on product coverage rests with the participants in the agreement.

HS Code – 6 Digits	Description
4011.50	New pneumatic tyres, of rubber, of a kind used on bicycles
4013.20	Inner tubes, of rubber, of a kind used on bicycles
ex 6506.10*	Bicycle helmets
ex 7315.11*	Roller chain of a kind used on bicycles
ex 7320.20*	Stainless steel spring for bicycle valve inside core use
ex 8306.10*	Bells for bicycles
ex 8481.80*	Valves of inner-tubes, for bicycles
8512.10	Lighting or visual signalling equipment of a kind used on bicycles
ex 8512.90*	Parts of lighting or visual signalling equipment of a kind used on bicycles
8712.00	Bicycles and other cycles (including delivery tricycles), not motorized
8714.91	Frames and forks, and parts thereof
8714.92	Wheel rims and spokes
8714.93	Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels
8714.94	Brakes, including coaster braking hubs and hub brakes, and parts thereof
8714.95	Saddles of cycles
8714.96	Pedals and crank-gear, and parts thereof
ex 8714.99*	Other parts and accessories of bicycles and other cycles, not motorized
ex 8716.40*	Other trailers and semi-trailers for bicycles
ex 8716.90*	Parts of other trailers and semi-trailers for bicycles

\* The product coverage of the specific tariff line is limited to only the description in the table.

### **III. DRAFT MODALITIES FOR THE LIBERALIZATION OF TARIFFS IN THE CHEMICALS SECTOR<sup>52</sup>**

1. As proposed in the previous communications of 4 July 2005 (ref. TN/MA/W/58) and 15 May 2006 (ref. TN/MA/W/72), tariff elimination in the chemicals sector is an important component of a successful outcome of the Doha Development Agenda. The participation of Members that are major producers and/or traders of chemicals is essential to this initiative, not only to advance the liberalization of global trade but also to promote global economic development. This initiative would produce substantial benefits for both developed and developing countries, increasing the competitiveness of both the chemicals sector and many downstream industries.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on chemical products identified in paragraph 10 as part of a non-mandatory chemicals sectoral initiative.

#### **Procedures/Process**

3. Participants in the chemicals sectoral initiative are expected to fulfil the commitments described in these modalities if 'critical mass' is reached, that is, if WTO Members representing at least 90 per cent of world trade in chemicals have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to chemicals on a conditional basis in conformity with the modalities herein.<sup>53</sup>

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

#### **Principal Sectoral Modality**

6. Developed Member participants will eliminate tariffs on the products identified in paragraph 10 in [6] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

7. Developing Member participants will eliminate tariffs on the products identified in paragraph 10 in [11] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

#### **Special and Differential Treatment**

8. Developing Member participants may apply the following flexibility options with respect to paragraph 7:

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<sup>52</sup> Submitted by Canada; the European Communities; Japan; Norway; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Mastu and the United States (document JOB(08)/61).

<sup>53</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.

- (i) Bind up to [4] percent of national chemical product tariff lines at [4] percent, provided they do not exceed [4] percent of the total value of the Member's chemical product imports.
- (ii) Extend the implementation period for tariff reductions by up to an additional [5] annual rate reductions on up to [5] percent of national chemical product tariff lines.

Only one of the options may be used on an individual tariff line.

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariff will be applied to the affected tariff line.

### Product Coverage

10. Product coverage for the chemicals sectoral initiative includes all chemical lines covered by the Uruguay Round Chemical Tariff Harmonization Agreement (CTHA) in HS Chapters 28-39. Agricultural lines identified in Annex 1 of the Draft Modalities for Non-Agricultural Market Access (TN/MA/W/103) are not included in product coverage for this sectoral initiative. The ultimate decision on product coverage rests with the participants in the initiative.

<b>HS 2002</b>	<b>Illustrative Description</b>
Ch. 28	Inorganic chemicals, organic or inorganic compounds of precious metals such as: chlorine, flourine, sulfur, alkaline, hydrogen chloride
Ch. 29	Organic chemicals such as: ethane, butane, propane, octane
Ch. 30	Pharmaceutical products
Ch. 31	Fertilizers
Ch. 32	Tanning or dyeing extracts
Ch. 33	Essential oils
Ch. 34	Soap, organic surfacing agents, lubricating preparations, artificial and prepared waxes, candles
Ch. 35	Albuminoidal substances; modified starches; glues; enzymes
Ch. 36	Explosives
Ch. 37	Photographic or cinematographic goods
Ch. 38	Miscellaneous chemical products such as: pine oil, herbicides, insecticides
Ch. 39	Plastics and articles thereof such as: resins and polymers

#### **IV. DRAFT MODALITIES FOR THE LIBERALIZATION OF TARIFFS IN THE ELECTRONICS/ELECTRICAL PRODUCTS<sup>54</sup>**

1. As proposed in the previous communications of 4 July 2005 (ref.TN/MA/W/59), 11 October 2005 (ref. TN/MA/W/59/Add.1) and 28 April 2006 (ref. TN/MA/W/69), tariff elimination in the electronics/electrical products sector is an essential component of a successful outcome of the Doha Development Agenda. The electronics/electrical sector is a dynamic sector featuring extensive global supply networks in both developing and developed countries, and the products involved are critically important for a broad range of economic activities.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on electronics/electrical products identified in paragraph 10 (“covered products”) as one of the non-mandatory sectoral initiatives.

##### **Procedure/Process**

3. Participants in the electronics/electrical products sectoral initiative are expected to fulfill the commitments described in these modalities if ‘critical mass’ is reached, that is, if WTO Members representing [90] per cent of world trade in electronics/electrical products have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation in the electronics/electrical products sectoral initiative no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each Member that notified its participation (“participant”) shall have its commitments relating to electronics/electrical products incorporated on a conditional basis in conformity with the modalities herein.

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

##### **Principal Sectoral Modality**

6. Developed Member participants will eliminate tariffs on the products identified in paragraph 10 in [3] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

7. Developing Member participants will eliminate tariffs on the products identified in paragraph 10 in [5] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

All participants are encouraged to eliminate customs duties autonomously prior to these dates.

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<sup>54</sup> Submitted by Hong Kong, China; Japan; Korea; Singapore; Thailand and the United States (document JOB(08)/67).

## Special and Differential Treatment

8. Developing Member participants may apply the following flexibility options with respect to paragraph 7:

- (i) Bind up to [5] percent of national tariff lines of covered products at [5] percent [, provided these lines do not exceed [5] percent of the total value of the Member's imports of covered products]. The participants are encouraged to further reduce or eliminate these duties autonomously at a later date.
- (ii) Extend the implementation period for tariff reduction by up to an additional [4] annual rate reductions on up to [5] percent of national tariff lines of covered products.

Only one of the options may be used on an individual tariff line.

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

## Product Coverage

10. Without prejudice to the positions of co-sponsors, a possible product coverage list is contained in the attached annex. The ultimate decision on product coverage rests with the participants in the agreement.<sup>55</sup>

### Annex

Note: It is understood that the entire heading "8486" (semiconductor manufacturing machinery and parts thereof) under HS2007 shall be covered, wherever they are classified under HS2002. (The items specified by "\*" in the list are covered insofar as they are covered under that heading.)

HS2002	*	Description (for reference purpose)
381800		Chemical elements doped for use in electronics, in the form of discs, wafers or similar forms: chemical compounds doped for use in electronics, of other substances other than those of silicon
700991		unframed Glass mirrors, excluding rear-view mirrors for vehicles
702000		Articles of glass, other than those of headings 7001 to 7019
841430		Compressors of a kind used in refrigerating equipment
841451		Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W
841490		Parts of air or vacuum pumps, air or other gas compressors and fans; parts of ventilating or recycling hoods incorporating a fan
841510		Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, of window or wall types, self-contained or "split-system"
841581		Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, incorporating a refrigerating unit and a valve for reversal of the cooling/heat cycle (reversible heat pumps), other than those of subheadings 8415.10 and 8415.20

<sup>55</sup> Some cosponsors have reservation as to the relevance of certain products included in the annex and this should be resolved before ultimate decision is taken on the product coverage.

HS2002	*	Description (for reference purpose)
841590		Parts of air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity
841810		Combined refrigerator-freezers, fitted with separate external doors
841821		Household type refrigerators of compression-type
841822		Electrical household type refrigerators of absorption-type
841829		Refrigerators, household type, other than those of compression-type and electrical ones of absorption-type
841830		Freezers of the chest type, not exceeding 800 l capacity
841840		Freezers of the upright type, not exceeding 900 l capacity
841861		Refrigerating or freezing equipment of compression type, whose condensers are heat exchangers, other than those of subheadings 8418.10 to 8418.50; heat pumps
841899		Parts of refrigerators, freezers and other refrigerating or freezing equipment, and parts of heat pumps, other than those of air conditioning machines of heading 84.15 and of furniture designed to receive refrigerating or freezing equipment
841989	*	Machinery, plant or laboratory equipment, for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes. other than those of subheadings 8419.20 to 8419.81
841990		Parts of machinery, plant or laboratory equipment, for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes, parts of instantaneous or storage water heaters, non-electric
842112		Clothes-dryers
842119	*	Centrifuges, including centrifugal dryers, other than cream separators and clothes-dryers
842191		Parts of centrifuges or centrifugal dryers
842211		Dish washing machines of the household type
842310		Personal weighing machines, including baby scales; household scales
842489	*	Mechanical appliances (whether or not hand hand-operated) for projecting, dispersing or spraying liquids or powders, other than those for agricultural or horticultural use
842490		Parts of mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; parts of fire extinguishers, whether or not charged; parts of spray guns and similar appliances; parts of steam or sand blasting machines and similar jet projecting machines
842839	*	Continuous-action elevators and conveyors, for goods or materials, other than those specially designed for underground use, those of bucket or belt type, pneumatic elevators and pneumatic conveyors
842890	*	Lifting, handling, loading or unloading machinery, other than those of headings 84.25 to 84.27 and of subheadings 8428.10 to 8428.60
843139		Parts of machinery of heading 84.28, n.e.s.
845011		Fully-automatic washing machines, each of a dry linen capacity not exceeding 10 kg
845012		Washing machines, with built-in centrifugal drier, each of a dry linen capacity not exceeding 10 kg, other than fully-automatic ones

