

# Environmental Goods Negotiations

## Issues and options for ensuring win-win outcomes

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June 2005



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Published by the International Institute for Sustainable Development

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**IISD acknowledges the generous support of the  
Swiss Agency for Development and Cooperation  
(SDC) in the publication of this paper.**

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## I. Introduction

In the ongoing WTO negotiations on environmental goods, trade negotiators are still grappling with identification of goods that could be considered for accelerated liberalization. Paragraph 31 (iii) of the Doha Ministerial Declaration (DMD), provides a mandate, *inter alia*, to negotiate on “the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.” This call for trade liberalization in the DMD, however, is also guided, under Paragraph 6, by the principle that the protection of the environment and the promotion of sustainable development can and must be mutually supportive.

Thus classifications and identification of goods, trade patterns and existing barriers to trade are among the important steps needed to determine distribution of actual gains from the liberalization. The Member countries, during these negotiations taking place in the Negotiation Group on Market Access for Non-Agricultural Products (NGMA), have deliberated upon the cross-sectoral nature of the environmental goods sector. Considering the practical problems in arriving at a generally acceptable definition, some Members have indicated their preference for the negotiations on tariff reduction to take place with a “bottom-up” list-based approach, rather than a “top-down” definitional approach.

New Zealand, Canada and the U.S. have supported one such list that was prepared by the APEC secretariat, as a starting point for negotiations.<sup>1</sup> The APEC list and four other lists proposed by Japan, Korea, New Zealand and Chinese Taipei<sup>2</sup> are primarily based on goods and technologies that have environmental improvement as a clear and distinct purpose.

The international market in such goods and technologies is clearly dominated by developed countries. In case of the goods included in APEC list, for example, the developed countries make up 79 per cent of environmental goods exports, the developing countries about 20 per cent and the least developed countries less than one per cent (Bora and Teh, 2004).

Therefore in this scenario the developed countries are likely to be the biggest beneficiaries of the liberalization, at least in the commercial sense. The potential gains for developing countries are largely on the environmental front, e.g., improved environmental conditions. It is this fact that has led to the argument that the developing countries do not have much to gain from these negotiations, as they can get environmental benefits simply by way of autonomous liberalization. What additional benefits would a commitment in the WTO, that would shrink policy space forever, bring for them?

There is of course evidence that, in certain sub-sectors, developing countries are net-exporters — e.g., India, in respect of renewable energy technologies (Singh, 2004)—and that liberalization is also likely to create opportunities for South-South trade. Nonetheless, such questions underscore the importance of making the negotiating package more interesting and acceptable for developing countries.

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<sup>1</sup> For details please see various submissions by these countries: WTO (2005b), WTO (2005d), and WTO (2003a)

<sup>2</sup> See submissions WTO (2005b), WTO (2005c) WTO (2004a), and WTO (2002)

This paper analyzes possible approaches for ensuring a balance in trade gains in the ongoing negotiation. It begins with a realistic assessment of the negotiations under Para 31(iii) of the DMD and touches upon the progress made in the negotiations so far vis-à-vis different Members' positions. It suggests that a combination of Special and Differential Treatment (SDT) provisions and bringing environmentally preferable products of export interest to developing countries in the ambit of environmental goods, could offer a balanced deal to the developing countries.

## II. Realistic Outcome Assessment

There are basically two important avenues for the selection or identification of environmental goods for any possible list up for negotiations: (a) selection by end-use; and (b) selection by broader categories, such as pollution-control equipment and environmentally preferable products.

The lists proposed by Chinese Taipei and Korea are based on end use for pollution control or remediation. Japan in its list has also included cleaner technologies and cleaner products, such as energy-efficient refrigerators and microwave ovens, which seems embrace a broader number of categories. The United States similarly has supported the idea of selecting goods from two major categories: (1) environmental remediation and pollution prevention; and (2) clean technologies.

The Commission of the European Communities (EC) in its latest submission has supported this idea and proposed the selection of goods based on two broader categories: (1) goods used in pollution control and resource management; and (2) goods that have a high environmental performance or low environmental impact (WTO, 2005a). The EC classification is largely based on the broader OECD/Eurostat definition of the environmental industry, and includes cleaner technologies and resource management goods (OECD/Eurostat, 1999).

