


出國報告審核表

出國報告名稱：參加世界貿易組織非農產品市場進入(NAMA)談判會議出國報告		
出國人姓名(2人以上,以1人為代表)	職稱	服務單位
柯誠德	一等商務秘書	經濟部國際貿易局
出國類別	<input type="checkbox"/> 考察 <input type="checkbox"/> 進修 <input type="checkbox"/> 研究 <input type="checkbox"/> 實習 <input checked="" type="checkbox"/> 其他 <u>國際會議</u> (例如國際會議、國際比賽、業務接洽等)	
出國期間：99年5月15日至99年5月22日		報告繳交日期：99年5月31日
計畫主辦機關審核意見	<input checked="" type="checkbox"/> 1.依限繳交出國報告 <input checked="" type="checkbox"/> 2.格式完整(本文必須具備「目的」、「過程」、「心得及建議事項」) <input checked="" type="checkbox"/> 3.無抄襲相關出國報告 <input checked="" type="checkbox"/> 4.內容充實完備 <input checked="" type="checkbox"/> 5.建議具參考價值 <input type="checkbox"/> 6.送本機關參考或研辦 <input type="checkbox"/> 7.送上級機關參考 <input type="checkbox"/> 8.退回補正,原因: <input type="checkbox"/> 不符原核定出國計畫 <input type="checkbox"/> 以外文撰寫或僅以所蒐集外文資料為內容 <input type="checkbox"/> 內容空洞簡略或未涵蓋規定要項 <input type="checkbox"/> 抄襲相關出國報告之全部或部分內容 <input type="checkbox"/> 電子檔案未依格式辦理 <input type="checkbox"/> 未於資訊網登錄提要資料及傳送出國報告電子檔 <input type="checkbox"/> 9.本報告除上傳至出國報告資訊網外,將採行之公開發表: <input type="checkbox"/> 辦理本機關出國報告座談會(說明會),與同仁進行知識分享。 <input type="checkbox"/> 於本機關業務會報提出報告 <input type="checkbox"/> 其他 _____ <input type="checkbox"/> 10.其他處理意見及方式:	
審核人	一級單位主管	機關首長或其授權人員
	<u>文英</u>	

說明：

- 一、各機關可依需要自行增列審核項目內容，出國報告審核完畢本表請自行保存。
- 二、審核作業應儘速完成，以不影響出國人員上傳出國報告至「政府出版資料回應網公務出國報告專區」為原則。

行政院所屬各機關因公出國人員出國報告書
(出國類別：出席國際會議)

參加世界貿易組織 (WTO)
非農產品市場進入 (NAMA) 談判會議
有關非關稅障礙 (NTB) 議題出國報告

服務機關：國際貿易局
姓名職稱：柯商務秘書誠德
派赴國家：瑞士日內瓦
出國期間：99.5.15-22
報告日期：99.5.31

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壹、背景說明

上(98)年 12 月 WTO 第 7 屆部長會議期間，各會員部長們達成於本(99)年第 1 季進行杜哈回合談判盤點，以利於本年底完成談判之共識。惟由於本年 3 月下旬結束之杜哈回合全面盤點會議進展有限，WTO 拉米秘書長提出「雞尾酒」三軌方案(cocktail approach)，俾利盤點會議後繼續推動杜哈回合談判實質進展，其中第一軌即為以貿易談判委員會(TNC)各談判主席主導之談判會議(chair-led processes)為軸，進行小型會議技術性協商；第二軌則為積極舉行雙邊及複邊會議，並提高其透明度。鑒於類此由主席主導之談判會議將益顯重要，且本次 NAMA 談判會議係以討論非關稅障礙(NTB)議題為主，而本局為負責 NTB 議題之協調單位，爰決定派員出席本次會議，俾充分掌握談判進展，並相機與其他會員國進行雙邊會談，俾就相關議題交換意見及溝通，加強雙方合作關係。

貳、出席會議行程

日期	時間	工作內容	備註
5月16日 (日)	09:05	經濟部貿易局柯秘書誠德搭乘瑞航LX3561抵達日內瓦 宿Hotel des Balances	方參事接機
	10:25	經濟部經貿談判辦公室李代表素華 德航 LH 3662抵達日內瓦 宿Hotel Silva	方參事接機
5月17日 (一)	11:00	與澳洲雙邊會議(Lorraine, 079 240 8645)	Room 2173
	15:00	非正式全體會員會議： <ul style="list-style-type: none"> • 提報自上次 NAMA 會議以來之任何談判發展； • 檢討新近所提文件； • 由 Caterpillar 公司代表簡報重製品問題及接受提問。 	CR
		重製品NTB談判會議	Room D
	夜宿	Hotel Silva / Hotel des Balances	
5月18日 (二)	10:00	紡品標示與水平機制談判會議	Room D
	15:00	紡品標示與水平機制談判會議	
	夜宿	Hôtel Silva / Hotel des Balances	
5月19日 (三)	10:00	電子與汽車產品透明化與國際標準談判會議	Room D
	13:00-15:00	新入會國集團會議(林大使主持)	Room A
	15:00	電子與汽車產品透明化與國際標準談判會議	Room D
	15:30	與泰國雙邊會議	Room 2173
	夜宿	Hotel Silva / Hotel des Balances	
5月20日 (四)	10:00	化學品NTB談判會議	Room D
	13:00-15:00	林大使工作餐會	地點：日本餐廳
	15:00	總結會議	CR
	夜宿	Hotel Silva / Hotel des Balances	
5月21日 (五)	07:25	經濟部經貿談判辦公室李代表素華 德航 3675 班機返國	方參事送機
	10:50	經濟部貿易局柯秘書誠德 荷航 KL1926 班機返國	方參事送機

住宿旅館

Hotel Silva (Rue Jean-Robert Chouet 7, Geneve) T: 022 749 1810, F: 022 749 1811
 Hotel des Balances (33 Route de Suisse, 1290 Versoix) T: 22 755 37 68

參、出席 NAMA 談判會議情形

一、全體會員開幕會議：

- (一) NAMA 談判主席 Luzius Wasescha 大使在會中宣布當週會議議程後，給予會員就本年 3 月下旬盤點活動結束後之後續推動進展交換意見，並指出部分會員對在 2008 年 12 月提出第 4 版減讓模式草案後進展停滯，表示失望。渠將在本次 NAMA 調談判後再尋求解決之道，並著手處理未列入優先 NTB 議題之會員提案問題。
- (二) 印度、美國、日本、肯亞及巴西分別就本年 3 月盤點會議後推動特定產業非關稅貿易障礙提案架構(Framework)、出口簽審透明化、水平機制等提案進行雙邊及複邊協調進展簡單說明。其中我國參與聯署之出口簽審透明化提案，美國月前在非洲奈洛比有相當程度之推動，獲非洲集團代表肯亞發言肯定。
- (三) 在 W 主席就最近提出之 9 份提問及回應文件請相關會員簡單說明後，即由美國 Caterpillar 公司就該公司推動重製品業務之現況及企業模式向會員提出簡報，會後 10 餘個會員紛就該公司對重製品定義、標示、面對之貿易障礙與新品之差異及辨識等問題提出詢問，就重製品 NTB 問題對 C 公司而言，其主要障礙在於進口管制、行政程序及舊品資源回收等項目。

二、重製品提案(TN/MA/W/18/Add.16/Rev.3) Room D 小型會議：

- (一) 本會議就重製品提案進行討論，絕大多數會員均支持 W 談判主席之分析，即贊成在貨品貿易委員會中提出重製品工作計畫(Work Program)，惟對於重製品定義及其範圍仍多持保留態度。我國亦發言表示肯定工作計畫具有意義，必要時可在貨品貿易委員會中提出，同時請提案國能提出具體之重製品定義或稅項範圍。至於本提案提交部長決定(Ministerial Decision)一節，亦遭致多數會員質疑其必要性。
- (二) 美國等提案國回應時表示，由於會員對重製品不甚熟悉，致認知上造成差距，提案會員參詢業界已多次修正重製品定義，盼會員能提出具體建議，以符合各方要求。
- (三) W 主席作結論時指出：
 1. 重製品提案提出討論迄今已 5 年之久，問題是什麼是本案相關之真正貿易問題；渠認為本項提案並非關稅問題，而應係非關稅措施問題。鑒於會員疑慮仍未能予以釐清，建議會員在已有之基礎上繼續推動，避免倒退。
 2. 對於是否提交部長決定一事，渠提出下列 3 個選項：
 - (1)工作計畫改在貨品貿易委員會下啓動；
 - (2)作提交部長決定之準備，俾在下屆部長會議時提出；
 - (3)先在貨品貿易委員會下推動工作計畫，視談判完成前之討論貢獻，最後再決定是否一併以談判成果提交由部長決定。
 3. 本案將列入本年 7 月 NAMA 週談判例會之議程，繼續討論。

三、紡品標示提案(TN/MA/W/93/Rev.1) Room D 小型會議：

本提案議程依主席及秘書處提出之問題進行討論，會員立場及討論情形如下：

- (一) 問題 1：本提案是否損害會員在技術性貿易障礙(TBT)協定第 2.5 條之權利與義務？

1. 提案國(歐盟)首先發言表示,該提案並無意損害會員在 TBT 協定下之權利與義務,然加拿大、香港、巴基斯坦及印度等均認為該提案可能影響會員在 TBT 協定第 2.5 條之權利義務,因該條款規定依相關國際標準而擬訂,採行及適用之技術法規,應推定不會造成國際貿易之不必要障礙,惟本提案並未依國際標準而擬訂相關規定。
2. 歐盟復稱,相關紡品等貨品標示,原本即缺乏國際標準,事實上目前僅有 1 項國際標準。
3. 香港再次發言表示經洽律師及專家,咸認為本提案未來有可能損害會員在 TBT 第 2.5 條之權利義務。加拿大則強調,要求纖維含量及原產地標示不符合任何國際標準,亦有違 TBT 協定第 2.2 及 2.5 條規定。
4. 美國則表示 TBT 協定第 2.2、2.4 及 2.5 條相互獨立,本提案係開闢另一通路(to create another avenue)來降低非關稅貿易障礙,並非有意取代原有之 TBT 協定規範。對此,瑞士則要求美國明確解釋另闢管道之說法。
5. 日本建議考量韓國建議之文字,在提案中註明將不影響會員 TBT 協定下之權利義務等字眼。
6. 綜合發言會員之意見,主席總結如次:
 - (1) 會員對於 TBT 協定第 2.2 及 2.5 條之權利與義務不應受損一節,已達成共識。至於提案宜載明無損會員在 TBT 協定之權利及義務一事,僅係文字呈現方式之問題。
 - (2) 提案中未提及國際標準,美國另闢管道之說,仍有待說明其他會員接受。

(二) 問題 2: 提案第 2 段所列標示內容是否需補充其他項目?

1. 巴西、巴拉圭及韓國均贊成生產廠商資訊列入第 2 段標示內容。哥倫比亞則認為進口商資料應列為永久性標示項目,以防堵走私。厄瓜多及土耳其則支持列入原產地、尺寸大小及纖維含量等標示項目。此外,另有其他會員亦提及消費者安全(如兒童用紡品之防火、軍服)亦應考慮列入。
2. 然有關原產地標示列入提案第 2 段內容一事,韓國、香港、印度、加拿大及瑞士等國均表示反對意見。瑞士對於第 2 段內容不造成貿易障礙之說法,表達深不以為然之立場;加拿大則擔憂本段恐遭濫用,表示未來或可能造成被要求對纖維含量內容逐一標示原產地之情事。歐盟最後發言表示同意排除原產地標示之立場。
3. 韓國再次提及國際標示圖案付費之問題,瑞士隨即發言強調標示圖案權利金對產業而言,所占成本之比率甚低。
4. 主席結論時指出,瞭解會員要求加入部分項目或刪去部分項目之立場;另歐盟有意避免有關 TBT 協定第 2 條合法目的之觀念,宜進一步澄清。

(三) 問題 3: 會員是否同意本提案第 4 段內容?

1. 討論間除瑞士、厄瓜多及哥倫比亞表示同意該段內容外,加拿大表示目前無法評論。
2. 綜上,主席作出結論時建議提案會員參酌各會員意見,再提出修正文件,並可利用本週時間繼續與會員進行溝通。

四、加速非關稅貿易障礙解決機制(水平機制)提案(TN/MA/W/106/Rev.1 及 JOB/MA/4)

Room D.小型會議:

(一) 提案之範圍:

1. 日本重申排除農產品及 SPS 協定之適用，我國亦發言表達本項機制不應超越杜哈談判授權，即貨品範圍應只限於 NAMA 產品，同時由於 SPS 有其專業性，我國爰支持美國及韓國排除適用 SPS 措施之立場。
2. 土耳其支持泰國建議水平機制僅適用於 NAMA 產品。
3. 香港則強調 SPS 委員會已提出強化功能之提案，部分會員僅因等待 NAMA 談判結果而裹足不前，香港支持 SPS 協定應由專業之 SPS 委員會處理。此項說法，獲得美國呼應。
4. 瑞士發言指出，依據 2003 年資料顯示，26%NTB 問題屬於 TBT 措施，6%屬於 SPS 措施，均涉及開發中會員出口利益，認為 SPS 措施符合 NAMA 授權，並建議反對立場之會員說明本提案必須排除 SPS 協定之原因。
5. 韓國回應時強調，該國提議排除 SPS 措施之意見，已獲日本、台灣、香港及美國之呼應，建議提案國宜有折衷之作法。
6. 由於意見紛歧，菲律賓建議暫時擱置本議題。
7. 主席結論時表示理解菲國說法，一方認為應全面適用，一方則希予以設限，目前可予暫時擱置本項議題。

(二) 委員會優先問題：

1. 本次會議香港、新加坡、菲律賓、泰國、厄瓜多及澳洲等均建議採取中道折衷(middle ground)之方式處理，認為如有需要，亦可在訴諸水平機制時尋求相關委員會之意見。
2. 日本及韓國則表示支持美國所提之委員會優先之建議。
3. 美國對於中道方式之初步反應為，不宜弱化多邊機制，應強化委員會功能，由於水平機制並非約束性質，倘在訴諸水平機制後未獲結果，是否又將回歸委員會處理。
4. 主席總結時表示期盼會員提出新建議，作出貢獻，將在提出文件後再予討論。

(三) 與爭端解決機制之關係：

1. 巴西認為會員對於水平機制與爭端解決機制(DSU)脫鉤已有共識。香港則指出歐盟提案第 18 段已符合與 DSU 脫鉤之要求。
2. 美國表示貿易政策檢視機制在目的上與水平機制不同，前者係監督會員對 WTO 之承諾，維持多邊貿易機制運作，水平機制則係以解決問題為目標。倘會員均有與 DSU 脫鉤之共識，則建議接受美方提案中較明確之文字。
3. 韓國認為歐盟提案第 18 段過多模糊，宜進一步討論。美國及日本在討論結束前分別就其甫於會場提出之文件(JOB/MA/22 及 JOB/MA/23)作出口頭說明。
4. 主席結論：
 - (1) 會員對於以非關稅措施(NTM)文字取代非關稅障礙(NTB)已有共識。
 - (2) 會員亦均同意水平機制與爭端解決機制共同存在(co-existence)。
 - (3) 本案將列入本年 7 月 NAMA 週談判例會之議程，繼續討論。

五、電子及汽車提案 (TN/MA/W/105/Rev.2、TN/MA/W/129、TN/MA/W/118/Rev.1 及 TN/MA/W/126) Room D 小型會議：

