

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Joint paper on Revised Draft Modalities for Non-Agricultural Market Access (NAMA)

Communication from Canada, the European Communities, Iceland, Japan, New Zealand, Norway, Switzerland, and the United States

The following communication, dated 5 December 2007, is being circulated at the request of the delegations of Canada, the European Communities, Iceland, Japan, New Zealand, Norway, Switzerland, and the United States.

This paper responds to the request by the Chairman of the Negotiating Group on Market Access for written contributions by Members ahead of his revision of the NAMA Draft Modalities text. It also responds to the calls for convergence made by Director General Lamy, as the co-sponsors of this text are convinced that the basis of our work must be the Chair's July 2007 text (hereafter, "the Chair's text"). The following points build on the objectives contained in the Doha Ministerial Declaration, Annex B of the 2004 July Framework Agreement and the Hong Kong Declaration, and indicate the elements that co-sponsors consider as necessary for NAMA modalities to be sustainable within the broader context of the Single Undertaking.

Co-sponsors of this text wish to emphasise that in a constructive spirit, they are prepared to engage in discussions on specific problems concerning particular developing Members. They are confident that focused and specific solutions can be accommodated as long as, where necessary to preserve the overall balance struck by the figures contained in the Chair's text, there are transparent trade-offs.

1. Signatories to the Doha Declaration expressed their determination to "maintain the process of reform and liberalisation of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development". The NAMA modalities need to deliver real market access gains for all Members. Ministers in Hong Kong instructed negotiators to achieve a "comparably high level of ambition in market access for Agriculture and NAMA". Leaders representing half of world trade insisted in September that the round must achieve an "ambitious, balanced result that delivers real and substantial market access improvements for agricultural and industrial goods and for services and real and substantial reductions in trade-distorting subsidies"¹.

¹ APEC Leaders' Statement on the WTO Negotiations of 9 September 2007. APEC Economies are: Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand, United States and Viet Nam.

2. Ministers agreed in Hong Kong to adopt a Swiss formula with coefficients at levels which shall *inter alia*:

- reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries; and
- take fully into account the special needs and interests of developing countries, including through less than full reciprocity in reduction commitments.

3. There are no prescriptions for assessing the outcome of negotiations. Each Member will make its own judgment. Some of the criteria that will be followed by the co-sponsors of this paper include: reduction or elimination of tariff peaks, high tariffs and tariff escalation; the number of dutiable applied lines cut and the depth of the cut; reductions in bound duties; end rates; results of participation in sectoral initiatives; binding coverage; and results on non-tariff barriers.

1. Formula

4. The Draft Modalities of July 2007 include a Swiss formula with two coefficients to be applied by at least 41 Members. The coefficient for developed Members ranges from 8 to 9, while the coefficient for developing Members ranges from 19 to 23. The difference in these two ranges of coefficients amply reflects the principle of less than full reciprocity. Currently, the average applied tariff for developing Members applying the formula is just more than twice the average rate applied by developed Members. Under any scenario in the Chair's text, this ratio would widen so that the average end rate for developing Members applying the formula would be more than three times the average end rate for developed Members. The pattern is similar for bound rates. Whatever the final choice of coefficients, they will have to deliver on both requirements agreed by Ministers in Hong Kong.

2. Flexibilities

5. Flexibilities for developing Members are another form of less than full reciprocity that is provided in the Chair's text. Developing Members have long requested that flexibilities under paragraph 8 be treated as a standalone element. In response to such requests, the brackets around those figures have been removed in the Chair's text. Developing Members applying the formula will thus be able to apply no cuts or to keep items unbound up to 5% of their tariff lines and 5% of import value; alternatively they can apply half-formula cuts to 10% of lines and 10% of import value. In recognition of the valuable flexibility offered by these provisions, the Chair's text also includes the possibility for developing Members renouncing these flexibilities to benefit from a higher coefficient increased by three additional points.

6. Flexibilities allow high tariffs to be shielded, making it harder to meet the requirement to reduce or eliminate high tariffs, tariff peaks and tariff escalation. In addition to reducing ambition, flexibilities cause a high degree of uncertainty. Consequently, Members must ensure that the application of such flexibilities does not result in the exclusion of whole sectors.

7. Calls to expand flexibilities on a generalised basis are not sustainable, threaten to close off even more sectors that may be of interest to smaller and developing Members, and would further diminish trade and development opportunities for the majority of Members. Proposals by some Members to expand flexibility on the basis of their membership in customs unions have raised serious systemic concerns amongst co-sponsors of this paper. Such proposals would imply that regional agreements have priority over the multilateral system. Co-sponsors of this paper strongly reject such

an approach. Countries join customs unions as a policy choice and there are existing WTO provisions that address the implications of such a choice.

8. Given the large gap between bound and applied duties in most developing Members, the provision in the 2004 July Framework Agreement that reductions shall commence from bound duties also results in lower applied rate cuts for developing Members as compared to most developed Members where bound and applied duties practically coincide.

9. Special and differential treatment is also reflected in the implementation periods proposed by the Chair's text. Developing Members applying the formula shall benefit from a period that is twice that of developed Members. Given the high numbers in the range for the developing Members coefficient included in the Chair's text of last July, there will be very few cuts or no cuts into applied rates for a significant proportion of developing Members' tariff lines. The relatively limited cuts into applied rates and the length of staging mean that market access improvements are likely to occur only late in the implementation period, perhaps as late as 2016 or 2017. On the other hand, current applied rates in developed Members would start to be cut from the first year of implementation.

10. The Draft Modalities further refine provisions for special and differential treatment, including less than full reciprocity, by:

- providing a total exemption from any commitments for LDCs, Low Income Economies in Transition and Very Recently Acceded Members.
- excluding from formula reductions developing Members that have bound less than 35% of their tariffs ("paragraph 6" countries), and developing Members with a share of world NAMA trade less than 0.1% (Small, Vulnerable Economies – SVEs). For these two groups the Chair's text offers significant flexibilities in the form of target averages that do not require any effect on duties currently applied by these Members. We are supportive of the Chair's modalities for these two groups and willing to consider adjustments in the context of an overall satisfactory outcome in the NAMA negotiations.

11. As regards recently acceded Members (RAMs), we consider the Chair's text sufficient and in keeping with the Ministerial mandates.

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12. Co-sponsors believe that all the elements above will help achieve a level of commitments sustainable and satisfactory for all Members with defensive or offensive interests.