These proposals, however to a large extent, do not cover products of export interest to developing countries. In this regard, it is important to note that the mandate under Paragraph 16 of the DMD is also applicable to environmental goods. Paragraph 16 of the DMD guides NGMA negotiations and mandates special attention to “products of export interest to developing countries” as well as requires the “special needs and interests of developing and least developed countries,” to be taken into account. China, Thailand, India and the EC in their submissions have recognized this requirement in different ways in their submissions (WTO, 2004c and 2002b). New Zealand in its latest submission has also recognized the need for a balanced approach to take into account developing countries' commercial interests in environmental goods (WTO, 2005b).

Thus the mandate under Paragraph 31(iii), taken together with Paragraph 6 and Paragraph 16, could be interpreted as a mandate for a negotiations output that aims at supporting Member countries in taking measures necessary to improve their environment while aiding their development by way of balancing trade gains.

A realistic assessment of the outcome of negotiations thus seems that:

- a) The exercise of identification of goods should result in bringing certain goods of developing-country export interest under the ambit of environmental goods to reflect a balance in trade gains from the liberalization process;
- b) The principle of SDT for developing and least developed countries is taken into account.

### III. Products of Export Interest to Developing Countries

One possible option by which some trade gains can be generated for developing countries is to extend the scope of environmental goods to include products of developing countries' export interest, e.g., environmentally preferable natural products (EPPs). Endowed with ample natural resources, the developing countries are understood to have an inherent advantage in the production and trade of products like jute, coir, sisal and bamboo.

The Johannesburg Plan of Implementation adopted at the World Summit on Sustainable Development (WSSD) also calls for expanding markets for environmentally friendly products.<sup>3</sup> Among developing countries, India has indicated its support for inclusion of environmentally preferable natural products in a WTO list of environmental goods.<sup>4</sup>

The EC submission also provides leeway for inclusion of EPPs under the second category of proposed goods, i.e., "Goods that have a high environmental performance or low environmental impacts." The original OECD analytical list of goods on which the EC's classification is largely based, however, does not include EPPs *per se*, apart from biofuels such as ethanol and methanol (OECD, 2001).

On the other hand, while there seems to be broad support for certain categories of EPPs to be included in the EGS negotiations, the majority of WTO Members have argued against the use of criteria based on non-product-related production and process methods (npr-PPMs) to select products for the negotiations.

#### Identification of EPPs

As is the case with environmental goods in general, it is quite difficult to identify and analyze EPPs as a unique category. But these products are distinct from pollution-control equipment in that they are generally used for purposes other than environmental ones, usually in commercial and household applications. As per a study done by UNCTAD (1995), EPPs are described as products that, from a life-cycle perspective, cause significantly less "environmental harm" than alternative products that serve the same purpose. Broadly, these products, as referred in literature and several country proposals to the WTO include:

1. non-timber forest products (NTFPs);
2. products made with natural fibres, such as jute and coir;
3. eco-labelled or certified products made with environment-friendly processes;
4. organic agricultural products; and
5. biofuels such ethanol and biodiesel.

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<sup>3</sup> Para 91 (b) of the Plan of Implementation calls for actions to "[S]upport voluntary WTO compatible market-based initiatives for the creation and expansion of domestic and international markets for environmentally friendly goods and services, including organic products, which maximize environmental and developmental benefits through, *inter alia*, capacity-building and technical assistance to developing countries."

<sup>4</sup> See WTO (2004)

Eco-labelled products and others made with environmentally friendly processes, as well as organic products, are clear case of PPMs and hence are beyond the scope of the negotiations (except perhaps in respect of non-tariff barriers). Category one and two, i.e., NTFPs and Products made with natural fibres, can be considered to reflect the trade interest of developing countries. These products are natural, biodegradable and substitutes for other goods that affect the environment adversely. Jute, for example, can serve as a substitute for plastic.

