

**DOHA DEVELOPMENT AGENDA
UNICE POSITION ON NON-AGRICULTURAL MARKET ACCESS NEGOTIATIONS**

UNICE supports the comprehensive nature of the mandate agreed in Doha for non-agricultural market access negotiations. Industrial tariff reduction and elimination of non-tariff measures are among UNICE's key priorities in the new round of negotiations to be concluded by 1 January 2005. These two components of market access should be actively pursued in parallel.

UNICE reconfirms its strong commitment to a comprehensive trade round and stresses that improved market access should be pursued together with progress in the other key areas for European business, namely investment, trade facilitation and services. A comprehensive agenda offers better chances for a balanced and therefore more acceptable outcome of the round for all WTO members. We expect the fifth ministerial conference to take the necessary decisions in this regard.

We note with satisfaction that the negotiating group on non-agricultural market access has recently agreed a clear agenda and timetable for the modalities of negotiations (May 2003). We welcome the ambitious June 2002 submission to the WTO of the European Communities as a first step in the definition of the negotiating objectives. All WTO members should contribute actively to the process underway by making their positions known so that progress can be achieved.

Tariff negotiations

UNICE supports the total elimination of tariff barriers by all WTO Members as ultimate long-term objective. Considering that such a bold objective has unrealistic chance of being agreed in this round in view of the divergent positions already expressed by WTO Members, UNICE recommends the setting of concrete and realistic objectives leading to the establishment of a level playing-field.

Modalities of negotiations are important to structure the process and build confidence between WTO Members. UNICE's main interest remains, however, the final outcome of the negotiations. In this respect its priorities are as follows:

- A comprehensive approach across-the-board for all products and all sectors without a priori exceptions;
- Bound reduction of high tariffs and in particular tariff peaks with a view to securing greater tariff harmonisation between countries and reducing/eliminating tariff escalations;
- Binding of unbound tariffs at commercially acceptable levels;
- Improved geographical coverage of zero-duty sectoral agreements and sectoral tariff harmonisation agreements and expansion of their product coverage where an international industrial consensus can be achieved;
- Special consideration for the needs of the least developed countries in terms notably of level and staging of reduction according to their capacity.

To meet these objectives, UNICE believes that a general tariff reduction formula would facilitate the negotiations and would better lead to the expected results:

- **Tariff peaks:** UNICE urges that industrial tariffs are bound at a maximum level of 15% at the end of the staging period agreed in the round. Specific tariff liberalisation provisions should however be considered for the least developed countries to take account of their individual situation.
- **Sectoral agreements:** once agreement on overall tariff reduction objectives covering all sectors has been reached by all WTO Members, nothing should preclude sectors from agreeing deeper cuts/elimination of tariffs to be part of the final undertaking, provided they represent a critical mass of the relevant markets.
- **Least developed countries:** UNICE expects the developed and more advanced developing countries to agree on a package providing effective market access for products from the least developed countries. UNICE regrets that other developed WTO Members as well as the more advanced developing countries have so far not followed the EU's "Everything But Arms" initiative in a meaningful manner.
- **Basis for negotiations:** given the wide discrepancy between bound and applied rates, reduction schedules should take applied tariffs and not bound tariffs as their starting point. In this respect, a stand-still commitment should be concluded at the outset of the negotiations.
- **Small tariffs:** UNICE acknowledges the merits of eliminating tariffs below a certain limit, to be defined, but insists that this should be considered only on a case by case basis and provided significant progress is secured in establishing a relevant level-playing field for the sectors concerned across all WTO membership.
- **Environmental goods:** consistent with the Ministerial Declaration, UNICE supports consideration of the elimination of tariffs on environmental goods and services and welcomes government-industry cooperation to arrive at coherent, objective and non-discriminatory criteria for eligibility. UNICE considers a list approach the most appropriate method to identify such goods and services. In line with its positions on trade and environment UNICE considers that process and production methods (PPMs) should not be taken into account since this could lead to a distinction at the border between identical goods. UNICE will specify its position as the issue develops.