參照會員提案及過去討論情況，秘書處整理提出「超越技術性貿易障礙(TBT +)」(即在現有 TBT 協定上向上建構)綱要供會員討論，相關會員立場及討論經過綜陳如下：

(一) 電子及汽車技術性法規議題：

1. 早期預告(early notice):
 - (1) 歐盟表示已有不同階段之早期通知，最初係提出綠皮書(green paper)，接著提出白皮書(white paper)，惟上述文件均未含技術性法規內容，爰未知是否符合早期通知之定義。
 - (2) 其他會員對本項規範較無特別意見。
2. 通知(notification):
 - (1) 檢附全份法規草案：美國表示基於透明化原則，通知時須檢附全文，俾開放評論後可及早予以補救；加拿大認為通知之全文可選擇紙本或電子文方式進行。韓國希能以電子存放於 WTO 網站方式為之，較為安全且合適。
 - (2) 通知與國際標準差異部分：
 - A. 美國及加拿大等已開發國家咸認制訂技術性法規時，應在通知階段即標明與國際標準之差異部分，韓國、日本、巴西、印度及香港對此均持保留態度，其中部分國家則建議回歸 TBT 協定機制。
 - B. 菲律賓表示，倘會員完全採用國際標準，應無須進行通知程序，以免失去採用國際標準之誘因。惟此看法遭致美國及加拿大引用 TBT 協定中對貿易造成影響需通知之義務予以反駁；印度則支持菲方看法，認為在完全採用國際標準之情形下，應可不必再通知。
3. 草案非正式翻譯：
 - (1) 歐盟、美國及加拿大均認為將法規草案翻譯為 WTO 官方語言將有助於其他國家之瞭解，爰鼓勵會員進行完整之翻譯。
 - (2) 韓國、日本及我國均發言表達對非 WTO 官方語言國家翻譯之要求將造成相當負擔之立場。
 - (3) 主席表示，某些會員在制訂國內法規時，亦可能參考 WTO 官方語言之一的國際標準文件，翻譯並制訂相關法規，翻譯應不構成問題。
4. 公開評論：
 - (1) 對於依據 TBT 協定給予不少於 60 天之評論期間，會員間大致均有共識。
 - (2) 美國建議進一步開放予其他會員國之利害關係人直接提出評論之機會。對此，韓國及日本均表反對，我國亦發言表示該措施將對非使用 WTO 官方語言之會員造成極大負擔，WTO 協定僅規範會員與會員間之義務，並非會員與利害關係人間之義務，此舉將造成制度性問題。
 - (3) 加拿大、美國及歐盟回應時咸表提供其他關係利害人評論，可節省會員國政府彙整個別意見之工作，並有助於增進透明化。
 - (4) 主席認為本措施可促使國內法規制訂者，多方瞭解各方意見，不致眼界狹窄。
5. 主席綜合結論如次：
 - (1) 所有文件尚在協商中，何時通知及通知之內容為何，宜再進一步討論。
 - (2) 倘會員國完全採納國際標準，是否有進行通知等程序之必要，亦可續作討論。
 - (3) 放寬由利害關係人直接提出評論一節，仍應進一步討論。
 - (4) 未來開發中國家如有技術性協助之需求，可再另予討論。

(二) 電子及汽車國際標準議題：

1. 歐盟首先就其甫提出之電子產品適用國際標準之非正式文件作口頭報告。有關電磁相容性及電器安全之國際標準制訂機構，歐盟提議採用 IEC、ITU 及 ISO 等 3 個機構，此建議引起多個會員質疑，咸表依據 TBT 協定之 6 項原則予以認定即可，並無明列之必要。
2. 美國亦表示現有之國際標準制訂機構不僅 3 個，而電子產品生命周期甚短，有時僅達 3 至 6 個月，如限由 3 個機構提供，恐緩不濟急，業者屆時可能因而自行發展並自訂標準。
3. 韓國指出 SPS 委員會亦有類似討論之案例可供借鏡，並予以彈性處理。此外，對於各個國際標準之制訂機構分別擬訂其標準法規時如何事先調和以避免重覆，亦應有整合性之規畫。
4. 菲律賓指出，電磁相容性及電器安全之國際標準制訂機構除歐盟建議指定之 IEC、ITU 及 ISO 等 3 個機構外，宜查告尚有那些標準制訂機構可予指定，俾供會員參考討論。
5. 綜上，主席結論如下：
 - (1) 韓國提出之 SPS 委員會類似作法，或可作為另一解決之道，建議可予瞭解後再討論。
 - (2) 依據 TBT 協定 6 項原則予以認定標準之適用，可後續協商。
 - (3) 列舉國際標準制訂機構之作法，遭致大部分會員強烈反對。
 - (4) 為透明化之必要，可再查明是否有其他電磁相容性及電器安全之國際標準可予適用。

(三) 歐盟汽車國際標準議題（續）：

1. 主席續請歐盟就其甫提出之汽車產品適用國際標準之非正式文件予以說明，歐盟強調會員可自行宣告其國內法規與提案附錄 2 法規之功能等同性 (functional equivalence)，該附錄 2 法規不含曳引機、農用機械及 2 輪或 3 輪車輛。
2. 日本亦就其國內現行汽車法規與世界汽車法規調和論壇(WP.29) 1958 年協定之技術法規之相關產品比較情形，提出非正式文件之表列清單。
3. 美國表示歐盟文件僅在揭示功能之等同性，缺乏成本、產業需求之比較，無法瞭解歐盟之目的所在。
4. 歐盟復稱，本提案無須與任何人協調，僅由法規制訂人員自行檢視是否等同，俾供業者自行選擇。
5. 美國續發言表示，參考日本甫提出之汽車相關產品符合性清單，倘依據 WP.29 1958 年協定，要求各會員在 10 年內完全採行 WP.29 之規範，有其困難。
6. 主席總結：瞭解會員之評論，盼未來透過類似方式之進行，以有助提升透明化。

六、化學品提案 (TN/MA/W/135 及 TN/MA/W/137) Room D 小型會議：

- (一) 韓國表示對化學品 NTB 案甚感興趣，並就其所提文件(JOB/MA/18)進行說明與提問，包括範圍、管理、標示等。
- (二) 加拿大質疑為何本項議題在 WTO 場域中討論，而非在如聯合國等其他場域中協商。
- (三) 美國就其所提文件(JOB/MA/17)進行說明與提問，包括本提案目的、範圍、相

互認證、用字與 TBT 協定之關係等。

- (四) 日本呼應韓國對產品範圍過大表示關切，鑒於藥品因有其特定法規要求，建議排除適用，此節獲致澳洲支持。
- (五) 沙烏地阿拉伯分別就歐盟及阿根廷 2 項化學品 NTB 提案與 TBT 協定重疊部分及與討論中之「特定產業 NTB 架構」提案關係、國際標準制訂機構之選定標準、歐盟提案有關次級委員會之授權等，提出進一步說明之要求。
- (六) 我國亦發言針對該 2 項化學品提案範圍涵蓋藥品及醫療產品表示關切，同時請歐盟就其提案之化學品「管理」(management)提出詳細說明，並請歐盟說明如出口者非化學品生產商，在其提案 4.2.6 及 4.2.7 條下如何提供資料。
- (七) 中國大陸表示提案產品範圍太大，且中國大陸並非 OECD 會員，適用該組織標準有其困難。
- (八) 巴西就各會員提問作出如下說明：
 1. 範圍會就會員有疑慮項目予以排除，尤其是藥品。
 2. 認為阿根廷及巴西所提之化學品提案符合談判授權，有利促進貿易。
- (九) 歐盟對會員提問回應如次：
 1. 本提案與 TBT 協定並不衝突，可謂是 (TBT+)，將更有助於貿易。
 2. 本提案對 3.3 條已超過現有 TBT 協定。
 3. 「管理」一項主要係著重於資料登記。
 4. 至於我國提問之出口商在 4.2.6 及 4.2.7 條資料登記一節，歐盟僅表示瞭解我國在此方面之負擔(we understand your load)。
- (十) 主席總結如次：
 1. 化學品範圍一節，以一般範圍加上排除項目，似為可行之方式。
 2. WTO 是否為適合討論化學品之場域，可再討論。
 3. 下次會議召開時，試著找出其他可能之國際標準制訂機構。
 4. 化學品提案共引起 15 個會員之熱烈討論，請提案會員提出書面回應。

七、全體會員總結會議：

主席綜合總結：主席報告本週會議成果並提出未來工作計畫，本週 NAMA 會議討論重點聚焦於重製品、紡品標示、水平機制、透明化、國際標準及化學品等 6 項議題，主席會中重申上述議題之相關結論，其他相關事項如下：

- (一) 本年第 4 次 NAMA 週談判會議預計在 7 月 12 日當週舉行，討論重點仍將聚焦在 NTB 議題。
- (二) 主席下週開始就其他議題，如優惠流損等進行協商。
- (三) 書面意見請於 6 月 30 日前提交秘書處。

肆、雙邊會談

一、與澳洲雙邊會談：

透過我常駐 WTO 代表團安排，5 月 17 日上午與澳洲參事 Ms. Lorraine 進行雙邊會談，謹摘陳會談要點如下：

- (一) 杜哈回合整體進展：
 1. 歐盟預訂本(5)月 19 日將邀集 19 個會員召開之小型會議，共同研商推動杜哈回合談判一事，澳方表示目前尚難預料會議結果；惟澳方支持儘早完成杜哈談判之立場不變，而農業及服務業則仍然係該國關切之重點。
 2. 至於杜哈談判何時能完成談判，澳方認為將視大國之政治意志及態度，另

外美國將於本(99)年 11 月面臨之國會選舉亦是影響因素之一。

3. 值杜哈談判難有顯著進展之際，澳方仍將積極進行區域整合談判，如參與「泛太平洋戰略經濟夥伴關係協定」(The Trans-Pacific Strategic Economic Partnership Agreement, TPP)，另目前仍在與中國大陸、日本、韓國進行自由貿易協定談判，其中農業、服務業及能源議題屬於澳方關切重點。儘管如此，澳方仍將極力維持杜哈發展議程(DDA)繼續進行。

(二) NAMA 非關稅障礙(NTB)：

1. 澳方認為在提案會員不提出新文件情況下，NTB 議題難有大幅進展。
2. 澳方一向支持透明化原則，惟亦認為不宜因此而造成不必要之負擔，如開放其他會員之利害關係人提問一節，對跨國大企業或有助益，然中小企業則仍需仰賴政府提出看法。
3. 澳方認為 NAMA 談判主席雖盡力嚐試就 NTB 各項議題討論，維持動能，惟甚難預料推展之方向。

(三) NAMA 部門別自由化：

1. 在自主性降稅計畫下，澳洲未來汽車關稅將降至 5%，汽車零件可能免稅，紡織及成衣亦將陸續在 2015 年降至 5%以下。
2. 我方提供運動器材、自行車及手工具等 3 個部門別項目最新之澳方貿易資料及關稅結構，並向澳方說明在其自主性降稅後，該國國內產業敏感度降低，參加部門別降稅阻力減輕，獲益可望相對提升，爰請澳方優於考慮支持我方倡議。
3. 澳方表示瞭解部門別降稅對 NAMA 市場開放之重要性，願未來就整體談判做通盤考量，屆時再決定參加部門別自由化之項目。

二、與泰國雙邊會談：

5 月 19 日下午與泰國常駐 WTO 代表團一等秘書 Mr. Nathasit Diskul 及其國內兩名專家進行雙邊會談，要點摘陳如下：

(一) 杜哈回合整體進展：

1. 泰國認為杜哈談判是否能在本(99)年底前完成，甚難預料，惟泰方支持儘早完成杜哈談判之立場不變。
2. 泰國另表示許多會員國在談判時，往往未能獲得國內充分授權，缺乏政治意願，致談判動能不足，影響談判進展。

(二) NAMA 非關稅障礙(NTB)議題：

1. 泰方指出會員間對提案立場之歧見，泰國將儘量保持中立。
2. 泰方表示美國似有意拖延談判進程，會員間對 NTB 提案之定義問題爭論過久，似宜暫時擱置，先就其他重點討論，取得共識後再下定義。

(三) NAMA 部門別自由化議題：

1. 我方提供運動器材及手工具等 2 個部門別項目最新之泰國貿易資料及關稅結構，並鼓勵泰方在自行車以外，連署我方其他 2 項倡議。
2. 泰方表示瞭解我方之訴求，並稱該國已提出及連署珠寶等 5 項部門別提案，目前暫無推動他案之規畫。

伍、出席新入會國集團會議

一、該會議於 5 月 19 日召開，由我常駐 WTO 代表團兼新入會國集團主席林大使主持，包括巴拿馬、克羅埃西亞、厄瓜多、烏克蘭、越南等多個集團成員共 20 人出席，

會議主題訂為「杜哈發展議程(DDA)談判現況及發展」。

- 二、在簡單茶會後，我代表團首先就會議主題進行簡報，隨後續就杜哈回合農業、服務業及非農產品市場進入等議題之談判進展提出口頭報告。報告結束後，會員就杜哈回合談判交換意見，並咸表支持推動完成杜哈回合談判之決心。
- 三、為能整合群體力量，林大使表示將協調安排以新入會國集團之名義，分別拜會 WTO 農業及非農產品市場進入談判會議主席，以適切表達該集團之立場。

陸、觀察與建議

- 一、現階段由於 NAMA 談判在減讓模式及部門別自由化等核心議題難以凝聚共識，目前談判重心均聚焦於技術性之 NTB 議題。觀察本次會議，NTB 提案中以歐盟所提之水平機制提案較可能成案，惟美國與歐盟仍在提案適用範圍與委員會優先等 2 項問題上互不讓步，建議我方可在下次工作分組時就上述 2 個爭議逐項討論，分別確認我國立場。
- 二、有關電子及汽車產品提案，由於我國未能參與國際標準之制訂，在此先天條件不足之情況下，惟有予以後天方式彌補，在 WTO 平台下，即深入檢討會員相關 NTB 提案，就產品國際標準制訂機構所實施之技術性法規、標準及符合性評估程序等問題向相關提案會員國就我國現行法規與國際規範間窒礙難行之處提出詢問及修正建議，降低業者成本負擔。
- 三、阿根廷及巴西連署提出之化學品提案似有針對歐盟 REACH (Registration Evaluation and Authorization of Chemicals) 新化學品政策之意涵，由於該提案內容不甚完整，歐盟爰提出較為完整之化學品提案作為對案，會間雙方討論暗潮洶湧，且由於本項提案係新案且列為主席篩選之優先議題，會議中會員發言相當踴躍，惟因爭議性過大，就目前情況而言，該等提案有待提案會員進一步說明。由於歐盟 REACH 法規對化學品之管理甚嚴，亦將對我國業者造成重大影響，本案發展宜持續積極關注與參加。
- 四、未來我國召開工作分組會議時，似可參照本次主席作法，將相關提案整理其差異癥結，引導我各單位與會成員討論之方向，促進各成員之積極參與。
- 五、目前 NTB 各項提案仍在談判階段，尚未近成案之尾聲，我國對相關議題現階段似無須過早表態立場，宜多觀察與參考各會員國之討論重點，作為我方最後之立場抉擇。
- 六、利用此類國際性會議，加強與其他會員國之雙邊互動，可在提案之共同利益上建立策略結盟之合作關係，增加支持我立場之助力。
- 七、綜觀本次談判會議，美國、歐盟、日本、韓國、加拿大、瑞士、印度及香港等重要經貿會員體均極為積極參與各項議題討論，輔以幕後法學及主管機關技術專家之奧援，提供談判人員有系統整體性之參與討論資料，使談判人員能充分掌握議題，展現整體談判能量，另運用此類談判機會培養新人等作法如日本、瑞士等，均值得我方學習。我國為出口導向國家，工業產品為最重要之出口項目，透過 NAMA 談判非關稅措施技術性協商，適時反應我國立場，以建立公平合理、透明化之制度，促使貿易對手國市場進一步開放與透明化，爭取對我國貿易之最大利益，其重要性不言可喻。