UNCTAD has compiled a list of major NTFPs and related natural products, which is attached in Annex 1 to this paper. International trade in the products in the UNCTAD list worth around US\$28 billion a year and, in the majority of the cases, developing countries are net exporters of these products (UNCTAD, 2003).

“Biofuels” is another such category where expansion of international markets and trade can help developing countries. The major products of export interest to developing countries in these broad categories are discussed below in brief.

### ***1. Non-timber forest products***

Bamboo and rattan are the most important products in this category. These natural, non-agricultural products are used as substitutes for wood, to manufacture a variety of goods including barbecue sticks, baskets, cane, furniture, mats, rakes, skewers, steamers and screens. Bamboo is also an important raw material for many pulp and paper industries in China, India, Thailand and other Asian countries. It finds major uses in the rayon, handloom, fishing and sericulture industries, where it provides the basis for millions of jobs. India’s incense stick industry, which uses bamboo as a major ingredient, is alone worth US\$400 million (Haque, 2003).

Similarly, in many Asian countries rattan is second only to timber in terms of economic importance. The global trade and subsistence value (domestic and export) of rattan and its products is estimated at US\$6,500 million. Exports of rattan furniture from the Philippines alone are worth some US\$123 million annually. China and Indonesia also are significant exporters of rattan products.

Some other products of export interest to developing countries, like honey, gum-arabic and beeswax are listed in Annex 1. Central American and Caribbean countries are competitive in a range of products that could fit into this category. Guatemala, for example, is an important exporter of natural rubber, as well as raw vegetable materials of a kind used in dyeing. El Salvador exports turpentine gum in significant quantities.

### ***2. Products made with natural fibres, such as jute and coir***

Jute is a natural vegetable fibre, which is 100 per cent biodegradable and does not emit toxic fumes or residue on combustion or disposal. This fibre is next to cotton in importance and has gained popularity around the globe because of its biodegradable nature and varying applications, ranging from agricultural and domestic to industrial and commercial fields. The bulk of this is produced in India (63 per cent) and Bangladesh (29 per cent) alone, while China, Myanmar, Thailand and Vietnam are other important players in the field.

In the case of coir, most products are made of coir fibres, which are extracted from the covering of coconuts. These fibres are natural, biodegradable and more environmentally friendly than their artificial substitutes.

The coir industry has developed to varying degrees in most coconut-producing countries, including India, Sri Lanka, Thailand, Indonesia, Philippines, Malaysia and Vietnam. Sri Lanka is the world's leading exporter of the fibre, followed by Thailand and India. The Central American countries, El Salvador and Nicaragua, also export twine and jute bags.

### **3. Biofuels**

Biofuels, principally ethanol and biodiesel, is another possible category of EPPs, of which the developing countries are the most competitive producers (IEA, 2004) and for which there is a large and growing demand in OECD countries seeking to implement climate targets and improve their energy mix. An expansion in the export market could channel money back to rural areas in developing countries by creating jobs and spurring diversification of the agriculture sector.

Biomass dominates the energy sector in sub-Saharan Africa, contributing 50–90 per cent of energy needs in different parts (Yuko, 2005). The international trade in biofuels is still mostly confined to ethanol, which constitutes 93 per cent of total biofuels produced. However, other vegetable oils such as coconut oil, palm oil and soybean oil, because they can be transformed into biodiesel, also have great potential for growth.

Several Central American countries like Guatemala, Costa Rica, El Salvador, Panama and Nicaragua are large exporters of ethanol (Barria *et al.*, 2003). This product is included in the OECD list, but not in the APEC list. However, the potential hurdle with biofuels is that the most significant among them—ethanol—is an agricultural product and does not fall under the mandate of the NGMA. Biodiesel was previously classified as an agricultural product, but a recent decision by the World Customs Organization's HS Committee to reclassify it under subheading 3824.90 may have a bearing on whether it will continue to be regarded as an agricultural product.

Similarly fuel wood and charcoal under the HS heading 44.01 are also possible candidates for this category. The leading charcoal-producing countries are China, India, Brazil and the countries of tropical Africa, particularly Sudan, Kenya and Côte d'Ivoire (Karekezi, 2004).

