

**ENVIRONMENTAL GOODS**

Submission by New Zealand

Paragraph 31 (iii)

The following submission, dated 9 February 2005, is being circulated at the request of the delegation of New Zealand.

**I. INTRODUCTION**

1. The issue of environmental goods and services is one of the areas in the environment sphere on which specific multilateral negotiations have been agreed. Paragraph 31 of the Doha Declaration states:

“With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome on ...

- (iii) the reduction or, as appropriate, elimination of tariffs and non-tariff barriers to environmental goods and services.”

2. There appears to be a widely shared view that the Committee on Trade and Environment in Special Session (CTESS) should work on clarifying the definition or scope of environmental goods while not prejudging the responsibility of the Negotiating Group on Market Access (NGMA) for negotiating the modalities for liberalization of such goods in accordance with the Doha mandate.<sup>1</sup> Paragraph 17 of the NAMA Framework which Members agreed in July 2004<sup>2</sup> encourages the Negotiating Group on Market Access to work closely with the Committee on Trade and Environment in Special Session to address the issue of non-agricultural environmental goods. This proposal seeks to respond to that guidance.

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<sup>1</sup> The Minutes of the 10-11 October 2002 meeting of the CTESS, for instance, recall that there was broad support amongst Members for negotiations on environmental goods being conducted in the NGMA, and that while some called on the CTESS to clarify the concept of environmental goods, others, while not opposing definitions being developed in the CTESS, could not accept any sequencing between the work in the two bodies.

<sup>2</sup> WT/GC/W/535 Annex B.

## II. A “REFERENCE POINTS” APPROACH: DEFINING BY DOING

3. A clear problem for the CTESS process remains: How can we agree a definition of an industry that is continually evolving? Various approaches have been utilized and these vary in terms of their criteria and their scope. These fall into two broad categories:

- Narrowly focused definitions (i.e. those which are limited primarily to pollution prevention activities); and
- Broad-based definitions (i.e. those that extend beyond simply end-use criteria).

4. In an effort to focus the discussion on environmental goods, a paper submitted by New Zealand in 1999 on the basis of work by APEC members provided details of a sectoral liberalization proposal on environmental goods.<sup>3</sup> More recently, New Zealand has joined other Members in seeking to reflect on how best to move the process on environmental goods forward. Our paper in 2002, for instance, sought to summarize previous work that could help clarify the concept of environmental goods.<sup>4</sup> A number of Members have suggested that the OECD and APEC work be utilized in the development of a list of environmental goods. Some Members have also provided suggested lists of environmental goods, including products of specific interest to developing countries, which they have proposed be included in the market access negotiations on environmental goods.

5. Although it might be possible to proceed with negotiations without a formally agreed definition of “environmental goods”, it is worth reflecting on the potential for difficulties when, in the absence of an agreed definition, a list of environmental goods is under development. What products will be on the list and which ones will be excluded? How will Members be able to credibly include specific products on the list in the face of questions by other Members who may doubt the environmental credentials of that product?

6. Given that there appears to be an emerging preference to “define by doing”, New Zealand proposes the following pragmatic solution to this question. Rather than formally negotiating an agreed definition of environmental goods, Members could use a set of “reference points” which may be cited to initiate a discussion about the environmental credentials of a specific good. Potential reference points which may be used to begin a discussion on whether a good should appear on a list of environmental goods may include:

- The OECD’s<sup>5</sup> definition of environmental industries;
- APEC’s conceptualization<sup>6</sup> of environmental goods; and
- approaches to environmental goods agreed through high quality and comprehensive regional or bilateral Free Trade Agreements.

7. In effect, a reference point approach provides a screening mechanism designed to ensure that products proposed for inclusion on any agreed list of environmental products meet a basic threshold. Absence of any reference point for a particular product would mean that it would not achieve the threshold requirement for discussion in terms of possible inclusion on a list of environmental goods.

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<sup>3</sup> WT/GC/W/138/Add.1.

<sup>4</sup> TN/TE/W/6.

<sup>5</sup> The OECD defines the environmental industry as comprising: “activities which produce goods and services to measure, prevent, limit, minimise or correct environmental damage to water, air and soil as well as problems related to waste, noise and eco systems” OECD (1999) *The Environmental Goods and Services Industry: Manual for Data Collection and Analysis*, OECD Publications, Paris.

<sup>6</sup> The descriptive section of WT/GC/W/138/Add.1 contains further details on the approach adopted by APEC, though it is also worth recalling that APEC economies utilized the OECD definition cited in footnote 3.

8. It is important to note that even when a product has the requisite reference point, this simply means that a discussion can be initiated on whether the product should be included on the list of environmental goods. In short, the use of a reference point does not automatically confer environmental goods status for the purpose of the establishment of a list through the WTO process.

9. In this context, New Zealand supports Canada's recent intervention on which categories to use in developing a list of environmental goods. In addition to the groupings Canada has proposed<sup>7</sup>, New Zealand suggests the following categories to help develop the list of environmental goods:

- Wastewater management (e.g. screens and strainers, chemical recovery systems etc);  
and
- natural risk management (e.g. seismic instruments).