附件

- 附件 1：會議議程及綱要
- 附件 2：瑞士對紡品標示提案之提問文件 (JOB/MA/15)
- 附件 3：歐盟回應埃及對紡品標示提案提問之文件 (JOB/MA/19)
- 附件 4：日本對水平機制提案之評論文件 (JOB/MA/22)
- 附件 5：美國對水平機制提案之提問文件(JOB/MA/23)
- 附件 6：歐盟回應埃及對電子提案提問之文件 (JOB/MA/12)
- 附件 7：歐盟回應埃及對電子提案提問之修正文件 (JOB/MA/12/Corr.1)
- 附件 8：美國回應埃及對汽車、電子提案提問之文件 (JOB/MA/16)
- 附件 9：歐盟有關電子國際標準之說明 (19.05.2010 Non-Paper)
- 附件 10：歐盟有關汽車產品標準、技術法規及符合性評估程序協定之說明 (19.05.2010 Non-Paper)
- 附件 11：日本適用 1958 年協定之汽車產品清單 (Non-Paper)
- 附件 12：美國對阿根廷化學品提案之提問文件 (JOB/MA/17)
- 附件 13：加拿大對阿根廷化學品提案之提問文件 (JOB/MA/20)
- 附件 14：加拿大對歐盟化學品提案之提問文件 (JOB/MA/21)
- 附件 15：阿根廷回應埃及對化學品提案提問之文件 (JOB/MA/24)
- 附件 16：阿根廷對歐盟化學品提案提問之文件 (JOB/MA/25)
- 附件 17：韓國對化學品及特定產業 NTB 架構兩項提案提問之文件 (JOB/MA/18)



WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO

附件 1

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FAX

To:	Argentina	Mexico	Fax No:
	Australia	New Zealand	
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	Chile	Philippines	
	China	Saudi Arabia	
	Colombia	Saint Lucia	
	Costa Rica	Singapore	
	Cuba	Separate Customs	
	Ecuador	Territory of Taiwan,	
	Egypt	Penghu, Kinmen and	
	European Union	Matsu	
	Former Yugoslav Rep. of	South Africa	
	Macedonia	Sri Lanka	
	Hong Kong, China	Switzerland	
	India	Tanzania	
	Indonesia	Thailand	
	Israel	Turkey	
	Japan	Ukraine	
	Kenya	Uruguay	
	Korea	USA	
	Lesotho	Venezuela, Bol. Rep. of	
	Malaysia		
	Mauritius		
From:	H. E. Amb. L. Wasescha		Date:
	Chairman		10 May 2010
	Negotiating Group on Market Access		
Number of Pages (including this one): 9			

NAMA Negotiations

Invitation for the Room D sessions for the week of 17 May 2010

Further to the organizational fax of 22 April 2010, I would like to invite you to the following Room D sessions planned for the week of 17 May. At my request, the Secretariat has prepared additional documentation for some of these consultations which are explained in more detail below.

Monday, 17 May (immediately following the open-ended meeting): A Room D session on the proposal on remanufactured goods. Please find attached in **Annex 1**, questions that I would like to raise on this proposal in order to have a more focussed discussion.

Tuesday, 18 May at 10.00 hrs: A Room D session on the proposals on Textile Labelling and the Horizontal Mechanism. Please find attached in **Annex 2**, questions that I wish to raise with

delegations on the textile labelling proposal. Information concerning Ginetex has also been included in this annex. **Annex 3** contains a paper which identifies the main issues being debated on the Horizontal Mechanism and the various legal texts proposed by Members on those issues.

Wednesday, 19 May at 10.00 hrs: A Room D session to discuss transparency and international standards in the electronics and autos sectors. Included in **Annex 4** is a working document on transparency which I hope will help the discussions.

Thursday, 20 May at 10.00 hrs: A Room D session to discuss the two chemical proposals contained in TN/MA/W/135 and TN/MA/W/137.

Upon request, the Secretariat (jenifer.mutano@wto.org and karine.grange@wto.org) will provide you with an electronic copy of the fax and annexes.)

Annex 1Ministerial Decision on Trade in Remanufactured Goods**Questions to Members from the Chair for discussion
at the Room D session on Monday, 17 May 2010**

- 1) The proposal essentially proposes a work programme in the CTG. As far as I can assess Members in general are not opposed to the idea of having such a work programme in the CTG. They have some discomfort with certain specifics of the proposal. Would that be a correct assessment?
 - 2) If so, then is it accurate to say that the discomfort appears to be twofold, namely: 1) it is linked to the meaning of remanufactured goods; and/or 2) to the issue of having a Ministerial Decision to launch such a work programme?
 - 3) If it is the former, what alternative definitions of remanufactured goods can Members propose? If it is the latter, an identification of the substantive problem linked to having a Ministerial Decision would be a helpful step.
-

Annex 2

Understanding on the Interpretation of
the Agreement on Technical Barriers to Trade with respect to
the Labelling of Textiles, Clothing, Footwear, and Travel Goods

**Questions to Members from the Chairman for discussion
at the Room D session on Tuesday 18 May 2010**

- 1) The proposal provides an understanding on the interpretation of the term "not more trade-restrictive than necessary" in Article 2.2 of the TBT Agreement as applied to the products that fall under its scope. Can Members agree that the proposal does not undermine existing rights and obligations under the TBT Agreement (in particular Article 2.5)?
- 2) If so, in respect of textiles and clothing, what specific information requirements in addition to what is in 2.1 of the proposal, and what has been proposed by Israel (i.e. sizes) or by New Zealand (i.e. consumer safety) should be rebuttably presumed not to be more trade restrictive than necessary?

If so, in respect of footwear, what specific information requirements in addition to what is in 2.2 of the proposal, should be rebuttably presumed not to be more trade restrictive than necessary?

If so, in respect of travel goods, what specific information requirements in addition to what is in 2.3 of the proposal and what has been proposed by Israel (i.e. capacity measurements), should be rebuttably presumed not to be more trade restrictive than necessary?

- 3) Under the assumption that the proposal does not undermine the existing rights and obligations of Members, in respect of what "shall be rebuttably presumed to be more trade restrictive than necessary", can Members agree to the elements listed in paragraph 4 of the proposal?

As requested by Members, please find some information on Ginetex

- GINETEX (International Association for Textile Care Labelling) has developed a system of language independent symbols. GINETEX has 16 member countries: Austria, Belgium, Brazil, Czech Republic, Finland, France, Germany, Greece, Italy, Netherlands, Portugal, Slovenia, Spain, Switzerland, Tunisia, and United Kingdom.
- In 1990, GINETEX allowed ISO to incorporate the symbols which are protected trademarks into a standard. The ISO standard at issue is: ISO 375:2005. The price of the ISO standard is only for purchase of the document itself. However, users of the standard would need to contact GINETEX about the license conditions to use the care labelling system of symbols in the standard. The standard itself (the 2005 edition) informs the user that the symbols are trademark protected.
- ISO's general approach with regard to the inclusion of third party intellectual property rights within ISO standards is that the rights owner must be willing to license use of those rights on reasonable and non-discriminatory terms to users of the standard (e.g., the ISO-IEC-ITU common patent policy). The above-mentioned standard is currently being revised and the discussion will include ensuring consistency with ISO's policies and approach to IP in standards.

- More relevant information can be found at:
 - (a) www.ginetex.net (on GINETEX)
 - (b) www.iso.org/iso/iso_cafe_textile_labelling.htm (on ISO)
-

Annex 3Horizontal Mechanism

Issues identified by the Chairman as well as the various proposed texts submitted by Members on those issues are being put forward for discussion at the Room D session on Tuesday, 18 May 2010

Issue 1: Scope

<p>Option 1 (Proponents)</p>	<p style="text-align: center;"><u>Annex 1</u></p> <p>These procedures shall cover all NTBs affecting trade in goods and falling under the remit of the Council for Trade in Goods, except:</p> <ul style="list-style-type: none"> • 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. <p>(TN/MA/W/106/Rev.1)</p>
<p>Option 2 (Korea)</p>	<p style="text-align: center;"><u>Annex 1</u></p> <p>These procedures shall cover all NTBs affecting trade in goods and falling under the remit of the Council for Trade in Goods, except:</p> <ul style="list-style-type: none"> • Any measure regulated by the Agreement of Agriculture • Any measure regulated by the Agreement on Application of Sanitary and Phytosanitary Measures; • 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 <p>(JOB/MA/1)</p>
<p>Option 3 (USA)</p>	<p style="text-align: center;"><u>Annex 1</u></p> <p>These procedures shall cover all measures affecting trade in goods and falling under the auspices of the Council for Trade in Goods, except any issue arising under:</p> <ul style="list-style-type: none"> • the Agreement on Agriculture; • Part V of the Agreement on Subsidies and Countervailing Measures; • the Agreement on Implementation of Article VI of the GATT 1994; • The Agreement on Safeguards; and • the Agreement on the Application of Sanitary and Phytosanitary Measures. <p>(JOB/MA/4)</p>
<p>Option 4 (Thailand)</p>	<p style="text-align: center;"><u>Annex 1</u></p> <p>These procedures shall cover all NTMs affecting trade in non-agricultural products and falling under the remit of the Council for Trade in Goods, except:</p> <ul style="list-style-type: none"> • 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. <p>(JOB/MA/7)</p>
<p>Option 5</p>	<p>?</p>

Issue 2: "Committee first" requirement

Option 1 (Proponents)	(No prior requirement) (TN/MA/W/106/Rev.1)
Option 2 (USA)	1 bis. A Member shall not make a request under paragraph 6 regarding a measure unless: (a) The Member has requested that the measure be placed on the agenda for a meeting of the relevant WTO Committee ¹ ; and (b) The relevant committee has discussed the measure pursuant to that request. (JOB/MA/4)
Option 3	?

Issue 3: Relationship with the DSU

Option 1 (Proponents)	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"). They are not intended to serve as a basis for the interpretation or the enforcement of specific obligations under the WTO Agreement or for dispute settlement procedures, or to impose new policy commitments on Members. (TN/MA/W/106/Rev.1)
Option 2 (Korea)	<i>Add before Paragraph 20;</i> The procedure under this mechanism is not intended to serve as a basis for any dispute settlement proceeding under the DSU. A Party shall not rely on or introduce as evidence in such dispute settlement procedures: (a) positions taken by the other Party in the course of the procedures for the facilitation of solutions to non-tariff barriers; (b) the fact that the other Party has indicated its willingness to accept a solution to the non-tariff measure subject to the procedures for the facilitation of solutions to non-tariff barriers; or (c) draft reports provided by the facilitator, in case of proceeding Stage II by mutual agreement of both Parties. (JOB/MA/1)
Option 3 (USA)	2. These procedures shall neither add to nor diminish the rights and obligations of Members under the WTO Agreement, and are without prejudice to Members' rights and obligations under the "DSU". 5 bis. The provision of information under these procedures shall be without prejudice to the rights of any Member. In particular, no Member may reference, or submit to a panel, arbitrator, or the Appellate Body, in any dispute settlement proceeding under the DSU: a) the request made under paragraph 6; b) a response provided under paragraph 7; c) a draft or final factual report provided under paragraph 18; d) any other document created for the purposes of these procedures; e) any written or oral information not otherwise available to the Member or facilitator that the Member or facilitator receives under these procedures; or f) any advice or suggestions that a facilitator has offered. (JOB/MA/4)
Option 4	?

¹ The relevant WTO Committee is the Committee or Council overseeing the operation of the WTO Agreement that the requesting Member reasonably determines is most closely related to the measure at issue. If there is no such Committee for a particular measure, the Council for Trade in Goods shall be considered the relevant WTO Committee.

Annex 4

TRANSPARENCY

Working Document

This Working Document provides some suggested elements on transparency for Members' consideration. They are drawn from the Group's discussions to date. The elements are of a "TBT plus" nature – meaning that they are meant to build on the existing TBT Agreement. The document is intended to serve as a basis for discussion and it is understood that: (i) it does not necessarily reflect all Members' views and, (ii) it is not exhaustive (other elements may be added). For simplicity, it covers only technical regulations (although the provisions on conformity assessment procedures would in any case mirror these) and standards are for the time being not covered.²

1. Technical Regulations³

- (a) Early notice: With a view to providing meaningful opportunity for comment, publish (in print or electronically) the proposed technical regulation at the earliest appropriate stage in such a manner as to enable interested parties⁴ to become acquainted with it and to submit written comments (in print or electronically) before the Member finalizes it.⁵
- (b) Notification: If the technical regulation may have a significant effect on trade of other Members, Members shall notify other Members in line with Article 2.9.2 of the TBT Agreement. In respect of such notifications, the following also applies:
 - (i) Attachments (to notification): With a view to providing a meaningful opportunity for comment, include as part of the notification, the full text of the draft technical regulation.⁶ This may be done in two ways: (i) an electronic version of the notified draft text is provided to the WTO Secretariat along with the notification (the text will be stored on a WTO server and accessed through a hyperlink in the notification format); or (ii) the notification format contains a hyperlink to a website from where the text can be downloaded (from a non-WTO server).⁷
 - (ii) Deviations from relevant international standards (indication in notification): With a view to increasing transparency on the use of relevant international standards, indicate in the WTO notification to the extent practicable and applicable, the part of the technical regulation which in substance deviates from the relevant international standard.⁸
- (c) Translations: With a view to enhancing the sharing of translations of documents referred to in notifications and facilitating information-sharing by Members on the availability of unofficial translations⁹, Members are invited to provide information about the availability of unofficial translations of notified measures. This will be done through the circulation by the Secretariat of a supplement to the original notification submitted by a Member. Such information should

² It is recalled both the US and EU proposals in the areas of electronics and autos include provisions relevant to standards.

³ The provisions set out above would apply equally for conformity assessment procedures (article numbers and wording would change to reflect the terms used in the TBT Agreement).

⁴ "Interested persons" refers to anyone, anywhere in the world, including legal entities and private individuals that have an interest of any nature in the technical regulation or conformity assessment procedure. This definition is taken from TN/MA/W/114. In this document, it is assumed that an "interested party" is the same as an "interested person".

⁵ When a Member so publishes a proposed technical regulation, it shall be deemed to have satisfied the obligation in Article 2.9.1 of the TBT Agreement to publish a notice of the proposed technical regulation.

⁶ In its original language (there is no obligation to translate the full text of the regulation being notified).

⁷ The Decision taken by the WTO TBT Committee in 2008 is relevant (see G/TBT/1/Rev.9, p.24).

⁸ Article 2.9.3 of the TBT Agreement is relevant, as well as para. 36(b) of G/TBT/26.

