

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Negotiating Text

Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations,
and Conformity Assessment Procedures for Automotive Products

Communication from the European Communities

The following communication, dated 7 September 2009, is being circulated at the request of the delegation of the European Communities.

On the basis of the proposal for an Agreement on non-tariff barriers pertaining to standards, technical regulations, and conformity assessment procedures for automotive products as contained in the compilation of texts of the Chairman of the Negotiating Group on Market Access of 6 December 2008 (TN/MA/W/103/Rev.3), the European Communities have the honour of presenting herewith textual additions to this proposal that are designed to complement it and make it compatible with those regulatory approaches for automotive products which are based on type-approval systems. The European Communities are grateful to the United States for providing a first legal text which served as the basis for this completed textual proposal.

In an effort to bridge systemic differences between regulatory systems based on self-certification and systems based on type-approval, this completed textual proposal equally responds concretely to the request made by the Global Automotive Industry Dialogue (GAID) to provide solutions to non-tariff barriers in the trade of automotive products.

The automotive industry is one of the most globalised manufacturing industries – as the current economic crisis has more than sufficiently demonstrated. Markets are interlinked to such an extent that only global approaches will bring viable solutions. This completed textual proposal outlines a process leading to a situation where using one global set of international standards and a single type approval will be sufficient to commercialise in any participating Member country a vehicle produced in any other Member country. Unnecessary duplications and variations will no longer be required.

The process outlined contains numerous elements of voluntary participation of WTO Members. National regulators will thereby retain the full control on their participation in the process. At the same time, this proposal recognises the high quality work of the World Forum for the Harmonisation of Vehicle Regulations (WP.29), within the framework of the United Nations Economic Commission for Europe (UN ECE). This UN body already today establishes the "regulations", as defined in the "Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions" (1958 Agreement) and in the "Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles" (1998 Agreement). It is in this context that global regulatory cooperation should take place.

Strengthening of international harmonisation through a gradual convergence process is one of the cornerstones of the proposal. In particular, the "regulations" elaborated by UNECE WP.29 demonstrate a quality that makes it possible for national regulators to rely on them without any further addition. Several jurisdictions do already use these "regulations" directly for ensuring safety on their markets.

The completed textual proposal recognises the well functioning and well tested mutual recognition system operating under the 1958 Agreement. The important novel element is that those countries that operate a self-certification system are provided with the possibility to nominate a qualified authority to deliver type approvals for export markets operating type approval systems, without a need to change their domestic regulations. This feature should deliver to manufacturers located in regulatory systems based on self-certification considerable advantages when engaging on global markets, whilst ensuring highest levels of safety. A Member's participation will determine the advantages received by its exporters. In order to profit from the openness of other markets, a Member will have to open its market.

A key concept of the completed textual proposal is "functional equivalence". In practice, many national technical regulations do not differ considerably, but may still not be the same. However, those divergent requirements do create substantial additional costs to manufacturers, resulting in considerable price increases for consumers. In this light, the proposal foresees a framework whereby a Member declares that, in order to fulfil the technical requirements contained in its technical regulation, it is sufficient to comply with all relevant technical requirements of a "functionally equivalent" technical regulation.

Finally, aspects that have already been present in the earlier proposal text as collated by the Chair, such as for instance good regulatory practice and transparency, have of course been included into the completed textual proposal, to take account of the global interconnection relevant for regulation, production and trade in the automotive sector.

The completed textual proposal is as follows:

Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations,
and Conformity Assessment Procedures for Automotive Products

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 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;

Agree as follows:

1. SCOPE AND COVERAGE

1.1 This Agreement shall apply with respect to any automotive product. Automotive product includes any product classifiable under the Harmonized System subheadings specified in Annex I of this Agreement.

1.2 Members assume obligations under this Agreement only with respect to standards, technical regulations, and conformity assessment procedures.

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

1.4 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.

2. REGULATORY APPROACHES

2.1 This Agreement shall be neutral with regard to the regulatory approach a Member follows. For the application of technical regulations different administrative procedures exist and are in use. Two alternative approaches are generally known as type approval system or self-certification system. Members recognise that both systems have advantages and affirm that the choice of system remains in the sole judgement of the Member.