### III. DUAL-LISTS

10. If the process described above is utilized, i.e. whereby reference points function as a screening mechanism as an initial step, then this would assist in the generation of a "raw" list of potential environmental goods. New Zealand considers that the next step should be to develop a single consensus list of products that is as comprehensive as possible. This consensus-based list would be the "core list". This would include those products around which there is already a broad consensus that these are environmental goods. New Zealand further proposes that all of the products which appeared on the core list would be subject to accelerated or deeper reduction or, as appropriate, elimination of tariffs within a specified time frame. This process would also take into account discussions on the non-tariff barriers to the trade in such products with the aim of simultaneously reducing or, as appropriate eliminating these over the same period on an accelerated basis.

11. However, it is clear from the exchanges to date that there may be merit in moving beyond a single consensus list. New Zealand supports the proposal<sup>8</sup> that a complementary list of environmental goods could be established which would include additional products on which a definitive consensus could not be reached, but where there is a sufficiently broad acknowledgement that these goods can have significance for environmental protection, sustainability, and so on. Again, the reference points noted above would be utilized to help initiate discussion on the inclusion of specific goods on this list. Goods appearing on the complementary list would be available for the consideration of all Members.

12. In New Zealand's view, this complementary list could operate in such a way that Members would undertake to nominate a very high percentage (say 85%) of the products on the complementary list for accelerated or deeper tariff reduction. The specific items to be included in this percentage would be self-selected. These products would be subject to the same process proposed for the core list, i.e. accelerated reduction/deepening or, as appropriate, elimination of tariffs within a specified time frame. As with the core list, this process would also take into account the need to simultaneously accelerate the reduction or, as appropriate elimination of the non-tariff barriers on these goods.

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<sup>7</sup> In JOB(04)/98, 16 July 2004, Canada proposed the following categories for consideration: air pollution control; water pollution control; solid/hazardous waste management; remediation/clean-up of soil and water; noise/vibration abatement; environmental monitoring, analysis and assessment equipment; potable water treatment; recycling systems; renewable energy plant; heat/energy management; and soil conservation.

<sup>8</sup> The US proposal contained in TN/MA/W/18/Add.5 and TN/TE/W/38 of 7 July 2003 refers to this.

#### IV. MAKING THE LISTS OF ENVIRONMENTAL GOODS “LIVING LISTS”

13. Environmental goods are an evolving category. As was evident for the information technology industry, it will be important for the development of a list of environmental goods that the process be dynamic rather than static. Not only are environmental goods difficult to identify and classify, they are continually developing in new and often unexpected directions. The OECD, for instance, has estimated that half of the environmental goods likely to be in use within the coming decade do not currently exist.<sup>9</sup>

14. New Zealand proposes therefore that any lists of environmental goods that are developed at the WTO should be considered “living lists”. There are useful precedents to consider in this regard. The 1996 Ministerial Declaration on Trade in Information Technology Products (ITA) and the Uruguay Round “zero-for-zero” initiative on the Trade in Pharmaceutical Products were developed on the assumption that the lists of products covered by these agreements would need to stay abreast of and be responsive to technological breakthroughs.<sup>10</sup> A similar conceptualization should be utilized in the establishment of living lists of environmental goods

15. A living lists approach would comprise the two distinct lists of environmental goods proposed above, i.e. a core and a complementary list. New Zealand urges making both lists “living” in the sense that they could be updated and expanded to reflect the reality of the evolution of environmental goods not least in the context of technological change.

16. How best to operationalize this idea in practice could benefit from further discussions among Members. One possible option may be to establish a process to allow for the updating of the lists between Rounds.

17. The maintenance, updating and expansion of living lists of environmental goods could perhaps be the focus of future CTE meetings. An item agreed by consensus (drawing on the appropriate reference points) for inclusion on the core living list after a Round has concluded would become subject to the reduction commitments applying to that list. In respect of the complementary list, the aim of regular exchanges would be to reach a sufficiently broad agreement using the reference points cited earlier, to allow specific items to be added to the complementary list. In the event of a consensus emerging around a product already on the complementary living list or a new item, that this is indeed an environmental good, the product could then be transferred directly onto the core living list.

18. It is against this background that New Zealand expects to table for discussion at a forthcoming CTE session a detailed list of goods for discussion and possible inclusion on any consensus-based living list. For each product listed appropriate reference points will be identified.

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<sup>9</sup> OECD (1998) *The Global Environmental Goods and Services Industry*, OECD Publications, Paris.

<sup>10</sup> Ronald Steenblik (2004) “Lessons from GATT/WTO Sectoral Initiatives”, Presentation to the WTO Workshop on Environmental Goods, Geneva, 11 October, [http://www.wto.org/english/tratop\\_e/envir\\_e/wksp\\_goods\\_oct04\\_ewksp\\_goods\\_oct04\\_e.htm](http://www.wto.org/english/tratop_e/envir_e/wksp_goods_oct04_ewksp_goods_oct04_e.htm)