⁹ Translations shall be considered unofficial unless the Member providing the translation explicitly declares otherwise (this explanation is taken from TN/MA/W/136, 15 March 2010).

be provided to the Central Registry for Notifications (crn@wto.org) in the format contained in Annex E of document G/TBT/1/Rev.9.¹⁰

- (d) Comments: For notifications submitted under Article 2.9.2, without discrimination, Members shall:¹¹
- (i) allow interested parties to make comments in writing (in print or electronically);
 - (ii) allow normally not less than 60 days for interested parties to submit comments (in print or electronically);¹²
 - (iii) give favourable consideration to reasonable requests from Members to extend the comment period;
 - (iv) take written comments (in print or electronically) from Members into account;
 - (v) upon request from another Member, provide information explaining how such comments were taken into account;
 - (vi) publish or otherwise make publicly available (in print or electronically) significant comments, or a summary thereof, received from Members during the comment period; and,
 - (vii) publish or otherwise make publicly available (in print or electronically) responses, or a substantive summary thereof, made to significant issues raised in comments from Members during the comment period no later than the date of publication of the final technical regulation.

2. Other issues for discussion

- (a) Standards: Should there be TBT plus disciplines for transparency in standard-setting?
- (b) Special and Differential Treatment: What type of provisions could be included?

¹⁰ G/TBT/1/Rev.9, p.25 is relevant.

¹¹ These provisions may be omitted, as necessary, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise in line with Article 2.10 of the TBT Agreement.

¹² The recommendation contained in G/TBT/1/Rev.9, p.18 is relevant: "The normal time limit for comments on notifications should be 60 days. Any Member which is able to provide a time limit beyond 60 days, such as 90 days, is encouraged to do so and should indicate this in the notification."

Negotiating Group on Market Access

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MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTSQuestions to the co-sponsors of the Non-Tariff Barrier (NTB) proposal on
"Labelling in Textiles, Clothing, Footwear and Travel Goods"*Communication from Switzerland*

The following communication, dated 23 April 2010, is being circulated at the request of the delegation of Switzerland.

-
1. A rebuttable presumption not to create an unnecessary obstacle to trade can be granted under the TBT Agreement pursuant to Art. 2.5, which requires, inter alia, that such measures be based on an international standard. Since the measures proposed by the co-sponsors do not seem to fulfill this criteria, could the co-sponsors justify their intention to add another rule for the establishment of a rebuttable presumption not to create an unnecessary obstacle to trade?
 2. The concept of an "unnecessary obstacle to trade" is defined in Art. 2.2 of the TBT Agreement. Taking into account the answers already provided to Japan in TN/MA/W/134, could the co-sponsors indicate how any item listed in Art. 2 of the proposed Understanding on textiles labeling would fully meet the requirements of Art. 2.2. of the TBT Agreement, based on specific measures from their national legislation? In particular, we would be interested to understand (1) what legitimate policy objective does the country of origin requirement fulfill, and (2) how it is not more trade-restrictive than necessary.
-

Negotiating Group on Market Access

附件 3

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS**Co-Sponsors' Responses to Egypt's Questions Regarding Textiles Labeling***Communication from the European Union, Mauritius, Sri Lanka, Ukraine, and the United States*

The following communication, dated 12 May 2010, is being circulated at the request of the delegations of the European Union, Mauritius, Sri Lanka, Ukraine, and the United States.

I. ON THE PROPOSED "UNDERSTANDING ON THE INTERPRETATION OF THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE WITH RESPECT TO THE LABELLING OF TEXTILES, CLOTHING, FOOTWEAR, AND TRAVEL GOODS"

Understanding that the term "positive consideration" in paragraph 3 of the proposal does not require Members to require non-permanent labels in place of permanent according to the co-sponsors response in TN/MA/W/134.

1. Is it right to understand that it is the proponents' view that permanent labels are neither more nor less trade restrictive than non-permanent labels?

CO-SPONSORS' ANSWER: The proposal does not address whether permanent labels are more or less trade restrictive. Whether a requirement to include certain information on a permanent label is more trade restrictive than necessary would continue to be governed by Article 2.2 of the TBT Agreement. The proposal only provides that a Member shall give positive consideration to whether it could allow required information to be included on a non-permanent label instead of a permanent label.

(a) **If not, in what circumstances would it be "more trade restrictive than necessary" to require a permanent label instead of a non-permanent label in the proponents' view?**

(b) **CO-SPONSORS' ANSWER:** Please see the answer above.

2. Do the proponents not think that this requirement for "positive consideration" of non-permanent labels will serve as a future pretext to limit Member's right to require a permanent label in order to achieve legitimate objectives?

CO-SPONSORS' ANSWER: The proposal's requirement that Members give "positive consideration" to using non-permanent labels is not intended to limit Member's ability to require information to be included on a permanent label in order to achieve legitimate objectives.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Comments on the Non-Tariff Barrier (NTB) proposal on
"Ministerial Decision on procedures for the facilitation of solutions to non-tariff barriers"

Communication from Japan

The following communication, dated 17 May 2010, is being circulated at the request of the Delegation of Japan.

1. Non-Tariff Measures (paragraph 1 in the co-sponsors' revised text TN/MA/W/106/Rev.1)

Japan considers that "non-tariff barriers" should be modified into "non-tariff measures" with the view that the scope of the Horizontal Mechanism (hereinafter referred to as "HM") should be limited within the governmental measures which members can handle under its jurisdiction. In this light, Japan supports either the idea of US (JOB/MA/4) or that of Thailand (JOB/MA/7) to modify the language.

2. Committee First (paragraph 1 in the co-sponsors' revised text)

Japan considers that the Committee First provision stipulated in *Ibis* of JOB/MA/4 embodies some important aspects to enhance the function of the HM including; the better use of expertise of regular committees for the convenience of the parties' discussions under the HM procedure; and preventing the abusive claims to the HM procedure through prior screening of whether issues on claims are legitimate enough to be within the scope of regular committee jurisdictions.

3. Relation with Dispute Settlement Mechanism

Generally, the main issue in a dispute of the NTB or NTM would be related to a fact-finding effort, including one as to whether the measure at issue would constitute a non-tariff barrier which has an adverse effect on trade. Thus, the basis that any fact-finding in the HM process shall be made without prejudice to Members' rights and obligations in the future process of Dispute Settlement would be a crucial element for the function of the HM in which each party would seek an expeditious and mutually agreeable resolution. Therefore, Japan suggests that the documents and other information provided in the process of the HM shall not be referred to in any future dispute settlement proceedings and supports the revised text proposed by US as stipulated in its paragraph 5 *bis*.

4. Requested information (paragraph 6 in the co-sponsors' revised text)

Japan reiterates that, in the Stage I process, it is essential for the requesting Member to provide a rationale or justification to raise the issue in its request in addition to its detailed concerns regarding the effect of the non-tariff measures on trade, so that the responding Member may easily understand the intent of the requesting Member and obtain a domestic consensus to proceed under HM process. Such a requirement would be effective in avoiding an excessive burden being placed on the responding Member to provide even information that is easily available to every Member to the requesting Member. Japan suggests modifying the text to reflect the intention above in addition to the US proposal as in the language in bold in the following text (Japan's revisions are described in *bold*);

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 measure of the responding Member that it considers may be a NTB. The request shall identify and describe the specific measure at issue and provide a rational to raise the issue and a detailed description of the requesting Member's concerns regarding the measure's impact-effect on trade. The requesting Member may request the responding Member to provide relevant information concerning the nature and application of the measure, including: (a) the title, date, and description of the measure; (b) the scope of the measure; (c) the administrative body or agency responsible for promulgating and/or applying the measure, including a contact point for obtaining additional information; (d) the objective and rationale of the measure; and (e) a[n official] copy of the measure. A requesting Member may not make more than one such request regarding the same measure.

5. Deadline for response (paragraph 7, 11, 12,16 and 18 in the co-sponsors' revised text)

Japan has reservations on the bracketed terms for the deadline for response and other related clauses in paragraph 7, 11, 12, 16 and 18, which require further internal consultation by considering feasibility and the burden for administrative coordination, depending on the scope of the HM.

6. Third party's participation (paragraph 11 in the co-sponsors' revised text)

Japan believes that one of the main functions of the HM procedure is the facilitation of a mutually acceptable solution to an individual dispute among parties by means of a closed-door meeting, and this procedure should basically be free from the intervention of outsiders. This is reinforced by the fact that the HM procedure is not designed to establish or interpret WTO rules, which shall be applied to any party, regardless of whether it is a party hereto or a third parties. In view of this, Japan suggests that a third party should not be permitted to participate in Stage II of the HM procedure unless it has substantial interest in the decision accrued from the HM process, and it is so affirmed by the parties concerned. It would also be beneficial to ensure the confidentiality of information exchanged in the HM process. Thus, Japan proposes a revision in paragraph 11 of the co-sponsors' revised text as follows:

11. Any other Member which has a substantial interest in a matter and if it is so affirmed by the parties concerned may submit a written request to the parties, within ~~[10] days of notification under paragraph 10~~ that it be permitted to participate in these Stage II procedures as a third party. The parties, jointly with the facilitator, shall agree on the rights and responsibilities of the third party such as the right to participate to the meeting convened by the parties and nondisclosure obligation of confidential information obtained in the process, in advance of the initiation of the Stage II procedure. ~~Such other Member may participate in these procedures if both the parties so agree and on the terms agreed to by the parties.~~

7. Confidentiality (paragraph 8, 17, 17 bis and 17 ter in the co-sponsors' revised text)

With regard to the confidentiality clause for information treated in Stage II, Japan can support the proponents' proposal to add paragraph 17, 17 *bis* and 17 *ter*. However, the information exchanged between parties in Stage I is not covered by the revised paragraph 17, and this is the reason why Japan has reservations on circulating the notification of the request and response to the WTO members as suggested in paragraph 8 of the co-sponsors' proposal. Considering the value of transparency for the HM procedure, Japan can support the circulation of the summary of the request and response from which the confidential information is excluded by the requesting and responding Members' own discretion in Stage I, under the condition when the requesting and responding members agree to do so. Following is the proposed text revision of paragraph 8:

8. Upon submission, the requesting Member shall notify the summary of its request to the relevant WTO Committee, which shall circulate it to all Members. The responding Member shall equally notify the summary of 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 explore possible next steps].

8. Scope (Annex 1 in the co-sponsors' revised text)

Japan maintains its position to limit the scope of the HM in NAMA products under the mandate of the NAMA negotiation, and exclude the SPS measures which should be treated separately utilizing the expertise of the SPS Committee, as previously proposed in the followings:

ANNEX 1

measures

These procedures shall cover all ~~NFBs~~ affecting trade in non-agricultural goods and falling under the remit of the Council for Trade in Goods, except:

- Any measure regulated by the Agreement on Agriculture;
 - Any measure regulated by the Agreement on the Application of Sanitary and Phytosanitary Measures;
 - 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.
-

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTSQuestions on the Horizontal Mechanism about Measures Included in the Scope and Threshold*Communication from the United States*

The following communication, dated 17 May 2010, is being circulated at the request of the delegation of the United States.

During NAMA NG discussions about the potential scope and types of measures that are appropriate to raise under horizontal mechanism (HM) procedures, the co-sponsors have given several descriptions about the types of measures that the HM seeks to address. For example, the co-sponsors have referred to the types of measures as "small issues" or "non-legal issues." The proposal, however, does not explain what these measures are or make clear that use of the HM procedures is limited to such measures.

In TN/MA/W/110/Rev.1, for example, the co-sponsors explained that their experience is that NTBs arise due to administrative or implementation issues (page 1 and 2). Yet, they also explain that "any issue that can be raised and discussed in the WTO Committees or the DSU can be raised in the HM." (page 6) Comparing those responses with the text itself does not clarify the mixed signals. If the co-sponsors intend to limit the scope of the HM to administrative or implementation issues that is not clear in the text of the proposal.

We seek specific clarification from the co-sponsors on what, in their view, are the specific types of measures that should be raised under the procedures of the HM, including how the co-sponsors interpret the draft scope in Annex 1 of their proposal. Such specific clarification would facilitate Members' consultations at home with industry and regulators and help to ensure that there is a common understanding among WTO Members on this important question. Clarification is also important because the threshold for raising something under the HM procedures appears to be quite low. Members need assurances that they will not be overwhelmed by requests related to numerous measures due to a vague definition about the scope of coverage of the mechanism.

In the questions below, we pose questions about various aspects of the term "scope." For example, we address:

- 1) the status of the measure (measures under development or in force);
- 2) whether the measures are subject to WTO legal disciplines;
- 3) the magnitude of the trade measures; and
- 4) whether the HM is intended for "help desk" issues, fact-finding, or transparency.

The questions do not imply that the United States is advocating inclusion or exclusion of the measures below or that previously expressed views on measures that should be excluded from the scope of the procedures have changed in any way. These questions are trying to clarify what the co-sponsors' intent is for various categories of measures that are included in the proposed scope, and whether, according to the co-sponsors' interpretation of the proposed scope, it would be appropriate for WTO Members to raise specific measures using the HM procedures.

Status of the Measure: Do the co-sponsors seek to address measures that have already been implemented by governments, those that are in the process of being developed, or both? This is not clear in the text. Members would benefit from a discussion on this issue as part of the small group consultations on the Horizontal Mechanism.

Whether measures are subject to WTO legal disciplines? In several of the negotiating group sessions, the EU asserted that the issues to be raised were ones that are "non-legal." What does the EU mean when it uses the term "non-legal"?

Framing of the Scope in Annex 1: If the measures are "non-legal," some possible confusion may arise because of the way that the proposal is drafted. In Annex 1, the scope of what is covered by HM procedures is defined by naming WTO Agreements, implying measures that fall within the legal disciplines of those Agreements. Please comment.

- What are the "non-legal" measures by governments that are under the purview of these agreements that the proposal seeks to address?
- Annex 1 of the HM says that the procedures cover non-tariff measures affecting trade in goods and falling under the auspices of the Council for Trade in Goods, followed by a list of exemptions. Previously, we were advised by co-sponsors that we should understand "falling under the auspices of the Council in Trade in Goods" to mean every agreement that is contained in Annex 1A of the Final Act of the Uruguay Round, except those agreements which are exempted per Annex 1 of the HM. (Please see for reference for Uruguay Round Annex 1A -- http://www.wto.org/english/docs_e/legal_e/legal_e.htm). Is our understanding about Annex 1A of the Final Act of the Uruguay Round correct?
- In the co-sponsors' view, do the procedures of the HM cover non-tariff measures under the General Agreement on Tariffs and Trade 1994? What types of measures under GATT 1994 do the co-sponsors believe are appropriate to raise using HM procedures?
- Is the scope of the HM limited to just investment measures covered by the trade related investment measures (TRIMS) Agreement?
- Is the scope of the HM intended to cover WTO provisions related to state-trading enterprises (STEs)? What measures related to STEs do the co-sponsors believe are appropriate to raise using HM procedures?
- Is the scope of the HM intended to cover WTO provisions related to balance of payments? What measures related to BOP do the co-sponsors believe are appropriate to raise using HM procedures?
- Is the scope of the HM intended to cover regional trade agreements? What measures related to the regional trade agreements or preferential trade agreements do the co-sponsors believe are appropriate to raise using HM procedures?
- Is the scope of the HM intended to cover other duties and charges? What measures related to ODCs do the co-sponsors believe are appropriate to raise using HM procedures?
- What's the line between the Annex 1A Agreements and issues that touch upon aspects of IPR? For example, are the following issues something that the proponents believe could be raised using HM procedures?

- A complaint about a deceptive practice in another country.
- A complaint about lack of protection of confidential business information.

Magnitude of Measures: Another aspect is of the scope of coverage is the magnitude of the trade measure.

- Is the mechanism exclusively intended for one-time issues such as a concern about the how a shipment of goods was valued by customs authorities?
- Is it meant to exclusively apply to administrative or implementation issues and not with underlying policies themselves?
- Is it meant for more consistently applied policy measures, such as burdensome import licensing requirements?
- Is it meant to address more systemic or sector-wide policies such as the registration procedures for chemicals?

