



**Friends of
the Earth
International**

**Summary of analysis of notifications of non-tariff measures (NTMs) in
Non-Agricultural Market Access (NAMA) negotiations
of the World Trade Organization**

Revised

May 2005

- FOEI's analysis includes a list of 212 challenges to environmental and health standards, and measures taken to promote local economic development, around the world. These include a breath-taking array of challenges to labelling and certification requirements; national standards and regulations; export restrictions; restrictions on foreign investment and measures to promote local economic development. This list represents a significant challenge to the health and well-being of populations and their environment around the world, and could undo decades of campaigning for increased environmental, health and social standards.
- FOEI has discovered that national legislation regulating the following sectors for environmental, social and health purposes is being challenged through the WTO's Non-Agricultural Market Access (NAMA) negotiations: mineral products, automobiles, chemicals, electronics, environmental goods, fertilizers, fish and fish products, food, footwear, forest/wood products, mineral products and petroleum oils, shrimp, and textiles and leather goods.
- Key pieces of national legislation relating to the following health and environmental standards are also being challenged through NAMA: animal welfare, certification of medicines, energy efficiency, fuel efficiency, labour laws and recycling. National measures to implement multilateral environmental agreements (MEAs) such as the CITES convention and the Montreal Protocol are also challenged; and even measures to implement the International Organisation for Standardization's ISO 14000 (on environmental management systems) and ISO 8000 (on working conditions) are

notified. In general, legislation in specific countries is targeted (although these challenges, if successful, would be precedent setting). However, many generic challenges are made as well.

- Challenges relate to environmental, social and health 'non-tariff barriers' (NTMs) held both in Northern *and* Southern countries (there is a significant challenge to export restrictions from Japan and others, for example, along with challenges to restrictions on foreign direct investment). There is therefore a significant potential for trade-offs, which could increase the likelihood of listed regulations being eliminated during or as a result of WTO negotiations.
- This FOEI report illustrates the types of NTMs that have *so far* been formally listed for negotiations to eliminate or harmonise. Some governments (eg the US and New Zealand) have explicitly reserved the right to notify further NTMs.
- Governments formally challenging environmental and health standards so far include Argentina, Australia, Bulgaria, China, Cuba, EC, Egypt, Hong Kong, India, Japan, Kenya, Malaysia, Mexico, New Zealand, Norway, the Philippines, Senegal, Singapore, South Korea, Switzerland, Taiwan, Thailand, Turkey, the United States, Uruguay, Venezuela and the ACP countries.
- This information has been extracted from papers available on the WTO's web site. However, information explaining which countries' laws are being challenged is not made public and has to be inferred from the challenging countries' remarks.
- The non-tariff barriers that have been notified to the WTO as part of the NAMA negotiations are summarised below. Please refer to our full database of NAMA NTB challenges for a full list of challenges. This can be found at www.foei.org/trade/NTBs.xls (searchable database) or www.foe.co.uk/resource/evidence/non_tariff_barriers.pdf (printable database).

Animal welfare

Several challenges have been made concerning restrictions in place to protect animal health. Korea is challenging import bans on animal skins and related products imposed for 'reasons of inhumane hunting methods'. China challenges restrictions on trade in wild animals and products made from them. India explicitly questions the genuine nature of animal welfare campaigns stating that "*These campaigns could have various motivations not necessarily based on truth*". Challenges so far are from Argentina, China, India, Korea, the Philippines and Uruguay.

Automobiles (including fuel efficiency)

A range of testing, certification and standard-setting NTMs are challenged. Restrictions on foreign investment in the automobile sector are also explicitly listed, including local content requirements. The United States challenges vehicle taxation based on engine size in place for fuel efficiency purposes. At the same time, Korea is challenging the US's own Corporate Average Fuel Economy standards. [Note: fuel efficiency standards come under the 'energy' heading in FOEI's NAMA NTM's database].

Certification and labelling (including eco-labelling)

A very wide range of certification/labelling schemes are challenged (59 challenges are listed). A number of countries list certification and labelling, including for environmental purposes, as a generic concern to be addressed. Explicit challenges to existing schemes are also listed in the following sectors: automobiles, chemicals (range of specific chemicals listed and chemicals in general), electronic products, environmental goods, fish and fish products, food, footwear, forest products, medicines, leather, mineral products, organic natural products, shrimp and textiles. Labels and/or certificates promoting energy efficiency, labour standards, health and recycling are all notified. Challenges come from Argentina, Australia, Bulgaria, Egypt, Kenya, Korea, Malaysia, Mexico, New Zealand, Norway, the Philippines, Singapore, Switzerland, Taiwan, Thailand, United States, Uruguay and Venezuela.

Chemicals (including fertilizers)

A wide array of challenges are made to national legislation controlling the importation and standards in relation to chemicals, including the packaging, labelling and certification of hazardous chemicals, risk assessment requirements, requirement for environmentally-friendly production processes, registration of fertilizers, controls on imports of chemicals and viruses for 'strategic purposes', and the labelling and authorisation requirements for a range of listed chemicals including triple super-phosphate of lime, nickel oxide products, mercuric oxide, 1,2-Dichloroethane (ethylene dichloride) and ethylene dibromide. Egypt is challenging restrictions on the use of certain chemicals (such as azocolourants) in relation to textiles and leather goods and Mexico challenges a requirement for labelling to allow a reduction in the use of dry cleaning. Japan specifically challenges the European Union's proposed REACH legislation concerning the registration, evaluation and authorisation of new and existing chemicals. Challenges are from Argentina, Bulgaria, China, Cuba, Egypt, Japan, Kenya, Korea, Mexico, Norway, Singapore, Taiwan and Uruguay.

