

Non-Tariff Barriers: Overview and current status

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A. What is a Non-Tariff Barrier?



Definition:

- There is no agreed definition at the WTO
- Non-tariff barriers include, in principle, all measures other than tariffs used to protect a domestic industry
- The term normally refers to “government imposed” or “government sponsored” measures, other than tariffs



- Many of the non-tariff measures imposed are based on a legitimate goal and can be introduced in a WTO consistent manner. (e.g. measures to protect the environment, SPS, TBT, national security, etc.)
- But, Member needs to follow specific provisions to ensure WTO compatibility
- Some measures are not compatible with the multilateral trading rules and re not based on a legitimate goal (Protectionism!)
- Existence of “grey areas”.

Protectionism



WTO OMC



Legitimate goal

- “Non-Tariff **Barriers**” vs. “Non-Tariff **Measures**”
- New NTBs, and variations of existing ones, tend to develop over time



B. What is the rationale for negotiating NTBs in the WTO?



Reasons for negotiating NTBs include:

- To ensure that tariff commitments are not eluded or undermined
- To limit trade disputes between Members
- To minimize the trade distorting effects of a legitimate measure

- 1967/69 Inventory of NTBs: Aprox. 800 NTBs notified and classified in 5 broad categories (COM.IND/4+6)
- Tokyo Round: Inventory was continued and improved for both agricultural (MTN/3E/DOC/5-10) and industrial products (MTN/3B/1-5). NTBs on products of interest to developing countries were also identified (MTN/3B/16 and COM.TD/W/203/Rev.1).
- 1979/81 Decision to update NTB inventory Aprox. 1000 out of 1400 NTBs were retained after the revision (See L/5118)
- Uruguay Round: A Negotiating Group on Non-Tariff Measures was created (MTN.GNG/NG2 series). Proposals were compiled and classified by the Secretariat (MTN.GNG/NG2/W/19+Rev.1). Results include several Agreements plus **Part III** of the Schedules



C. What has been the process for negotiating NTBs in the DDA?



Doha mandate on NTBs:

- **“16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, **as well as non-tariff barriers**, in particular on products of export interest to developing countries.”**



DDA – NTBs: Sequence of main events



2002/2003 → Generic proposals by Participants

Apr. 2003 → Overview of Proposals Submitted, NTBs (TN/MA/9)

Jan. 2003 → **1st** Notification Exercise (Notif. format in TN/MA/S/5)

Aug. 2003 → Chair's Draft Elements for Modalities, including NTBs

Oct. 2003 → **2nd** Notification Exercise (Revised format TN/MA/S/5/Rev.1; See also JOB(04)/62 + Revisions)

2004/2005 → Review and classification of notifications (JOB(04)/62/Rev.3)
Where should the NTBs notified be negotiated?

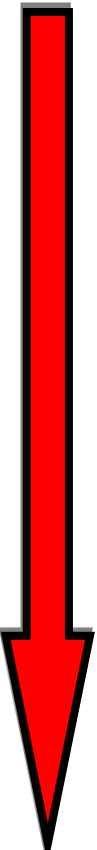
Dec. 2005 → HKMD, mandate to submit **specific proposals**

(Continues...)



Hong Kong Ministerial Declaration

22. We note that the Negotiating Group has made progress in the identification, categorization and examination of notified NTBs. We also take note that Members are developing **bilateral, vertical and horizontal** approaches to the NTB negotiations, and that some of the NTBs are being addressed in other fora including other Negotiating Groups. **We recognize the need for specific negotiating proposals** and encourage participants to make such submissions as quickly as possible.



2006/2007 → 13 vertical and horizontal proposals were submitted by Participants (many TBT related); some have more support than others. Bilateral requests were also made (TN/MA/NTR/)

2008 → Should NTB negotiations finish with the modalities or afterwards? If afterwards, then how? (TN/MA/W/103/Rev.3 P. 23-26)



2009 → Intensive technical work

So, how will the NTBs be “reduced” or “eliminated”?

- Some raised in other WTO bodies
- Some raised in other Negotiating Groups (e.g. NG TF and NG Rules)
- Some will be negotiated in sectoral (“vertical”) discussions
- Some will be negotiated in “horizontal” discussions
- Some raised bilaterally; eventually multilateralized (e.g. Part III of Schedules)
- Some could be subject to the DSU
- **There is no magic bullet!!!!**



D. NTB proposals

- 1. Horizontal mechanism** → Seeks procedure for a non-binding, mutually agreed solution through a facilitator (TN/MA/W/106)
- 2. NTBs on the chemical sector** → labelling, conformity assessment, registration and laboratory accreditation (TN/MA/W/104)
- 3. TBT on fireworks** → absence of int. standard, conformity assessment, labelling (TN/MA/W/102)
- 4. TBT on lighters** → recognize a specific standard, conformity assessment, labelling (TN/MA/W/90/Add.1)
- 5. NTBs as unilateral trade measures** → eliminate existing measures; refrain from using GATT Articles XX, XXI as means of arbitrary or unjustifiable discrimination (TN/MA/W/94/Rev.1)



- 6. TBT on electronics** → Safety of electrical equipment and its electromagnetic compliance (EMC), conformity assessment (SDOC and/or assurance of conf.), laborat. acred. (JOB(07)/42/Rev.1)
- 7. Export taxes** → operationalize existing disciplines, bind and/or eliminate them, limited exceptions to maintain (TN/MA/W/101)
- 8. TBT on labelling of textiles etc.** → info. that can be included in the permanent and the non-permanent labels (TN/MA/W/93)
- 9. Transp. on export licensing** → notification requirement of existing measures, information exchange (TN/MA/W/15/Add.4/Rev.2)
- 10. Use of forestry products in construction** → recognition of specific international standards, accreditation, mutual recognition (JOB(07)/158)



- 11.TBT on electronic goods** → Electrical safety and electromagnetic compliance (EMC) of electronic goods, replace specific parts of the TBT agreement (TN/MA/W105/Rev.1)
- 12.Remanufactured goods** → review and working program under the auspices of the CTG (TN/MA/W/18/Add.16/Rev.2)
- 13.Automotive products** → standards, technical regulations, conformity assessment (Job(08)/46)

**For details of the documentation
containing textual proposals on NTBs and
related written questions and answers,
please refer to:**

Note by the Secretariat

(TN/MA/S/21/Rev.4 of 2 August 2010)



E. Most Recent Discussions



2010 NAMA weeks “Room D Consultations”:

- 17-20 May,**
- 12-15 July,**
- 20-23 September, and**
- 24-26 November**

“Room D” Consultations

Horizontal Mechanism (HM)

- *Scope*
- *“Committee First”*
- *Relationship with the DSU*

“Room D” Consultations

Transparency

- *What to notify*
- *Early notice*
- *Interested parties*

“Room D” Consultations

Chemicals

- *Scope*
- *Overlap with TBT*
- *Terminology*
- *Relevant on-going work in other bodies*

“Room D” Consultations

Framework

Remanufacturing

Automotives

Electronics

Conformity Assessment

International Standards

Labelling of Textiles, Clothing, Footwear and Travel Good



2011 NAMA weeks “Room D Consultations”:

- The process continued in January, February, March and April
- Small drafting groups were created for:
Horizontal Mechanism
Transparency,
Textiles labelling,



Thank you!