

transparency from PPMs.¹⁹ Some developing countries such as Egypt and India were opposed to TBT coverage, fearing that this could imply that non-product related PPMs were not only covered by the Agreement but legally allowed as well. Japan and Korea expressed support for elements of the EU position, with Korea rejecting the phased approach. Delegations such as ASEAN stated that they were not willing to discuss PPMs "not now, not ever". The USA, which had been supportive in earlier discussions, appeared to be backing off given their own inter-agency differences on labels based upon non-product related PPMs. Only Brazil and Argentina provided strong support.

There was also fear on the part of some developing countries that this could open the door to non-product related PPMs related to labour standards, given the push that the EU, USA and Norway were making for some discussion within the WTO on this highly contentious issue.

Over the summer, we debated how best to approach the fall session. Our bilateral consultation with the Chair in late August made it clear to us that he was considering a "TBT minus" solution on ecolabelling that would mean a reduction in current TBT disciplines on those aspects of ecolabelling that were not based on non-product related PPMs (i.e., ecolabels based upon energy efficiency or water consumption, equivalent to any other performance-based standard covered by the TBT Agreement, would be subject to reduced discipline compared to the status quo). With this in mind, we developed a twin-track strategy: first, stronger representation and refutation of counter-arguments to our ecolabelling proposal; and, secondly, consideration of alternate WTO mechanisms such as Article XXII consultations to address the coverage issue.

This new approach was deployed bilaterally, plurilaterally, and in the CTE itself. We made it clear to the Chair that TBT minus was not acceptable and stated this in the CTE. We made a long comprehensive rebuttal to counter arguments in September's CTE, and, in a direct reference to those developing countries that had been most critical of our approach, made explicit reference to how their export industries were adapting to ecolabels based upon non-product related PPMs, citing relevant studies with respect to the textile sector.²⁰ At the same time, we suggested publicly that we were considering raising the issue in other WTO fora should the CTE consider a TBT-minus solution.

As we approached the final intensive round of negotiations, the situation was unclear. We did not accept the revised Chair's draft of October 10 and rather proposed that we try to work out differences bilaterally and plurilaterally with interested delegations. Our focus was on two aspects: first, a clear statement on coverage; and, secondly, a future work reference that would allow us to address PPMs.

First, we used the opportunity presented by the EU's proposed reopening of the draft TBT Committee's report to Singapore report on October 16 to sharpen the focus of the report by making it clear that the lack of consensus only applied to the non-product related PPM aspects of ecolabelling and criteria. Agreement was reached in a short 5 minute drafting session on October 22 where we proposed and the EU accepted an explicit reference to non-product