2.2 A type approval system indicates a regulatory approach relying on the use of an administrative procedure by which the competent authorities of one Member declare, after carrying out the required verifications that a vehicle, equipment or parts submitted by the supplier conform to the requirements of a given technical regulation. Afterwards the supplier ensures that each vehicle, equipment or parts put on the market were produced to be identical with the approved product.

2.3 A self-certification system relies on the fact that the supplier is required to certify, without any preliminary administrative control, that each product put on the market conforms to mandatory technical regulations; the competent administrative authorities may verify by random sampling on the market that the self-certified products comply with the requirements of a given technical regulation.

STANDARDS, TECHNICAL REGULATIONS, AND CONFORMITY ASSESSMENT PROCEDURES

3. INTERNATIONAL STANDARDISATION AND REGULATORY CONVERGENCE

3.1 International Standard-Setting Body

Members recognize that the World Forum for the Harmonisation of Vehicle Regulations (WP.29), within the framework of the United Nations Economic Commission for Europe (UN ECE), is the main relevant international standard-setting body for the products covered by this Agreement.

3.2 Regulatory Convergence and Harmonization

3.2.1 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 the appropriate international standardizing bodies of international standards, guides and recommendations pertaining to automotive products.

3.2.2 Members commit to participate actively in the development of Regulations in the standard-setting body identified in paragraph 3.1 and shall cooperate for the adoption, without undue delay, of new Regulations by this body.

3.2.3 Members undertake to review technical regulations covered by this Agreement with a view to increasing their convergence to applicable international standards at regular intervals, not exceeding five years. When reviewing their existing technical regulations, Members shall consider whether the circumstances that have given rise to any national divergence from a relevant international standard continues to exist. The Member shall notify this reason together with a full technical description of the divergence to the Subcommittee established in Article 11 and the World Forum for the Harmonisation of Vehicle Regulations.

3.2.4 The World Forum for the Harmonisation of Vehicle Regulations shall review these divergences and the reasons and report to the Subcommittee of this Agreement about the state of harmonisation with regard to its Regulations, not less than every [three] years.

3.2.5 No later than [10] years from the entry into force of this Agreement, all legislation by a Member addressing a policy area covered by a Regulation adopted by the body identified in 3.1 shall be based on and shall be fully in line with such Regulation.

3.2.6 During this process of international convergence, Members shall actively review their domestic legislation with a view to enhancing compatibility of their technical requirements with relevant international standards.

3.3 Good Regulatory Practice

3.3.1 Where a Member prepares or proposes to adopt a technical regulation or conformity assessment procedure, in the case where a relevant international standard or a relevant guide or recommendation issued by an international standardizing body does not exist, 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 fulfill the Member's legitimate objective, such as market incentives or other voluntary mechanisms.

3.3.2 For regulatory activities in areas where a relevant international standard or a relevant guide or recommendation issued by an international standardizing body does not exist, any Member shall publish, on a regular basis, a regulatory agenda which includes any standard, technical regulation, or conformity assessment procedures that it reasonably expects to issue in proposed or final form within the coming future covering no less than the following 12 month period.

3.3.3 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.

3.4 Development of International Standards

For international standards to make a maximum contribution to the achievement of trade facilitation for the products under this Understanding, Members confirm the importance they attach to the principles announced in the Decision of the WTO Committee on Technical Barriers to Trade (G/TBT/1/Rev.8) of 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*) on the development of international standards.

3.5 Products with New Technologies or New Features

3.5.1 No Member shall prevent or unduly delay the placing on its market of a product on the ground that it incorporates a new technology or a new feature which has not yet been regulated unless it can demonstrate, based on scientific or technical information, that this new technology or new feature creates a risk for human health, safety or the environment.

3.5.2 When a Member decides to refuse the placing on the market or require the withdrawal from the market of a product on the ground that it incorporates a new technology or a new feature creating a risk for human health, safety or the environment, it shall immediately notify this decision to the Member of origin of the product and to the economic operator concerned. The notification shall include all relevant scientific or technical information.

4. EQUIVALENCE OF DOMESTIC TECHNICAL REGULATIONS WITH INTERNATIONAL STANDARDS

4.1 Any Member may list domestic technical regulations for which this Member declares functional equivalence with a Regulation in Annex 2.