## **IV. Special and Differential Treatment**

The other possible avenue to make the environmental goods package interesting for developing countries is to reflect the SDT provisions in a clear and comprehensive manner. This could possibly be done by setting different compliance periods for tariff cuts between developing and developed countries. Similarly, the least-developed members might be exempted from undertaking deeper tariff cuts to reflect the principle of less-than-full reciprocity.

Both the United States and the EC have also indicated their support for SDT provisions for developing and least-developed countries in terms of less than full reciprocity and delayed compliance. Japan has also recognized the importance of capacity building for enhancing developing countries' participation in the negotiations (WTO, 2002a).



China has proposed to reflect SDT by way of preparing two lists for negotiation: a Common List and a Developmental List. The Common List comprises specific product lines on which there is consensus that they constitute environmental goods. The products included in this list should reflect the interests of developed as well as developing Members. The Developmental List could be a list of selected products taken out by developing and least-developed Members from the common list for exemption or a lower level of reduction commitment, with a view to reflecting the principle of less-than-full reciprocity, and taking into consideration the needs of their economic development — e.g., the need to protect an infant industry.

However, from the point of view of the negotiations, a Developmental List approach could actually bring with it more complexities. The economic development level of each of the WTO Members is different and so are their priorities for protection of domestic industries. It is quite possible that with this approach most items that appear in the Common List might also appear in the Developmental List, as different countries would want exemptions for different products.

## **V. The Way Forward**

Reductions in trade barriers on environmental goods can bring a set of environmental and commercial benefits to developed and developing countries alike, provided the list of goods to be liberalized reflects a balance of interests. This paper summarizes two approaches for reflecting this balance: bringing in selected natural EPPs within the ambit of environmental goods and placing an emphasis on Special and Differential Treatment.

Promotion of trade in natural EPPs offers opportunities for developing a natural-products-based industry through better utilization of raw material and skills with which developing countries are relatively better endowed. Leaving aside PPM-based and agricultural products, there are basically two broader categories that can qualify under EPPs: non-timber forest products (NTFPs), and products made with natural fibres, such as jute and coir.

UNCTAD's list of EPPs is primarily based on these two categories and in the majority of cases developing countries are net exporters of these products. Another possible category, which is not a part of UNCTAD's list, is biofuels. While biofuels are a strong candidate from the perspective of developing countries as well as the environmental point of view, the problem lies in the fact that some of these fuels are agricultural products and do not fall under the mandate of the NGMA. Nonetheless, biodiesel is now being listed as an exposition out of HS subheading 3824.90. Moreover other products like fuel wood and charcoal may also provide considerable commercial opportunities for developing countries.

The second approach to make the package interesting for developing countries is to clearly reflect the special and differential treatment provisions. This could possibly be done either by less-than-full reciprocity and delayed compliance, or by a combination of both. In this regard China's proposal to prepare separate Common and Developmental lists to protect infant industries may actually not be the most pragmatic way to reflect special and differential treatment. Basically, it would be quite a difficult task to capture all developing countries' special protection needs, taking into account their different levels of development, in one such list.

