

**MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS**

Communication from Switzerland

The following communication, dated 27 November 2002, has been received from the Permanent Mission of Switzerland.

**1. INTRODUCTION**

1. As decided by the Negotiating Group on Market Access on 19 July 2002, Members have agreed to submit proposals on modalities for market access negotiations by the end of the year 2002. With this Communication, Switzerland would like to offer its thoughts on some of the issues which will need to be addressed in the discussion on modalities with a view to reaching a common understanding on a possible outline of modalities by the end of March 2003 and an agreement on those modalities by 31 May 2003.

**2. MODALITIES FOR REDUCTION**

2. Switzerland is of the view that given the mandate of the Doha Declaration, namely to reduce or as appropriate eliminate tariffs on non-agricultural products, including tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries, an approach should be chosen which ensures the greatest possible reduction of tariffs across Members. Such an approach should allow in parallel a higher level of ambition for specific sectors or products.

3. The basis for negotiations should therefore be a formula which fulfils several criteria: It should be transparent in its application. It should ensure a harmonizing effect of tariff schedules of WTO Members. And it should be drafted so as to reduce tariff peaks, high tariffs and tariff escalation more than other tariffs. Another important objective is the reduction of large gaps between bound and applied rates. A formula with a harmonizing effect would come to grips with this issue, too.

4. In Doha, Ministers have decided to place development issues at the heart of the agenda. A formula approach must therefore also live up to this important objective. Indeed, a formula approach also has the merit to allow modulation to take into account different levels of development, of trade participation and of competitiveness in international trade. Applying such an approach could for instance mean that, for the purpose of these negotiations, it might be appropriate to extend the treatment applied to Least Developed Countries (LDC's) to countries with similar development characteristics. From these Members substantial reductions would in principle not be expected. On the other hand, some developing countries should make concessions in line with their higher level of development. Furthermore, consideration should also be given to the terms of accession of a number of recently acceded Members.

5. A formula based approach should be supplemented in parallel by enhanced liberalisation initiatives in specific sectors or for specific products, for instance for environmental goods. Besides submitting new sectors or products to "zero-for-zero" or harmonisation initiatives at a very low level, Switzerland supports increasing the number of participating Members in existing initiatives, expanding the coverage of such initiatives as well as reducing the rates of harmonized tariffs on chemical products. In this context, special consideration should also be given to substantially lowering or eliminating tariffs on pharmaceutical products needed to treat diseases referred to in paragraph 1 of the Doha Declaration on the TRIPs Agreement and public health. This would undoubtedly contribute to ameliorate the affordability of such medicines.

6. Finally, for a limited number of sensitive products, a request/offer approach could be envisaged in parallel to a formula. The possibility to use this approach should not, however, have the effect of sheltering specific sectors from concessions, especially if those sectors concern products of export interest to developing Members. On the contrary, particular emphasis should be put on the sectors of particular interest to developing and least developed countries. As the Doha mandate explicitly states, the reduction or elimination of tariffs and non-tariff measures shall be aimed in particular at products of export interest to developing countries.

7. Several Members have proposed that so-called "nuisance" duties be eliminated. Switzerland agrees that very low duties should also be the subject of negotiations. However, an elimination of very low duties is a concession like any other reduction or elimination of tariffs. Requiring a Member to eliminate such duties "for free" would amount to a unilateral concession. The argument of cost has also been made in this context. We concur that making customs procedures more efficient is an issue that has to be dealt with in the framework of the Doha negotiations. However, the fact that a product can be imported duty-free hardly bears a direct relation to the complexity or cost of customs administrative procedures as such, which are not confined to collecting tariffs but also serve many other purposes. Therefore, diminishing the complexity and the financial burden resulting from the complexity of customs procedures requires a comprehensive approach. There is a broad scope for improvement independently from the level of tariffs. We therefore very much support the objective to formally launch negotiations on trade facilitation at the next Ministerial Conference.

### **3. COVERAGE AND OTHER MODALITIES**

8. In order to enhance legal security, predictability and effective progressive liberalisation, the coverage of bound tariffs must be improved with a view to having all tariff lines bound in the schedules of all Members. The concessions made by Members who recently acceded to the WTO could serve as guidance in this respect. Concerning the level at which such binding should take place we would suggest that the tariffs be bound in principle at the applied rate in 2001, with the possibility of a binding at a higher rate.

