
MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Modalities that could be adopted for the participation of the least developed countries
in the ongoing negotiations for the improvement of market access for non-agricultural products

Negotiating proposal submitted by Bangladesh on behalf of the least developed countries

The following communication, dated 23 December 2002, has been received from the Permanent Mission of Bangladesh.

I. GENERAL

1. The paper contains some preliminary ideas on the modalities that could be adopted for the participation of the least developed countries in the ongoing negotiations for the improvement of market access for non-agricultural products. It is the intention of the countries making this submission, to make a revised submission if after further examination and discussions among themselves, further clarifications of the points made are considered necessary.

II. MANDATE PROVIDED BY THE DOHA DECLARATION

2. The decision relating to the improvements in “market access for non agricultural products” adopted at the Doha Ministerial Conference, *inter alia* states that the negotiations in this area “shall aim, by modalities to be agreed, to reduce and as appropriate eliminate tariffs, including the reductions or elimination of tariff peaks, high tariffs and tariff escalation, as well as non tariff barriers, in particular products of export interest to developing countries”. It further states that the negotiations shall take fully into account the “special needs and interests of least developed countries including through less than full reciprocity in reduction commitments” in accordance with the provisions of General Enabling Clause¹ and the Uruguay Round Decision on Measures in Favour of Least developed Countries and other WTO provisions, particularly those of GATT Article XXVIII.

3. The Uruguay Round Decision referred to above, recognizes the importance of preferential access by the least developed countries to the markets of other countries. In particular, it emphasizes that “the specific needs of least developed countries in the area of market access”, require that “continued preferential access remains an essential means for improving their trading opportunities”.

4. As regards contributions to be made by these countries in trade negotiations, it states that such contribution should be determined taking into account the principles and rules laid down by the General Enabling Clause, which *inter alia*, state that “the developed contracting parties shall not seek, neither shall least developed contracting parties be required to make, concessions that are inconsistent

¹ The Decision on Differential and More Favourable Treatment, Reciprocity and fuller Participation of Developing Countries.

with the latter's development, financial and trade needs". In addition to these provisions, the following provisions of GATT Article XXVIII are also relevant for contributions to be made by the least developed countries:

- Developing countries including least developed countries, may bind their tariff at levels which are higher than the reduced rates agreed in trade negotiations, and
- In determining the extent of reductions which these countries may make, the important role which customs duties play in raising revenue needed for meeting developmental expenditures should be taken into account.

III. TRADE POLICY DEVELOPMENTS SINCE THE CONCLUSION OF THE URUGUAY ROUND

5. The approach, which the least developed countries could adopt in the discussions on the possible modalities that could be adopted for negotiations on further liberalization of trade in the non-agricultural sector, would be greatly influenced by:

- The measures which some of the developed countries have taken for improvements in the preferential access to their imports, since the conclusions of the Uruguay Round
- Adoption by some of developing countries of preferential systems for imports of selected products from these countries and
- The serious adverse impact which the liberalization measures taken by them during the last two and a half decades is having on their industrial development, trade and economy.

These issues are discussed briefly in the paragraph below:

A. IMPROVEMENTS IN PREFERENTIAL ACCESS BY DEVELOPED COUNTRIES

6. Since the conclusions of the Uruguay Round some of the developed countries have taken major steps for broadening and deepening the scope of the preferential access which they grant to imports from the least developed countries under their Generalization System of Preferences (GSP). Under the Everything But Arms (EBA) System, the European Union allows imports of almost all products, both industrial and agriculture, on preferential duty-free and on quota free basis. Under the Africa Growth and Opportunities Act, the United States has also broadened the coverage of its GSP to allow imports on duty free basis of garments made from US yarn and fabrics and of other products from least developed and other developing countries from the African region.

