

# **WORLD TRADE ORGANIZATION**

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3 December 2004

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**Negotiating Group  
on Market Access**

## **NON-TARIFF BARRIER NOTIFICATIONS**

### Addendum

<b>I.</b>	<b>CUBA.....</b>	<b>2</b>
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I. CUBA

Maintaining participant	Products affected by the barrier	Nature of the barrier	Trade effects of the barrier	Inventory category	Relevant WTO provision	Treatment of the barrier
1	2	3	4	5	6	7
	3002.20.00 – Vaccines for human medicine	Long, complex and very demanding procedures for registering new products. Clinical examinations required in the country/market for granting new product registration.	Export delays and additional costs.	III-C (Testing and certification arrangements).	Agreement on Technical Barriers to Trade.	(d)
	9018.90.00 – Other medical instruments and appliances.  3822.00.00 – Diagnostic or laboratory reagents  3002.20.00 – Vaccines for human medicine  3002.90.00 - Other medicaments.  3004.90.00 – Other medicaments	Discriminatory rules concerning the origin of goods. Tenders that restrict participation to countries that have signed FTAs with the importing Member.	Loss of tendering opportunities. Won only if sole bidder.	I-D (Restrictive practices tolerated by governments)  V-F (Discriminatory sourcing).	Article XXIV:4 of GATT 1994.	(d)

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	9018.19.00 – Electro-medical apparatus  9027.10.00 – Electrophoresis instruments	Conformity assessment procedures as a technical barrier through the application of exhaustive prior inspection measures in national laboratories, requiring the expenditure of much time and money.  The registration of the equipment is subject to mandatory certification requiring the in-factory inspection of the equipment to be registered at the exporter's expense.	Difficulty in obtaining access for and quickly developing exports to this market.	III-C (Testing and certification arrangements)	Agreement on Technical Barriers to Trade.	(d)
	0301.10.00 – Ornamental fish	Application for an additional veterinary certificate on a complicated form that is frequently amended. The zoosanitary certificate of the border veterinary services of the National Veterinary Medicine Authority, accepted by most developed countries, is not recognized.	Makes the preparation of official documentation extraordinarily difficult. Delays in the execution of export orders. Rejection of shipments for not being accompanied by the latest form.	IV-C (Testing, certification and other conformity assessment).	Agreement on the Application of Sanitary and Phytosanitary Measures. Annex C. Article VIII of GATT 1994.	(d)

Maintaining participant 1	Products affected by the barrier 2	Nature of the barrier 3	Trade effects of the barrier 4	Inventory category 5	Relevant WTO provision 6	Treatment of the barrier 7
	0306.13.00 – Shrimps and prawns	Entry is restricted to a single port per coast which prevents transportation by the available shipping lines.	This measures prevents transportation by the available shipping lines thereby restricting shrimp and prawn exports.	II-G (Customs formalities)	Article VIII:1(c) of GATT 1994	(d)
	7311.00.00 –Gas cylinders	Overvaluation of the goods by customs. The invoice price is never accepted; all the documents in each shipment have to be certified.	Increase in customs duties with consequent adverse economic effects on the enterprise.	II-B (Customs valuation)	Agreement on Implementation of Article VII of GATT 1994.	(d)
	7311.00.00 –.Gas cylinders 8424.10.00 – Fire extinguishers	High storage charges in areas under customs control	Adverse effects on the enterprise's business.	II-D (Customs formalities and documentation)	Article VIII of GATT 1994.	(d)
	7311.00.00 –.Gas cylinders	Complicated certification procedures. Despite the compliance of the product with certified international quality standards (ISO 9002, Veritas), approval of conformity with the national standard, with requirements that are unrelated to quality, is demanded. (Prior contract with national distributor).	Makes access to the market impossible.	III-C (Testing and certification arrangements).	Agreement on Technical Barriers to Trade.	(d)

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	6305.10.00 – Sacks, of jute  5310.90.00 – Woven fabrics, of jute	The sanitary authorities of the importing country require certification that the industrially processed jute is from a pest-free crop. It is not enough to produce certificates for the imported fibre issued by the producer or for the end products or industrial products to be exported issued by the producer/exporter.	Makes access to the market impossible.	III-C (Testing and certification arrangements).	Agreement on Technical Barriers to Trade.	(d)
	7501.20.10 – Nickel oxide  7501.20.10 – Nickel oxide  7501.20.20 – Nickel oxide sinters	Very restrictive and expensive procedures relating to the registration, evaluation, authorization and restriction of chemicals.	Loss of market. Restriction on imports of chemicals that adversely affects exports of the products in question to the principal market. Considerable cost of adapting the industrial processes to meet the importer's stringent requirements.	IV-C (Testing, certification and other conformity assessment).  III-C (Testing and certification arrangements).	Agreement on Technical Barriers to Trade.	(d)
	4101.20.00 – Leather, salted  4101.50.00 – Leather, pickled	Harsher requirements regarding the production of veterinary certificates for the export of salted leather and pickled leather as compared with other competing exporters.	Customer dissatisfaction and demurrage payments for stays in the port of destination of the goods.	III-C (Testing and certification arrangements).  II-D (Customs formalities and documentation)	Agreement on Technical Barriers to Trade.  Article VIII of GATT 1994.	(d)