9. As regards the basis for negotiations, we suggest to take as a starting point the bound rates at the end of the implementation period of the Uruguay Round. Although the proposal to take HS 2002 as a basis for the negotiations has a lot of merit, it doesn't seem to be a realistic approach as many Members have, as of today, not yet implemented HS 2002. Furthermore, the certification of the change from HS 1996 to HS 2002 may take some time. We therefore think that using HS 1996 as a basis is more pragmatic and avoids unduly delaying the start of the negotiations. We should, however, make sure that the results of the negotiations be published according to HS 2002. In cases where there is no bound rate to use as a basis, the applied rates in the year of the launching of the Doha negotiations should be taken as a basis, i.e. 2001.

10. Several proposals have been made regarding the question of staging of commitments. We favour a specific time period of e.g. five years as a general rule, combined with the possibility of longer periods in exchange for major cuts on sensitive products for developing countries.

11. A very important issue to Switzerland is the issue of Initial Negotiating Rights (INR's). Although this concept is not applicable when a formula is used for tariff reductions, it remains important for medium and smaller size economies when tariff reductions are negotiated between Members. The basis of the concept of INR's is contained in Article XXVIII of GATT 1994. However, the implementation of the concept has been deficient and thus INR's have not adequately been reflected in the legal instruments, with the exception of accession documents. Switzerland would therefore like to propose that modalities for negotiations include the issue of how INR's should be reflected in the final results of market access negotiations.

#### **4. ENVIRONMENTAL GOODS**

12. Switzerland strongly supports the objective of deeper liberalisation of tariffs and non-tariff measures on environmental goods and services, as mandated in paragraph 31(iii) of the Doha Declaration. The discussion so far has shown that it will be difficult to come to a common set of criteria for the goods that should be covered by enhanced liberalisation as provided for in paragraph 31(iii) of the Doha Declaration.

13. We agree with other Members that the work of APEC and OECD and the lists that have been elaborated in these fora form a very useful basis for our discussion. Indeed, on this basis, Members could draw up a preliminary list of environmental goods. However, we are aware that the goods contained in these lists may not offer enough market access opportunities for all Members. Some Members may want to include other environment friendly products into the category of environmental goods, like products having environment friendly physical characteristics, e.g. when used or disposed of.

14. A third kind of differentiation has been raised in the discussion, namely whether production and processing methods should be a criterion to define environmental goods. We share the concerns voiced by numerous Members in this respect. The lack of internationally recognised standards bears the danger of erecting new barriers instead of liberalising trade. Furthermore, the application of such a criterion at the border may in practice be very difficult. However, it seems to us that in spite of these difficulties, we should be open to discuss specific proposals put forward by Members which would have the effect of being environmentally supportive, trade liberalising as well as operational at the border.

15. Finally, close cooperation with the Committee on Trade and Environment is necessary regarding these issues. In that respect, Switzerland welcomes the decisions taken by the Chairs of the NGMA and the CTESS that the Chair of the NGMA keeps the Chair of the CTESS informed of the ongoing discussions in the NGMA on environmental goods, that he reports to the NGMA on any information of relevance provided to him by the Chair of the CTESS and that papers relating to environmental issues submitted to the NGMA are also submitted to the CTESS to enhance transparency.

#### **5. NON-TARIFF MEASURES**

16. Negotiations on non-tariff measures are a key element of the market access negotiations for industrial products. Several WTO agreements deal with non-tariff measures. It is Switzerland's view that, in order to reduce or as appropriate eliminate non-tariff barriers, as mandated by the Doha Declaration, we have to first draw up a list of concrete barriers. A first step in this respect has been made with the request of the Chairman on the Negotiating Group to Members to inform by the end of January 2003 on export difficulties reported by economic agents in Member countries. An assessment of the difficulties reported, and especially of their trade-restrictiveness, should follow the collection of this information. This assessment should take into account that some of the difficulties encountered may be solved through bilateral negotiations between the Members concerned. On the basis of this

assessment and of the number of issues which can be resolved bilaterally, the Negotiating Group will have to decide how to proceed.

---