Is the HM intended for "help-desk" issues, fact-finding, and transparency?

- Because of the low threshold for launching requests, it is conceivable that many "helpdesk" issues may be the subject of HM requests. For example, a member may request a copy of a measure. Is this appropriate to raise under the procedures of the HM?
- Assuming the responding Member provides the requested information or indicates that the measure was already notified to the WTO, what would be the need to further engage in HM procedures?
- Is the HM meant to cover any of the functions that TBT Inquiry Points perform now?
- Is a complaint about the failure of a WTO Member to notify to the WTO a draft measure (in any of the covered agreements) something the co-sponsors believe is appropriate to raise under the procedures of the HM?
- Is a request seeking additional information or clarification about a measure (such as a request to provide more details regarding the information contained in a WTO notification) something that the co-sponsors believe is appropriate to raise under the procedures of the HM?
- Should members use the HM procedures to request translations or official of measures or conformity assessment procedures?
- Is it appropriate for Members to use HM procedures to identify potential problems for their traders posed by measures under development in another Member?
- Please consider this scenario: a Member provided a comment on a draft regulation of another Member that was notified to the WTO, but the final regulation that emerged did not change as a result to account for the concern raised by the second Member. Do the co-sponsors believe that it is appropriate to use the procedures of the HM to provide another forum for companies and governments to come back again to regulators and make their case after the TBT notice and comment procedures already have been completed?

Conclusion: We hope that these questions will help to create more conceptual clarity among Members about the proposal. As stated above, further discussion with Members to clarify the intent with respect to the types of measures that are included in the scope could facilitate Members' consultations on the proposal. As well, more clarify could potentially add to the effectiveness of the mechanism itself, because Members would have a common understanding and common expectations about what are appropriate measures to raise using the procedures.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTSEU answers to questions from Egypt on the EU Electronics NTB Negotiating Text*Communication from the European Union*

The following communication, dated 17 March 2010, is being circulated at the request of the delegation of the European Union.

Understanding on the Interpretation of the Agreement on Technical Barriers to Trade as Applied to Trade in Electronics

Question: With regards to the supplier's declaration of Conformity "SDOC" how do the proponents of the two proposals assess the effectiveness of SDOC in developing countries given the lack of appropriate market surveillance mechanisms and traceability laws in these countries?

Answer: The EU is fully aware of the particular challenges, for example in the form of institutional, human and financial resources constraints, faced by developing countries in enforcing safety regulations. The EU has therefore taken on board comments received from Members and opened up the possibility for Members to apply third party certification for electrical safety. The proposal also recognises the need to provide technical assistance and capacity building to developing countries on market surveillance. This is reflected in paragraph 20.

However, it should be kept in mind that whether a regulatory system is based on SDOC or 3rd party certification, it is only through market surveillance that a regulatory authority can find a degree of assurance that products on the "store shelf" or used in a work place actually meet safety requirements. For example, neither SDOC nor 3rd party certification can fully cope with the situation when products are placed on the market based on, for example, no or falsified safety declarations or certificates.

Question: Do the proponents of the two proposals believe that it is possible for a developing country to take the necessary steps for the establishment of the "SDOC" system within the proposed time frame, taking into account that these steps include *inter alia*:

- Increasing public awareness and training specialists in the specialized authorities, and the private sector on the use of the SDOC system to ensure the conformity of its application with international standards.
- Establishing this system in manufacturing plants and the needed requirements and procedures.
- Assessing and determining the required amendments in the relevant laws, regulations, decisions, and executive regulations to apply the SDOC system.

Answer: In the EU proposal there is no obligation to introduce SDOC for electrical safety. Taking into account the EMC risk for most electrical and electronic products, it is proposed that SDOC should be used for EMC. Furthermore, the time frames indicated in paragraphs 18 and 19 are proposals and subject to discussion. In addition, as mentioned in the previous answer, paragraph 20 of the EU proposal recognises the need of providing technical assistance and capacity building for developing countries when building up market surveillance systems. With regard to the specific elements in this question, the EU would like to suggest that they should not be seen as specific to introducing an SDOC based system, but part and parcel of overall policy efforts to improving health and safety and promoting good regulatory practices.

In this respect the EU believes that efforts to increase awareness and training of the public, government authorities, private sector etc. on product safety matters should be seen in a broader public policy interest in increasing the level of health and safety. In the same manner, assessing the need of amendments to laws etc. should be viewed in the context of good regulatory practices and the need of regularly reviewing regulations to ensure they are fit for purpose and are updated to take into account developments in technology and risk assessment.

Regarding "establishing this system in manufacturing plants", the EU is not certain what this refers to. Conformity assessment based on 3rd party product certification is usually complemented by surveillance by the 3rd party of the manufacturing plant or process. It should be kept in mind that a system based on SDOC, where ISO/IEC 17050 is used, implies that the manufacturer has means of ensuring that all products covered by the declaration are in compliance with the technical regulations and standards applicable and referred to in the declaration. This implies that the manufacturer has taken measures to control the manufacturing process.

Question: May the proponents of the two proposals share with us the experience of other developing countries in establishing such a system based on their experience in providing technical assistance in this area?

Answer: In the EU's successive enlargements since the 1990s, 15 countries¹ with differing degrees of development have gone from systems based on third party certification to SDOC. None of the regulatory authorities in those Member States have reported a deterioration in the level of safety. This is also the case for the countries of the European Free Trade Association (Iceland, Norway, Liechtenstein and Switzerland) who through the Agreement on an European Economic Area have also implemented the EU regulatory system for electrical and electronic products.

Question: In TN/MA/W/119, in which cases would the proponents consider "the registration of the product with the authorities of the importing Members" to be "not more trade-restrictive than necessary"?

Answer: This needs to be examined on a case-by-case basis since registration systems vary between Members that have them. By way of example, the EU would consider any registration system that resembles a non-automatic licensing/registration system, e.g. as defined in Article 3 of the Agreement on Import Licensing, would for the purpose of this sectoral proposal be regarded as more trade restrictive than necessary.

Question: What is the need for including transparency provisions that go beyond the TBT Agreement in both sectors?

¹ Austria, Finland and Sweden on 1 Jan 1995; Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia on 1 May 2004; Bulgaria and Rumania on 1 Jan 2007.

Answer: The EU considers that the transparency requirements of the TBT Agreement, e.g. as embodied in Article 2.9, function well and are continuously discussed and improved as part of the triennial review of the TBT Agreement. The report of the Fifth Triennial Review of the Operation and Implementation of the TBT Agreement (G/TBT/26, 13 November 2009) emphasizes that "transparency is a fundamental pillar in the implementation of the TBT Agreement and a key element of Good Regulatory Practice." In paragraph 8 of the report, the Committee also "stresses the importance of transparency in processes and procedures used in the development and application of technical regulations and conformity assessment procedures. Participation by interested parties helps ensure legitimacy to what a government does, and the measures it chooses to implement. It also enhances the outcome of the regulatory process by contributing to the creation of higher quality technical regulations and conformity assessment procedures and helps to increase awareness about government actions and avoid unnecessary obstacles to trade." Like the US, the EU believes that enhanced transparency TBT disciplines for large, globalized sectors such as electronics and automotive products will help prevent NTBs from arising in the first place, for example, by ensuring that parties affected by proposed standards, technical regulations, and conformity assessment procedures (e.g., manufacturers, importers, and testing facilities) have the opportunity to present their views and have their concerns heard prior to adoption of the final measure.

Question: In what ways have the TBT Agreement proved deficient in these two sectors?

Answer: The TBT Agreement provides a set of basic disciplines to ensure that technical regulations, standards and conformity assessment procedures imposed by WTO Members are not more trade restrictive than necessary. These disciplines apply to all product sectors and have and continue to serve the WTO Members and their economic operators well. The EU has no intention of changing the TBT Agreement. At the same time, it is undeniable that exporters in all countries continue to complain about technical barriers to trade due to diverging technical requirements and conformity assessment procedures. This is the case for both the automotive and electrical/electronic product sectors. Building on the basic principles and disciplines of the TBT Agreement, the EU proposals in both sectors seek to find solutions to the specific problems faced by exporters. These solutions are based on existing international mechanisms (e.g. standardization and mutual recognition schemes) specific to the respective sectors and that abide by the principles set out in decisions of the TBT Committee. Thus the EU proposals do not alter or prejudice the TBT Agreement, but builds on and enhances it in relation to the two sectors in order to directly address problems faced by exporters. In conclusion, the TBT Agreement should not be seen as "deficient" in addressing the specific trade barriers in the two sectors, however by enhancing some of the basic disciplines would contribute to addressing those sector specific trade barriers more efficiently.

附件 7

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

EU answers to questions from Egypt on the EU Electronics NTB Negotiating Text

Communication from the European Union

Corrigendum

The following communication, dated 20 April 2010, is being circulated at the request of the delegation of the European Union.

On page 2, please replace the answer to the following question:

Question: May the proponents of the two proposals share with us the experience of other developing countries in establishing such a system based on their experience in providing technical assistance in this area?

with: (effected changes are highlighted in bold)

Answer: In the EU's successive enlargements since the 1990s, 15 countries¹ with differing degrees of development have gone from systems based on third party certification to SDOC. None of the regulatory authorities in those Member States have reported a deterioration in the level of safety. This is also the case for the countries of the European Free Trade Association (Iceland, Norway, Liechtenstein and Switzerland) who through the Agreement on a European Economic Area **or through a bilateral agreement**, have also implemented the EU regulatory system for electrical and electronic products

¹ Austria, Finland and Sweden on 1 Jan 1995; Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia on 1 May 2004; Bulgaria and Rumania on 1 Jan 2007.

Negotiating Group on Market Access

附件 8

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTSU.S. Responses to Egypt's Questions Regarding Autos and ElectronicsCommunication from the United States

The following responses, dated 10 May 2010, are being circulated at the request of the delegation of the United States.

I. ON NON-TARIFF BARRIERS PERTAINING TO STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES FOR AUTOMOTIVE PRODUCTS

1. The United States in document TN/MA/126 has given an example of these "market incentives or other voluntary mechanisms", would the U.S. further elaborate on this "Stars" mechanism, and how does such a mechanism ensure the required level of performance and safety as determined by Members? If possible would the U.S. give us its view on the practicability of applying similar or equivalent systems in developing countries?

ANSWER: The "star" rating system is part of the U.S. National Highway Transportation Safety Administration (NHTSA)'s New Car Assessment Program (NCAP). It is designed to provide additional consumer information for safety systems that may or may not be covered by U.S. Federal Motor Vehicle Safety Standards and regulations (FMVSS). For any item for which there is an FMVSS, any star rating simply recognizes the degree by which the vehicle exceeded the specific FMVSS performance requirements. Where there are no applicable FMVSS, the rating system accomplishes two things: first, it rates the safety feature relative to NHTSA's definition of a "good system", and second, it encourages manufacturers to fit these systems to their vehicles at higher rates in order to gain the favorable star rating. Although the star program is voluntary and manufacturers are not required to use it, manufacturers may nonetheless choose use it to address customer preferences. With respect to non-FMVSS regulated items, the stars program can prompt manufacturers to produce higher quality, safer vehicles without NHTSA mandating that they do so.

It is up to each Member, both developed and developing, to make a decision on whether a system similar to the U.S. star rating system is sufficient to meet their regulatory objectives. Vehicle specifications, and therefore crash test results, may vary between Members.

Below is some information about how the "star" rating system works. We would be interested in following up bilaterally with Egypt on any specific technical details about this program.

For frontal crash ratings, crash-rating dummies representing an average-sized adult are placed in driver and front passenger seats and secured with the vehicle's seat belts. Vehicles are crashed into a fixed barrier at 35 miles per hour (mph), which is equivalent to a head-on collision between two similar vehicles each moving at 35 mph. *The rating reflects a crash between two similar vehicles from the same weight class, plus or minus 250 lbs.*

Instruments measure the force of impact. The star ratings indicate the chance of a serious head and chest injury to the driver and right front seat passenger.

- * * * * * = 10% or less chance of serious injury
- * * * * = 11% to 20% chance of serious injury
- * * * = 21% to 35% chance of serious injury
- * * = 36% to 45% chance of serious injury
- * = 46% or greater chance of serious injury

Similar tests are done simulating side impact conditions. Instruments measure the impact for front and rear seat passengers. Below are the star indicators for side impact.

- * * * * * = 5% or less chance of serious injury
- * * * * = 6% to 10% chance of serious injury
- * * * = 11% to 20% chance of serious injury
- * * = 21% to 25% chance of serious injury
- * = 26% or greater chance of serious injury

2. **In both the U.S. and EU proposals TN/MA/W/120 and TN/MA/W/118/Rev.1 respectively, why do the paragraphs on urgent problems of safety, health, environmental protection, or national security contain no reference to the entirety of articles 2.10 and 5.7 or at least paragraph F(4) in TN/MA/W/120 and paragraph 8.2.4 in TN/MA/W/118/Rev.1 should have both interested parties as well as other Members?**

ANSWER: Paragraph III.F does not reference Article 2.10 and 5.7 of the TBT Agreement because those provisions provide that Members may omit steps in Articles 2.9 and 5.6 of the TBT Agreement in the case of urgent problems, whereas paragraph III.F of the U.S. proposal provides that Members may omit steps in paragraph III.E in the case of urgent problems. Paragraph III.F of the U.S. proposal is intended to refer to the same type of urgent problems referred to in Articles 2.10 and 5.7. We will consider whether a reference to these provisions in paragraph III.F would be helpful in clarifying the text.

3. **In both the U.S. and EU proposals TN/MA/W/120 and TN/MA/W/118/Rev.1 respectively, why are there no special and differential treatment provisions for developing countries?**

ANSWER: The U.S. proposal builds on the existing TBT Agreement by setting additional disciplines to facilitate trade in the automotive sector. The U.S. proposal would apply in addition to existing TBT Agreement provisions, including existing provisions on special and differential treatment set out in Article 12. If additional or different special and differential treatment provisions are needed with respect to particular provisions of the U.S. proposal, those need to be considered in relation to the commitments that finally emanate from an NTB agreement in this area. We continue to consult with Members about these commitments and welcome written suggestions, including with respect to special and differential treatment provisions that would enhance broad-based support for these commitments and Members' ability to implement them.

4. **In the U.S. proposal TN/MA/W/120 and JOB(08)/46**

- **Egypt recognizes that the U.S. has taken into account the comments concerning the importance of having separate transparency provisions for technical regulations, conformity assessment procedures and standards in order to conform to the way they are treated in the TBT Agreement.**
- **However, one can notice that the transparency provisions in TN/MA/W/120 includes separate provisions for Members and interested parties unlike in JOB(08)/46 which had both Members and interested parties in the same provisions.**

Would the U.S. explain what are the underlying reasons for this separation?

ANSWER: The separate provisions for Members and interested parties in TN/MA/W/120 was an effort to respond to Members' requests to avoid duplicating obligations already contained in the TBT Agreement. For example, the TBT Agreement requires Members to provide other Members reasonable time to comment on proposed measures; it does not require Members to provide interested parties reasonable time to comment on proposed measures. Accordingly, the proposal specifies that Members shall provide interested parties reasonable time to comment and that this time shall be normally not less than 60 days. (See paragraph E.6). Because the TBT Agreement already provides that Members shall provide other Members reasonable time to comment, the proposal does not repeat that obligation but instead specifies that Members shall allow other Members normally not less than 60 days. (See paragraph E.5). We are open to ways to draft this more clearly.

