

Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 8-11 November 2004

Chairperson: Ambassador S.H. Jóhannesson (Iceland)

The Negotiating Group adopted the agenda for the meeting as contained in WTO/AIR/2429 and Add.1. The following items were taken up in informal mode with the exception of discussions under item 2(d), to which these Minutes refer:

1. Technical issues related to the formula
 - (a) Conversion of non *ad valorem* duties into *ad valorem* equivalents
 - (b) Treatment of unbound duties
 - (c) Transposition of Members' schedules into HS2002
 - (d) Data availability (TN/MA/S/2/Rev.1)
2. Non-tariff barriers (NTBs)
 - (a) Presentation by the Secretariat on NTBs
 - (b) Revised overview of the proposals submitted on NTBs (TN/MA/9/Rev.1), prepared by the Secretariat
 - (c) NTB Notifications by Members (Argentina, India, Japan, Singapore, the Separate Customs Territory of Taiwan, Penghu; Kinmen and Matsu) (TN/MA/W/46/Add. 4-7)
 - (d) Members' NTB submissions/proposals:
 - NTBs of the Electronics Industry: Korea's contribution to vertical approach to NTBs negotiation (TN/MA/W/6/Add.4)
3. Secretariat study on the Market Access issues related to products of export interest originating from LDCs (TN/MA/S/12)
4. Secretariat updated annotated selected bibliography of research on market access (TN/MA/S/1/Add.2)

I. MEMBERS' NTB SUBMISSIONS/PROPOSALS ON NTBs

1. The representative of Korea introduced Korea's proposal on NTBs of the Electronics Industry, Korea's Contribution to Vertical Approach to NTBs Negotiation (document TN/MA/W/6/Add.4). He recalled that during the October 2004 NAMA meeting his delegation had discussed how the vertical

approach could be used as a modality to remove NTBs and had proposed the selection criteria to which the vertical approach could be applied. The selection criteria proposed were: (1) industry of common interest for both developed and developing countries; (2) industry whose share in global trade was high; and (3) industry which had shown steady growth. According to Korea, the electronics industry met those criteria. Korea believed that the review on applying the vertical approach to the electronics industry would contribute to making the discussion on NTBs more efficient in the NAMA Group. It was with this objective in mind that Korea had submitted this proposal.

2. Korea's proposal consisted of four parts entitled as follows: Chapter I: Introduction; Chapter II: Why NTBs are Important to the Electronics Industry; Chapter III : How to Eliminate "the Electronics NTBs"; and Chapter IV: Conclusion.

3. Chapter I summarized the trend of past NTB discussions and the industry selection criteria. Chapter II explained why it was important to consider the electronics industry in discussing NTBs. In particular, paragraphs 2 and 3 provided the characteristics of the electronics industry, as well as the production and trade statistics of both developed and developing countries, illustrating that the industry was important to both developed and developing countries. Paragraph 4 mentioned the share of the electronics industry's export in total export, attesting that its share in global trade was substantial. The extensive data on the industry's share in total export over a ten-year period was also evidence that the electronics industry had steadily grown over the past years. Paragraphs 6 and 7 demonstrated the efforts to analyse the actual situation based on the survey conducted by a Korean research institute and Members' NTB notifications. The outcome of the analysis demonstrated the importance of discussing the NTBs in the electronics industry. According to the analysis on the NTB notifications, the number of notifications on NTBs in the electronics industry was the highest among manufactured goods. In the survey conducted by the Korean institute, more than 65% of Korean exporting companies in the electronics industry had pointed out that NTBs had greater impact as trade barriers than tariffs. In paragraph 9, major NTBs in the electronics industry were classified into five types, namely: (1) TBT; (2) customs clearance; (3) quantitative restrictions; (4) pre-shipment inspection; and (5) others. Specific examples were given for each of the cited types.

4. In Chapter II, a procedural roadmap on removing NTBs was proposed. Solutions for each type of NTBs were laid out. This was the most difficult part to write, and he believed that it should be developed as Members continued their discussion. The proposal laid out solutions for each type of NTB. However, as explained in paragraph 12, Korea's basic stance regarding this was for the NAMA Group to establish a comprehensive system to monitor NTBs, and to provide a discussion channel for Members. In this manner, they would feel less pressure and would be induced to improve NTBs through peer pressure. The last Section summarized the Korean proposal stressing that special and differential treatment (S&D) for developing countries and least developing countries (LDCs) was also crucial when establishing NTB negotiating modalities.

5. The representative of New Zealand welcomed the Korean submission. As a preliminary comment, he wished to state that this paper made a major contribution to the thinking on how to deal with NTBs. He was particularly struck by the similarities of experience between Korea in the electronics industry and New Zealand in forestry. The proposal pointed to an approach that the Negotiating Group could take in order to work on NTB. This approach was basically to build up areas of interest in the sectors which were of most concern to various Members. In this way a package approach to NTBs would develop. The Korean paper also made the point that for Korea's electronics industry, NTBs were more important than tariffs and that was true of a lot of sectors. He would agree with Korea's observation that Part III of the paper was the most difficult to write. The truth was that it was very difficult to go beyond list-making and elaborate concrete ideas on how to address NTBs. As a preliminary comment on Part III, he found it interesting that Korea had suggested elimination of quantitative restrictions or restrictions on trade licensing. He sought clarification from Korea

concerning the difference between production share and market share/market size in the attachment to the submission.