4.2 Any automotive product that complies with the requirements of a Regulation listed by a Member in Annex 2 shall be accepted by that Member as complying with the technical requirements of the applicable domestic technical regulations listed correspondingly. For this area, no further technical requirements shall be stipulated in the domestic legislation of the importing Member, unless foreseen explicitly by such a Regulation.

5. MUTUAL RECOGNITION OF DOMESTIC TECHNICAL REGULATIONS ON THE BASIS OF INTERNATIONAL STANDARDS

5.1 Until the convergence to international standards is completed as referred to in paragraph 3.2.5, any Member may declare in Annex 3 its recognition of a technical requirement of another Member as functionally equivalent with the technical requirements of its domestic technical regulation *provided* that both Members reciprocate this recognition of equivalence in its part of this Annex 3 and that at least one of the two Members has also listed the relevant technical requirements in Annex 2.

5.2 Any automotive product of a recognised Member that complies with the requirements of the corresponding domestic technical regulation of the recognised Member as listed by the recognising Member in Annex 3 shall be accepted by the recognising Member as complying with the technical requirements of its applicable domestic technical regulations. For this area, no further technical requirements shall be stipulated in the domestic legislation of the importing Member.

6. MUTUAL RECOGNITION OF CONFORMITY ASSESSMENT

6.1 Independently of the regulatory approach mentioned in Article 2 that a Member has chosen for part or the full set of its technical regulations for products covered by this Agreement, Members are invited to join both the Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (1958 Agreement) and the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles (1998 Agreement).

6.2 Members with type-approval systems shall join the plurilateral system of recognition of type-approvals under the rules of the Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions, for any technical regulation declared in Annex 3 so as to benefit from the in-built mutual recognition system under the 1958 Agreement.

6.3 Members with self-certification systems may join the plurilateral system of type-approvals under the rules of the Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions, so as to benefit from the in-built mutual recognition system of this 1958 Agreement. After joining this plurilateral system, such a Member has the right of nominating its monitoring body (or any body fulfilling the same criteria of expertise required under domestic law) in accordance with the rules and conditions of the 1958 Agreement as its domestic type approval authority for the purpose of delivering approvals recognised amongst participants of this plurilateral system. This monitoring body shall be entitled to deliver type approvals for the purpose of exporting to members with type-approval systems under the rules and conditions of the 1958 Agreement.

6.4 Members not joining the above-mentioned plurilateral system of mutual recognition shall accord to conformity assessment bodies in the territory of any other Member treatment no less favourable than that they accord 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.

6.5 Conformity assessment bodies that are allowed to operate under the plurilateral system of recognition of type-approvals under the 1958 Agreement shall be deemed fulfilling all requirements necessary in order to operate under a domestic conformity assessment system of any other Member.

7. POST-MARKET SURVEILLANCE

7.1 Any Member's regulatory authorities retain their rights of requiring adequate and complete information, or the production of required assurances of conformity, or the random sampling on its markets of vehicles allowed to circulate on its territory. Such verifications shall not constitute a disguised means of arbitrary or unjustifiable discrimination against the products of another Member.

7.2 If a Member requires test results for the purposes of post-market surveillance (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 a conformity assessment procedure that the Member has adopted and published in accordance with the provisions of paragraphs 8.1 and 8.3.

7.3 Conformity assessment bodies that are allowed to operate under the plurilateral system of recognition of type-approvals under the 1958 Agreement shall be deemed fulfilling all requirements necessary in order to operate under a domestic conformity assessment system of any other Member.

7.4 Without prejudice to the 1958 and 1998 Agreements, 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.

7.5 Notwithstanding compliance with the technical regulations or the requirements listed in Annex 2 and Annex 3, a Member may, in exceptional circumstances, refuse to a supplier the placing of a product on its market or require a supplier to withdraw that product from its market if there are urgent and compelling risks for road safety, public health or environmental protection based on substantiated scientific or technical information. Such a refusal shall not constitute a means of arbitrary or unjustifiable discrimination against the products of the other Member or a disguised restriction on trade. Before it is implemented, any such temporary emergency measure shall be notified to the Member of the product's origin and to the supplier with an objective, reasoned and sufficiently detailed explanation of the motivation for the measure.