II. ON NTBS PROPOSALS RELATED TO ELECTRONIC GOODS - TN/MA/W/105/REV.2, TN/MA/W/119 AND TN/MA/W/129

1. **With regards to the supplier's declaration of Conformity "SDOC" how do the proponents of the two proposals assess the effectiveness of SDOC in developing countries given the lack of appropriate market surveillance mechanisms and traceability laws in these countries?**

ANSWER: The U.S. proposal does not require Members to adopt an SDOC regime and, therefore, would not restrict developing Members' rights to use third party certification, for example, because of challenges an SDOC regime may pose with respect to post-market surveillance. We note that Members have raised concerns about their ability to undertake post-market surveillance in relation to the EU proposal. The EU is proposing SDOC for conformity assessment related to Electromagnetic Compatibility (EMC) requirements.

2. **Do the proponents of the two proposals believe that it is possible for a developing country to take the necessary steps for the establishment of the "SDOC" system within the proposed time frame, taking into account that these steps include *inter alia*:**
- **Increasing public awareness and training specialists in the specialized authorities, and the private sector on the use of the SDOC system to ensure the conformity of its application with international standards.**
 - **Establishing this system in manufacturing plants and the needed requirements and procedures.**
 - **Assessing and determining the required amendments in the relevant laws, regulations, decisions, and executive regulations to apply the SDOC system.**

U.S. ANSWER: The U.S. proposal does not require that Members adopt an SDOC system. (See answer to question II.1.)

3. **May the proponents of the two proposals share with us the experience of other developing countries in establishing such a system based on their experience in providing technical assistance in this area?**

U.S. ANSWER: The U.S. proposal does not require that Members adopt an SDOC system. We note the EU response to this question highlighted the experience of EU enlargement countries and EFTA countries adopting an SDOC regime. We do not believe that those examples are universally applicable to developing countries, but there could be some interesting lessons learned from those cases.

We would like to note that there is a high degree of experience sharing that goes on in this area among regulators. Our Federal Communications Commission meets with its counterpart regulators in other Members on a regular basis to discuss various aspects of the regulation of telecommunication products, including maintaining an effective SDoC system.

III. ON NTBS PROPOSALS RELATED TO BOTH ELECTRONIC GOODS AND AUTOMOTIVES

1. **What is the need for including transparency provisions that go beyond the TBT Agreement in both sectors?**
2. **In what ways have the TBT Agreement proved deficient in these two sectors?**

ANSWER for questions III.1 and III.2.:

- Autos: Please see U.S. answers to Canada's question in TN/MA/W/126 on pages 7 and 8.
 - Electronics: Please see U.S. answers to Singapore's and Canada's questions in TN/MA/W/125 on pages 5-9.
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Non-Paper
by the European Union

附件 9

International Standards in Electronics

This non-paper aims at explaining in more detail why the EU is proposing to make reference to IEC, ITU and ISO as relevant international standards setting bodies in relation to Article 2.4 of the TBT Agreement. At the outset, it should be underlined that while the EU proposal does give preference to these three organisations, it is in no way to be understood as giving exclusivity to them. It is important to read this preference for IEC, ITU and ISO in the context of the whole section on international standards. With regard to domestic or regional standardisation, the EU proposal is completely neutral. Also regarding any single international standard, the EU proposal ensures that the current disciplines of the TBT Agreement continue to apply. Thirdly, the EU proposes to open a new avenue for the speedy approval of international standards by the relevant international standard-setting bodies of standards developed by industry consortia or even national standard-setting bodies to foster innovation.

So, there is no exclusivity, but a preference. The EU remains open to consider other international standards setting bodies that make a significant contribution to international harmonisation and convergence related to electrical and electronic products. In this respect, one needs to keep in mind, however, that we are looking into international standards only related to electromagnetic compatibility (EMC) and electrical safety. Therefore, the focus is clearly on regulatory relevance without interfering with other possible uses that standardisation can have. International standards that only relate to industry needs, e.g. performance and interoperability, are not seen as relevant for the purpose of this proposal.

➤ **Open and representative membership**

IEC, ISO and ITU are open to membership from all countries and already have a very wide membership (IEC: 159 countries (members and affiliates), ISO: 162 countries, ITU: 191 countries) and count a high membership from developing countries (IEC: 67%, ISO: 67%, ITU: 84%). In this context, it should be pointed out that ITU is an agency of the United Nations.

➤ **Open, impartial, transparent and consensus based procedures**

IEC, ISO and ITU develop standards in accordance with the TBT Committee Decision principles. ISO and IEC have observer status at the TBT Committee and regularly report to the TBT Committee on their activities.

➤ **Main source for international standards for electronics**

All issues related to EMC, emission and immunity, for all significant product families, are - in the international context - standardised by IEC. In a few specialised areas, mainly for historical reasons, ISO Technical Committees do touch on the area of EMC. ITU deals with EMC for telecommunications equipment in collaboration with IEC. Here, the IEC Special International Committee for Radio Interference (CISPR), is the international reference.

For safety, at the global level the IEC is also unquestionably the authority on the safety of electrical and electronic goods, including related services such as installation and repair. Safety has been the overriding concern for all IEC standardisation work since it was founded in 1906. Their standards are internationally recognised as the reference points for EMC and safety world-wide, e.g.:

Safety standards	EMC standards
IEC 60335 series on safety of household electrical appliances	CISPR series (e.g. CISPR 22 and 24 for IT equipment)
IEC 60950 safety of information technology equipment	IEC 61000 series generic EMC standards
IEC 60364 series on electrical installations of buildings	ITU K.20, K.21, K.45 and K.44, resistibility requirements and test method

With regard to conformity assessment, basically all international standards used world-wide in relation to the operation and accreditation of conformity assessment bodies are from ISO and IEC (ISO CASCO that develops joint ISO/IEC standards and guides). Please note the ISO/IEC 17000 series of standards.

➤ Basis for international convergence and integration

International standards are a powerful tool for promoting regulatory convergence and economic integration. The international standards of IEC, ITU and ISO have played an essential part in different action plans at the regional and international levels that aim at facilitating trade by alignment to international standards. It should be noted that only standards from IEC, ITU and ISO, or regional ones identical to them, have been used for such harmonisation programs.

APEC¹: The "Blueprint APEC Sub Committee on Standards and Conformance"² states that "The alignment of national standards with international standards is an activity that contributes to facilitating trade by the reduction of negative effects due to differing standards among APEC economies". The work programs includes the commitment to align national standards to 40 IEC and ISO standards related to "EE appliances" (air conditioner, television, refrigerator, radio and its parts and video) and an additional 207 standards to be aligned: the IEC 60335 series of electrical safety standards, CISPR EMC standards, IEC 60950 and standards and guides on conformity assessment. Furthermore, based on the input from the APEC Business Advisory Council (ABAC), APEC members are looking at aligning their national standards to IEC standards and in particular those used in the IECEE CB scheme as a matter of priority. Moreover, APEC has put into place a Mutual Recognition Arrangement on Conformity Assessment of Electrical Equipment. Lastly, APEC has conducted a work program on trade facilitation in information technology products based on the objective of "One-Standard-One Test, Supplier's Declaration of Conformity".

¹ APEC Members: Australia, Brunei Darussalam, Canada, Chile, China, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Taiwan, Thailand, USA, Vietnam.

² http://www.apec.org/apec/apec_groups/committee_on_trade/sub-committee_on_standards.html

ASEAN³: has used action plans related to aligning national standards with international standards in view of achieving the ASEAN Economic Community with a free flow of goods, services and investment. Detailed list of IEC, ITU and ISO standards in the electro-technical field (and other sectors) have been identified for national transposition⁴. ASEAN has also in relation to electrical and electronic equipment put into place a harmonised regulatory regime based on common essential requirements (with reference to relevant international standards) and mutual recognition of conformity assessment results.

EU: international standards have played an essential role in the EU's economic integration and realising its internal market. The EU's Single Market is based on European standards, where priority has always been given to international standards. As a result over 80% of European standards are identical to the corresponding international standard. This means that all stakeholders that participate in the work of ISO, IEC and ITU have a direct influence on what is a cornerstone of European integration and of its Single Market.

Information Technology: In the context of the Information Technology Agreement (ITA) surveys were conducted in relation to the Non-Tariff Measures Work Program⁵. These surveys showed that ITA participants that regulated for EMC, their requirements were based on or harmonised with the international standards CISPR 22 and CISPR24 or the CISPR standards were accepted as equivalent. With regard to safety, ITA participants almost without exception used IEC 60950 for their regulatory requirements. IEC standards have thus contributed to a large degree of regulatory convergence with regard to information technology equipment. As the US points out in a submission "There also are internationally recognised safety and electromagnetic interference standards for many IT products (i.e. IEC 60950, CISPR 22 and 24). Many governments that regulate in these areas have adopted these international standards and this international harmonisation has greatly facilitated trade"⁶.

➤ **Responds to the demands of industry**

Industry, both multinational companies and small and medium enterprises, have repeatedly expressed a clear wish to see a reduction in the divergence of standards and technical regulations and have campaigned under the slogan "one standard, one test, supplier's declaration of conformity". This slogan has been a key recommendation to governments from industry organisations such as the Trans-Atlantic Business Dialogue (TABD), APEC Business Advisory Council (ABAC), ASEM Business Advisory Council, MERCOSUR-Europe Business Forum (MEBF), Asia Europe Business Forum (AEBF) etc. The electro-technical sector epitomises global supply chains. At the 2009 WTO Public Forum, research presented on global supply chains showed that NTBs hinder countries from fully participating in them. Furthermore, a number of surveys (cf. the ITA NTM work program, OECD, ITC) clearly indicate that the costs that result from TBT related barriers for IT products are substantial and these divergences seldom add value in terms of safety.

³ ASEAN Members: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam.

⁴ See: <http://www.aseansec.org/22359.pdf>, <http://www.aseansec.org/15564.htm>, <http://www.aseansec.org/15567.htm>

⁵ See G/IT/SPEC/Q1/125, G/IT/SPEC/Q2/11/Rev.1, G/IT/SPEC/Q4/19/Rev.2, G/IT/W/17/Rev.4

⁶ G/IT/SPEC/Q3/6.

➤ **Responds to the needs of Developing Countries**

Developing and least developed countries already face challenges in participating in the work of IEC, ISO and ITU. The unnecessary multiplication of "international" standardising bodies will not facilitate the meaningful participation of developing countries in international standards development. By focusing the work on international standards to IEC, ISO and ITU would allow them to use already scarce resources in a more efficient manner. All three organisations have programmes to assist developing countries build up capacities to participate in a more active and meaningful way in the different technical committees. Giving preference to IEC, ISO and ITU effectively means better sharing the international governance in the global economy.

The transposition of IEC and ISO standards among developing countries is still on average relatively low but is constantly increasing. Many developing countries are affiliate members of the IEC and the IEC has an extensive database on adoption of IEC standards by these members⁷. In IEC's 2009 report to the TBT Committee, Annex A gives examples of international standards adopted as national standards by developing countries⁸. This shows that many of the main IEC safety standards are of relevance and value to developing countries. The participation of developing countries in the technical work of ISO, IEC and ITU has also been increasing. For example, in ITU while 7 out of 10 ITU-T Study Group Chairmen come from developed countries, 42 out of 73 Vice-Chairmen come from developing countries and another 6 are from least developed countries.

➤ **Support for international mutual recognition of conformity assessment**

Mutual recognition of test results and certificates has its greatest value when it is based on international standards. Without this reference point, complexities created by differences in national regulations limit the bilateral approach to no more than six maybe nine sets of different regulations. Basing recognition on international standards allows extending the network of trust beyond bilateral relations. This insight is fully integrated in the approach followed by the IECEE CB scheme.

The ITA NTM Work Program identified diverging conformity assessment systems and requirements, as well as the non-recognition of test results and certificates, among participants as one of the main barriers to trade in ITA products. As the U.S. points out in its submission "Burdensome regulatory procedures and lack of portability of conformity assessment data need to be addressed and eliminated"⁹. The IECEE CB directly addresses the issue of portability of test results and certificates.

The IECEE CB Scheme is open to all countries, even those not members of the IEC. It ensures mutual recognition of conformity assessment results based on the international standards of the IEC and accommodates for those cases when national deviations appear. In this respect it is a direct response to one the main technical barriers to trade that exporters continuously complain about, i.e. duplicative testing and certification.

⁷ [http://dom2.iec.ch/adoptions/affiliates.nsf/\\$Affiliates_en?openForm](http://dom2.iec.ch/adoptions/affiliates.nsf/$Affiliates_en?openForm)

⁸ G/BTBT/GEN/88

⁹ G/IT/SPEC/Q2/12

Non-Paper
by the European Union

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

IV. 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.

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]

Subject Area - WP.29 Regulation

<i>Lighting and Light Signaling Equipment</i>	
Headlamps (R ₂ and HS ₁)	UNECE Reg. 1
Retro reflectors	UNECE Reg. 3
Rear registration plate lamp	UNECE Reg. 4
Headlamps (sealed beam)	UNECE Reg. 5
Direction indicators	UNECE Reg. 6
End-outline/front-position (side)/rear-position (side)/stop lamps	UNECE Reg. 7
Headlamps (H ₁ , H ₂ , H ₃ , HB ₃ , HB ₄ , H ₇ , and/or H ₈ , H ₉ , HIR1, HIR2 and/or H ₁₁)	UNECE Reg. 8
Front fog lamps	UNECE Reg. 19
Headlamps (H ₄)	UNECE Reg. 20
Reversing lights	UNECE Reg. 23
Headlamps (halogen sealed beam)	UNECE Reg. 31
Filament lamps for use in approved lamp units	UNECE Reg. 37
Rear fog lamps	UNECE Reg. 38
Headlamp cleaners	UNECE Reg. 45
Installation of lighting and light signalling devices	UNECE Reg. 48
Special warning lamps for powerdriven vehicles and their trailers	UNECE Reg. 65
Rear marking plates for slow-moving vehicles (by construction) and their trailers	UNECE Reg. 69
Rear marking plates for heavy and long vehicles	UNECE Reg. 70
Parking lamps	UNECE Reg. 77
Daytime running lamps	UNECE Reg. 87
Side marker lamps	UNECE Reg. 91
Headlamps with gas-discharge light sources	UNECE Reg. 98
Gas-discharge light sources for use in approved gas-discharge lamp units	UNECE Reg. 99
Retro-reflective markings for vehicles of category M, N and O	UNECE Reg. 104
Headlamps (asymmetrical passing beam)	UNECE Reg. 112
Cornering lamps for power-driven vehicles	UNECE Reg. 119
Adaptive front-lighting systems	UNECE Reg. 123

<i>Occupant Protection</i>	
Door locks and door retention components	UNECE Gtr. 1
Head restraints	UNECE Gtr. 7
Door latches and hinges	UNECE Reg. 11
Behaviour of steering device under impact	UNECE Reg. 12
Belt anchorages	UNECE Reg. 14
Safety belts and restraint systems	UNECE Reg. 16
Seat strength and anchorage, head restraints	UNECE Reg. 17
Interior fittings	UNECE Reg. 21
Head restraints	UNECE Reg. 25
Protection of the occupants of the cab of a commercial vehicle	UNECE Reg. 29
Behaviour of the structure in a rear-end collision	UNECE Reg. 32
Behaviour of the structure in a head-on collision	UNECE Reg. 33
Fuel tanks	UNECE Reg. 34
Child restraint systems	UNECE Reg. 44
Rear protective device	UNECE Reg. 58
Front under-run protection	UNECE Reg. 93
Frontal impact	UNECE Reg. 94
Side impact	UNECE Reg. 95
Replacement airbag systems	UNECE Reg. 114
Partitioning systems to protect passengers against displaced luggage, supplied as non original vehicle equipment	UNECE Reg. 126