HS2002	*	Description (for reference purpose)
845019		Washing machines, each of a dry linen capacity not exceeding 10 kg, other than those of subheadings 8450.11 and 8450.12
845090		Parts of household or laundry-type washing machines
845121		Drying machines, each of a dry linen capacity not exceeding 10 kg
845190		Parts of machinery (other than machines of heading 84.50) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics or made up textile articles; parts of machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; parts of machines for reeling, unreeling, folding, cutting or pinking textile fabrics.
845210		Sewing machines of the household type
845290		Parts of sewing machines, other than those of book-sewing machines of heading 84.40, sewing machine needles and furniture, base and covers for sewing machines and parts thereof
845610	*	Machine-tools for working any material by removal of material, by laser or other light or photon beam processes
845691		Machine-tools for working any material by removal of material, for dry-etching patterns on semiconductor materials, by electro-chemical, electron beam, ionic-beam or plasma arc processes,
845699	*	Machine-tools for working any material by removal of material by electro-chemical, electron beam, ionic-beam or plasma arc processes, other than for dry-etching patterns on semiconductor materials
846221	*	Numerically controlled bending, folding, straightening or flattening machines (including presses) for working metal
846229	*	Bending, folding, straightening, or flattening machines (including presses) for working metal, not numerically controlled
846410	*	Sawing machines for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass
846420	*	Grinding or polishing machines for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass
846490	*	Machine-tools for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass, other than sawing, grinding or polishing machines
846610	*	Self-opening die heads for use solely or principally with the machines of headings 84.56 to 84.65
846620	*	Work holders for use solely or principally with the machines of headings 84.56 to 84.65
846630	*	Dividing heads and other special attachments for machine-tools of heading 84.65
846691		Parts and accessories suitable for use solely or principally with the machines of heading 84.64. other than those of subheadings 8466.11 to 8466.30
846693		Parts and accessories suitable for use solely or principally with the machines of headings 84.56 to 84.61. other than those of subheadings 8466.11 to 8466.30..
846694		Parts and accessories suitable for use solely or principally with the machines of heading 84.62 or 84.63, i.e..
846911		Word-processing machines
846920		Electric typewriters, other than automatic typewriters and printers of heading 84.71

HS2002	*	Description (for reference purpose)
8470		Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions; accounting machines, postage-franking machines, ticket-issuing machines and similar machines, incorporating a calculating device; cash registers.
8471		Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included.
847290		Office machines, other than those of subheadings 8472.10 to 8472.30
8473		Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of headings 84.69 to 84.72.
847710	*	Injection-moulding machines for rubber or plastics, not specified or included elsewhere in this Chapter
847740	*	Vacuum moulding machines and other thermoforming machines, for rubber or plastics, not specified or included elsewhere in this Chapter
847759	*	Machinery for moulding or otherwise forming rubber or plastics, not specified or included elsewhere in this Chapter
847790		Parts of machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this Chapter
847950	*	Industrial robots, not elsewhere specified
847989	*	Machines and mechanical appliances, having individual functions, not specified or included elsewhere in this Chapter, other than those of headings 8479.10 to 8479.82
847990		Parts of machines and mechanical appliances, having individual functions, not specified or included elsewhere in this Chapter
848071	*	Moulds for rubber or plastics, of injection or compression types
8501		Electric motors and generators (excluding generating sets).
8502		Electric generating sets and rotary converters.
8503		Parts suitable for use solely or principally with the machines of heading 85.01 or 85.02.
850421		Liquid dielectric transformers, having a power handling capacity not exceeding 650 kVA, other than ballasts for discharge lamps or tubes
850422		Liquid dielectric transformers having a power handling capacity exceeding 650kVA but not exceeding 10,000kVA
850423		Liquid dielectric transformers having a power handling capacity exceeding 10,000kVA
850431		Electrical transformers, having a power handling capacity not exceeding 1 kVA, other than those of liquid dielectric transformers and ballasts for discharge lamps or tubes
850432		Electrical Transformers other than liquid dielectric transformers, having a power handling capacity exceeding 1 kVA but not exceeding 16 kVA
850434		Other transformers having a power handling capacity exceeding 500kVA
850440		Static converters
850450		Inductors
850490		Parts of electrical transformers, static converters or inductors



HS2002	*	Description (for reference purpose)
8505		Electro-magnets; permanent magnets and articles intended to become permanent magnets after magnetisation; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electro-magnetic couplings, clutches and brakes; electro-magnetic lifting heads.
8506		Primary cells and primary batteries.
8507		Electric accumulators, including separators therefore, whether or not rectangular (including square).
850910		Vacuum cleaners for domestic appliances, including dry and wet vacuum cleaners, with self-contained electric motor
850920		Floor polishers for domestic appliance, with self-contained electric motor
850940		Food grinders, mixers, and fruit or vegetable juice extractors, for domestic appliance, with self-contained electric motor
850980		Electro-mechanical domestic appliances, with self-contained electric motor, other than those of subheadings 8509.10 to 8509.40
8510		Shavers, hair clippers and hair-removing appliances, with self-contained electric motor.
851310		Portable electric lamps designed to function by their own sources of energy, (for example, dry battery, accumulators magnetos), other than lighting equipment of heading 8512
851410	*	Resistance heated furnaces and ovens
851420	*	Furnaces and ovens functioning by induction or dielectric loss, furnaces and ovens
851430	*	Other furnaces and ovens
851440		Other equipment for the heat treatment of materials by induction or dielectric loss
851490		Parts of industrial or laboratory electric furnaces and ovens (including those functioning by induction or dielectric loss) and other industrial or laboratory equipment for the heat treatment of materials by induction or dielectric loss
851519		Electric Brazing Or Soldering Machines Or Apparatus, other than soldering irons and guns
851521		Electric Machines And Apparatus For Resistance Welding Of Metal, Fully Or Partly Automatic
851529		Machines and apparatus for resistance welding of metal, other than those of fully or partly automatic type
851531		Machines and apparatus for arc welding of metals, fully or partly automatic
851580	*	Electric (including electrically heated gas), laser or other light or photon beam, ultrasonic, electron beam, magnetic pulse or plasma arc welding machines and apparatus, whether or not capable of cutting other than those of subheadings 8515.21 to 8515.39, and electric machines and apparatus for hot spraying of metals or cermets,
851590		Parts of electric (including electrically heated gas), laser or other light or photon beam, ultrasonic, electron beam, magnetic pulse or plasma arc soldering, brazing or welding machines and apparatus, whether or not capable of cutting, or of electric machines and apparatus for hot spraying of metals or cermets
8516		Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hair-dressing apparatus and hand dryers; electric smoothing irons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 85.45.

HS2002	*	Description (for reference purpose)
8517		Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones.
8518		Microphones and stands therefore; loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets.
851910		Coin- Or Token-Operated Record Players
851921		Record Players not elsewhere specified or included, Without Loudspeaker
851931		Turntables, With Automatic Record Changing Mechanism
851992		Pocket-size cassette-players, not incorporating a sound recording device
851993		sound reproducing apparatus of cassette-type, not incorporating a sound recording device, other than those of pocket-size cassette-players
851999		Sound reproducing apparatus, not incorporating a sound recording device, other than those of subheadings 8519.10 to 8519.93
8520		Magnetic tape recorders and other sound recording apparatus.
8521		Video recording or reproducing apparatus of magnetic tape-type
8522		Parts and accessories suitable for use solely or principally with the apparatus of headings 85.19 to 85.21
8523		Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of Chapter 37.
8524		Records, tapes and other recorded media for sound or other similarly recorded phenomena, including matrices and masters for the production of records, but excluding products of Chapter 37.
8525		Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television; television cameras; still image video cameras and other video camera recorders; digital cameras.
852691		Radio navigational aid apparatus
852692		Radio Remote Control Apparatus
8527		Reception apparatus for radio-telephony, radio-telegraphy or radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock.
852812		Reception apparatus for television of colour, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus
852813		Black And White Or Other Monochrome Reception Apparatus For Television, Whether Or Not Incorporating Radio-Broadcast Receivers Or Sound Or Video Recording Or Reproducing Apparatus. Reception apparatus for television of black and white or other monochrome whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus
852821		Colour video monitors
852830		Video projectors
8529		Parts suitable for use solely or principally with the apparatus of heading 85.25 to 85.28.
8530		Electrical signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields (other than those of heading 86.08)
8531		Electric sound or visual signaling apparatus, other than those of heading 85.12 or 85.30

<b>HS2002</b>	<b>*</b>	<b>Description (for reference purpose)</b>
8532		Electrical capacitors, fixed, variable or adjustable (pre-set).
8533		Electrical resistors, other than heating resistors.
8534		Printed circuits
8535		Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits, for a voltage exceeding 1,000 volts.
853610		Fuses, For A Voltage Not Exceeding 1 000 V
853620		Automatic Circuit Breakers For A Voltage Not Exceeding 1 000 V
853630		Apparatus for protecting electrical circuits for a voltage not exceeding 1,000 volts, other than fuses and automatic circuit breakers
853641		Relays For A Voltage Not Exceeding 60 V
853649		Relays For A Voltage Exceeding 60 V Or More But Not Exceeding 1000 V
853650		Switches for a voltage not exceeding 1,000 volts, other than relays
853669		Plugs and sockets for a voltage not exceeding 1,000 volts
853690		Electrical apparatus forsaking connections electrical circuits, for a voltage not exceeding 1,000 volts, other than those of subheadings 8536.10 to 8536.69
8537		Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 85.35 or 85.36, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of chapter 90, and numerical control apparatus, other than switching apparatus of heading 85.17.
8538		Parts suitable for use solely or principally with the apparatus of heading 85.35, 85.36 or 85.37.
853921		Electric filament lamps of Tungsten halogen
853922		Electric Filament Lamps not else where specified or included, Of A Power Not Exceeding 200 W And For A Voltage Exceeding 100 V
853929		Electric Filament Lamps, excluding ultra-violet or infra-red lamps other than Tungsten halogen
853931		Discharge lamps, other than ultra-violet lamps, of Fluorescent, hot cathode
853932		Mercury or sodium vapour lamps; metal halide lamps
853939		Electric Discharge Lamps, Other Than Ultra-Violet Lamps, and those of subheadings 8539.31 and 8539.32
853941		A. Arc lamps
853949		Ultra-violet lamps and infra-red lamps
853990		Parts For Electric Filament, Discharge Or Arc Lamps
8540		Thermionic, cold cathode or photo-cathode valves and tubes
8541		Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices; light emitting diodes; mounted piezo-electric crystals.
8542		Electronic integrated circuits and microassemblies.
8543		Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter.
854411		Insulated winding wire of copper
854419		Insulated winding wire other than of copper
854420		Insulated Coaxial Cable And Other Coaxial Electrical Conductors