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	All goods of Cuban origin except IT media such as CDs, works of art, publications.	Economic, commercial and financial blockade (import ban) based on: 1. The 1961 Foreign Assistance Act, which authorized the US President to establish and maintain a total embargo on all US-Cuban trade, making possible Presidential Proclamation 3447 which imposed the trade blockade on Cuba in 1962 2. The 1962 Tariff Classification Act which denied Cuba Most Favoured Nation status 3. The 1963 Cuban Assets Control Regulations (Title 31, Part 515 of the Code of Federal Regulations, under the Trading with the Enemy Act) established the regime applicable to all Cuba-related financial and trade operations and blocked Cuban assets in the US, as well as prohibiting the entry of merchandise into that country and dealing in it outside the US if that merchandise is of Cuban origin, is or has been located in or transported from or through Cuba, or is made or derived in whole or in part of any article which is the	<ul style="list-style-type: none"> <li>· Every year, the ban on imports of any product made in whole or in part from Cuban products, even if manufactured in third countries, has numerous adverse economic effects on Cuban exports by impeding market access.</li> <li>· Blockage of the financial transactions of foreign enterprises on the Specially Designated Nationals list.</li> <li>· Freezing of payments to Cuba in US dollars made through US banks.</li> <li>· Loss of earnings on Cuban exports, which have had to be diverted to third-country markets because access to the natural market, i.e. the US, has been blocked.</li> <li>· The restrictions on maritime transport are causing an increase in freight costs and a loss of income for the Cuban economy. Difficulties in chartering vessels for fear of sanctions.</li> <li>· The ban on using US dollars in commercial and financial transactions involves a double exchange risk for companies which have to quote in dollars and make payments in another currency.</li> </ul> <p>Impossibility of obtaining access to the medium and short-term credit facilities normally available to underdeveloped countries, which</p>	I-D (Restrictive practices tolerated by governments)  III-A (General)	Articles I, III, XI, XIII of GATT 1994.  Agreement on Technical Barriers to Trade.  Agreement on Import Licensing Procedures.	(a)

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		<p>growth, produce or manufacture of Cuba; prohibiting transactions between US and Cuban banks; making it impossible to use the US dollar in commercial transactions; establishing a list of Specially Designated Cuban Nationals prohibiting US nationals from entering into transactions with those on the list.</p> <p>4. The 1988 Omnibus Trade and Competitiveness Act, which reinforced the restrictions on imports from Cuba.</p> <p>5. The 1992 Torricelli Act prohibited Cuban trade with US subsidiaries established in third countries, prohibited third-country vessels trading with Cuba from entering US ports for a period of 180 days and prohibited any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest from entering a US port, unless so authorized by the US Government. Stipulated that the US President should encourage other countries to restrict their</p>	<p>forces Cuba to depend on very expensive short-term loans.</p> <ul style="list-style-type: none"> <li>· Continuous pressure on trading partners and threats against companies that do business with Cuba are hampering Cuba's trade relations with third countries and preventing negotiations from coming to fruition.</li> <li>· Cuban exporters cannot contract with or appoint selling agents in the US; possible exports are confined to finished publications and works as contracting for publications or works to be carried out is prohibited; visa applications from Cuban exporters are refused, as is participation in fairs and special events for promoting their products while visits by potential US importers to Cuba do not fall within the eligibility categories established by the Department of the Treasury for granting a specific licence.</li> </ul>			

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		<p>trade and credit relations with Cuba.</p> <p>6. 1996 Helms Burton Act codified all the laws, regulations and presidential orders relating to the blockade adopted since 1962; prohibited indirect financing in Cuba by US entities and their subsidiaries; provided for withholdings from payments to international financial institutions that approve loans to Cuba; confirmed US opposition to the admission of Cuba as a member of those institutions, and the prohibition on Cuban imports; restricted access to foreign investment in Cuba and any possibility of external financing and markets that might be offered by foreign investors, including the granting of a civil remedy in US courts against third-country nationals for</p>				



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		"trafficking" <sup>1</sup> in property nationalized by the Cuban Government on 1-1-1959 or later, as well as a ban on the entry into the US of foreigners linked with nationalized property.				

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<sup>1</sup> The Helms-Burton Act stipulates that a person traffics in nationalized property if he sells, transfers, distributes, dispenses, resells or otherwise disposes of nationalized property, or purchases, receives or acquires or introduces improvements or invests in it, obtains control of it, manages, leases, possesses or uses it, concludes a commercial agreement under which the property is used or exploited or causes or directs the trafficking in question. Title III repudiates the right of States to nationalize as recognized in international law and denies the legitimacy of the nationalizations carried out in Cuba.

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