

Negotiation on Environmental Goods An Overview of Proposed Approaches

Background

Paragraph 31(iii) of the Doha Declaration states Members' commitment to negotiate "the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services." The Doha mandate does not provide guidance on the definition of environmental good, or on the modalities for negotiating tariff reductions. Members decided to begin with negotiations in the Committee on Trade and Environment Special Session (CTESS) to set the parameters for the definition of environmental goods. Once defined, negotiations for the reduction and/or elimination of tariffs and non-tariff barriers will move to the Negotiating Group on Market Access (NGMA).

Work in the CTESS has largely consisted of proposals from Members on suggestions for defining the term 'environmental good', as well as practical examples of goods to be included under the definition. The most commonly discussed approach to defining environmental goods is the list approach, where Members submit lists of environmental goods they wish to negotiate, and then the CTESS would agree on a final list of products deemed 'environmental goods'. However, India recently suggested an alternative approach, which would classify goods as environmental based on their use in 'environmental projects'. This proposal has been a recent point of discussion, although many (developed country) Members continue to strongly push the list approach. Below is a review of the approach, as well as the position of various Members with respect to each approach.

I. List Approach

Those advocating the list approach propose that, following submissions of goods from Members, the CTESS would negotiate a final 'list' of goods defined as environmental. Many advocates of the list approach see this as the only practical option for coming to agreement on a set of products.

Both the OECD and APEC have produced independent lists of environmental goods, from which many WTO Members have drawn in drafting their proposals. However, some Members have raised concerns about focussing exclusively on these lists, particularly since they were created largely by developed countries and do not contain products of interest to developing countries. Another main criticism of the list approach is that it focuses on goods with an environmental end-use only, and does not include goods produced in an environmentally sound manner. UNCTAD has done extensive work on a category of goods described as Environmentally Preferable Products (EPPs), which has generated substantial discussion among Members. Although there is not one commonly agreed definition, UNCTAD defines EPPs "as products that cause significantly less "environmental harm" at some stage of their "life cycle" than alternative

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products that serve the same purpose.”¹ The inclusion of EPPs in the list approach has been supported by Brazil, Switzerland, New Zealand, and the European Union. In contrast, other Members are supportive of a narrow list approach and argue that a broadened scope would result in the inclusion of ‘multiple use’ products, where the product could be used for both environmentally sound and destructive purposes, and would create practical nightmares for customs officials.

There is also concern that, since environmental technologies are rapidly developing, an established list of environmental goods could become obsolete in a few years. New Zealand and the EU have proposed the concept of a ‘living list’, to which products could be added and deleted as necessary. However, some developing countries have argued that this would require constant renegotiation, which is resource-intensive and may not be possible for many of them.

Some developing countries have also noted the lack of special and differential treatment provisions in current proposals on the list approach. Cuba recently outlined areas where development concerns are not being taken into account in the CTESS discussions, and formally supported a proposal from China, which would provide for the adoption of a ‘common’ list of goods, and a ‘development’ list, “which comprises those products selected by developing and least-developed Members from the common list for exemption or a lower level of reduction commitment”.² New Zealand has also proposed a dual list approach, supported by the United States, with a core list applicable to all Members, and a complementary list, from which Members would self-select an agreed percentage of products.

Submissions by Members on the List Approach

WTO Member	Preferred List
Brazil	Supports using UNCTAD’s work on EPPs.
China	Supports creating a common list and development list to address S&D treatment; wants to avoid inclusions of environmental PPMs.
Cuba	Supports China’s proposal of a development list to address S&D concerns; also supportive of India’s Project Approach.
Canada	Supports the use of the following categories (based largely, but not exclusively, on the OECD list): air pollution control; water pollution control; solid/hazardous waste management, remediation/clean-up of soil and water, noise/vibration abatement, environmental monitoring, analysis and assessment equipment; potable water treatment; recycling systems;

¹ UNCTAD’S Work on Environmental Goods and Services: Briefing Note, WTO doc. TN/TE/INF/7, at paragraph 20, (5 October 2004).

² Statement by China on Environmental Goods at the Committee Meeting of the Committee on Trade and Environment Special Session, WTO doc. TN/TE/W/42, at paragraph 6, (6 July 2004).

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	renewable energy plant; heat/energy management; and soil conservation.
Japan	Favours use of the OECD list.
Korea	Favours a narrow definition of environmental goods, based on classic customs classification procedures.
EU	Supports the use of very broadly defined ‘environmental purpose’ categories: pollution control; resource management; and high environmental performance or low environmental impacts (this category would include EPPs).
New Zealand	Favours the categories identified by Canada, and additionally: wastewater management; natural risk management; EPPs; cleaner or more resource-efficient technologies and products; and waste and scrap utilisation.
Qatar	Objects to inclusion of environmentally efficient products where primary function is not environmental.
Switzerland	Supports a broad interpretation of the OECD definition, which would include the following four categories: pollution management; resource management; cleaner technologies and products; and EPPs.
Taiwan	Supports the use of the APEC list, and limiting the WTO list to products that directly control pollution.
US	Favours the use of the APEC list, and supports the core/complementary list approach.

II. Project Approach

As an alternative to the list approach, India recently presented a proposal that would define environmental goods based on their inclusion in a given environmental project. National authorities would grant projects ‘environmental’ status for a set period of time, during which tariffs and non-tariff barriers would be reduced on designated goods for use in the project. This would be a continuous process, as new projects become designated ‘environmental’ and existing project terminated.³

Many developing countries have supported India’s concept of a project approach, largely because it solves the problems associated with multiple-use products, and directly addresses special and differential treatment for developing countries. However, some WTO Members are concerned that the project approach excludes small and medium-sized enterprises from benefiting from the tariff reduction on environmental goods, because they do not have the capacity to mount large-scale projects, or the resources to engage in possibly complex certification procedures with national authorities.

³ For a good overview of this proposal, see: Robert Howse and Petrus van Bork, *Options for Liberalization of Trade in Environmental Goods in the Doha Round* (Draft), Paper for ICTSD, June 2005. Draft available at <http://www.trade-environment.org/page/theme/goods.htm>.