<b>HS2002</b>	<b>*</b>	<b>Description (for reference purpose)</b>
854441		Electric conductors fitted with connectors, for a voltage not exceeding 80 V, other than those of subheadings 8544.20 and 8544.30
854449		Electric conductors not fitted with connectors, for a voltage not exceeding 80 V, other than those of subheadings 8544.11 to 8544.30
854451		Electric conductors fitted with connectors, for a voltage exceeding 80 V but not exceeding 1,000 V, other than those of subheadings 8544.20 and 8544.30
854459		Insulated Electric Conductors, For A Voltage Exceeding 80 V But Not Exceeding 1,000 V, Not Fitted With Connectors
854460		Insulated Electric Conductors, For A Voltage Exceeding 1,000 V
854470		Optical fiber cables, made up of individually sheathed fibers
8545		Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes.
8546		Electrical insulators of any material.
8547		Insulating fittings for electrical machines, appliances or equipment, being fittings wholly of insulating material apart from any minor components of metal incorporated during moulding solely for purposes of assembly, other than insulators of heading 85.46; electrical conduit tubing and joints therefore, of base metal lined with insulating material.
8548		Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus, not specified or included else where in this Chapter.
900110		Optical Fibers, Optical Fiber Bundles And Cables, Other Than Optical Fiber Cables Made Up Of Individually Sheathed Fibers
900120		Sheets And Plates Of Polarizing Material
900190		Lenses (including contact lenses), prisms, mirrors and other optical elements of any material, unmounted, other than those of glass not optically worked and of subheadings 9001.30 to 9001.50
9002		Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked.
9006		Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other than discharge lamps of heading 85.39.
9007		Cinematographic cameras and projectors.
9008		Image projectors, other than cinematographic; photographic (other than cinematographic) enlargers and reducers.
900911		Electrostatic photo-copying apparatus, of operating by reproducing the original image directly onto the copy (direct process)
900912		Electrostatic photo-copying apparatus, of operating by reproducing the original image via an intermediate onto the copy (indirect process)
900921		Photo-copying apparatus incorporating an optical system, other than those of subheadings 9009.11 and 9009.12
900991		Automatic document feeders for Photo-copying apparatus incorporating an optical system or of the contact type and for thermo-copying apparatus
900992		Paper feeders, Photo-copying apparatus and thermo-copying apparatus

HS2002	*	Description (for reference purpose)
900993		Sorters for Photo-copying apparatus incorporating an optical system or of the contact type and for thermo-copying apparatus
900999		Parts and accessories of photocopying apparatus (incorporating an optical system or the apparatus of the contact type) and thermo-copying apparatus, other than automatic document feeders, paper feeders and sorters
901010		Apparatus and equipment for automatically developing photographic( including cinematographic) film or paper in rolls or for automatically exposing developed film to rolls of photographic paper
901041		Apparatus for the projection or drawing of circuit patterns on sensitised semiconductor materials, direct write-on-water apparatus, not specified or included elsewhere in this chapter
901042		Apparatus for the projection or drawing of circuit patterns on sensitised semiconductor materials, step and repeat aligners, not specified or included elsewhere in this chapter
901049		Apparatus for the projection or drawing of circuit patterns on sensitised semiconductor materials, not specified or included elsewhere in this chapter
901050		Other apparatus and equipment for photographic (including cinematographic) laboratories; negatoscopes
901090		Parts and accessories for apparatus and equipment for photographic (including cinematographic) laboratories (including apparatus for the projection or drawing of circuit patterns on sensitized semiconductor materials) not specified or included elsewhere in this chapter, and for negatoscopes and projection screens
901110	*	Stereoscopic microscopes
901120	*	Other microscopes, for photomicrography, cinephotomicrography or microprojection
901180		Other microscopes
901190		Parts and accessories for compound optical microscopes, including those for microphotography, micro cinematography or micro projection
901210	*	Microscopes other than optical microscopes and diffraction apparatus
901290		Parts and accessories for microscopes other than optical microscopes; and diffraction apparatus
9013		Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter.
901410		Direction finding compasses
901480		Other instruments and appliances
901490		Parts and accessories for direction finding compasses and other navigational instruments and appliances excluding those of electrical instruments and apparatus
9015		Surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders.
9016		Balances of a sensitivity of 5 cg or better, with or without weights.
901710		Drafting tables and machines
901720		Drawing, marking-out or mathematical calculating instruments, other than drafting tables and machines
901780		Drawing, marking-out or mathematical calculating instruments other than drafting tables and machines, micrometers, calipers and gauges

HS2002	*	Description (for reference purpose)
901790		Parts and accessories for drawing, marking-out or mathematical calculating instruments; parts and accessories for instruments for measuring length, for use in the hand
901812		Ultrasonic Scanning Apparatus
901819		Electro-Diagnostic Apparatus (Including Apparatus For Functional Exploratory Examination Or For Checking Physiological Parameters), other than those subheadings 9018.11 to 9018.14 And Parts Thereof
9023		Instruments, apparatus and models, designed for demonstrational purposes, unsuitable for other uses.
9024		Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials.
9025		Hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not, and any combination of these instruments.
9026		Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases, excluding instruments and apparatus of heading 90.14, 90.15, 90.28 or 90.32.
9027		Instruments and apparatus for physical or chemical analysis; instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light; microtomes.
9028		Gas, liquid or electricity supply or production meters, including calibrating meters therefore.
9029		Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading 90.14 or 90.15; stroboscopes.
903010		Instruments and apparatus for measuring or detecting ionizing radiations
903020		Cathode-ray oscilloscopes and cathode-ray oscillographs
903031		Multimeters; instruments and apparatus, for measuring or checking voltage, current, resistance or power, without a recording device
903039		Instruments And Apparatus For Measuring Or Checking Voltage, Current, Resistance Or Power, Without A Recording Device (Excluding Multimeters), other than those of subheadings 9030.10 and 9030.20
903040		Instruments and apparatus, specially designed for telecommunications, other than those of subheadings 9030.10 to 9030.39
903082		Instruments and apparatus for measuring or checking semiconductor wafer or device, other than those of subheadings 9030.10 to 9030.40
903083		Other instruments and apparatus for measuring or checking electrical quantities, with a recording device
903090		Parts and accessories of instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading 90.28; parts and accessories of instruments and apparatus for measuring or detecting ionizing radiations
9031		Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this Chapter; profile projectors.
9032		Automatic regulating or controlling instruments and apparatus.
9033		Parts and accessories (not specified or included elsewhere in this Chapter) for machines, appliances, instruments or apparatus of Chapter 90.

HS2002	*	Description (for reference purpose)
910111		Wrist-watches with mechanical display only, with case of precious metal or of metal clad with precious metal
910112		Wrist-watches, electrically operated with opto-electronic display only, with case of precious metal or of metal clad with precious metal
910119		Wrist-watches, electrically operated, with case of precious metal or of metal clad with precious metal, other than those of subheadings 9101.11 and 9101.12
910191		Electrically operated pocket-watches and other watches, including stopwatches, with case of precious metal or of metal clad with precious metal
910211		Electrically operated wrist-watches with mechanical display only, whether or not incorporating a stop-watch facility, other than those of heading 91.01
910212		Electrically operated wrist-watches with opto-electronic only, whether or not incorporating a stop-watch facility, other than those of heading 91.01
910219		Electrically operated wrist-watches, whether or not incorporating a stop-watch facility, other than those of heading 91.01 and of subheadings 9102.11 and 9102.12
910291		Electrically operated pocket-watches and other watches, including stopwatches, other than those of heading 91.01
910310		Electrically operated Clocks with watch movements, excluding clocks of heading 91.04
910511		Alarm clocks, electrically operated
910521		Wall clocks, electrically operated
910591		Clocks, electrically operated, not specified or included elsewhere in this chapter
910811		Electrically operated Watch movements, complete and assembled, with mechanical display only or with a device to which a mechanical display can be incorporated
910812		Electrically operated Watch movements, complete and assembled, with opto-electronic display only
910819		Electrically operated Watch movements, complete and assembled other than those of subheadings 9108.11 and 9108.12
910911		Electrically operated Clock movements, complete and assembled, of alarm clocks
910919		Electrically operated Clock movements, complete and assembled, other than those of alarm clocks
940510		Chandeliers and other electric ceiling or wall lighting fittings, excluding those of a kind used for lighting public open spaces or thorough-fares, excluding those of base metal
940520		Electric table, desk, bedside or floor-standing lamps
940530		Lighting sets of a kind used for Christmas trees
940540		Electric lamps and lighting fittings, n.e.s.
940560		Illuminated signs, illuminated name-plates and the like
940592		Parts of lamps and lighting fittings, of plastics; parts of illuminated signs, illuminated name-plates and the like, of plastics
940599		Parts of lamps and lighting fittings, n.e.s.; parts of illuminated signs, illuminated name-plate and the like, n.e.s.
950410		Video games of a kind used with a television receiver

<b>HS2002</b>	*	<b>Description (for reference purpose)</b>
950490		Articles for funfair, table or parlour games, including pintables, billiards, special tables for casino games and automatic bowling alley equipment, other than those of subheadings 9504.10 to 9504.40
961210		Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges



## V. DRAFT MODALITIES FOR THE LIBERALISATION OF TARIFFS ON FISH AND FISH PRODUCTS<sup>56</sup>

1. Following the communications on 18 October 2005 (TN/MA/W/63), 22 May 2006 (TN/MA/W/63/Add.1), 13 June 2007 (TN/MA/W/63/Add.2) and 8 April 2008 (TN/MA/W/63/Add.3), this document sets out the modality proposal for tariff elimination in the fish and fish products sectoral initiative.
2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on fish and fish products identified in paragraph 10 as part of a non-mandatory fish and fish products sectoral initiative.

### Procedure/Process

3. Participants in the fish and fish products sectoral initiative are expected to fulfil the commitments described in these modalities if 'critical mass' is reached, that is, if WTO Members representing at least [90] per cent of world trade in fish and fish products have indicated their intent to participate.
4. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to fish and fish products on a conditional basis in conformity with the modalities herein.<sup>57</sup>
5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### Principal Sectoral Modality

6. Developed Member participants will eliminate tariffs on the products identified in paragraph 10 in [1] rate reduction. The reduction will be implemented on 1 January of the year following entry into force of the DDA results [and each successive reduction shall be made effective on 1 January of each of the following years].<sup>58</sup>
7. Developing Member participants will eliminate tariffs on the products identified in paragraph 10 in [5] equal rate reductions. The reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

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<sup>56</sup> Submitted by Canada; Hong Kong, China; Iceland; New Zealand; Norway; Oman; Singapore; Thailand and Uruguay (document JOB(08)/62).

