

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Understanding to facilitate the implementation of the
TBT Agreement as applied to trade in the chemical products sector

Communication from Argentina and Brazil

The following communication, dated 3 February 2010, is being circulated at the request of the delegations of Argentina and Brazil.

**UNDERSTANDING TO FACILITATE THE IMPLEMENTATION OF THE
TBT AGREEMENT AS APPLIED TO TRADE IN THE CHEMICAL PRODUCTS SECTOR¹**

Members,

Recalling that, in accordance with paragraph 16 of the Doha Ministerial Declaration and paragraph 22 of the Hong Kong Ministerial Declaration, Members agreed to negotiations aimed at reducing or as appropriate eliminating tariffs and non-tariff barriers on non-agricultural products;

Recognizing that the continued existence of non-tariff barriers in the chemical sector acts as a disincentive to participation in international trade, leading to an adverse impact in a sector of importance for small and medium-sized enterprises;

Emphasizing the need of addressing specific concerns related to chemical sector, such as registration requirements and laboratory accreditation, in order to ensure that they are not designed, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade;

Recognizing also that, some issues which affect trade in chemical sector (such as, good regulatory practices, some conformity assessment procedures and confidentiality) may also have a negative impact on trade of other products, and should be considered and, as appropriated, negotiated at a horizontal level.

Highlighting the importance that registration requirements and laboratory accreditation are based on relevant international standards.

¹ This text proposal is a first draft intended as a work-in-progress and does not prejudice the final position of co-sponsors on this issue.

Reasserting that nothing in this Understanding shall be interpreted as preventing Members from taking measures consistent with the TBT Agreement that are necessary to, *inter alia*, protect human, animal or plant life health or the environment; or to prevent deceptive practices; or to protect essential security interests;

Hereby, agree as follows,

I. SCOPE

This Understanding covers registration requirements and laboratory accreditation related with chemical lines (HS Chapters 28-39), with the exception of those included in an Annex A to be agreed by Members.

II. REGISTRATION

1. When a Member designs, adopts or applies a technical regulation consisting in a registration of products covered by this Understanding, it shall take into account:

- Cost and benefits to producers and consumers, including those of third parties, as well as its impact on international trade.
- Other available regulatory and non-regulatory alternatives that may fulfil the Member's legitimate objectives and are less trade restrictive.

And ensure that:

- It accords treatment not less favourable to the imported chemical products covered by this Agreement than that granted to domestic products.
- Costs associated with registration are not an unnecessary, unreasonable or disproportional obstacle to access to that Member's market. In particular, the impact of such costs for small and medium companies shall be taken into account.
- Procedures are not excessively complex or constitute an unnecessary, unreasonable or disproportionate obstacle to access to that Member's market.

2. Member's registration requirements shall be proportional to the risk that products covered by this Understanding present for human, animal, plant life or health, or the environment, according to the scientific information available.

2.1 Members shall not require registration of inputs utilized in the manufacture of imported products, unless there is scientific evidence that inputs in those products pose a risk for human, animal, plant life, or the environment.

2.2 Members shall not require registration of substances contained in products when they are not intended to be released, unless there is scientific evidence that those substances in the condition they are present in those products, pose a risk for human, animal, plant life, or the environment.

3. 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.

3.1 With that purpose, Members shall endeavour to negotiate Mutual Recognition Agreements and participate in international initiatives aimed at harmonizing registration requirements.

III. ACCREDITATION OF LABORATORIES

In order to reduce cost associated to laboratories accreditation Members shall endeavour to negotiate Mutual Recognition Agreements. Relevant sectoral international standards (such as ISO 17025) shall be taken into account.

IV. ASSESSMENT

Before adopting or amending a technical regulation that may have a significant effect on trade of the products covered by this Understanding, Members shall endeavour to conduct an assessment of the expected impact on the exports of other Members. Such assessment shall take into consideration possible regulatory and non-regulatory alternatives. As appropriate, this assessment shall be notified to the TBT Committee well in advance to the adoption of the proposed measure.

V. SPECIAL AND DIFFERENTIAL TREATMENT AND TECHNICAL COOPERATION

Developed Member countries shall provide, upon request and under terms and conditions mutually agreed with developing countries and less developed countries, technical cooperation to ensure compliance with registration and laboratory accreditation requirements.

ANNEX A

(List of products excluded of this Understanding).