Non-tariff barriers

As tariff barriers are being reduced or eliminated, the tendency to resort to the erection of non-tariff barriers to trade will increase. UNICE therefore insists that equal importance is given to the removal of non-tariff barriers to trade. Non tariff barriers (NTBs) can take many forms and can quickly change, depriving economic actors of effective access to other markets.

UNICE has compiled a list of NTBs that European companies experience as most problematic in trading with third countries. Many of these barriers could best be addressed within the context of an already existing WTO agreement, by clarifying or modifying provisions. Others, especially barriers that occur at the border, should be addressed by an ambitious trade facilitation agreement.

For some others a tariff equivalency should be determined in view of negotiating their subsequent reduction. That could be the case notably for border measures or charges of any kind applied to imported goods (e.g. trigger prices, variable duties, minimum prices etc.).

Some of the most problematic, specific NTBs are set out below in more detail.

- **Export restrictions:** Export restrictions, including export duties, are an extremely powerful instrument that can quickly and deeply disrupt the operation of market economy mechanisms in any sector. They are currently the cause for severe disruptions on the international market in particular for several raw materials and commodities. By creating discriminatory access to these raw materials, entire industry channels are destabilized and locally protected sectors obtain a considerable competitive edge in international trade. Recent developments have convinced UNICE that it is high time to revisit Article XI of the GATT to avoid that trade liberalisation brought about by lower import tariffs is being nullified by recourse to export duties.
- **Technical barriers to trade:** Regulatory barriers have become one of the main obstacles to the free flow of industrial goods. The negotiations should aim at making substantive progress in both implementing and developing the WTO Agreement on Technical Barriers to Trade. These barriers remain difficult to address and eliminate since they form part of a complex system of national / local standards and product approval schemes with varying ties to government regulation. Even for experienced internationally operating companies, the diversity of technical requirements and certification schemes is far from transparent. Under the Market Access chapter of the Doha Declaration members are invited to identify TBTs that should be removed. UNICE strongly recommends that the EU gives full support and actively contributes to the work proposed in this negotiation group, whilst ensuring necessary co-ordination with the WTO Technical Barriers to Trade Committee.

Many TBTs are difficult to address within the TBT Agreement since they are non-discriminatory. There is little WTO case law giving guidance and clarification on the TBT Agreement. There is no mechanism below the level of formal WTO dispute settlement procedure which can deal with the lack of implementation and barriers. Therefore the implementation of a TBT specific mechanism which can resolve swiftly and without disproportionate bureaucratic burden technical questions is highly recommendable. Finally, without a resolution on how to define the term "international standards" parts of the Agreement cannot be applied efficiently. The Doha round should therefore strive at a more precise definition of the term "international standard". The definition should be made in the light of the overall purpose of the TBT agreement - which is to facilitate trade. Hence reference should be made to international setting bodies such as ISO and IEC. A starting point should be seeking a formal relationship between the WTO and these major international standards bodies, providing a platform for dialogue.

In view of the great difficulty developing countries have in applying the WTO/TBT Agreement and Standards Code of Good Practice, UNICE considers that technical assistance is a key issue here. UNICE calls on greater transparency and follow-up of the resources allocated to this task.

- **Labelling:** Companies have seen a large increase in national and regional labelling schemes (e.g. environmental, social). These schemes can have a hindering effect on trade and may cause barriers to trade. They may be especially detrimental to the efforts of developing country exports to gain access to markets in industrialised countries. UNICE expects the Cancún WTO Ministerial Conference to start negotiations on labelling in general and eco-labelling in specific.

UNICE suggests that national schemes adopt the notion of equivalence when awarding a label. Equivalence means that the foreign producers' efforts and achievements are recognised as equivalent to the fulfilment of the domestic legitimate policy objectives and that differing domestic policies and priorities are taken into account whenever these objectives are fulfilled by different but equal methods.