<sup>57</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat

<sup>58</sup> Participants recognise the challenges that may be faced by non-reciprocal preference beneficiaries as a result of MFN liberalisation. With respect to the fish and fish product tariff lines identified in Annex 2 of the NAMA modalities, the relevant preference-granting Member may commence the implementation of this sectoral modality no later than 1 January of the year following full implementation of paragraph 28 of the general NAMA modality.

### Special and Differential Treatment

8. Developing Member participants may apply the following flexibility options with respect to paragraph 7:

- (i) Bind up to [15] percent of national fish and fish product tariff lines at [5] percent.
- (ii) Choose one 6-digit sub-heading to bind at not more than [10] percent.

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

### Product Coverage

10. Without prejudice to the positions of co-sponsors, a possible product coverage list is contained in the table below. The ultimate decision on product coverage rests with the participants in the agreement.

HS 2002	Description
03	Fish and crustaceans, molluscs and other aquatic invertebrates
0509	Natural sponges of animal origin
0511.91	Animal products; of fish or crustaceans, molluscs or other aquatic invertebrates and dead animals of chapter 3, unfit for human consumption
1504.10	Fish-liver oils and their fractions
1504.20	Fats and oils and their fractions, of fish, other than liver oils
1603 ex	Extracts and juices of fish or crustaceans, molluscs or other aquatic invertebrates
1604	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs
1605	Crustaceans, molluscs and other aquatic invertebrates, prepared and preserved
2301.20	Flours, meals and pellets, of fish or crustaceans, molluscs or other aquatic invertebrates

## **VI. DRAFT MODALITIES FOR THE LIBERALISATION OF TARIFFS IN THE FOREST PRODUCTS SECTOR<sup>59</sup>**

1. As proposed in the previous communications of 18 October 2005 (TN/MA/W/64), 19 June 2006 (TN/MA/W/75) and 4 April 2008 (TN/MA/W/75/Add.1/Rev.1), tariff elimination in the forest products sector would produce substantial benefits for both developed and developing Members and is an important component of a successful outcome of the Doha Development Agenda.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on forest products identified in paragraph 10 as part of a non-mandatory forest products sectoral initiative.

### **Procedure/Process**

3. Participants in the forest products sectoral initiative are expected to fulfil the commitments described in these modalities if 'critical mass' is reached, that is, if WTO Members representing at least [90] per cent of world trade in forest products have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to forest products on a conditional basis in conformity with the modalities herein.<sup>60</sup>

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality<sup>61</sup>**

6. Developed Member participants will eliminate tariffs on the products identified in paragraph 10 on 1 January of the year following the entry into force of the DDA results.

7. Developing Member participants will eliminate tariffs on the products identified in paragraph 10 in [4] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

### **Special and Differential Treatment**

8. Developing Member participants may apply the following flexibility options with respect to paragraph 7:

- (i) Bind up to [4] percent of national forest product tariff lines at [4] percent, provided these lines do not exceed [4] percent of the total value of the Member's forest product imports.

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<sup>59</sup> Submitted by Canada; Hong Kong, China; New Zealand; Singapore; Switzerland; Thailand and the United States (document JOB(08)/63).

<sup>60</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.

<sup>61</sup> Modifications to the Principal Sectoral Modality will be considered on a case-by-case basis and would need to be agreed by participating Members.

- (ii) Extend the implementation period for tariff reduction by up to an additional [3] annual rate reductions on up to [4] percent of national forest product tariff lines.

Both options may be used on an individual tariff line.

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

### Product Coverage

10. The forest products product coverage builds upon the Uruguay Round pulp, paper and paper products sector by adding wood (HS 44) and products made of wood such as certain furniture items and pre-fabricated buildings (items in HS 94). The ultimate decision on product coverage rests with the participants in the agreement.

HS 2002	Illustrative Description
HS 44	Wood and articles of wood; wood charcoal
HS 47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard
HS 48	Paper and paperboard; articles of paper pulp, of paper or of paperboard
HS 49	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans
HS 9401.61	Upholstered seats with wooden frames
HS 9401.69	Other seats with wooden frames
HS 9403.30	Wooden furniture of a kind used in offices
HS 9403.40	Wooden furniture of a kind used in the kitchen
HS 9403.50	Wooden furniture of a kind used in the bedroom
HS 9403.60	Other wooden furniture
HS 9403.80	Furniture of other materials including cane, osier, bamboo or similar materials
HS 9406	Prefabricated buildings

## **VII. DRAFT MODALITIES FOR THE LIBERALISATION OF TARIFFS IN THE GEMS AND JEWELLERY SECTOR<sup>62</sup>**

1. Following the communication on 20 September 2005 (TN/MA/W/61), 7 November 2005 (TN/MA/W/61/Add.1), and 20 July 2006 (TN/MA/W/61/Add.2), this document sets out the modality proposal for tariff elimination in the gems and jewellery sector.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on gems and jewellery products identified in paragraph 10 as part of a non-mandatory gems and jewellery sectoral initiative.

### **Procedure/Process**

3. Participants in the gems and jewellery sectoral initiative are expected to fulfil the commitments described in these modalities if 'critical mass' is reached, that is, if WTO Members representing at least [90] per cent of world trade in gems and jewellery have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to gems and jewellery on a conditional basis in conformity with the modalities herein.<sup>63</sup>

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality<sup>64</sup>**

6. Developed Member participants will eliminate tariffs on the products identified in paragraph 10 in [1] rate reduction. The reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

7. Developing Member participants will eliminate tariffs on the products identified in paragraph 10 in [5] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

### **Special and Differential Treatment**

8. Developing Member participants may apply one of the following flexibility options with respect to paragraph 7:

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<sup>62</sup> Submitted by Canada; the European Communities; Hong Kong, China; Japan; Norway; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand and the United States (document JOB(08)/64).

<sup>63</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.

<sup>64</sup> Nothing in this sectoral initiative prevents a participating Member from adopting or enforcing measures relating to importation or exportation of gold or silver in accordance with Article XX of the GATT 1994.

- (i) Bind up to [3] percent of national gems and jewellery product tariff lines at [3] percent, provided these lines do not exceed [3] percent of the total value of the Member's gems and jewellery product imports.
- (ii) Extend the implementation period for tariff reduction by up to an additional [2] annual rate reductions on up to [7] percent of national gems and jewellery product tariff lines, provided these lines do not exceed [7] percent of the total value of the Member's gems and jewellery product imports.

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

### Product Coverage

10. Without prejudice to the positions of co-sponsors, the product coverage of the gems and jewellery sectoral initiative should cover articles under Chapter 71 of the Harmonized System. A possible product coverage list is contained in the table below. The ultimate decision on product coverage rests with the participants in the agreement.

HS 2002	Description
710110	Natural Pearls, Not Mounted Or Set
710121	Cultured Pearls, Unworked
710122	Cultured Pearls, Worked, Not Set
710210	Diamonds, Unsorted
710221	Diamonds, Industrial, Unworked Or Simply Sawn, Cleaved Or Bruted
710229	Diamonds, Industrial, Worked
710231	Diamonds, Non-industrial, Unworked Or Simply Sawn, Cleaved Or Bruted
710239	Diamonds, Non-industrial, Worked, Including Polished Or Drilled
710310	Precious Stones (Other Than Diamonds) And Semiprecious Stones, Unworked Or Simply Sawn Or Roughly Shaped
710391	Rubies, Sapphires And Emeralds, Otherwise Worked
710399	Semiprecious Stones, Otherwise Worked
710410	Piezo-Electric Quartz, Not Mounted Or Set
710420	Synthetic Or Reconstructed Gemstones, Unworked Or Simply Sawn Or Roughly Shaped
710490	Synthetic Or Reconstructed Precious Or Semiprecious Stones Nesoi, Otherwise Worked
710510	Diamond Dust And Powder, Natural And Synthetic
710590	Dust And Powder Of Natural Or Synthetic Precious (Except Diamond) Or Semiprecious Stones
710610	Silver Powder
710691	Silver, Unwrought Nesoi (Other Than Powder)
710692	Silver, Semi-manufactured
710700	Base Metals Clad With Silver, Not Further Worked Than Semi-manufactured
710811	Gold, Nonmonetary, Powder
710812	Gold, Nonmonetary, Unwrought Nesoi (Other Than Powder)
710813	Gold, Nonmonetary, Semi-manufactured Forms Nesoi (Other Than Powder)
710820	Monetary Gold
710900	Base Metals Or Silver, Clad With Gold, Not Further Worked Than Semi-manufactured

HS 2002	Description
711011	Platinum, Unwrought Or In Powder Form
711019	Platinum Metal, Semi-manufactured
711021	Palladium, Unwrought Or In Powder Form
711029	Palladium, Semi-manufactured
711031	Rhodium, Unwrought Or In Powder Form
711039	Rhodium, Semi-manufactured
711041	Iridium, Osmium And Ruthenium, Unwrought Or In Powder Form
711049	Iridium, Osmium And Ruthenium, Semi-manufactured
711100	Base Metals, Silver Or Gold, Clad With Platinum, Not Further Worked Than Semi-manufactured
711230	Ash Containing Precious Metals Or Precious Metal Compounds
711291	Waste And Scrap Of Gold, Including Metal Clad With Gold But Excluding Sweepings Containing Other Precious Metals
711292	Waste And Scrap Of Platinum, Including Metal Clad With Platinum But Excluding Sweepings Containing Other Precious Metals
711299	Waste And Scrap Of Precious Metal, Nesoi
711311	Jewelry And Parts Thereof, Of Silver
711319	Jewelry And Parts Thereof, Of Precious Metal Other Than Silver
711320	Jewelry And Parts Thereof, Of Base Metal Clad With Precious Metal
711411	Articles Of Silver (Other Than Jewelry), Whether Or Not Plated Or Clad With Other Precious Metal
711419	Articles Of Gold Or Platinum (Other Than Jewelry), Whether Or Not Plated Or Clad With Other Precious Metal
711420	Articles Of Goldsmiths' Or Silversmiths' Wares (Other Than Jewelry) And Parts Thereof, Of Base Metal Clad With Precious Metal
711510	Catalysts, Platinum, In The Form Of Wire Cloth Or Grill
711590	Articles Nesoi, Of Precious Metal Or Of Metal Clad With Precious Metal
711610	Articles Of Natural Or Cultured Pearls
711620	Articles Of Precious Or Semiprecious Stones (Natural, Synthetic Or Reconstructed)
711711	Cuff Links And Studs Of Base Metal, Whether Or Not Plated With Precious Metal
711719	Imitation Jewelry Nesoi, Of Base Metal, Whether Or Not Plated With Precious Metal
711790	Imitation Jewelry Nesoi (Not Of Base Metal)
711810	Coin (Other Than Gold Coin), Not Being Legal Tender
711890	Coin, Nesoi

## **VIII. DRAFT MODALITIES FOR THE LIBERALIZATION OF TARIFFS IN THE HAND TOOLS SECTOR<sup>65</sup>**

1. As proposed in the previous communications of 21 April 2006 (ref. JOB(06)/98), tariff elimination in the hand tools sector would help to create greater economic value and lower production costs for this industry, present customers with a wider and more affordable choice of products, and bring about considerable benefits for developing countries and for WTO Members in general.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on hand tools products identified in paragraph 10 as part of a non-mandatory hand tools sectoral initiative.

