

MODALITIES FOR NON-AGRICULTURAL MARKET ACCESS

Vertical NTB Modality

Communication from the United States

Addendum

The following communication, dated 28 May 2003, has been received from the Permanent Mission of the United States.

1. At the April 14-16 meeting of the Negotiating Group on Market Access, a number of practical questions were raised about the U.S. proposal for “vertical” non-tariff barrier (NTB) agreements as a negotiating modality, as proposed in TN/MA/W/18/Add.1 of 25 March 2003. The United States is pleased to offer some further details on how the vertical NTB modality might work.

Introduction

2. The United States considers that NTB packages which bundle together a number of NTB issues relevant to a single industry could be a creative new approach for dealing with NTBs. In today’s world, many industries are highly globalized and, in fact, often meet with their counterparts in regional or multilateral trade associations. In such international meetings, industry representatives discuss NTBs from the perspective of their particular industry. At the beginning of the negotiating process (i.e., before tariffs are liberalized), industries want assurance that NTBs critical to their market access will also be addressed, so that they will achieve real market access. Then, at the end of the Doha NTB negotiations, industries will assess the results in terms of how their particular industry benefits. The United States believes that by adopting this single industry, or vertical, approach as one NTB modality, it will be easier to manage the negotiating process and sell the results to industry in some cases.

3. WTO Members are well aware of the significant time constraints for the DDA negotiations, the large number of NTBs of interest to various parties, and the need to agree on a manageable approach that will pay real dividends to industry and contribute to growth and development for all WTO trading partners. Given the globalized nature of many industries and the well-developed international business ties, a vertical approach will make it easier for industries around the world to engage in the Doha NTB negotiations and to add value, in particular where global industry interests converge.

4. The United States has suggested automotive products and textiles and apparel as possible priority areas for vertical NTB agreements. We note that there are other highly-globalized industries with common interests in reducing trade barriers, and we remain open to suggestions from others on additional industry areas that would be appropriate for the vertical approach. For example, at the

April 14-16 NGMA meeting, several WTO Members suggested fish and forest products as possible sectors for vertical agreements. One Member noted that vertical agreements in areas of interest to developing countries could constitute a form of S&D in the NTB negotiations. The United States welcomes these suggestions, and looks forward to further discussion with interested WTO colleagues.

What would a vertical NTB agreement look like?

5. The United States considers the vertical approach to be highly flexible. A vertical NTB package could include a mix of multilateral, and plurilateral (including positive) elements. Individual WTO Members can customise the vertical agreement by adding bilateral issues negotiated on a request/offer basis.

6. The multilateral elements could be negotiated “horizontally” in the NGMA or in another negotiating group. Such multilateral elements would likely be generic, but of particular interest to a particular industry (e.g., customs procedures). The plurilateral elements could also be negotiated in the NGMA or in another negotiating group if appropriate. Such plurilateral elements would more likely (but not necessarily) be specific to a particular industry – for example, particularly burdensome documentation required for imports of a specific industry.

7. The United States also suggests that the “positive” agreements we proposed in document TN/MA/W/18/Add.1 of 25 March 2003 could be an additional element of vertical NTB packages. To reiterate the example of a positive agreement that we cited in document TN/MA/W/18/Add.1 of 25 March 2003, in a particular situation or for a particular group of products, a group of Members would agree to implement international standards on an MFN basis. We would note that Members already are free to adopt such standards in any case, subject to the provisions of the TBT agreement. Doing so in the context of vertical NTB packages would be just another way to reduce fragmentation and promote harmonization efforts where they make sense.

8. Participation in vertical NTB packages is another flexible element. Multilateral aspects of the package would clearly include all WTO Members. The vertical package, however, can also include plurilateral, positive, and bilateral elements. The United States suggests that the core group of countries needed for the various plurilateral or positive elements of a single vertical agreement need not be the same. For example, there could be 20 WTO Members agreeing to one plurilateral element, and these 20 plus an additional 16 Members agreeing to another plurilateral element. All agreements within a single vertical package -- whether multilateral, plurilateral, positive, or bilateral – would be applied on an MFN basis.

9. There is no intention to re-open existing agreements through this vertical agreement process.

Role of the NGMA in negotiating vertical NTB agreements

10. The proposed vertical NTB agreements are essentially packages of various NTB elements that pertain to a single industry. It will be up to Members of the NGMA to identify the elements of a particular vertical package – e.g., customs documentation, licensing, etc. The Members of the NGMA will then need to determine if the issues are being dealt with elsewhere in the WTO, or whether they should be negotiated in the NGMA. If the issue is being dealt with elsewhere (for example, generic customs issues), then NGMA Members will need to devise appropriate mechanisms to ensure that the NGMA is fully informed of the developments in other committees or negotiating groups. If the issue is not already being dealt with elsewhere, then it could either be taken up by the NGMA or interested WTO Members could pursue it in other appropriate committees or negotiating groups.

11. The United States suggests that to facilitate transparency in the negotiation of vertical agreements, the NGMA should include a regular item on its agenda for reports of progress in other

committees or negotiating groups. While these reports could come directly from the chairs of such committees or negotiating groups, the United States suggests that it would be equally valuable to hear presentations from NGMA members pursuing particular initiatives in other committees or negotiating groups. For example, under such an agenda item, the United States might flag a proposal that it made in another group, others might raise other initiatives being pursued in another group, and still others might report on the status of relevant request/offer negotiations being conducted bilaterally or plurilaterally within the NGMA.

12. As indicated above, once the elements of a particular vertical package are agreed, the NGMA may have a role in negotiating one or more of the elements.

13. At the end of the negotiation, the NGMA will have two tasks: first, to repackage the elements of the vertical NTB agreement including results from the work of other committees or negotiating groups; and second, to devise appropriate mechanisms for memorialising commitments. For example, this could take the form of a short summary with the various elements listed; whether each element is multilateral, plurilateral, etc.; if plurilateral, then a list of signatories to each plurilateral agreement.