<i>Pedestrian Protection</i>	
Pedestrian safety	UNECE Gtr. 9
External projections	UNECE Reg. 26
External projections forward of the cab's rear panel - Commercial vehicles	UNECE Reg. 61
Lateral protection	UNECE Reg. 73

<i>Drivers Vision</i>	
Safety glazing materials for motor vehicles and motor vehicle equipment	UNECE Gtr. 6
Safety glazing	UNECE Reg. 43
Indirect vision devices	UNECE Reg. 46
Front forward field of vision	UNECE Reg. 125

<i>Braking</i>	
Electronic stability control systems	UNECE Gtr. 8
Braking	UNECE Reg. 13H
Brake linings	UNECE Reg. 90

<i>Controls and Displays</i>	
Arrangement of foot controls	UNECE Reg. 35
Speedometer	UNECE Reg. 39
Identification of controls, tell-tales and indicators	UNECE Reg. 121

<i>EMC, Electronic, Radio and Telecommunication equipment</i>	
Radio interference (electromagnetic compatibility)	UNECE Reg. 10

<i>Anti theft</i>	
Anti-theft	UNECE Reg. 18
Vehicle Alarm Systems	UNECE Reg. 97
Anti-theft and immobiliser	UNECE Reg. 116

Emissions, Fuel consumption, Engine Power and Fuel Specifications

Test procedure for compression-ignition (C.I.) engines and positive-ignition (P.I.) engines fuelled with natural gas (NG) or liquefied petroleum gas (LPG) with regard to the emission of pollutants	UNECE Gtr. 4
Technical requirements for on-board diagnostic systems (OBD) for road vehicles	UNECE Gtr. 5
Off-cycle emissions (OCE)	UNECE Gtr. 10
Emission of gaseous pollutants by the engine - fuel consumption of vehicles	UNECE Reg. 15
Diesel smoke	UNECE Reg. 24
Emissions of pollutants	UNECE Reg. 49
Emission of pollutants	UNECE Reg. 83
Power-driven vehicles equipped with internal combustion engines with regard to the measurement of fuel consumption	UNECE Reg. 84
Engine power measurements	UNECE Reg. 85
CO2 emissions – Fuel consumption	UNECE Reg. 101
Replacement catalytic converters	UNECE Reg. 103

Noise

Noise emissions	UNECE Reg. 51
Replacement silencing systems	UNECE Reg. 59

Steering, Wheels and Tyres

Electronic stability control systems	UNECE Gtr. 8
Braking	UNECE Reg. 13
Tyres, motor vehicles and their trailers	UNECE Reg. 30
Tyres of commercial vehicles and their trailers	UNECE Reg. 54
Temporary-use spare wheels/tyres	UNECE Reg. 64
Steering effort	UNECE Reg. 79
Retreaded pneumatic tyres for motor vehicles and their trailers	UNECE Reg. 108
Production of retreaded pneumatic tyres for commercial vehicles and their trailers	UNECE Reg. 109
Rolling sound emissions	UNECE Reg. 117
Wheels for passenger cars	UNECE Reg. 124

Buses, Public Service Vehicles and Special Purpose Vehicles

General construction of large passenger vehicles	UNECE Reg. 36
M2 and M3 small capacity vehicles with regard to their general construction	UNECE Reg. 52
Strength of superstructure (buses and coaches)	UNECE Reg. 66
Seat strength (buses and coaches)	UNECE Reg. 80
Vehicles intended for the transport of dangerous goods	UNECE Reg. 105
Buses and coaches	UNECE Reg. 107
Tank vehicles of categories N and O with regard to rollover stability	UNECE Reg. 111
Flammability	UNECE Reg. 118

Miscellaneous

Advance-warning triangles	UNECE Reg. 27
Audible warning	UNECE Reg. 28
Front and rear protective devices (bumpers, etc.)	UNECE Reg. 42
Coupling components	UNECE Reg. 55
LPG tanks	UNECE Reg. 67
Power-driven vehicles including pure electric vehicles with regard to the measurement of the maximum speed	UNECE Reg. 68
Uniform provisions concerning the approval of rear marking plates for slow-moving vehicles (by construction) and their trailers	UNECE Reg. 69
Speed limitation devices	UNECE Reg. 89

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Construction, functional safety and hydrogen emission - Battery electric vehicles	UNECE Reg. 100
Close-coupling device	UNECE Reg. 102
CNG tanks	UNECE Reg. 110
Specific LPG (liquefied petroleum gases), CNG (compressed natural gas) retrofit systems	UNECE Reg. 115
Heating systems	UNECE Reg. 122

(Non-Paper circulated by Japan)

Japan's Status of Adoption of 1958 Agreement List

No.	Description	
1&2	Headlamps	
3	Reflex Reflectors	X
4	Rear Registration Plate Lamps	
5	Sealed Beam Headlamps	
6	Direction Indicators	X
7	Front and Rear Position (Side) Lamps, Stop Lamps and End-Outline Marker Lamps	X
8	Halogen Headlamps (H1, H2, H3, HB3, HB4, H7, H8, H9, HIR1, HIR2 and/or H11)	
9	Noise (Three-Wheeled Vehicles)	
10	Radio Interference Suppression	
11	Door Latches and Hinges	X
12	Steering Mechanism	X
13	Braking	
13H	Braking (M1)	X
14	Safety Belt Anchorages	X
15	Exhaust Emission	
16	Safety Belts	X
17	Seats	X
18	Protection Against Unauthorized Use	
19	Front Fog Lamps	X
20	Halogen Headlamps (H4)	
21	Interior Fittings	
22	Motor Cycles and Mopeds Helmet	
23	Reversing Lamps	X
24	Diesel Smoke	
25	Head Restraints	X
26	External Projections	X
27	Warning Triangles	X
28	Audible Warning Devices	X
29	Cab of a Commercial Vehicle	
30	Pneumatic Tyres (Passenger Vehicle)	X
31	Halogen Sealed Beam Headlamps	
32	Rear-end Collision	
33	Head-on Collision	
34	Prevention of Fire Risks	
35	Arrangement of Foot Controls	
36	Construction of Public Service Vehicles	
37	Filament Lamps	
38	Rear Fog Lamps	X
39	Speedometer	X
40	Exhaust Emission (Motor Cycle)	
41	Noise (Motor Cycle)	
42	Front & Rear Protective Devices	
43	Uniform Provisions Concerning The Approval Of Safety Glazing Materials	
44	Child Restraint Systems	X
45	Headlamp Cleaners	X
46	Devise for indirect vision (Rear-View Mirrors)	
47	Exhaust Emission (Moped)	
48	Installation of Lights	X
49	Diesel Emission	
50	Lights (Moped, Motor Cycle)	
51	Noise	
52	Construction of Small Capacity Public Service Vehicles	
53	Installation of Lights (Motor Cycle)	
54	Pneumatic Tyres (Commercial Vehicle)	X
55	Mechanical Coupling	
56	Headlamps (Moped)	
57	Headlamps (Motor Cycle)	
58	Rear Underrun Protection	X
59	Replacement Silencing System	
60	Driver Operated Controls (Moped, Motor Cycle)	
61	External Projections (Commercial Vehicle)	
62	Protection Against Unauthorized Use (Motor Cycle)	X
63	Noise (Moped)	

No.	Description	
64	Temporary-Use Spare Wheels/Tyres	
65	Special Warning Lights	
66	Strength of Super Structure (Large Passenger Vehicle)	
67	Specific Equipment of Vehicles Using LPG	
68	Measurement of the Maximum Speed	
69	Rear marking plates for slow-moving vehicles (by construction) and their trailers	
70	Rear Marking Plates for Heavy and Long Vehicles	X
71	Driver's field of vision of agricultural tractors	
72	Halogen Headlamps (HS1 for Motor Cycle)	
73	Lateral Protection (Goods Vehicle)	
74	Installation of Lights (Moped)	
75	Pneumatic Tyres (Moped, Motor Cycle)	X
76	Headlamps (Moped)	
77	Parking Lamps	X
78	Braking (Category L)	X
79	Steering Equipment	
80	Seat (Large Passenger Vehicle)	X
81	Rear-View Mirrors (Motor Cycle)	X
82	Halogen Headlamps (HS2 for Moped)	
83	Emission of Pollutants According to Engine Fuel	
84	Measurement of Fuel Consumption for internal combustion	
85	Measurement of Engine Power	
86	Installation of lights on forestry tractors	
87	Daytime Running Lamps	
88	Retroreflective Tyres (Motor Cycle)	
89	Speed Limitation Devices	
90	Replacement Brake Lining Assemblies And Drum Brake	
91	Side-Marker Lamps	X
92	Replacement Silencing System (Motor Cycle)	
93	Front Underrun Protection	X
94	Protection of the Occupants in the event of a Frontal	X
95	Protection of the Occupants in the event of a Lateral	X
96	Emissions of Pollutants by Compression Ignition (CI) Engines to be installed in Agricultural & Fores	
97	Vehicle Alarm Systems	
98	Gas-Discharge Headlamps	X
99	Gas-Discharge Light Sources	
100	Battery Electric Vehicles	
101	Emission of Carbon Dioxide and Fuel Consumption (Passenger Car)	
102	A Close-Coupling Device	
103	Replacement Catalytic Converters	
104	Retro-Reflective Markings for Heavy and Long Vehicles	X
105	The Carriage of Dangerous Goods with Regard to their Specific Constructional	
106	Pneumatic tyres for agricultural vehicles	
107	Double-Deck Large Passenger Vehicles with Regard to their General Construction	
108	Retreaded Pneumatic Tyres (Motor Vehicle)	
109	Retreaded Pneumatic Tyres (Commercial Vehicle)	
110	Vehicles Using CNG	
111	Rollover Stability (Tank Vehicles if Categories N and O)	
112	Headlamps (with an Asymmetrical Passing Beam)	X
113	Headlamps (with a Symmetrical Passing Beam)	
114	Replacement Airbag System	
115	LPG/CNG Retrofit System	
116	Protection of motor vehicles against unauthorized use	X
117	Tyres with regard to rolling sound emissions	
118	Burning behavior of materials used in the interior construction of certain categories of motor	
119	Cornering lamps for power-driven vehicles	X
120	Internal combustion engines to be installed in agricultural and forestry tractors and in non-road m	
121	The location and identification of hand controls, tell-tales and indicators	
122	Heating systems (if Categories M, N and O)	
123	Adaptive front-lighting systems (AFS) for motor vehicles	X
124	Wheels for passenger cars and their trailers	
125	Forward field of vision of the motor vehicle driver	
126	Partitioning systems to protect passengers against displaced luggage, supplied as non original vehicle equipment	

Negotiating Group on Market Access

附件 12

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTSQuestions for the Co-sponsors of the "Understanding to facilitate the Implementation of the TBT Agreement as applied to trade in the chemical products sector"*Communication from the United States*

The following communication, dated 10 May 2010, is being circulated at the request of the delegation of the United States.

We thank Argentina and Brazil for this constructive contribution to the NAMA NTBs negotiations. At this early stage, we have several clarifying questions which would help us to further analyze the proposal.

General Questions:

- What would this proposal's relationship to the TBT Agreement be? How does this proposal correlate to Members' existing rights and obligations under the TBT Agreement?

Section I – Scope

- Please explain the proposed scope (HS Chapters 28-39) -- and how it relates to your objectives.
- We note that this scope includes products other than chemicals such as fertilizers, fireworks, agricultural products, soap and detergent, cosmetics, and pharmaceuticals. Are the proponents seeking to address registration requirements and laboratory accreditation related to these products? Or are proponents seeking to address registration requirements and laboratory accreditation related to the chemicals contained in these products?
- What is the co-sponsors' definition of "registration"?

Section II – Registration**Paragraph 1**

- We note that this paragraph only addresses technical regulations. However, Annex 3 of the TBT Agreement lists registration as a form of conformity assessment. Please discuss rationale for not including conformity assessment.

Paragraph 1, subparagraph 1

- How is this provision related to the language on Assessment in Section IV?

Paragraph 1, subparagraphs 4 and 5

- Do co-sponsors intend subparagraphs 4 and 5 (which refer to "disproportional"/ "disproportionate" and "unreasonable" obstacles to trade) to supplement or substitute for the obligations under Articles 2.2 and 5.1.2 of the TBT Agreement that technical regulations and conformity assessment procedures not be "unnecessary obstacles to trade"? If so, what is the reasoning behind wanting to supplement or substitute for the existing TBT Agreement provisions?
- How do the co-sponsors define the terms "unreasonable" "disproportional" and "excessively complex"? How would co-sponsors envision analyzing whether a particular registration requirement is an unreasonable or disproportional obstacle or excessively complex?

Paragraph 2

- What is the relationship between this provision and Article 2.2/5.1.2 of the TBT Agreement?
- What does "proportional" mean?
- With respect to risk, is the proposal advocating for registration requirements based on differing levels of risk? What do the co-sponsors consider to be legitimate risk factors? (Or, what would co-sponsors consider not to be legitimate risk factors?)

Paragraph 2.2

- How would this provision account for substances that may be unintentionally released?

Paragraph 3

- Does "it" in the second clause refer to the Member, the Member's register, or registration?
- Do co-sponsors intend that paragraph 3.1 be read as a limitation on the obligation in paragraph 3? In particular, does paragraph 3.1 suggest that a Member does not have any obligation to exempt products from registration that are included in another WTO Member register, unless it has negotiated an MRA with that WTO Member?
- The proposal states that Members shall endeavor to negotiate MRAs aimed at harmonizing registration requirements. What would these MRAs cover – for example would they cover mutual acceptance of product registrations or would they seek to harmonize Members' underlying registration requirements?

Section III – Accreditation of Laboratories

- How would this provision relate to Articles 6 and 9 of the TBT Agreement regarding MRAs and international systems for conformity assessment?

Section IV – Assessment

- Does this provision go beyond registration and cover any technical regulation impacting trade on products within the scope of this Understanding?

Section V – Special and Differential Treatment and Technical Cooperation

- Does this provision refer to developing country and LDC compliance with developed country registration and laboratory accreditation requirements?
- Or does it concern assisting developing countries and LDCs with compliance with their own registration and laboratory accreditation requirements?
- Why does the provision not address technical cooperation to ensure developing country and LDC registration and laboratory accreditation requirements meet the same obligations as developed countries?

Annex A

Please provide us with a general explanation about the purpose of the annex and what you see as the basis for potentially excluding some products.

Negotiating Group on Market Access

附件 13

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Canada's questions on the Chemical proposal from Argentina and Brazil

Communication from Canada

The following communication, dated 12 May 2010, is being circulated at the request of the delegation of Canada.

I. SCOPE

- 1.1 Is the understanding meant to cover chemicals in products/articles or chemical products only, which are different?
- 1.2 Are pesticides, explosives, food additives, etc. to be covered by the understanding? Polymers and monomers? Intermediates?
- 1.3 Is this understanding intended to cover nanotech substances or biotechnology as well?

II. CONFORMITY ASSESSMENT (ACCREDITATION OF LABORATORIES)

- 2.1 Does this proposal seek to restrict the use of any type of conformity assessment procedure?

III. CONFIDENTIAL BUSINESS INFORMATION

- 3.1 How will this proposal ensure the protection of confidential business information that may need to be disclosed by firms to regulatory authorities in order to determine risk?