### **Procedure/Process**

3. Participants in the hand tools sectoral initiative are expected to fulfil the commitments described in these modalities if 'critical mass' is reached, that is, if WTO Members representing at least [90] percent of world trade in Hand tools have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to Hand tools on a conditional basis in conformity with the modalities herein.<sup>66</sup>

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality**

6. Participants will eliminate tariffs on the products identified in paragraph 10 in [5] equal rate reductions or the final implementation period for general tariff reductions by formula, whichever is the shorter.

7. The reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

### **Special and Differential Treatment**

8. Developing Member participants may apply one of the following flexibility options with respect to paragraph 7:

(i) Bind up to [5] percent of national hand tools product tariff lines at [5] percent, provided these lines do not exceed [5] percent of the total value of the Member's Hand tools product imports.

(ii) Extend the implementation period for tariff reduction by up to an additional [2] annual rate reductions on up to [10] percent of national hand tools product tariff lines,

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<sup>65</sup> Submitted by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (document JOB(08)/74).

<sup>66</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.



provided these lines do not exceed [10] percent of the total value of the Member's Hand tools product imports.

- (iii) Another possible flexibility option could be further discussed while the participants in the agreement will ultimately decide all elements of special and differential treatment.

Only one flexibility option may be used on an individual tariff line

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

### Product Coverage

10. Without prejudice to the positions of co-sponsors, the product coverage of the hand tools sectoral initiative should cover articles contained in the table below. The ultimate decision on product coverage rests with the participants in the agreement.

HS Code – 6 Digits	Description
8201.10	Spades and shovels
8201.20	Forks
8201.30	Mattocks, picks, hoes and rakes
8201.40	Axes, bill hooks and similar hewing tools
8201.50	Secateurs and similar one-hand ed pruners and shears (including poultry shears)
8201.60	Hedge shears, two-hand ed pruning shears and similar two-hand ed shears
8201.90	Other hand tools of a kind used in agriculture, horticulture or forestry
8202.10	Hand saws
8202.20	Band saw blades
8202.31	With working part of steel
8202.39	Other, including parts
8202.40	Chain saw blades
8202.91	Straight saw blades, for working metal
8202.99	Other
8203.10	Files, rasps and similar tools
8203.20	Pliers (including cutting pliers), pincers, tweezers and similar tools
8203.30	Metal cutting shears and similar tools
8203.40	Pipe-cutters, bolt croppers, perforating punches and similar tools
8204.11	Non-adjustable
8204.12	Adjustable
8204.20	Interchangeable spanner sockets, with or without hand les
8205.10	Drilling, threading or tapping tools
8205.20	Hammers and sledge hammers
8205.30	Planes, chisels, gouges and similar cutting tools for working wood
8205.40	Screwdrivers
8205.51	Household tools
8205.59	Other
8205.60	Blow lamps
8205.70	Vices, clamps and the like

<b>HS Code – 6 Digits</b>	<b>Description</b>
8205.80	Anvils; portable forges; hand - or pedal-operated grinding wheels with frameworks
8205.90	Sets of articles of two or more of the foregoing subheadings
8206.00	Tools of two or more of the headings Nos.82.02 to 82.05, put up in sets for retail sale

## **IX. DRAFT MODALITIES FOR OPEN ACCESS TO ENHANCED HEALTHCARE<sup>67</sup>**

1. As proposed in the previous communications of 24 February 2006 (ref. JOB(06)/35) and of 27 February 2007 (ref. JOB(07)/23), high tariffs on healthcare products impede access to quality health care, especially in developing countries, which have the lowest life expectancy and highest disease burden. Therefore, all WTO Members, including LDCs, are encouraged to evaluate the benefits of participating in this healthcare sectoral to ensure that they gain access to affordable medicines, medical products and lower cost healthcare for their populations.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on enhanced healthcare goods identified in paragraph 11 as part of a non-mandatory enhanced healthcare sectoral initiative.

3. Addressing non-tariff barriers (NTBs) that limit access to pharmaceuticals and medical devices is particularly important because NTBs can undermine tariff liberalization. In the WTO Agreement on Technical Barriers to Trade (TBT Agreement), Members recognized the need for the protection of human life and health. With a view to facilitating the delivery of medicines and medical devices especially to critical patient populations, Members shall ensure that any standards, technical regulations and conformity assessment procedures are prepared, adopted, and applied in compliance with the TBT Agreement. Members should also keep in mind other discussions relating to NTBs that may impact this sector, such as non-tariff barriers to trade in remanufactured equipment and plasma protein therapeutics.

### **Procedures/Process**

4. Participants in the enhanced healthcare sectoral initiative are expected to fulfil the commitments described in these modalities if 'critical mass' is reached. Critical mass will be reached if WTO Members representing at least [90] percent of world trade in enhanced healthcare goods have indicated their intent to participate.

5. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting their initial draft tariff schedule each participant shall record its commitments on a conditional basis relating to enhanced healthcare in conformity with the modalities herein.<sup>68</sup>

6. Participants should meet no later than one month after the submission of draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality**

7. Developed Member participants will eliminate tariffs on the products identified in paragraph 11 on 1 January of the year following the entry into force of the DDA result.

8. Developing Member participants will eliminate tariffs on the products identified in paragraph 11 in the following two-step process:

- (i) In three equal rate reductions, they will reduce tariffs to [4] per cent. The first reduction will be implemented on 1 January of the year following entry into force of

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<sup>67</sup> Submitted by Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and the United States

<sup>68</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.

the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

- (ii) After the reduction in paragraph 7(i) is implemented, developing participants will reduce tariffs to zero within [5] equal annual rate reductions.

### Special and Differential Treatment

9. Developing Member participants may apply the following flexibilities with respect to paragraph 8:

- (i) Extend the implementation period for tariff reductions by up to an additional seven annual rate reductions on up to [4] percent of the tariff lines in paragraph 11.
- (ii) Least-developed country (LDCs) Members may choose to reduce tariffs on products in paragraph 11 to 4 percent in three equal rate reductions and retain them at that level. They are encouraged to consider further reductions, including tariff elimination, where possible.

10. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

### Product Coverage

11. A possible product coverage list is contained below. The ultimate decision on product coverage rests with the participants in the agreement.

HS4	Description
ex.2844	Radioactive elements and isotopes and compounds
2936	Provitamins & vitamins, natural or reproduced by synthesis (including natural concentrates)
2937	Hormones, prostalgins, thromboxanes & leukotrienes, natural or reproduced by synthesis
2939	Vegetable alkaloids, natural or reproduced by synthesis, & their salts, ethers, esters & other derivatives
2941	Antibiotics
3001	Glands & other organs for organotherapeutic uses, dried, whether or not powdered
3002	Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses
3003	Medicaments (excl goods of 3002, 3005 or 3006) consisting of 2 or more mixed for therapeutic or prophylactic uses
3004	Medicaments (excl goods 3002, 3005, 3006) consisting of mixed/unmixed products therapeutic or prophylactic uses, measured doses
3005	Wadding, gauze, bandages etc for retail sale for medical, surgical, dental or veterinary purposes
3006	Pharmaceutical goods specified in note 4 to this chapter
3822	Diagnostic or Laboratory reagents
ex.3926	Surgical and medical plastic gloves
ex.4015	Surgical and medical rubber gloves
ex.6304	Bednets, treated or untreated, wherever classified

<b>HS4</b>	<b>Description</b>
ex.8419	Medical, surgical or laboratory sterilizers and equipment
ex.8543	Machinery used for nerve stimulation
8713	Motorized and non-motorized wheelchairs
ex.8714	Wheelchair parts
9018	Medical/Surgical instruments and appliances
9019	Therapy appliances; massage apparatus; artificial respiration or other therapeutic respiration apparatus, parts and accessories
9021	Orthopaedic appliances, splints, artificial parts of the body; hearing aids; parts and accessories;
ex.9022	X-ray equipment
ex.9025	Parts of clinical or veterinary thermometers
9402	Medical, surgical, dental or veterinary furniture

## **X. DRAFT MODALITIES FOR THE LIBERALISATION OF TARIFFS IN THE INDUSTRIAL MACHINERY SECTOR<sup>69</sup>**

1. International trade in industrial machinery has become increasingly intensive and can be linked to the ever-growing globalization of production and supply chains, the increase in vertical specialization, and intra-industry trade between Members. The importance of trade in industrial machinery to developing Members is significant and growing. Increasing export opportunities for developing Members through tariff elimination can decrease reliance on resource-based and low technology intensive goods. Eliminating tariffs on industrial machinery also facilitates the import of productivity-enhancing new capital goods to the benefit of the importing Member.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on industrial machinery, equipment and related parts identified in paragraph 10 as part of a non-mandatory industrial machinery sectoral initiative.

### **Procedure/Process**

3. Participants in the industrial machinery sectoral initiative are expected to fulfil the commitments described in these modalities if "critical mass" is reached, that is, if WTO Members representing at least [90] per cent of world trade in industrial machinery have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to industrial machinery on a conditional basis in conformity with the modalities herein.<sup>70</sup>

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality**

6. Developed Member participants will eliminate tariffs on the products identified in paragraph 10 in [4] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

7. Developing Member participants will eliminate tariffs on the products identified in paragraph 10 in [7] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

### **Special and Differential Treatment**

8. Developing Member participants may apply the following flexibility options with respect to paragraph 7:

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<sup>69</sup> Submitted by Canada; the European Communities; Japan; Norway; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and the United States (document JOB(08)/60).