Electronic products

'Excessively high' safety and quality control standards and certification requirements are challenged, by Bulgaria, Hong Kong and Korea. Malaysia challenges the use of eco-friendly labels on personal computers and Thailand objects to restrictions on the use of heavy metals, such as cadmium, lead and chromium in production processes. Challenges are from Bulgaria, China, Hong Kong, Korea, Malaysia, Norway, Singapore and Thailand.

Energy and energy efficiency

Many measures designed to increase energy efficiency (and decrease climate change) are challenged. China's challenge is the most extensive, and includes policies that concern energy efficiency in household appliances, air conditioning units and heating. China's challenge is unusual in that it lists several specific European Union Directives. China has also listed a requirement for "approval of radioactive materials and nuclear reactor" as measures that it objects to. Mandatory labelling in relation to energy efficiency in home appliances and requirements for prior testing for energy efficiency are also challenged by Korea (see also recycling). Challenges come from Argentina, China and Korea.

Environmental goods

The US is challenging "unique testing and certification procedures and diverse standards and regulations" in a range of sectors which includes environmental goods. It does not specify what it includes within this category or why there should be any need for lower standards and regulations in relation to environmental goods.

Fish and fish products (including shrimp)

A wide range of challenges to NTMs across the sector including taxation to promote local economic development, requirements in relation to rules of origin, unfair use of anti-dumping measures, labelling including in relation to production method and area fished from, health certificates, global quotas and, specifically from Venezuela, animal-welfare restrictions relating to the tuna and shrimp sectors. Thailand also complains about requirements to label tuna as being dolphin-friendly and canned and processed seafood products if they have more than 1% genetically-modified ingredients. Challenges are from Australia, China, Egypt, Kenya, Korea, New Zealand, Norway, the Philippines, Senegal, Thailand and Venezuela.

Forest products (including furniture and building codes)

Testing, certification, standards and regulations relating to forest/wood products are all challenged, mostly in a generic fashion. New Zealand leads the way challenging measures including building codes and safety standards that discriminate against the use of timber in building (it is supported by the US on this), measures designed to assist small farmers, government subsidies for education, training and forest research and government procurement policies that favour domestic timber. Japan (which notably opposes the removal of *tariffs* in this sector) specifically targets all export restrictions of exporting countries, including export bans, restrictions, tariffs and levies. Malaysia challenges a measure used to ensure the purchase of tropical timber certified by the Forest Stewardship Council and Egypt challenges the requirement to provide certified wood certificates with furniture imports. Challenges are from Australia, Egypt, Japan, Malaysia, New Zealand, the Philippines and the United States.

Health

A wide range of challenges to legislation protecting and promoting health has been notified by Argentina, Bulgaria, China, India, Korea, Malaysia, Norway, the Philippines, Singapore, Switzerland, Taiwan and Uruguay. China, in particular, challenges many countries' laws by name when notifying NTMs that relate to, for example, the inspection of animal parts being traded, pentachlorophenol (PCP) residues in leather, health quarantine measures, radioactive materials used for medicinal purposes, trade in various dangerous articles, biodrugs for people and animals and narcotics. India – giving examples of its concerns - complains about overly strict standards for testing for the antibiotic chloramphenol and unjustified limits on the bacterium *Vibrio parahaemolyticus* in fish products (this belongs to the same family as the cholera bacterium). Korea is concerned that sanitary certification for polyethylene and polypropylene is too complicated and costly. Malaysia objects to food quality requirements for poultry, procedures for allowing new food additives, and – by name – the Australia Heart Foundation's 'Tick' Scheme which approves healthy food products. It is also concerned that Refined Bleachable Deodorized (RBD) palm stearin (from oil palm) is not recognised as an edible product. Certification of antisera is challenged by Argentina, complicated certification procedures for medicines are challenged by Bulgaria, and Egypt challenges strategic controls on viruses. Labelling of 1,2-Dichloroethane (ethylene dichloride) and mercuric oxide for health and environmental reasons are also challenged by Argentina.

Mineral products (including petroleum oils)

Egypt and Japan both challenge restrictions on exports of mineral products. Egypt also challenges packaging and labelling requirements in importing countries. Japan challenges restrictions on foreign investment in the petroleum oils sector.

Recycling

Korea and Malaysia are challenging requirements for manufacturers to collect and recycle scrapped automobiles; and both complain about the way in which recycling charges are structured. Argentina challenges requirements to label recyclable containers and products as being too costly; and Kenya argues that requirements to indicate the recycled content of paper products are unreasonable.

Textiles and footwear

Mexico challenges export restrictions on raw textiles (see also chemicals, above). Argentina challenges eco-labelling requirements based on the use of environmental management schemes.

Other – generic, CE Marking, MEAs, ISO standards

There is a wide range of generic challenges to labelling/certification systems, regulations and technical standards. For example, Norway lists “*National requirements for labelling of products*” and Turkey simply cites “All technical standards” (although it is not, of course clear whether it refers to one country or all as this information is not made public). The European Commission challenges government-run ‘buy national’ campaigns.

China goes out of its way to challenge the European Union’s CE Marking scheme, which it references over and over again in relation to a whole array of different products (CE Marking on a product is a manufacturer's declaration that the product complies with the essential requirements of the relevant European health, safety and environmental protection legislation.)

The International Organisation for Standardisation’s ISO 14000 and ISO 8000 standards – on environmental management systems and working conditions respectively – are also included, by India.

In addition, there are challenges to the use of trade measures to implement the CITES convention (from the Philippines) and the Montreal Protocol (Malaysia).

Footnote:

This list does not indicate FOEI endorsement of specific listed non-tariff measures. Rather, it is intended to illustrate the scale of the current corporate challenge to health and environmental legislation and local economic development in a wide range of sectors under the NAMA negotiations

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