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MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Striving To Achieve Fair, Balanced And Development Friendly Modalities In NAMA

Submission by NAMA 11 Group Of Developing Countries[1]

The following communication, dated 24 March 2006, is being circulated at the request of the delegations of Argentina, Bolivarian Republic of Venezuela, Brazil, Egypt, India, Indonesia, Namibia, Philippines, South Africa and Tunisia.

Introduction

The NAMA 11 has come together to advance the development content of the Doha development agenda (DDA) and to ensure that the outcome of the negotiations in NAMA is fair, balanced and in accordance with the mandate of the round agreed in Doha.[2]

Therefore the group fully supports the commitment of ministers, reflected in paragraph 24 of the Hong Kong Declaration to "advance the development objectives of this round through enhanced market access for developing countries in both Agriculture and NAMA. To that end we instruct our negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA". Paragraph 24 goes on to state that "this ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment".

There are seven interrelated elements of this injunction, read together with the Doha Declaration, and the July 2004 WTO Framework Agreement, which the NAMA 11 wishes to underline in this submission:

- The development objectives of the round should be at the centre of the negotiations. in reducing tariffs, the need for policy space to advance the industrial development of developing countries should be respected.
- Given the low tariff averages in developed countries "enhanced market access" for developing countries can only be assured by the elimination of tariff peaks, high tariffs and tariff escalation in developed countries.
- The principles of less than full reciprocity and special and differential treatment should be respected.
- The practice in the WTO, as was also agreed in the July 2004 Framework Agreement, is to reduce tariffs from bound rates and this should not be undermined in this round.

[1] Argentina, Bolivarian Republic of Venezuela Brazil, Egypt, India, Indonesia, Namibia, Philippines, South Africa and Tunisia.

[2] See WT/COMTD/W/145 – which several Members of the group submitted to the Committee on Trade and Development for a more elaborate argument.

- The flexibilities needed by developing countries to manage their adjustment process must be fully provided for in the modalities.
- "(t)here should be a comparably high level of ambition in market access for Agriculture and NAMA".
- In accordance with the objectives of a development round, we should ensure that all developing countries gain from the Doha round.

1. Development should be at the centre of the negotiations

The Ministerial Declaration that launched the DDA proclaimed that the interests of developing countries would be placed at the centre of the negotiations.[3] Agriculture and non-agricultural labour-intensive products constitute the bulk of production, employment and exports for the majority of developing countries, whilst these sectors have become relatively insignificant in terms of total output and employment of developed countries. Poor market access conditions for these products have severely adverse effects on developing countries and increased import penetration causes painful structural adjustment for many developing country economies.

In their recent proposals, developed countries, have made demands on developing countries to make commitments in the NAMA negotiations that are totally disproportionate. The enormous burdens of adjustment that developing countries would have to bear in their industrial sectors bear no resemblance to the relatively insignificant adjustments that developed countries will need to make in this sector. Developing countries are being called upon to reduce their tariffs from their applied rates with limited space to manage the adjustments in their sensitive labour intensive sectors. In sharp contrast, some developed countries in their recent proposals, have made insignificant offers to open their markets in the Agriculture negotiations. In addition, these developed countries have called for additional flexibility for the bulk of their sensitive products, allowing them to close off the possibility of any significant new market opening for agricultural products from developing countries. Developing countries are being called upon to bear the burden of any new market opening in this round. This threatens to create an imbalanced and anti-developmental outcome in the Doha round.

2. Tariff peaks and tariff escalation in developed countries must be eliminated

The DDA must provide enhanced access to industrial country markets for the exports of goods and services of developing countries. Paragraph 16 of the Doha mandate provides a clear mandate in this regard. *"We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including <u>the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries</u>"*.

Given the low tariff average, including the large number of duty free tariff lines in developed country schedules, enhanced market access can only be achieved through the elimination of tariff peaks, high tariffs and protection for intermediate or value-added goods, in developed countries granted through the medium of tariff escalation. Tariff escalation prevents developing countries from diversifying their export base, thus keeping these countries at the lower end of the value-added chain. The table below summarises the current situation of tariff peaks in quad countries:

[3] Paragraph 2 of the Doha Declaration states: "The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration".

Total NAMA tariff peaks in Canada, the EC, Japan and USA*					
Country	**Tariff Avg**	**Non-ad valorem tariffs**	**Tariff Peaks (national)**		**Maximum tariff**
			Threshold 3x Avg.	**Nr. of tariff lines**	
Canada	*5,3%*	*0,4%*	*15,9%*	*403*	*25,0*
EC	*3,9%*	*0,7%*	*11,7%*	*686*	*26,0*
Japan	*2.3%*	*3,6%*	*6,9%*	*1285*	*191,2*
USA	*3,2%*	*4,8%*	*9,6%*	*886*	*58,2*

**Source: WTO World Trade Report 2005*

In their recent proposals, developed countries are not offering to make any significant cuts in their industrial sectors. The coefficients being proposed by the developed countries for themselves will retain a large number of tariff peaks and the consequent tariff escalation, and thus negate the Doha mandate.