<sup>70</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.

- (i) Bind up to [4] percent of national industrial machinery tariff lines at [5] percent, provided these lines do not exceed [4] percent of the total value of the Member's industrial machinery imports.
- (ii) Extend the implementation period for tariff reduction by up to an additional [2] annual rate reductions on up to [5] percent of national industrial machinery tariff lines.

Only one of the options may be used on an individual tariff line.

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

### Product Coverage

10. Without prejudice to the positions of co-sponsors, a possible product coverage list is contained in the table below. The ultimate decision on product coverage rests with the participants in the agreement.

<b>HS 2002</b>	<b>Illustrative Description</b>
8208	Knives and cutting blades, for machines or for mechanical appliances.
8402	Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers.
8403	Central heating boilers other than those of heading 84.02.
8404	Auxiliary plant for use with boilers of heading 84.02 or 84.03 (for example, economizers, super-heaters, soot removers, gas recoverers); condensers for steam or other vapour power units.
8405	Producer gas or water gas generators, with or without their purifiers; acetylene gas generators and similar water process gas generators, with or without their purifiers.
840681	Turbines, Steam & Other Vapor, Over 40 Mw, N.E.S.O.I
840682	Turbines, Steam And Vapor, Not Over 40 Mw, N.E.S.O.I
840690	Parts For Steam And Other Vapor Turbines
840790	Spark-Ignition Reciprocating/Rotary Internal Combustion Engines, Nesoi
840890	Compression-Ignition Internal Combustion Piston Engines, Nesoi
8410	Hydraulic turbines, water wheels, and regulators therefor.
841181	Gas Turbines Of A Power Not Exceeding 5,000 Kw
841182	Gas Turbines Of A Power Exceeding 5,000 Kw
841199	Gas Turbine Parts Nesoi
8412	Other engines and motors.
841311	Pumps For Dispensing Fuel Or Lubricants, Garage Use
841319	Pumps Fitted With Measuring Device, Nesoi
841320	Hand Pumps, Exc Pumps Fitted With Measuring Devices
841340	Concrete Pumps
841350	Reciprocating Positive Displacement Pumps, Nesoi
841360	Rotary Positive Displacement Pumps, Nesoi
841370	Centrifugal Pumps, Nesoi
841381	Pumps For Liquids, Nesoi
841382	Liquid Elevators
841391	Parts Of Pumps For Liquids
841392	Parts Of Liquid Elevators

HS 2002	Illustrative Description
8414	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters.
841581	Air Conditioning Mach Etc Incl Refrig Unit Etc
841582	Air Conditioning Mach Etc Incorp Refrig Unit Nesoi
841583	Air Conditioning Machines Etc Not Incl Refrig Unit
841590	Parts, Nesoi, Of Air Conditioning Machines
8416	Furnace burners for liquid fuel, for pulverized solid fuel or for gas; mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances.
8417	Industrial or laboratory furnaces and ovens, including incinerators, non-electric.
841810	Combined Refrigerator-Freezers W Separate Doors
841830	Freezers, Chest Type, Capacity Not Exc 800 Liters
841840	Freezers, Upright, Capacity Not Exc 900 Liters
841850	Refrigerating/Freezing Display Counters Etc
841861	Compres Type Heat Pump Unit W Heat Ex Nesoi
841869	Refrigerating/Freezing Equipment, Nesoi
841899	Refrigerator Freezer And Heat Pump Parts Nesoi
841911	Instantaneous Gas Water Heaters
841919	Instant/Storage Water Heatrs Ex Instant Gas Wtr Ne
841931	Dryers For Agricultural Products
841932	Dryers For Wood, Paper Pulp, Paper Or Paperboard
841939	Dryers, Nesoi
841940	Distilling Or Rectifying Plant
841950	Heat Exchange Units, Industrial Type
841960	Machinery For Liquefying Air Or Gas
841981	Machinery Etc For Making Hot Drinks Cooking Heatng
841989	Machine Etc For Mat'L Treatment By Temp Cont Nesoi
841990	Parts For Machinery Plant Or Lab Equipment Etc
8420	Calendering or other rolling machines, other than for metals or glass, and cylinders therefor.
8421	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases.
842219	Dishwashing Machines, Except Household Type
842220	Mach For Clean Or Dry Bottles Or Other Containers
842230	Machinery For Filling, Closing Bottles, Etc
842240	Packing Or Wrapping Machinery, Nesoi
842290	Parts For Machines For Dishwashing, Packing, Etc
842320	Scales Fr Continuous Weighing Of Goods On Conveyor
842330	Const-Weight Scales & Dischrng Predet Wghts In Bag
842381	Weigh Machy, Nesoi, Capacity <30 Kg
842382	Weigh Mach, Nesoi, Capacity >30Kg But =<5000 Kg
842389	Weighing Machinery, Nesoi, Capacity >5000 Kg
842390	Weighing Machine Weights & Pts Of Weighing Machine
8424	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines.
8425	Pulley tackle and hoists other than skip hoists; winches and capstans; jacks.
8426	Ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane.



HS 2002	Illustrative Description
8427	Fork-lift trucks; other works trucks fitted with lifting or handling equipment.
8428	Other lifting, handling, loading or unloading machinery (for example, lifts, escalators, conveyors, teleferics).
8429	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers.
8430	Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers.
8431	Parts suitable for use solely or principally with the machinery of headings 84.25 to 84.30.
8432	Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers.
8433	Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 84.37.
8434	Milking machines and dairy machinery.
8435	Presses, crushers and similar machinery used in the manufacture of wine, cider, fruit juices or similar beverages.
8436	Other agricultural, horticultural, forestry, poultry-keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders.
8437	Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables; machinery used in the milling industry or for the working of cereals or dried leguminous vegetables, other than farm-type machinery.
8438	Machinery, not specified or included elsewhere in this Chapter, for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable fats or oils.
8439	Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paperboard.
8440	Book-binding machinery, including book-sewing machines.
8441	Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds.
8442	Machinery, apparatus and equipment (other than the machine-tools of headings 84.56 to 84.65) for preparing or making plates, cylinders or other printing components; plates cylinders and other printing components; plates, cylinders and lithographic stones, prepared for printing purposes (for example, planed, grained or polished).
8443	Printing machinery used for printing by means of plates, cylinders and other printing components of heading 84.42; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof.
8444	Machines for extruding, drawing, texturing or cutting man-made textile materials.
8445	Machines for preparing textile fibres; spinning, doubling or twisting machines and other machinery for producing textile yarns; textile reeling or winding (including weft-winding) machines and machines for preparing textile yarns for use on the machines of heading 84.46 or 84.47.
8446	Weaving machines (looms).
8447	Knitting machines, stitch-bonding machines and machines for making gimped yarn, tulle, lace, embroidery, trimmings, braid or net and machines for tufting.
8448	Auxiliary machinery for use with machines of heading 84.44, 84.45, 84.46 or 84.47 (for example, dobbies, Jacquards, automatic stop motions, shuttle changing mechanisms); parts and accessories suitable for use solely or principally with the

HS 2002	Illustrative Description
	machines of this heading or of heading 84.44, 84.45, 84.46 or 84.47 (for example, spindles and spindle flyers, card clothing, combs, extruding nipples, shuttles, healds and heald-frames, hosiery needles).
8449	Mach F Manuf Or Finish Nonwovens;Hat Blocks; Parts
845020	Washing Machines With Dry Linen Capacity Of 10 Kg
845090	Pts Of Household Or Lndry-Typ Wash Mac Inc Wash/Dry
845110	Dry-cleaning machines
845129	Drying Machines With Dry Linen Capacity Over 10 Kg
845130	Ironing Mach And Presses (Includ Fusing Presses)
845140	Washing, Bleaching Or Dyeing Machines
845150	Mach For Reel,Unreel,Folding,Cut Or Pink Text Fab
845180	Machinery For Textile Finish Etc & Pasting Fabric
845190	Pts For Wash/Clean, Pasting Floor Covers Etc
845221	Sew Mach, Exc Household Type, Automatic Units
845229	Sewing Mach, Except Household & Automatic Type
845230	Sewing Machine Needles
845240	Furniture, Bases & Covers For Sewing Mach & Parts
845290	Parts For Sewing Machines, Neso
8453	Machinery for preparing, tanning or working hides, skins or leather or for making or repairing footwear or other articles of hides, skins or leather, other than sewing machines.
8454	Converters, ladles, ingot moulds and casting machines, of a kind used in metallurgy or in metal foundries.
8455	Metal-rolling mills and rolls therefor.
8456	Machine-tools for working any material by removal of material, by laser or other light or photon beam, ultrasonic, electro-discharge, electro-chemical, electron beam, ionic-beam or plasma arc processes.
8457	Machining centres, unit construction machines (single station) and multi-station transfer machines, for working metal.
8458	Lathes (including turning centres) for removing metal.
8459	Machine-tools (including way-type unit head machines) for drilling, boring, milling, threading or tapping by removing metal, other than lathes (including turning centres) of heading 84.58.
8460	Machine-tools for deburring, sharpening, grinding, honing, lapping, polishing or otherwise finishing metal, or cermets by means of grinding stones, abrasives or polishing products, other than gear cutting, gear grinding or gear finishing machines of heading 84.61.
8461	Machine-tools for planning, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine-tools working by removing metal, or cermets, not elsewhere specified or included.
8462	Machine-tools (including presses) for working metal by forging, hammering or die-stamping; machine-tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching; presses for working metal or metal carbides, not specified above.
8463	Other machine-tools for working metal or cermets, without removing material.
8464	Machine-tools for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass.
8465	Machine-tools (including machines for nailing, stapling, glueing or otherwise assembling) for working wood, cork, bone, hard rubber, hard plastics or similar hard materials.