7. The EU initiative to provide duty free access to imports from least developed countries and the US initiative to provide such treatment for selected products of interest to African countries, is resulting in investment by outside countries for development of industries not only for the manufacture of clothing, but also of leather and horticultural products in a number of least developed countries (like Lesotho, Malawi and Senegal) to take advantage of the preferential access to these markets. The least developed countries have therefore a vital interest in ensuring that the preferential access extended by them is maintained and continued for sufficiently long period of time and other developed countries, take measures to improve their Generalized System of Preferences to allow duty free imports of all products from least developed countries.

8. In this context it is important to note that the macro-economic studies prepared recently by the World Bank and other independent research organizations show that major beneficiaries of further reductions in tariffs on MFN basis in the industrial sector are expected to be the developed countries and the developing countries which have reached higher stage of development and have been able to

develop diversified structure for industrial production. Countries from the African region, where most of the least developed countries are situated, are expected to benefit, if at all, only marginally.

9. As against this, the macroeconomic study undertaken by the Commonwealth Secretariat in cooperation with UNCTAD, to assess the beneficial impact of EBA, and of the similar systems adopted by the QUAD countries, on trade and development of the least developed countries, has found that “non reciprocal preferential trade liberalization” targeted towards least developed countries is likely to result in gains to beneficiary countries “that are significant”. At the same time, the losses arising from trade diversion for preference giving and third countries are likely to be negligible.

10. These findings are further supported by a recent analytical study by Andrew Rose, an economist from the University of California, (Berkeley) which points out that the experience of the application of WTO rules shows that the main factor responsible for growth of trade of developing countries is preferential access available to them under the GSP and other preferential arrangements and not reductions in tariffs made by them on MFN basis.

B. EXTENSION OF PREFERENTIAL TREATMENT BY DEVELOPING COUNTRIES

11. Some of the developing countries have also, since the conclusion of the Uruguay Rounds, (e.g. Brazil, Hungary, Cuba etc.) adopted systems for preferential treatment for imports of limited number of products from least developed countries. Legal basis for the extension of such preferential treatment is provided by the General Waiver adopted in WTO.

C. DISMAL EXPERIENCE OF THE LEAST DEVELOPED COUNTRIES OF THE LIBERALIZATION MEASURES TAKEN BY THEM

12. Almost all least developed countries have, under the structural adjustment programmes or on an autonomous basis in pursuance of the policies adopted by them for economic reform, been taking since last two decade measures for the liberalization of their trade regimes, through reduction of tariffs and elimination of quantitative restrictions. The experience of the measures taken on their industrial development, economies and trade has been however, far from positive. The empirical studies undertaken by the Ganesh Wighnaaja, Sanjay Lal, Edward Buffie and others have found that surge of imports resulting from post 1980 liberalization has adversely affected a number of existing industries such as those producing beverages, tobacco, textiles, sugar, leather, cement and glass products, in least developed countries like Zambia, Uganda, Sierra Leone, Tanzania and in other developing countries in the African region. Many have closed down and others are struggling to survive. Lack of resources is preventing the industries which have survived from investing in technological up gradation that is necessary to become competitive. As a result, liberalization has, instead of leading to investment in new industries resulted in “deindustrialization” and in increased unemployment. These developments put serious constraints on the ability of these countries to make further reductions in tariffs in the present ongoing negotiations in WTO.

IV. OBJECTIVES OF THE LEAST DEVELOPED COUNTRY'S PARTICIPATION IN NEGOTIATIONS

13. Against the background of these, the objectives of the least developed countries in participating in the negotiations are threefold:

First, they would like to secure such improvements in the existing preferential access to the markets of developed countries as would ensure preferential duty free and quota free access for all of their products.

Second, they would wish that developing countries which have adopted preferential systems for imports from the least developed countries, broaden their product coverage and those which have not been able to do so, adopt such systems.