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## Annex

### Inherently environmentally friendly products (UNCTAD list).

HS Code	Commodity
46	MANUFACTURES OF STRAW, OF ESPARTO OR OF OTHER PLAITING MATERIALS; BASKETWARE AND WICKERWORK.
2303	RESIDUES OF STRCH MNUFCTR & SMLR RESIDUES BEETPULP,BAGASSE & OTHR SUGR MNUFCTR WSTE BRWNG/DSTLNG DRGS & WSTE W/N IN PILET FROM
2513	PUMICE STNE EMERY, NATURAL CORUNDUM NATRL GARNET & OTHR NATRL ABRASVS W/N HEAT-TRTD
3401	SOAP/ORGNC SRFCE-ACTV PRDCTS&PRPN USD AS SOAP,IN BAR,CAKE ETC W/N WTH SOAP; PAPER, FELT ETC IMPRGNTD,COATD/CVRD WTH SOAP/LIKE
3402	ORGNC SURFACE-ACTV AGENTS(OTHR THN SOAP) OTHR WASHING PRPNS W/N CNTNG SOAP OTHER THAN THOSE OF HEADING NO 3401
3912	CELLULOSE,ITS CHEMCL DRVTVS IN PRMRY FORM
4001	NATRL RUBR BALATA GUTTAPERCHA ETC & SMLR NATRL GUMS IN PRMRY FRMS/IN PLTS SHTS/STRP
4504	AGGLOMRATED CORK(WTH/WTHOUT BINDNG SUBSTS)& ARTCLS OF AGGLOMERATED CORK
5301	FLUX,RAW OR PRCSSD BUT NT SPUN; FLAX TOW & WAST(INCL YARN WAST & GARNTTD STOCK)
5303	JUTE & OTHR TXTL BAST FBRS(EXCL FLAX,TRUE HEMP & RAMIE)RAW/PRCSSD BUTNT SPUN;TOW & WASTE(INCL YARN WASTE & GARNTTD STOCK)
5304	SISAL & OTHER TXTL FIBRES OF THE GNS AGAVERAW/PRCSSD BUT NT SPUN TOW & WAST OF THESE FBRS (INCL YARN WSTE & GRNTED STOCK)
5305	COCONUT,ABACA,RAMIE & OTHR VGTBL TXTL FBRS N.E.S.OR INCLUDED,RAW OR PRCSSD, TOW,NOILS & WASTE OF THESE FIBRS
5306	FLAX YARN
5307	YARN OFJUTE & OTHER TEXTILE BAST FIBRES OF HEADING NO 5303
5308	YARN OF OTHR VGTBL TXTL FBRS PAPER YARN
5309	WOVEN FBRCIS OF FLAX
5310	WOVEN FABRICS OF JUTE OR OTHER TEXTILE BAST FIBRES OF HEADING NO 5303
5311	WOVEN FABRICS OF OTHER VEGETABLE TEXTILE FIBRES;WOVEN FABRICS OF PAPER YARN
5608	KNOTD NTNG OF TWNE CORDGE/ROPE;MDE UP FSHNG NETS& OTR MDE UP NETS OF TXTL MATRLS
6701	SKNS & OTHR PRTS OF BRDS WTH THEIR FEATHRSOR DOWN FEATHRS & PRTS THROF DOWNS& ARTCLS (EXCL GOODS OF 0505 & WRKD QULLS & SCPEs)
50900	NATURAL SPONGES OF ANIMAL ORGIN
121110	LICORICE ROOTS FRSH/DRID W/N CRSHD/PWDRD
121120	GINSENG ROOTS FRSH/DRID W/N CUT CRSHD/PWDRD
121190	OTHR PLNTS & PRTS OF PLNTS OF HDNG 1211
130110	LAC
130120	GUM ARABIC
130190	OTHER NATURAL GUMS RESINS/BALSAMS
140410	RAW VEG MATRLS USD PRMRLY IN DYNG OR TANNG

HS Code	Commodity
152000	GLYCEROL, CRUDE; GLYCEROL WATERS & LYES
152110	VEGETABLE WAXES
152190	BEE WAX & OTHR INSECT WAXES & SPERMACEIN
310100	ANML/VEGTBL FERTILISERS, W/N MIXED TOGETHER OR CHEMICALLY TRTD; FERTILISERS PRODUCED BY THE MIXING/CHEMICAL TREATMENT OF ANML/VEGTBL PRODUCTS
340119	OTHER SURFACE ACTIVE PRODUCTS AND PREPARATIONS
391390	OTHER NATURAL & MODIFIED NATURAL POLYMERS
560710	TWINE, CORDAGE, ROPE & CABLES, OF JUTE OR OTHER TEXTILE BAST FIBRES OF HEADINGS NO 5303
570220	FLOOR COVERINGS OF COCONUT FIBRES (COIR)
630510	SACKS & BAGS FOR PACKING, MADE OF JUTE OR OF OTHER TEXTILE BAST FIBRES OF HEADINGS NO. 5303