HS 2002	Illustrative Description
8466	Parts and accessories suitable for use solely or principally with the machines of headings 84.56 to 84.65, including work or tool holders, self-opening dieheads, dividing heads and other special attachments for machine-tools; tool holders for any type of tool for working in the hand.
8467	Tools for working in the hand, pneumatic, hydraulic or with self-contained electric or non-electric motor.
8468	Machinery and apparatus for soldering, brazing or welding, whether or not capable of cutting, other than those of heading 85.15; gas-operated surface tempering machines and appliances.
8474	Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand.
8475	Machines for assembling electric or electronic lamps, tubes or valves or flash-bulbs, in glass envelopes; machines for manufacturing or hot working glass or glassware.
8476	Automatic goods-vending machines (for example, postage stamp, cigarette, food or beverage machines), including money-changing machines.
8477	Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this Chapter.
8478	Machinery for preparing or making up tobacco, not specified or included elsewhere in this Chapter.
8479	Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter.
8480	Moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials, rubber or plastics.
8481	Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves.
848590	Other

## **XI. DRAFT MODALITIES FOR THE SECTORAL TARIFF ELIMINATION IN THE RAW MATERIAL SECTOR<sup>71</sup>**

1. As proposed in the previous communication of 3 May 2007 (TN/MA/W37/Add.4/Rev1), tariff elimination in the raw materials sector is an important component of a successful outcome of the Doha Development Agenda, especially considering paragraph 16 of the Mandate. Raw materials are the fuel of the world economy. Their liberalisation would contribute in many key areas to achieving a fair level playing field and to widening the range of competitively priced products. This would encourage competition, innovation, investment (notably in downstream transformation), price stability and predictability (or at least reduction in speculative price volatility), all this promoting healthier and more transparent markets, as well as jobs growth. It would be equally beneficial to developed and developing countries.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the [reduction or] elimination of tariffs on raw materials identified in the list in annex ("Indicative product coverage for raw materials") as one of the non-mandatory sectoral initiatives.

### **Procedure/Process**

3. Participants in the raw materials sectoral initiative are expected to fulfil the commitments described in these modalities if "critical mass" is reached, that is, if WTO Members representing [90] per cent of global trade in raw materials have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation in the raw materials sectoral initiative no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each Member that notified its participation ("participants") shall have its commitments relating to raw materials incorporated on a conditional basis in conformity with the modalities therein.

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality**

6. Participants will eliminate tariffs on the products identified in the list annexed ("indicative product coverage for raw materials") [immediately at the entry into force of the DDA results].

### **Special and Differential Treatment**

7. [Developing Member participants may apply flexibility options].

### **Product Coverage**

9. A possible product coverage list is contained in the attached annex. The ultimate decision on product coverage rests with the participants in the agreement.

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<sup>71</sup> Submitted by the United Arab Emirates (TN/MA/W/37/Add.5).

**Annex 1**

**Indicative product coverage for raw materials**

<b>HS 2002</b>	<b>POSSIBLE TARIFF LINES FOR INCLUSION</b>
2501	SALT (INCLUDING TABLE SALT AND DENATURED SALT) AND PURE SODIUM CHLORIDE, WHETHER OR NOT IN AQUEOUS SOLUTION OR CONTAINING ADDED ANTI-CAKING OR FREE-FLOWING AGENTS; SEA WATER.
2505	NATURAL SANDS OF ALL KINDS, WHETHER OR NOT COLOURED, OTHER THAN METAL BEARING SANDS OF CHAPTER 26.
2515	MARBLE, TRAVERTINE, ECAUSSINE AND OTHER CALCAREOUS MONUMENTAL OR BUILDING STONE OF AN APPARENT SPECIFIC GRAVITY OF 2.5 OR MORE, AND ALABASTER, WHETHER OR NOT ROUGHLY TRIMMED OF MERELY CUT, BY SAWING OR OTHERWISE, INTO BLOCKS OF SLABS OF A RECTANGULAR SHAPE.
2516	GRANITE PORPHYRY, BASALT, SANDSTONE AND OTHER MONUMENTAL OR BUILDING STONE, WHETHER OR NOT ROUGHLY TRIMMED OR MERELY CUT, BY SAWING OR OTHERWISE, INTO BLOCKS OR SABLs OF A RECTANGULAR (INCLUDING SQUARE) SHAPE
2519	NATURAL MAGNESIUM CARBONATE (MAGNESITE); FUSED MAGNESIA; DEAD-BURNED (SINTERED) MAGNESIA, WHETHER OF NOT CONTAINING SMALL QUANTITIES OF OTHER OXIDES ADDED BEFORE SINTERING; OTHER MAGNESIUM OXIDE, WHETHER OR NOT PURE.
2520	GYPSUM; ANHYDRITE; PLASTERS (CONSISTING OF CALCINED GYPSUM OR CALCIUM SULPHATE) WHETHER OR NOT COLOURED, WITH OR WITHOUT SMALL QUANTITIES OF ACCELERATORS OR RETARDERS.
2523	PORTLAND CEMENT, ALUMINOUS CEMENT, SLAG CEMENT, SUPERSULPHATE CEMENT AND SIMILAR HYDRAULIC CEMENTS, WHETHER OR NOT COLOURED OR IN THE FORM OF CLINKERS.
2530	MINERAL SUBSTANCES NOT ELSEWHERE SPECIFIED OR INCLUDED
2601	IRON ORES AND CONCENTRATES, INCLUDING ROASTED IRON PYRITES:
2601.11	-- Non-agglomerated
2601.12	-- Agglomerated
2602.00	MANGANESE ORES AND CONCENTRATES, INCLUDING FERRUGINOUS MANGANESE ORES AND CONCENTRATES WITH A MANGANESE CONTENT OF 20% OR MORE, CALCULATED ON THE DRY WEIGHT.
2603.00	COPPER ORES AND CONCENTRATES
2604.00	NICKEL ORES AND CONCENTRATES
2605.00	COBALT ORES AND CONCENTRATES
2606.00	ALUMINIUM ORES AND CONCENTRATES
2607.00	LEAD ORES AND CONCENTRATES
2608.00	ZINC ORES AND CONCENTRATES
2609.00	TIN ORES AND CONCENTRATES
2610.00	CHROMIUM ORES AND CONCENTRATES
2611.00	TUNGSTEN ORES AND CONCENTRATES
2612.00	URANIUM OR THORIUM ORES AND CONCENTRATES
2614.00	TITANIUM ORES AND CONCENTRATES
2615.00	NIObIUM, TANTALUM, VANADIUM OR ZIRCONIUM ORES AND CONCENTRATES
2616.00	PRECIOUS METAL ORES AND CONCENTRATES
2620.00	ASH AND RESIDUES (OTHER THAN FROM THE MANUFACTURE OF IRON OR STEEL), CONTAINING ARSENIC, METALS OR THEIR COMPOUNDS
2701	COAL; BRIQUETTES, OVOIDS AND SIMILAR SOLID FUELS MANUFACTURED FROM COAL.
2704	COKE AND SEMI-COKE OF COAL, OF LIGNITE OR OF PEAT, WHETHER OR NOT AGGLOMERATED; RETORT CARBON.

HS 2002	POSSIBLE TARIFF LINES FOR INCLUSION
2707	OILS AND OTHER PRODUCTS OF THE DISTILLATION OF HIGH TEMPERATURE COAL TAR; SIMILAR PRODUCTS IN WHICH THE WEIGHT OF THE AROMATIC CONSTITUENTS EXCEEDS THAT OF THE NON-AROMATIC CONSTITUENTS.
2708	PITCH AND PITCH COKE, OBTAINED FROM COAL TAR OR FROM OTHER MINERAL TAR.
2709	PETROLEUM OILS AND OILS OBTAINED FROM BITUMINOUS MINERALS.
2710	PETROLEUM OILS AND OILS OBTAINED FROM BITUMINOUS MINERALS, OTHER THAN CRUDE; PREPARATIONS NOT ELSEWHERE SPECIFIED OF INCLUDED, CONTAINING BY WEIGHT 70% OF MORE OF PETROLEUM OILS OR OILS OBTAINED FROM BITUMINOUS MINERALS, THESE OILS BEING THE BASIC.
2711	PETROLEUM GASES AND OTHER GASEOUS HYDROCARBONS.
2715.00	BITUMINOUS MIXTURE BASED ON NATURAL ASPHALT, ON NATURAL BITUMEN, ON PETROLEUM BITUMEN, ON MINERAL TAR OR MINERAL TAR PITCH (FOR EXAMPLE, BITUMINOUS MASTICS, CUT-BACKS)
2818	ARTIFICIAL CORUNDUM, WHETHER OR NOT CHEMICALLY DEFINED; ALUMINIUM OXIDE; ALUMINIUM HYDROXIDE.
2820	MANGANESE OXIDES.
7101	PEARLS, NATURAL OR CULTURED, WHETHER OR NOT WORKED OR GRADED BUT NOT STRUNG, MOUNTED OR SET; PEARLS, NATURAL OR CULTURED, TEMPORARILY STRUNG FOR CONVENIENCE OF TRANSPORT.
7102	DIAMONDS, WHETHER OR NOT WORKED, BUT NOT MOUNTED OR SET
7203	FERROUS PRODUCTS OBTAINED BY DIRECT REDUCTION OF IRON ORE AND OTHER SPONGY FERROUS PRODUCTS, IN LUMPS, PELLETS OR SIMILAR FORMS; IRON HAVING A MINIMUM PURITY BY WEIGHT IN LUMPS, PELLETS OR SIMILAR FORMS
7204	FERROUS WASTE AND SCRAP; REMELTING SCRAP INGOTS OF IRON OR STEEL
	- WASTE AND SCRAP OF ALLOY STEEL:
7204.21	-- OF STAINLESS STEEL
7204.29	-- OTHER
	- OTHER WASTE AND SCRAP
7204.49	-- OTHER
7401	COPPER MATTES; CEMENT COPPER (PRECIPITATED COPPER):
7401.10	- Copper mattes
7401.20	- Cement copper (precipitated copper)
7402.00	UNREFINED COPPER; COPPER ANODES FOR ELECTROLYTIC REFINING.
7403	REFINED COPPER AND COPPER ALLOYS, UNWROUGHT:
7403.1	Refined copper :
7403.11	- Cathodes and sections of cathodes
7403.12	- Wire-bars
7403.13	- Billets
7403.19	- Other
7403.2	- Copper alloys:
7403.21	- Copper-zinc base alloys (brass)
7403.22	- Copper-tin base alloys (bronze)
7403.23	- Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver)
7403.29	- Other copper alloys (other than master alloys of heading 7405)
7404.00	COPPER WASTE AND SCRAP
7405.00	MASTRAL ALLOYS OF COPPER
7406	COPPER POWDERS AND FLAKES:
7406.10	-Powders of non-lamellar structure
7406.20	-Powders of lamellar structure; flakes
7501	NICKEL MATTES, NICKEL OXIDE SINTERS AND OTHER INTERMEDIATE PRODUCTS OF NICKEL METALLURGY.