**TRANSPARENCY, PROCEDURES FOR JUDICIAL REVIEW,
AND CONFIDENTIAL INFORMATION**

8. TRANSPARENCY

8.1 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 produces) 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 fulfillment 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) allow reasonable time (normally at least 60 days) for Members and interested parties to comment in writing on the proposal,¹ and (ii) take into account any such comments;

¹ 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.

- (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.

8.2 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 8.1 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.

8.3 When publishing a standard, technical regulation, or conformity assessment procedure that it has adopted, or if paragraph 8.2 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:

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

² 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).

8.4 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 an official journal of national circulation, and shall encourage their distribution through additional outlets.

8.5 Except in those urgent circumstances referred to in paragraph 8.2, 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.

8.6 Interested parties of any Member shall be allowed to notify to any two Members, with copy to the Subcommittee established in Article 11, a proposed list of technical requirements in the two respective legislative regimes which they consider as functional equivalent. The regulatory authorities of these two Members shall consider these proposals promptly with a view to enlarging their entries in Annex 3.

9. PROCEDURES FOR JUDICIAL REVIEW

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.

10. CONFIDENTIAL 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.

ADMINISTRATION, DISPUTE SETTLEMENT, AND FINAL PROVISIONS

11. 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;
- (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); and
- (5) maintain and update the Annexes 2 and 3 on the basis of notifications provided by Members.

12. 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]

13. 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]

The Annexes to this Agreement constitute an integral part thereof.

DEFINITIONS

Regulation is any "regulation" as defined in the Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (1958 Agreement) and in the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles (1998 Agreement).

Functionally equivalent are any two or more technical regulations, possibly different, for which a Member declares that in order to fulfil the technical requirements contained in its technical regulation it is sufficient to comply with all relevant technical requirements of the functionally equivalent technical regulation.

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

Interested party [is not mentioned in the TBT Agreement; a definition should be added]

Other terms are defined as in Annex 1 of the TBT Agreement.

Annex 1

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 2

**List of technical regulations for which Members declare equivalence with
WP.29 Regulations**

[Heading UNECE Reg. or GTR, below rows: Declaring Member, relevant member's legislation: title, leg. reference]

Example:

WP.29 Regulation: Title

Declaring Member	Technical requirements of declaring Member
Member 1	
Member 2	
Member 3	
Member 4	
Member 5	
...	
Member N	

Annex 3

List of Mutual Recognition of Domestic Technical Requirements on the basis of International Standards

[Heading member recognising other members' technical regulation; first column: UNECE Reg./GTR, second: recognising member's legislation, third: title, fourth: recognised members' legislation]

Examples:

Recognising Member: *Member 1*

Recognised Member: *Member 2*

WP.29 Regulation	Title	EC technical requirements	US corresponding requirements

Recognising Member: *Member 2*

Recognised Member: *Member 1*

WP.29 Regulation	Title	US technical requirements	EC corresponding requirements

Recognising Member: *Member M*

Recognised Member: *Member N*

WP.29 Regulation	Title	EC technical requirements	US corresponding requirements

Recognising Member: *Member N*

Recognised Member: *Member M*

WP.29 Regulation	Title	US technical requirements	EC corresponding requirements

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Answers by the co-sponsors to Questions from Singapore on the “Ministerial Decision on Trade in Remanufactured Goods”

Communication from Japan, Switzerland, and the United States

The following communication, dated 27 May 2009, is being circulated at the request of the co-sponsors of the proposed “Ministerial Decision on Trade in Remanufactured Goods.”

Question: G.1. Paragraph 5 - Why is the definition in the proposal substantially different from those seen in the US’ free trade agreements? The difference could be found in product scope and the criteria of life expectancy, performance standards, and warranty.

Answer: The definition of a remanufactured good proposed by the co-sponsors (which is in brackets) does contain language on warranty. However, we believe that life expectancy and performance standards are not relevant characteristics in this proposal’s non-binding definition.

In U.S. free trade agreements, the definition of a remanufactured good is linked to the definition of a recovered good in a binding rules-of-origin chapter of the agreement. This proposal does not address recovered goods, nor can it address rules of origin, and so must be substantially different from the relevant provisions in U.S. free trade agreements. The only binding obligation in our proposal is for Members to meet every six months to discuss barriers to trade in remanufactured goods. There is no requirement for Members to implement the definition of remanufactured good into their own domestic legislation or regulation.
