

Dealing with Non-Tariff Barriers in NAMA

Presentation in UNCTAD
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Market Access Division
World Trade Organisation



NTBs

1. What is a Non-Tariff Barrier?
2. Why negotiate NTBs in the WTO?
3. Why have negotiations been based on notifications?
4. Which NTBs have been notified in the NAMA negotiations?
5. How will the NTBs be “reduced” or “eliminated”?



1. What is a Non-Tariff Barrier?

- There is no agreed definition.
- Non-tariff barriers include, in principle, all measures other than tariffs used to protect a domestic industry.
- They normally refer to “government imposed” or “government sponsored” measures.

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1. What is a Non-Tariff Barrier?

- Many of the non-tariff measures imposed are based on a legitimate goal and can be introduced in a WTO consistent manner. (i.e. measures to protect the environment, SPS, TBT, national security, etc.)
- The Member needs to follow specific provisions to ensure WTO compatibility.
- Some measures are not compatible with the multilateral trading rules nor based on a legitimate goal (Protectionism!).
- Existence of “grey areas”.

Protectionism



Legitimate goal.

2. Why negotiate NTBs in the WTO?

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

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3. Why have negotiations been based on notifications?

- To identify NTBs considered important by Members, including those of importance to developing countries and LDCs
- To identify which are the imposing and the affected Members
- The notification approach has been used in previous negotiations

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GATT History

- o Many of the Articles in Part II of GATT were drafted to protect the value of concessions
- o Examples of GATT Articles:
 - o **V: Freedom of Transit**
 - o **VI: Antidumping and countervailing duties**
 - o **VII: Valuation for customs purposes**
 - o **VIII: Fees and formalities connected with Importation and Exportation**
 - o **X: Publication and Administration of Trade Regulations**

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GATT History

- o Examples of GATT Articles (cont'd):
 - o **XI: general elimination of Quantitative Restrictions**
 - o **XII: restrictions to safeguard the Balance of Payments**
 - o **XIII: non-discriminatory administration of Quantitative Restrictions**
 - o **XVI: Subsidies**
 - o **XVII: State Trading Enterprises**
 - o **XVIII: government assistance to Economic Development**
 - o **XIX: emergency action on Imports of particular products (safeguards)**
 - o **XX: general exceptions**

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TOKYO ROUND

- Agreements on:
 - o Technical Barriers to Trade*
 - o Government Procurement
 - o Interpretation and Application of Articles VI, XVI and XXIII (Subsidies and Countervailing Duties)*
 - o Implementation of Article VII (Customs Valuation)*
 - o Import Licensing Procedures*
 - o Implementation of Article VI (Antidumping)*

*Also Uruguay Round Agreements

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URUGUAY ROUND Multilateral Agreements

- Agreements on:
 - o Sanitary and Phytosanitary Measures
 - o Preshipment Inspection
 - o Rules of Origin
 - o Safeguards
 - o Agriculture
 - o Textiles and Clothing

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URUGUAY ROUND Other

- Uruguay Round Understandings:
 - o Article XVII
 - o BoP
- Request/Offer embodied in Part III of Schedules. (8 participants undertook commitments)

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URUGUAY ROUND Other (Cont'd)

- Accessions
 - o Commitments in Part III of schedules:
 - China
 - Chinese Taipei
 - Saudi Arabia

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NAMA MANDATE

Paragraph 16 of the Doha Declaration

- “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.”
- “Product coverage shall be comprehensive and without a *a priori* exclusions.”

DOHA DEVELOPMENT AGENDA

First Notification Exercise

- 25 Members made notifications circulated in documents TN/MA/W/25, Add.1 and Add.2

Second Notification Exercise

- 20 Members made notifications circulated in documents TN/MA/W/46 plus Addenda and compiled in JOB(04)/62/Rev.7

(went up to Hong Kong Ministerial)

NTBs Notified by Relevant WTO

Provisions (from 2nd Notification Exercise)

Relevant WTO Provision	All notifying Members	
	No. of Items*	Share (%)
Agreement on Technical Barriers to Trade	81	26.0%
Article VIII of GATT 1994	55	17.6%
Article X of GATT 1994	23	7.4%
Agreement on the Application of Sanitary and Phytosanitary Measures	20	6.4%
Agreement on Implementation of Article VII of the GATT 1994	19	6.1%
Agreement on Import Licensing Procedures	19	6.1%
Article XI of GATT 1994	18	5.8%
Article III of GATT 1994	11	3.5%
Agreement on Rules of Origin	7	2.2%
Agreement on Implementation of Article VI of the GATT 1994	7	2.2%
Other	52	16.7%
Total	312	100.0%

* Some of the notified NTBs relate to more than one category and were, therefore, counted more than once.

Doha Development Agenda Overview of NTB Work in NAMA

Hong Kong Ministerial:

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 -> HOW TO REDUCE OR ELIMINATE?

TREATMENT PROPOSED BY MEMBERS

1. NGMA	22%
2. Other Negotiating Bodies	17.1%
3. WTO Regular Bodies	23.3%
4. Other (bilateral, delete)	34.1%
5. Multiple Options (no clear option)	3.5%
Total Notifications	100%

NTBs AT PRESENT

- Examples of Proposals put forward:
 - Horizontal NTB mechanism (EC)
 - Resolution of NTBs through a facilitative Mechanism (NAMA 11)
 - Labelling requirements on Textiles, Apparel, Footwear and Travel goods (US)
 - NTBs in textiles/clothing and footwear sector (EC)
 - Re-manufactured and re-furbished goods (US)
 - Enhanced Transparency on Export Restrictions (Japan)
 - Export taxes (EC).

NTBs AT PRESENT (Cont'd)

- Chair set a soft deadline of 23 March for submission of text-based proposals
- Chair has asked the Secretariat to make a compilation of the text-based proposals
- Discussions will continue in the week of 26 March 2007

Thank You!

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