

## US too plays «TRUMP» card?

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At lunch time on the second day of the on-going WTO Mini-Ministerial in Geneva, the US Trade Representative (USTR) Ambassador Susan Schwab made a conditional offer to bind the US Overall Trade Distorting Domestic Support (agricultural subsidies that are universally recognised to distort production and trade) at US\$15bn per year. According to her this was a major concession by the US and is contingent upon other trading partners, particularly emerging developing countries, offering real market access to US farmers and producers. The other WTO Members should also commit not to challenge US agricultural subsidies under the WTO dispute settlement system, she said. (Both Brazil and Canada have filed legal cases against the US agricultural subsidies that are currently not being pursued to allow the on-going negotiations to proceed in a friendly atmosphere.)

On the first day of the Mini-Ministerial we had heard a similar offer from the European Union. The EU had announced that it was willing to accept an average reduction of 60 percent in its agricultural tariffs as against the earlier suggested figure of 54 percent. This turned out to be an empty offer as a European Commission representative later clarified that the target of 60 percent on average would be achieved by including the deeper tariff reductions on some tropical products. More ambitious tariff reduction on tropical products is an agreed mandate of the Doha Round and hence, there was nothing additional in the EU offer.

The conditional offer by USTR falls into the same category. According to her own statement, the average annual US Overall Trade Distorting Domestic Support (OTDS) in the last ten years comes to US\$16.8bn. The actual current OTDS by the US is estimated to be around US\$7bn per year. Hence, if accepted, the ceiling of US\$15bn will not result in any real reduction in the US OTDS. In fact, the US will have the option to at least double the current amount without falling foul of the WTO.

The real and immediate impact of the conditional EU and US offers is not intended to be on their respective agricultural imports and agricultural subsidies. These offers are part of the negotiating tactics. With these offers on the table by the two majors, the pressure is now on developing countries to make concessions, most notably in the area of non-agricultural market access (NAMA). Both the US and the EU, supported by other developed countries, have been insisting that the emerging developing countries should do more to open their markets for agricultural and industrial imports. Their key demand is for the reduction of applied tariff duties by the emerging developing countries like Brazil and India.

This pressure must be resisted. Developing countries, contrary to the Doha mandate of “less than full reciprocity by developing countries” as well as their original position, have already agreed to cut their industrial tariffs by applying a Swiss formula that will result in greater percentage reductions by them than by the developed countries. One should also recall that the Doha mandate for agriculture included “substantial reductions in trade distorting subsidies by developed countries”. The offers by the US and the EU do not fulfill this mandate. Nor do they justify a demand to developing countries to offer even greater concessions.

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Negotiations are about give and take. But this exchange must be balanced. One side cannot be expected to offer disproportionate concessions. Developing countries are committed to the success of the Doha Round and are participating in the negotiations in good faith. However, they cannot and should not be the ones to make commitments for the success of the Round disproportionate to those made by the developed countries. After all this is a Development Round.

In the light of the twin initiative by the EU and the US in the first two days of the Mini-Ministerial, there is likely to be some pressure on developing countries to respond with similar initiatives. They are most likely to be asked to respond by accepting anti-concentration and more bindings in the sectoral negotiations in NAMA. Here is a possible way for them to respond on the anti-concentration issue to retain the balance in the NAMA negotiations.

### **NAMA core mandate and the anti-concentration issue**

The NAMA modalities text of 19<sup>th</sup> May 2008 has grossly violated the mandate given in the Doha Development Agenda on 2001, the July 2004 Framework Agreement and the Hong Kong Ministerial Declaration of 2005. The NAMA mandate seeks adherence to the following basic principles:

- Less Than Full Reciprocity (LTFR)
- Non-mandatory participation in sectoral tariff cuts
- De-linking coefficients from flexibilities for developing countries

However, many provisions in the latest NAMA modalities text go beyond the mandate putting developing countries on defensive in the following ways:

- The so called anti-concentration clause reflected in Paragraph 7(f), which *inter alia* proposes that the flexibilities provided to developing countries shall not be used to exclude entire HS Chapters, and the second bracketed option limits flexibility even within HS Chapters at 4-digit, 6-digit or national tariff lines levels.
- Paragraph 12 chapeau and sub-para (c) is structured in such a way that developing countries may be forced to undertake binding commitments, even though conditionally, in the sectoral negotiations in order to retain the use of LTFR or seek equitable market access openings in developed countries.
- Paragraph 7 of the text links coefficients with flexibilities, which are two separate things. A Swiss type formula with dual coefficients had been agreed at the Hong Kong Ministerial but it is not about providing flexibility to developing countries. Flexibility as envisaged in the mandate is something more than dual coefficients.

### **How to counter this?**

In order to counter the anti-concentration proposal of developed countries, the developing countries must insist upon a parallel provision in case of sensitive products in agriculture negotiations.

Against dilution of the voluntary nature of the sectoral negotiations, developing countries may ask for slotting of existing subsidy programmes in Green and Amber Boxes. Any new programme notified after the Doha Round conclusion should be accepted in either of the boxes only if specifically agreed to in the Committee on Agriculture or agreed through Article XXVIII type re-negotiations.

## **Possible counter arguments by the developed countries**

On anti-concentration clause in sensitive products, the developed countries might argue that they are already expanding the TRQ (tariff rate quota) in return for retention/addition of sensitive products. Developing countries can blunt this argument by arguing that while TRQ expansion is according to the agreed mandate, anti-concentration clause in NAMA oversteps the mandate. So in order to ensure the parallelism, developed countries must also commit something beyond the mandate and hence, a similar anti-concentration clause in sensitive products.

On box-slotting, the developed countries may argue that this may mean re-opening of the negotiating mandate on domestic support, a situation that is not conducive to conclusion of the Round in 2008. It can be counter-argued that developing countries are not asking for a detailed listing of the subsidy programmes, which will be the right way to ensure predictability of market access and avoid cotton-type disputes. It is only about locking the use of these boxes for existing programmes so that, in this era of rising commodity prices, developed countries do not initiate new programmes and slot them in either box later whenever the reduction commitments permit, and compel more cotton-type disputes and the entailing costs.