These peaks and escalations have their roots in the developed countries, during both the Tokyo and the Uruguay round, actually discriminating against developing country products as reflected by the effective cuts in favor of products from developing countries into developed markets being less than their overall average cuts, i.e., only 25% rather than 33% during the Tokyo Round, and 37% rather than 40% during the Uruguay Round (see Annex A). In the current development round, it is expected that the reverse should be the case, wherein the overall average cut for products from developing countries into developed countries' markets should be equal or higher than the overall cuts for products from both developed and developing to reflect the enhanced access for developing countries' markets and rectify this historical imbalance.

3. Less Than Full reciprocity in reduction commitments

The NAMA 11 group of developing countries are willing to reduce their tariffs proportionately on the basis of less than full reciprocity in reduction commitments so that their concessions are commensurate with their level of industrial development. We argue below that this approach is consistent with historical practice of the GATT, the Doha Mandate and the recent declaration by Ministers in Hong Kong. we argue further that the principle of "less than full reciprocity" means that developing countries should undertake lesser percentage reductions in their tariffs as compared to that by the developed countries.

What needs to be evaluated is the percentage reduction that developed countries undertake, which has to be greater than the percentage reduction that developing countries undertake.   It may be noted that the average percentage reductions by developed countries did not exceed 40% in any of the previous rounds of tariff negotiations (see Annex A). In a Development Round, where the objective is ***'enhanced market access for developing countries'***, developed countries have to lead the way by offering to undertake substantial reductions on their tariff peaks and high tariffs which they continue to maintain on products of interest to developing countries. In a Development Round there can be no expectation that developing countries should be making greater cuts than developed countries.

Furthermore, less than full reciprocity in reduction commitments cannot be measured in terms of the end result of the tariffs for developed and developing countries. Developed country tariffs are at an average lower than the average developing country tariff. Therefore, whatever the co-efficient taken, their end tariff would always be lower as compared to developing countries. It is also important to note that "*what matters as far as the stimulus to exports is concerned is not the percentage cut in tariff per se, but rather the decline in the tariff-inclusive price in the importing* *country. This means that the absolute size of the tariff cut is important. For example, a 50% reduction in a 3% tariff will, in principle, cause the tariff inclusive price to decline by 1.5 percentage points, whereas a 25% cut in a 36% tariff would result in a 6.6 percentage point reduction in the tariff inclusive price."*[4] Therefore the actual market opening in developing countries would be much more than that provided by developed countries.

We are also concerned that developed countries are attempting to harmonize tariffs amongst various Member countries; this is an impractical approach given the diversity in tariff profiles, different levels of development and sensitivities of different countries. Harmonization is not the mandated objective of these negotiations; what is desirable and achievable in this round is only a greater degree of harmonization within a Member's own schedule through a reduction/elimination of tariff peaks, high tariffs and tariff escalation.

In the simulations exercise which was recently undertaken by a group of 10 countries, comprising 6 developed Members and 4 developing countries using a range of co-efficients both in the Swiss formula and the ABI formula the following results were observed:

Percentage Reduction by Developed Countries in Bound Tariffs

Developed Countries[5]	**Swiss 2**	**Swiss 5**	**Swiss 10**	**ABI =1**
	47.50%	35.60%	25.77%	35.78%

[No flexibilities and a mark-up of 30 for unbound tariffs where applicable]

Percentage Reduction by Developing Countries in Bound Tariffs

Developing Countries[6]	**Swiss 30**	**Swiss 35**	**Swiss 40**	**ABI =1**
	47.99%	44.54%	41.57%	49.59%

[No flexibilities and a mark-up of 30 for unbound tariffs where applicable]

It is clear from the above tables taken from the simulations on the tariff profiles of a sample set of developed and developing countries that the co-efficients (using different Swiss formulas) for developed and developing countries should be substantially differentiated to deliver on the principle of Less Than Full Reciprocity.

4. Reduction from bound rates

The recent assertions by some developed Members that have called for 'effective new market openings', are attempting to change the bases of the NAMA negotiations from bound to applied rates, which is not acceptable. There are several reasons for the reduction commitments in the NAMA negotiations to be based on bound rates, and not applied rates:

(i) In the July Framework Agreement Members have agreed that the basis of tariff reductions shall be 'bound rates after full implementation of current concessions' and for unbound lines it shall be the applied tariffs as on 14th November 2001, with an appropriate non-linear mark-up.