HS 2002	POSSIBLE TARIFF LINES FOR INCLUSION
7502	UNWROUGHT NICKEL.
7504	NICKEL POWDERS AND FLAKES
7601	UNWROUGHT ALUMINIUM
7601.10	Aluminium, not alloyed
7601.20	Aluminium alloys
7602.00	ALUMINIUM WASTE SCRAP
7603	ALUMINIUM POWDERS AND FLAKES :
7603.10	-powders of non-lamellar structure
7603.20	-powders of lamellar structure
7801	UNWROUGHT LEAD
7901	UNWROUGHT ZINC
8104	MAGNESIUM AND ARTICLES THERE OF, INCLUDING WASTE AND SCRAP:
8104.1	-Unwrought magnesium :
8104.11	- Containing at least 99.8% by weight of magnesium
8104.19	- Other
8104.20	-waste and scrap
8104.30	-raspings, turnings and granules, graded according to size; powders
8105	COBALT MATTES AND OTHER INTERMEDIATE PRODUCTS OF COBALT METALLURGY; COBALT AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP
8111.00	MANGANESE AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP

## **XII. DRAFT MODALITIES FOR THE LIBERALIZATION OF TARIFFS IN THE SPORTS EQUIPMENT SECTOR<sup>72</sup>**

1. As proposed in the previous communications of 5 April 2007 (ref. TN/MA/W/85) and 21 September 2005 (ref. JOB(05)/201), tariff elimination in the sports equipment sector would help to create greater economic value and lower production costs for this industry, present customers with a wider and more affordable choice of products, and bring about considerable benefits for developing countries and for WTO Members in general.

2. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on sports equipment products identified in paragraph 10 as part of a non-mandatory sports equipment sectoral initiative.

### **Procedure/Process**

3. Participants in the sports equipment sectoral initiative are expected to fulfil the commitments described in these modalities if ‘critical mass’ is reached, that is, if WTO Members representing at least [90] percent of world trade in sports equipment have indicated their intent to participate.

4. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to sports equipment on a conditional basis in conformity with the modalities herein.<sup>73</sup>

5. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

### **Principal Sectoral Modality**

6. Participants will eliminate tariffs on the products identified in paragraph 10 in [5] equal rate reductions or the final implementation period for general tariff reductions by formula, whichever is the shorter.

7. The reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

### **Special and Differential Treatment**

8. Developing Member participants may apply one of the following flexibility options with respect to paragraph 7:

- (i) Bind up to [5] percent of national sports equipment product tariff lines at [5] percent, provided these lines do not exceed [5] percent of the total value of the Member’s sports equipment product imports.
- (ii) Extend the implementation period for tariff reduction by up to an additional [2] annual rate reductions on up to [10] percent of national sports equipment product

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<sup>72</sup> Submitted by Norway; Singapore, Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and the United States (document JOB(08)/75).

<sup>73</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.



tariff lines, provided these lines do not exceed [10] percent of the total value of the Member's sports equipment product imports.

- (iii) Another possible flexibility option could be further discussed while the participants in the agreement will ultimately decide all elements of special and differential treatment.

9. In any year in which an affected tariff would be reduced further by commitments resulting from the agreed NAMA modalities than by these sectoral modalities, the lower of the resulting tariffs will be applied to the affected tariff line.

### Product Coverage

10. Without prejudice to the positions of co-sponsors, the product coverage of the sports equipment sectoral initiative should cover articles contained in the table below. The ultimate decision on product coverage rests with the participants in the agreement.

HS Code – 6 Digits	Description
ex 6307.20*	Life vests
ex 6506.10*	Safety headgear
8903.10	Other inflatable rowing boats and canoes
8903.91	Sailboats, assembled or unassembled, with or without auxiliary motor
8903.92	Motor boats, assembled or unassembled, other than outboard motorboats
8903.99	Other articles of heading No. 8903
9504.20	Articles and accessories for billiards
9504.90	Other
9506.11	Skis
9506.12	Ski-fastenings (ski-bindings)
9506.19	Other
9506.21	Sailboards
9506.29	Other
9506.31	Clubs, complete
9506.32	Balls
9506.39	Other
9506.40	Articles and equipment for table-tennis
9506.51	Lawn-tennis rackets, whether or not strung
9506.59	Other
9506.61	Lawn-tennis balls
9506.70	Ice skates and roller skates, including skating boots with skates attached
9506.91	Articles and equipment for general physical exercise, gymnastics, or athletics
9506.99	Other
9507.10	Fishing rods
9507.20	Fish-hooks, whether or not snelled
9507.30	Fishing reels
9507.90	Other
9508.00	Roundabouts, swings, shooting galleries and other fairground amusements; travelling circuses, travelling menageries, and travelling theatres

\* The product coverage of the specific tariff line is limited to only the description in the table.

### **XIII. DRAFT MODALITIES FOR THE LIBERALIZATION OF TARIFFS IN THE TEXTILES, CLOTHING AND FOOTWEAR SECTOR<sup>74</sup>**

#### **Product Coverage**

HS Chapters 50-64

All NTBs as well as export restrictions on raw materials for the products included must equally be removed.

#### **Modality for Tariff Reduction**

End Rate: as close to zero as possible

#### **S&D Treatment**

To be decided by participants.

#### **Participation**

All Members should participate.

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<sup>74</sup> Submitted by the European Communities (document JOB(08)/78).

#### **XIV. DRAFT MODALITIES FOR THE LIBERALISATION OF TARIFFS IN THE TOYS SECTOR<sup>75</sup>**

1. In accordance with paragraph [12(a)] of the NAMA modalities, this document sets out modalities for the reduction or elimination of tariffs on toys identified in paragraph 8 as part of a non-mandatory toys sectoral initiative.

##### **Procedure/Process**

2. Participants in the toys sectoral initiative are expected to fulfil the commitments described in these modalities if 'critical mass' is reached, that is, if WTO Members representing at least [90] per cent of world trade in toys have indicated their intent to participate.

3. Members are encouraged to notify proponents and the WTO Secretariat of their participation no later than two months after the establishment of NAMA modalities. When submitting its comprehensive draft schedule, each participant shall record its commitments relating to toys on a conditional basis in conformity with the modalities herein.<sup>76</sup>

4. Participants should meet no later than one month after the submission of comprehensive draft schedules to review the state of participation and decide how to proceed.

##### **Principal Sectoral Modality**

5. Developed Member participants will eliminate tariffs on the products identified in paragraph 8 on 1 January of the year following the entry into force of the DDA results.

6. Developing Member participants will eliminate tariffs on the products identified in paragraph 8 in [3] equal rate reductions. The first reduction will be implemented on 1 January of the year following entry into force of the DDA results and each successive reduction shall be made effective on 1 January of each of the following years.

##### **Special and Differential Treatment**

7. Special and Differential Treatment will be considered on a case-by-case basis and would need to be agreed by participating Members.

##### **Product Coverage**

8. The product coverage for the toys sectoral fully encompasses the Uruguay Round zero-for-zero agreement and include HS chapters 9501-9505, covering traditional toys, games, and festive articles. The ultimate decision on product coverage rests with participating Members.

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<sup>75</sup> Submitted by Hong Kong, China and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (document JOB(08)/66).

<sup>76</sup> Those Members having their schedule prepared by the Secretariat will notify their participation to the Secretariat.

<b>HS2002</b>	<b>Description</b>
9501	Wheeled toys designed to be ridden by children (for example, tricycles, scooters, pedal cars); dolls' carriages
9502	Dolls representing only human beings
9503	Other toys; reduced-size (scale) models and similar recreational models, working or not; puzzles of all kinds
9504	Articles for funfair, table or parlour games, including pinball machines, billiards, special tables for casino games and automatic bowling alley equipment
9505	Festive, carnival or other entertainment articles, including conjuring tricks and novelty jokes

**ANNEX 7**

**Option 1**

**List of tariff sectoral initiatives proposed, participants and Members having announced their readiness to participate**

<b>Sectoral initiative</b>	<b>Participants</b>	<b>Members having announced their readiness to participate</b>
1. Automotives and related parts	Japan	
2. Bicycle and related parts	Singapore; Switzerland; Chinese Taipei, and Thailand	
3. Chemicals	Canada; the European Communities; Japan; Norway; Singapore; Switzerland; Chinese Taipei; United States	
4. Electronics/ electrical products	Hong Kong, China; Japan; Korea; Singapore; Thailand and the United States	
5. Fish and fish products	Canada; Hong Kong, China; Iceland; New Zealand; Norway; Oman; Singapore; Thailand and Uruguay	
6. Forest products	Canada; Hong Kong, China; New Zealand; Singapore; Switzerland; Thailand and the United States	
7. Gems and jewellery	Canada; the European Communities; Hong Kong, China; Japan; Norway; Singapore; Switzerland; Chinese Taipei; Thailand and the United States	
8. Hand tools	Chinese Taipei	
9. Open access to enhanced healthcare	Singapore; Switzerland; Chinese Taipei and the United States	
10. Raw materials	United Arab Emirates	
11. Industrial machinery	Canada; the European Communities; Japan; Norway; Singapore; Switzerland; Chinese Taipei and the United States	
12. Sports equipment	Norway; Singapore, Switzerland; Chinese Taipei and the United States	
13. Textiles, clothing and footwear	European Communities	
14. Toys	Hong Kong, China; Chinese Taipei	

**Option 2**

**1. LIST OF TARIFF SECTORAL INITIATIVES PROPOSED**

1. Automotives and related parts
2. Bicycle and related parts
3. Chemicals
4. Electronics/electrical products
5. Fish and fish products
6. Forest products
7. Gems and jewellery
8. Hand tools
9. Open access to enhanced healthcare
10. Raw materials
11. Industrial machinery
12. Sports equipment
13. Textiles, clothing and footwear
14. Toys
- ...

**2. MEMBERS THAT AGREE TO PARTICIPATE IN NEGOTIATING THE TERMS**

1. Canada
  2. European Communities
  3. Hong Kong, China
  4. Iceland
  5. Japan
  6. Korea
  7. New Zealand
  8. Norway
  9. Oman
  10. Singapore,
  11. Switzerland
  12. Thailand
  13. Chinese Taipei
  14. United Arab Emirates
  15. United States
  16. Uruguay
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