As the negotiations on market access will continuously evolve, UNICE may complement the above position with further comments at a later stage

**DOHA DEVELOPMENT AGENDA
MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS**

List of the main non-tariff barriers to trade in goods			
Category	Measure	Description	WTO rules
TARIFF RELATED BARRIERS	Tariffs	Non consolidation, variable, specific, unstable, ceiling, seasonal, temporary, preferential, tariff quotas ...	GATT Art. II
	Classification divergences		GATT Art. III HS Convention (WCO)
	Charges other than customs duties	Fees...	GATT Art. VIII
NON TARIFF IMPORT BARRIERS	Customs and related trade procedures	Delays, bureaucracy, cumbersome, lack of transparency, documentation,...	GATT Art. V, VIII, X
	Internal taxation	Frequent tax audits for imports, discriminatory taxation, payment/reimbursement of VAT...	GATT Art. III
	Customs valuation	Reference values, documentation requirements, deposits and securities...	CV Agreement
	Pre-Shipment Inspection		PSI Agreement
	Import prohibition	e.g.: timber, second hand goods, pesticides, chemicals, automobiles...	GATT Art. XI
	Quantitative restrictions (quotas)	e.g. : hides & skins, leather	GATT Art. XI, GATT Art. XIII, TC Agreement
	Import licensing		ILP Agreement
	State trading enterprises	Energy sector, China (and Russia...)	GATT Art. XVII
	Rules of origin	Cumbersome procedures, refusal of EC origin...	RoO Agreement
	Local content requirements/ Performance requirements	On imports, licensing, investment, government procurements, TBT... Key personal requirements, nationality requirements	GATT Art. III, XI ILP, TRIMS, GPA, TBT, SCM Agreements
	Trade balancing requirements		GATT Art. XII, XVIII, BoP Understanding
	Barter, countertrade		
	Balance of payment measures		GATT Art. XII, XVIII:B BoP Understanding
	Import requirements	Transfer of technology...	GATT Art. XVII GPA
	Minimum import prices	e.g.: textiles and leather (Uruguay), CMC, sorbitol, textiles (Brazil), Marble, Steel, pens (India)	GATT Art. III, XI
	General and security exceptions	e.g.: India, US	GATT Art. XX, XXI
Sanctions	Unilateral, United Nations...	DS Understanding	

List of the main non-tariff barriers to trade in goods

Category	Measure	Description	WTO rules
	Boycott, buy national campaign	GPA	
EXPORT BARRIERS	Export ban	e.g. : hides & skins, leather	GATT Art. XI
	Export taxes	e.g. : hides & skins, leather	GATT Art. XI
	Other export restrictions	Quotas, licenses, requirements...	GATT Art. XI
	Export subsidies		SCM Agreement
TRANSIT BARRIERS			GATT Art. V
INTERNAL REGULATIONS	Standards and other technical requirements	Health, safety, environment...	TBT Agreement
	Government procurements		GPA Agreement
	Price control measures	Pharmaceuticals...	GATT Art. III
	Government support to industrial local production		GPA SCM Agreement GATT Art. XVIII
INVESTMENT RELATED BARRIERS	Restrictions	Investment is more and more an alternative to trade, necessary to trade	TRIMS Agreement
COMPETITION RELATED BARRIERS	Monopolies, cartels, arrangements...		GATT Art. XI
	Distribution		GATT Art. III:1
	Import/export monopolies, cartels ...	Sole agent...	GATT Art. XI
INTELLECTUAL PROPERTY RELATED BARRIERS			TRIPS Agreement
SERVICES RELATED BARRIERS	Finance measures and capital movements	Advance payment, advanced deposit requirements, import payment terms, exchange rates, financial control measures, transfer delays, financing conditions...	GATS Agreement GATT Art. III
	Insurance	Discriminatory access to insurance	GATS Agreement GATT Art. III
	Transportation	Discriminatory access to transportation	GATS Agreement GATT Art. III
	Distribution	Distribution system measures affecting goods import: retail price restrictions...	GATS Agreement GATT Art. III
	Movement of business persons		GATS Agreement GATT Art. III TRIMS
SYSTEMIC ISSUES	Legal framework	Discrimination, lack of legal clarity, legal uncertainty, legal instability, burdensome laws and procedures, enforcement problems	GATT Art. III (non discrimination), GATT Art. X (transparency)
	Lack of transparency		
	Implementation issues		
	Capacity issue / technical assistance		
	Corruption		
	Problems with local and regional authorities		