IV. ASSESSMENT

- 4.1 With respect to an assessment of the export effects on other Members, what benefits does Argentina anticipate being generated by this exercise?
- 4.2 Are all interested Members expected to/required to participate?
- 4.3 What mechanism does Argentina envision for the collection and review of data?
- 4.4 Would the assessment be developed as a consensus-based report or would a different approach be used?
- 4.5 Who would be required to notify the assessment results to the TBT Committee?
- 4.6 Does this notification utilize the existing framework for notifications under Articles 2 and 5 or is a different notification process envisaged?

V. ANNEX

5.1 How would the Annex be developed?

5.2 How should these exemptions be considered, under what circumstances should they be, or not be, granted?

5.3 On what scientific basis would chemicals be exempted?

5.4 Would chemicals in the Annex be permanently exempted?

5.5 Who would administer the Annex and its enforcement?

Negotiating Group on Market Access

附件14

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTSCanada's questions on the Chemical proposal from the EU*Communication from Canada*

The following communication, dated 12 May 2010, is being circulated at the request of the delegation of Canada.

I. SCOPE

- 1.1 The EU proposal is said to apply to "chemicals". How does the EU propose to define chemicals? By harmonized system tariff chapter?
- 1.2 Is the understanding meant to cover chemicals in products/articles or chemical products only, which are different?
- 1.3 Are pesticides, explosives, food additives, etc. to be covered by the understanding? Polymers and monomers? Intermediates?
- 1.4 Is this understanding intended to cover nanotech substances or biotechnology as well?

II. INTERNATIONAL STANDARDIZING BODIES

- 2.1 Canada notes that the EU has proposed "relevant" international standardizing bodies. The TBT Agreement does not list any international standardizing body in any product area as being the "relevant" body.
- 2.2 Why is the EU proposing such a list in the area of chemicals?
- 2.3 How was the EU's proposed list determined?
- 2.4 Is this list meant to be exhaustive? In the case of overlapping expertise, which international standardizing body would be considered the competent authority?

III. CLASSIFICATION AND LABELLING

- 3.1 In Article 3 of the proposal, the EU makes reference to an obligation placed on Members to move towards substantial global harmonization of classification and labelling of chemicals by the end of [2015].
- 3.2 Would this proposed obligation abrogate a member's sovereign right to regulate to appropriately secure the safety of its people and/or environment?

IV. SPECIAL AND DIFFERENTIAL TREATMENT FOR SMES

4.1 In article 4.1.3, the EU refers to special and differentiated treatment for small and medium enterprises with a view to reducing the administrative burden for them.

4.2 How does the EU plan to implement S&DT for SMEs while ensuring an appropriate level of security for human, animal and plant life or the environment?

V. SUBCOMMITTEE OF TBT COMMITTEE ON CHEMICALS

5.1 With respect to monitoring and oversight, there are a number of other fora, such as UNEP, which already deal with chemicals in terms of their environmental impact.

5.2 What role does the EU foresee the Subcommittee playing?

5.3 What benefit(s) does the EU expect would be derived by Members from establishing such a subcommittee?

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Responses by co-sponsors to Israel's questions on the Understanding to facilitate the implementation of the TBT Agreement as applied to trade in the chemical products sector

The following communication, dated 19 May 2010, is being circulated at the request of the delegations of Argentina and Brazil.

1. The former proposal (TN/MA/W/104) was addressed to cover only chemical substances that pose minimum risk to human health and the environment. Under the current proposal, the proponents aim to include all chemical substances (excluding those mentioned in Annex A). Could the proponents explain the *rationale* behind the broadening of the scope?

Co-sponsors consider that the negotiation of a list of minimum risk substances could be difficult to accomplish. On the other hand, a broader scope with a positive list of exclusions could provide a flexible and workable approach in order to define the final coverage of the proposal.

2. How would the formulation and modification of Annex A be decided by the Members? Would each member have a self-designated exclusion list, or rather a common list is envisioned?

The aim should be the preparation of a single list of exclusions based on criteria shared by Members. For instance, Members could decide to exclude dangerous substances or specific products subject to special requirements in their domestic legislations.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Questions to the proponent of the "Understanding on Non-Tariff Barriers Pertaining to Standards, Technical Regulations and Conformity Assessment Procedures for Chemical Products (TN/MA/W/137)"

Communication from Argentina and Brazil

The following communication, dated 20 May 2010, is being circulated at the request of the delegations of Argentina and Brazil.

1. Concerning scope and coverage, what is the definition of "chemicals" in paragraph 1.1.?
2. How would the characterization of the OECD as "International Standard-Setting Body" be justified according to the definition of "International Body or System" presented in Annex I of the TBT? Is the OECD open to the relevant bodies of at least all members of WTO?
3. Although some WTO Members which are not OECD Members are presently in the process of adhering to OECD GLP procedures, for the benefit of other non-OECD Members, could the EU clarify which are the different modes of participation and membership in the relevant committee concerning GLP in OECD? How would WTO and WTO Members which are not OECD Members participate in the implementation of OECD procedures for mutual acceptance of data?
4. Article 4.3 of the proposal establishes specific OECD decisions as a reference. How would future modifications of those disciplines affect rights and obligations of WTO Members which are not OECD Members?
5. How would concerns of other WTO members which are not OECD members be taken into account in the future evolution of the disciplines established by the OECD Council?
6. Would the EU be open to a formulation that would not transpose OECD standards into WTO disciplines, but recognize the importance of plurilateral arrangements in this area?
7. Article 2.2 of the TN/MA/W/137 proposal states that "Members commit to participate actively (...) in the international standard-setting bodies identified in paragraph 2.1". What exactly does this statement mean, since admission process in some of the institutions listed is not automatic and is conditional on the approval of their existing Members? Would developing countries be granted special and differentiated treatment in accordance to Article 12 of the TBT agreement?
8. Article 4.1.2 refers to "like chemicals". What is understood by this expression and how should chemicals be classified, considering that Article 2.1 of TBT refers to "like products".
9. Concerning paragraph 7.1.c of TN/MA/W/137 proposal, does it include impact evaluation assessments concerning economic and social aspects, especially those related to labeling and registration of chemicals for international trade? Why is there no mention to special conditions involving developing countries?

10. Why the proposal does not include a special technical assistance program (beyond technical cooperation provided in paragraph 11 of TN/MA/W/137 proposal) for developing countries to adapt their domestic legislations, so that they would be able to comply with Article 3.2 of the proposal, in accordance with the Articles 12.4 and 12.8 of the TBT Agreement?

11. Item 4.2.3 states that Members should ensure that the costs and procedures associated with the collection or registration of data are proportionate with regard to the legitimate objectives pursued, taking into account the impact of such costs for small and medium companies. How would the EU envisage this proportionality to be assessed in order to prevent that unnecessary barriers to trade are disguised as legitimate objectives?

12. Concerning paragraph 4.2.6, and 4.2.7, please explain why registration requirements would apply only to imported products.

13. In paragraph 5.1.c, what does "the internationally agreed data reporting format" means?

Negotiating Group on Market Access

B/T#17

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTSQuestions on the framework proposal (TN/MA/W/136) and proposals on chemicals (TN/MA/W/135, TN/MA/W/137)*Communication from the Republic of Korea*

The following communication, dated 11 May 2010, is being circulated at the request of the delegation of the Republic of Korea.

I. FRAMEWORK FOR INDUSTRY-SPECIFIC NTB PROPOSALS (TN/MA/W/136)**(Structure of the Framework Agreement)**

1. Co-sponsor's Framework Proposal provides so-called "a cupboard approach" which place industry-specific proposals attached to framework agreement. In this approach, it would be important to ascertain the common elements in the industry-specific proposal that can be included in the framework agreement. In Korea's view, certain issues such as "international standard-setting bodies" in Article 3 and "assuring conformity with regulatory requirements" in Article 8 appear to be more sector-specific issues which can be handled in the industry-specific NTB negotiation. What is co-sponsors' rationale to include above-mentioned elements in the main body of the framework agreement?

2. According to Article 13 of the Framework Proposal, in the event of a conflict between the provisions of the Annexes and of the main body of the framework agreement, the provisions of the Annexes shall prevail. It appears to suppose the overlapping between main body and annexes of the Framework Agreement. In Korea's view, if it is the case, it would be better to have an outcome in the industry-specific proposal first, then proceed to find common elements in the main body of the Framework Agreement. What is the co-sponsors' response to Korea's view?

(International Standard-Setting Bodies)

3. According to Article 3 of the Framework Proposal, ISO, IEC, ITU and Codex shall be considered relevant international standard-setting bodies only when it follows the TBT committee decision. Does this mean that other international organizations other than the above-mentioned ones could not be considered relevant international standard-setting bodies even though it follows the TBT committee decision?

(Improving Regulatory Practice)

4. According to paragraph 1 of Article 6 of the Framework Proposal, Members shall consider, *inter alia*, "the impact of the proposed technical regulation or conformity assessment procedure". It is not clear enough what kind of the impact assessment is necessary in paragraph 1 of Article 6. Do co-sponsors propose to include a Benefit/Cost analysis as one type of impact assessment?

(Ensuring Transparency and Due Process)

5. According to the Framework Proposal, there appears to be no procedural requirement in terms of transparency when a technical regulation or conformity assessment procedure is in accordance with international standards. Neither Article 6 (when a relevant international standard or recommendation does not exist) nor Article 7 (when amending or adopting a technical regulation or conformity assessment procedure that is not in accordance with relevant standards, guides or recommendations issued by international standardizing bodies and may have a significant effect on trade) applies. Do co-sponsors believe that TBT plus element is not necessary in this case?

6. Paragraph 3 of Article 7 in the Framework Proposal provides that Members shall ensure that the information on how the text of the measure can be obtained is published in a single official journal of national circulation or in a publicly accessible website for interested parties' access. Does this mean that the draft text of the proposed technical regulation or conformity assessment procedure shall be provided for interested parties, further to Article 2.9.1 of the TBT Agreement?

II. UNDERSTANDING ON NON-TARIFF BARRIERS PERTAINING TO STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES FOR CHEMICAL PRODUCTS (TN/MA/W/137) PROPOSED BY THE EUROPEAN UNION

1. According to Article 3.3, any Member's classification and labelling requirements for chemicals shall be in conformity with Article 2.2, 2.4, and 2.5 of the TBT Agreement. In Korea's view, even without Article 3.3 of the proposal, Member's classification and labelling requirements for chemicals still need to be in conformity with relevant articles of the TBT Agreement. Does Article 3.3 have any other legal implication?

2. Article 4.1.1 stipulates that Members recognize the importance of achieving global harmonization of the management of chemicals. In Korea's view, the scope of the "management" is overly wide or ambiguous. Members' technical regulation policy, as a whole and in principle does not need to be regulated under the WTO system, if it is not more trade restrictive than necessary under the TBT Agreement. What is the proponent's view on this point?

III. QUESTIONS ON THE UNDERSTANDING TO FACILITATE THE IMPLEMENTATION OF THE TBT AGREEMENT AS APPLIED TO TRADE IN THE CHEMICAL PRODUCTS SECTOR (TN/MA/W/135) PROPOSED BY ARGENTINA AND BRAZIL

1. Article 3 stipulates that "Members shall except from registration products that are included in another WTO Member register, when it has the similar level of requirements and fulfils the same legitimate objectives." Since the scope of "similar level" is somewhat broad and ambiguous, in Korea's view, it would be appropriate that in such a case the authorities consider simplifying registration procedures or reviewing registration documents in a shorter period, rather than except from all the procedures. What is the proponent's view on this?

2. Under the co-sponsors' proposal, list of products out of coverage is not indicated in Annex A. What kind of chemical products the co-sponsors have in mind for the list?

Room Document

The proponents of the "*Framework Understanding on NTBs*" are circulating this room document for clarifying certain elements of the Understanding.

Rationale and linkage with sector specific proposals.

The Framework Understanding simplifies the sector specific proposals on non tariff barriers (NTBs) being discussed in the NAMA negotiating group. The approach has been two fold namely: 1. to lift up the common elements of the existing sector specific NTB proposals that could be applied on a horizontal basis, and whilst doing so, 2. to identify areas where the TBT Agreement could be elaborated and built upon. By identification of such elements, it will avoid duplicity of language as well as enable negotiators and regulators to focus on the elements of each proposal on which a negotiating position has to be formulated. Both the Framework and the sector specific proposals can be negotiated in parallel since these elements of each proposal have clearly been demarcated.

Coverage

The Framework covers all products. Co-sponsors are of the view that in particular for horizontal elements, like for instance transparency and good regulatory practice, implementation of the obligations will be largely facilitated. The rationale is very simple: any provision that would be usefully applied to the four sectors: textiles, electronics, cars, and chemicals in a horizontal manner, will most likely have the same beneficial effect for all the other possible sectors. If duly justified and agreed in the sectoral negotiation process, the annexes could also contain additions on subjects already covered in the horizontal part. The NTB Framework has clarified this relation. Therefore, the NTB Framework provides a lot of flexibilities. Regarding coverage, it follows the product coverage of the TBT Agreement.

International Standard Setting

The position of the co-sponsors is a middle ground between the two key positions in the current sector specific NTB proposals of having specific international standard setting bodies and leaving it open-ended with the criteria of these bodies following the principles of the TBT Committee Decision. The advantages of having specific bodies and ensuring that standards set by them adhere to the principles of the TBT Committee Decision are that it minimizes duplicity in international standard setting; it economizes resources of Members, especially developing countries in that they can focus on those relevant international standards; and it ensures inclusive participation of Members in setting up of those relevant standards thereby adhering to the principles of the TBT Committee Decision. The four bodies were selected since they have a general coverage across sectors. The Codex Alimentarius for example covers TBT related labeling requirements for many goods of interest to developing countries.

Transparency

The proponents have been ambitious on the transparency provisions as they feel that it is an important element of the negotiations. The main objective was to modernize the existing transparency mechanism taking account of globalisation and the information age. Publishing, allowing participation of interested parties, providing a web portal enabling producers from all over the world instant access to technical regulations and relevant conformity assessment procedures to better access world markets, and stipulating impact assessment as regulatory good practice are key features of the NTB Framework proposal.

The creation of an NTB repository is an important aspect especially for small and medium enterprises to have, from a single entry point, the entire gamut of such measures on the products of their export interest to specific markets.

Co-sponsors believe that there must be an incentive for Members to look at premising their technical regulations and conformity assessment procedures on international standard. It is with this view that the provisions exclude those technical regulations and conformity assessment procedures which are completely transposed from the relevant international standards from the purview of the notification, providing information and publication of comments. The room document on transparency to be issued by the co-sponsors of the NTB Framework Understanding is explicit and specific on this point.

Conformity Assessment Procedures

The proponents believe that the international conformity assessment systems are important stepping stones for addressing NTBs. However, it would be premature at this point of time in seeking firm commitments on these systems since many Members are in the process of gradually taking these on board in a phased manner. Therefore, the language has been kept as a best endeavour.

Technical Assistance and S&D Treatment

The proponents believe that the existing Articles under the TBT Agreement need to be given teeth in order to make these provisions effective for developing countries including LDCs. The text has highlighted a few such provisions such as assistance for setting up post market surveillance under the suppliers declaration of conformity; impact assessment analysis to take on board the specific development, financial and trade needs of developing countries etc. One could also look a more focused technical assistance for developing countries including LDCs for participating in the relevant international standard setting process. The proponents remain open to any specific suggestions for strengthening the provisions of this clause.