(ii) Measuring reductions in current applied rates is also unacceptable since it attempts to negate the autonomous liberalization efforts of Members, particularly developing

[4] The Results of the Uruguay Round of Multilateral Trade Negotiations, GATT Secretariat November 1994.

[5] Australia, EC, Canada, Japan, Norway and the US.

[6] Brazil, Egypt, India and Malaysia.

countries. Many developing countries have reduced their tariffs beyond Uruguay Round commitments. These efforts need to be recognized and rewarded by the multilateral trading system, and not penalized. Unilateral liberalization undertaken by developing countries has already provided increased market access to WTO Members and should not simply be "pocketed" and not recognized. Attempt by some developed countries to call for reduction of developing country tariffs from applied rates will have the perverse effect of dissuading developing countries from reforming their economies and liberalizing unilaterally.

(iii) Attempting to use applied rates is a purely self-serving proposal as developed countries, after implementation of their UR commitments, have not effected any significant unilateral MFN tariff reduction. Thus, for most of the developed economies there is no difference between their bound and applied tariff rates. This proposal provides an unfair advantage to the developed countries in using reductions in applied tariff as a test for measuring additional market access.

(iv) Whilst developing countries are committed to bind and reduce tariffs from bound levels in this round, thus creating more transparency and certainty for exporters, developing countries may still need to maintain some tariff overhang (space between bound and applied levels) so as to retain the policy space required for industrial development. Tariffs have been used as an industrial policy and industrial development tool by developed countries in the past and developed countries should not now "kick the ladder behind them", thus denying developing countries a legitimate policy tool.

(v) The rules in NAMA should not be applied in a selective manner and need to be consistent with those being applied in Agriculture. Developed countries have considerable tariff overhang ("water") in their agricultural tariff structures. In many cases their agricultural bound tariffs are much higher than necessary to protect the market for particular products and have prohibited trade flows. In contrast high tariffs in developing countries for industrial products have not resulted in stopping trade flows. In the agriculture negotiations developed countries have insisted on using bound levels as a basis for their domestic support reductions. Furthermore, despite the mandate for "effective reductions" in domestic support in the Hong Kong Ministerial Declaration, no proposal has been made by developed countries which is likely to go beyond current applied levels or beyond spending levels after the implementation of domestic reforms.

5. Flexibilities are an essential element

Whilst many developing countries have continued to undertake unilateral liberalization beyond their WTO Uruguay Round commitments and reform their industrial sectors, a significant part of their production and employment remain in sensitive sectors, and further liberalization of these sensitive sectors would have to be preceded by carefully managed adjustment policies.

It is for these reasons that we argued in the submission[7] made to the WTO that the paragraph 8 flexibilities, that all WTO Members negotiated and agreed to in the WTO July 2004 Framework Agreement, are an essential element of the flexibilities required by developing countries to manage their adjustment processes. We retain the right to adjust these numbers upwards to enable some of our economies to manage the adjustment of sensitive sectors and prevent the social disruption

[7] See WTO doc TN/MA/W/65 – submitted to the WTO Negotiating Group on Market Access on the 8th of November 2005.

caused by job losses and closure of enterprises that would result from further liberalization. In addition, we emphasize that paragraph 8 is a ‘stand-alone’ provision in the agreed NAMA framework and its position as such must be recognized. Any move to link it, or use it as a trade-off with the tariff reduction formula will create unnecessary difficulties in the negotiations. The two issues are separate and should be treated as such. we thus welcome the decision of ministers in paragraph 14 of the Hong Kong to “re-affirm the importance of special and differential treatment and less than full reciprocity in reduction commitments, including paragraph 8 of the NAMA framework, as integral parts of the modalities”.

The NAMA 11 group also supports the need for paragraph 6 countries and the LDCs to be allowed sufficient policy space in the modalities to contribute to their economic development whilst ensuring that all WTO Members shall make a contribution to the round in accordance with their level of development.

6. Comparably high level of ambition in both NAMA and agriculture

The level of ambition between NAMA and Market Access in Agriculture will have to be comparably high in order to be compatible with what Ministers decided in Hong Kong. There are, as stated in a recent submission by Argentina[8], several elements that could be used to compare that level of ambition. These include: the comparison between the levels of tariff cuts proposed, the flexibilities and sensitivities contemplated, the possibilities of enhanced market access for developing countries, and the certainty and transparency of the tariff structures. These parameters can serve to assess the compliance of different proposals with the mandate of Paragraph 24.