Third, they would like to ensure that in this round of negotiations they are not required to reduce their tariffs and are permitted to maintain the existing levels of protection, with a view to:

- Ensuring continuing viability of their existing domestic industries
- Promoting further industrial development that is export oriented and is able to take advantage of the new export opportunities that would be created by the improvements in preferential access
- Maintaining and increasing industrial employment and
- Ensuring that revenue required by the government for developmental purposes continues to be available to them.

V. NEED TO ADOPT A COCKTAIL APPROACH IN DECIDING ON MODALITIES

14. The modalities that may be adopted for negotiations would have to be determined taking into account these objectives with which the least developed countries are participating in the negotiations, in order to ensure that liberalization process is development oriented and benefits equally countries at different stages of development. These considerations would suggest that as in the Uruguay Round of trade negotiations, it would not be possible for WTO Members to adopt one common set of modalities and that would be necessary to adopt, what the WTO secretariat has called a “cocktail approach”. Under this approach agreements are reached by consensus on the different types of modalities which would be used by taking into account the stages of developed among countries.

15. Some tentative proposals on the basis of which agreement could be reached on the type of modalities are made in the following paragraphs:

A. NEGOTIATION WITH DEVELOPED COUNTRIES

16. The modalities for negotiations with developed countries should provide for the adoption by all of them of separate arrangements under the umbrella of their Generalized System of Preferences, which would allow imports of all products from least developed countries on duty and quota free basis. Such modalities should also provide for review of the rules of origin and of other barriers, which affect the ability of the preference receiving countries to derive full benefits from the preferential arrangements. It should be agreed that preferential treatment extended under the arrangements shall not be modified to the disadvantage of the least developed countries during an agreed period of time (e.g. fifteen to twenty years).

17. Further in order to ensure that the erosion of preferential margins that may result from the reduction in MFN rates of tariffs, which would be made by the preference giving developed countries (in accordance with the modalities that may be agreed for negotiations among developed countries and for negotiations among developed and developing countries), do not result in sudden disruption of trade of the preference receiving countries, the modalities to be used by the least developed countries should provide for the following:

- Where a least developed country considers that preferential margins which its exports enjoy in relation to certain tariff lines or headings are of meaningful advantage in trade terms, and the reduction or erosion of preferential margins resulting from MFN reductions is likely to seriously affect its exports, it may request the preference giving countries to:

- Postpone commencement of the staging of reductions by agreed number of years (e.g. five years) or
- To spread the staging of reductions over a period of ten years instead of normal period of five years that may be agreed in the negotiations.
- The preference giving countries to whom such request are made should agree to consider such requests sympathetically and provide reasons, in cases where it is not possible for them to agree to such requests.

18. Such procedures would be consistent with the provisions in the General Enabling Clause which *inter alia*, provide that the extension of the preferential treatment under the GSP “shall not prevent” reductions being made on MFN basis, as the requests would only aim at postponing MFN reductions by agreed number of years or staging of reductions agreed in the negotiations over a longer period of time and not prevent the preference giving country from making reductions on a definitive basis.

B. NEGOTIATIONS WITH DEVELOPING COUNTRIES

19. The modalities for negotiations of the least developed countries with developing countries should provide for the extension of preferential tariff treatment by the latter countries, on non-reciprocal basis, on the basis of requests lists to be submitted by the least developed countries, indicating the products in respect of which they wish to have such treatment.

C. CONTRIBUTIONS TO BE MADE BY LEAST DEVELOPED COUNTRIES

- As regards contribution to be made by the least developed countries, the modalities for participation of the least developed countries should recognize that in this round of negotiations, they are not in a position to make reductions in tariffs in the context of multilateral trade negotiations.
 - The least developed countries could however, as a part of their contribution agree to bind their tariffs at levels which are higher than their applied rates of tariffs. The modalities should provide such bindings being offered on limited number of products or sectors, or across the board on all tariffs by giving a “ceiling binding”.
 - Further as the reductions in tariff, which they have been making on autonomous basis have been benefiting their trading partners, some mechanisms would have to be established under the modalities for giving them credit for autonomous liberalization.
-