6. The representative of Chinese Taipei welcomed Korea's paper and recalled that NTBs were an integral part of the NAMA negotiations. The scope of NTBs was very wide and how to deal with NTBs was a growing issue. With this in mind, his delegation was of the view that Korea's paper constituted a worthwhile discussion model. The Korean paper identified NTBs facing the electronics industry, and some of these NTBs were horizontal in nature. Therefore he believed that through this vertical approach some horizontal issues could also be addressed. He encouraged Members to see how, and to what extent, the Negotiating Group could tackle NTBs, using the Korean paper as a test case.

7. The representative of the European Communities thanked Korea for the thoughtful and thought provoking paper. In his view, Korea had captured convincingly the reality of how damaging NTBs were in terms of market access. Additionally, his delegation had liked Korea's approach in focussing on areas where either the rules were inexistent or insufficiently clear. As Members were aware, his delegation believed that the Negotiating Group was not the forum for a discussion of rules which were perfectly satisfactory in themselves but imperfectly applied or implemented. At the same time, the Communities did not think that Korea's paper constituted a vertical approach. Many of the issues cited in that paper were not typical or unique to the electronics industry; they applied across the industrial spectrum. His delegation believed that the Negotiating Group should be looking at issues which could be addressed using a horizontal approach. Concerning insufficient rules, the Korean submission focused particularly on TBT matters. However, there was no negotiating vehicle which enabled this Group to improve the TBT Agreement. Lastly, there were a number of other matters that might be useful to address, but WTO was not the appropriate place to deal with them; for instance Mutual Recognition Agreements (MRAs) negotiated at the multilateral level.

8. The representative of Singapore welcomed the Korean paper. The proposal was a thorough analysis of a particular sector, which was also a sector of importance to Singapore. It could be a creative way of dealing with a vertical approach to NTBs. She also found some suggestions made in the paper, such as the peer review mechanism, interesting but wished to reflect more on this, as well as on the workability of the MRA model and where customs clearance issues should be addressed.

9. The representative of Argentina found the Korean paper interesting. He also had some general questions regarding the vertical or sectoral NTB approach. First he wished to know whether, given the proposed selectivity criteria, this vertical approach would comply with paragraph 16 of the DDA, where product coverage was to be comprehensive without *a priori* exceptions. The second concerned the scope of the vertical approach. What type of NTBs would be tackled using such an approach. He recalled that there had been a lot of discussion about how difficult it would be to deal with NTBs which related to existing agreements or areas under negotiations. This question had come up because in looking at Korea's paper, he had seen that many of the problems related to the implementation of the TBT Agreement or trade facilitation issues.

10. The representative of Costa Rica thanked Korea for the excellent paper. The electronics industry was one to which his delegation attached high importance given that it was one of Costa Rica's main export product. In view of the fact that the majority of the products that were considered to be electronics were covered by the ITA Agreement, it might be in that sector where one would see most the impact of NTBs.

11. The representative of the United States thanked Korea for its submission which, in her view, would help the Negotiating Group move past the procedural discussion to a substantive one. The electronics industry was a sector of interest to both developed and developing countries. The paper also constituted a concrete example of how the vertical approach could be used to deal with a variety of barriers faced by a single industry. Her delegation was particularly interested in Korea's ideas

about how "compliance issues" might be dealt with through the vertical approach, and also found particularly interesting that the paper highlighted the problem faced by all Members, which was that as soon as one NTB was removed, another one appeared.

12. Her delegation saw the vertical approach as a tool which would help Members define the needs of an individual industry. It was a tool for Members to figure out how such problems could be addressed. At the same time, questions such as were there similar problems being faced in other sectors could also be answered. So the real utility in using a vertical approach was to help Members assess how NTBs might be more effectively addressed within a sector. Examining a whole range of sectors would also allow Members to see where similarities existed and where Members might benefit from a horizontal agreement. Where problems appeared to be unique to a couple of markets, it might be best to deal with them through a request/offer approach. In response to the questions posed by Argentina, she said that such an approach did not exclude anything, but rather helped to define areas where problems existed and to identify a way forward.

13. The representative of Korea thanked the various delegations for their comments. In response to New Zealand's question regarding the difference between production data and market data, he stated that production data meant all production by domestic industries, while market data meant all demand in the domestic market.

14. Concerning the vertical approach, Korea's idea was to select and focus the discussion on several specific industries such as the electronics industry, in which both developed and developing countries had a keen interest and where the benefits of NTB elimination were substantial.

15. As mentioned earlier, there were three criteria to select the industry to which the vertical approach could be applied. Also, the Group could choose some specific industries from the list of NTB notifications made by Members. For example, according to the list of NTB notifications sent by Members to the Secretariat, notifications concerning the electronics industry were the highest among manufactured goods.

16. As for the sub-group to deal with NTBs, Korea had suggested a technical working group, which would consist of experts. The sub-group would consist of experts from existing WTO bodies such as TBT, SPS, Import Licensing and ITA, experts from the NTB notifying countries and experts from the responding countries. Third parties could also take part in the discussion. The objective of the sub-group would be to list the NTBs signalled by Members for that sector, seek solutions concerning their removal, and report the results of the group's work to the NAMA Group. The NAMA Group did not have the expertise to discuss NTBs, thus a sector-specific sub-group could discuss issues effectively with a view to eliminating NTBs which were particular to an industry. After it had accomplished its task, the sub-group would cease to exist.

17. Concerning a monitoring mechanism, Korea's basic idea was to have a mechanism that monitored the implementation of the results. It would be desirable for the NAMA Group to establish a comprehensive system to monitor NTBs which would provide a channel of discussion for Members. This would respond to some Members' reluctance to make use of the Dispute Settlement Understanding (DSU), which was considered a complicated and time-consuming procedure, to deal with NTBs having a minimal economic impact.

18. The Negotiating Group took note of the statements.