The recent proposals by developed countries that require developing countries to reduce their NAMA tariffs by a significantly higher percentage than the current percentage reductions offered by developed countries in both NAMA and Agriculture have the singular characteristic of contradicting the three mandates of Paragraph 24: they do not provide for enhanced market access for developing countries, they do not provide for a comparably high level of ambition in NAMA and Agriculture and they are not balanced, proportionate and consistent with the principle of special and differential treatment.

7. All developing countries should gain from the Doha Development Round

The NAMA 11 recognizes that not all developing countries stand to make significant gains from the DDA in the short term. developing countries, and in particular, least developed countries (LDCs), and other small, weak and vulnerable economies often do not have the supply capacity to compete for the new export opportunities that will arise. others will face significant adjustment costs including from the erosion of preferences. to address these particular concerns of developing countries we pledge to work with these countries to seek solutions to the following challenges:

- In our previous submissions we have already “recognized the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the MFN liberalization that will result from these negotiations” as Ministers decided in paragraph 20 of the Hong Kong Declaration. We pledge to work with these Members to “intensify work on the assessment of the scope of the problem with a view to finding possible solutions”.
- As we indicated in our previous submissions, referred to above, we fully identify with the concerns of “small, vulnerable economies” and pledge to work with these countries “ to establish ways to provide flexibilities for these Members without creating a sub-category of WTO Members” as provided for by paragraph 21 of the Hong Kong Ministerial Declaration.

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[8] See WTO doc TN/MA/W/67 submitted by Argentina.

- In our submissions we called for the launch of an ambitious "aid for trade" package in Hong Kong to address the trade related capacity building needs of all developing countries. We also stated that WTO Members should also agree to create a grant aid fund to assist all developing countries to manage the impact of preference erosion and other adjustment challenges that would arise from the Doha round. In view of the decision of ministers in Hong Kong for the Director-General to create a task force to provide recommendations to the general council on how to operationalize "aid for trade", the NAMA 11 will participate actively in this group to achieve the above objectives. We believe that "aid for trade" should not be used in this round as a substitute for increased market access and reductions in trade distorting subsidies of developed countries. we also believe that, the funding for "aid for trade" should be additional to existing aid budgets and should not be limited to capacity building for implementation of the Doha round agreements but should also contribute significantly to building the supply capacity of all developing countries to take advantage of new market access.
- The NAMA 11 is also fully committed to working with the LDC Group to operationalize and make effective the provision of duty free quota free market access for all LDC products by 2008 in accordance with Annex F of the Hong Kong declaration.

Conclusion

The NAMA 11 group of developing countries remains committed to work for a genuine development outcome of the round that is fair and balanced and that will create new opportunities for all Members, developed and developing, to grow their economies and foster their development.

ANNEX A

The History of Tariff Cuts in the GATT-WTO and the Principle of Less Than Full Reciprocity in Reduction Commitments

Round Covered	Developed Countries Cuts	Developing Countries Cuts
Uruguay Round (1986-94)	No Agreement reached on Formula, - guideline quantitative target of 33 **1/3 % Cut** - at least as ambitious as Tokyo Round Trade Weighted Cuts: - **40% overall** - **37% products from Developing Countries** - **25% products from Least Developed Countries**	Concept of Less than Full Reciprocity, and Developed Countries not expected to achieve the same level, - In **Agriculture, express guideline of 2/3s of the 36% set for developed countries (that is 24%)** - In NAMA, tacit guideline of 22% at **2/3s of the developed,** but actual level of cuts were less than 22%
Tokyo Round (1973-79)	Adoption of the Swiss Formula Approach, with achieved cuts at: – **33% weighted cut** – **39% simple average** – **But for Developing countries' products - effective cuts were only 25%** USA – USED SWISS 14 EC etc – Swiss 16 *With flexibilities or exemptions subject to compensation*	**Same concept of Non-Reciprocity as in Kennedy Round, no mandatory formula approach**
Kennedy Round (1964-67)	Principle of "substantial linear tariff reductions" with **50%** "as a *working hypothesis* for the determination of the general rate of linear reduction" **- 35% cuts achieved**	Non-Reciprocity Concept /Optional Participation for Developing Countries - Basic Reciprocity but "less than full reciprocity" to the effect that: ***"the developed countries cannot expect to receive reciprocity from the less developed countries"*** ***No Formal Linear cut obligation for developing countries***
First 5 Rounds Geneva to Dillon (1947-62)	Weighted Percentage Cut - **36%**	Optional Participation and only when requesting concessions

Sources: Anwarul Hoda, Tariff Negotiations and Renegotiations under the GATT and WTO Procedures and Practices, Cambridge University Press 2001.

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