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Non-Agriculture Market Access

Priorities for South Asia

——— *A.R. Kemal, Muleh-ud-Din & Ejaz Ghani**

A key element of the Doha Round of trade negotiations of the World Trade Organisation (WTO) is liberalisation of trade in industrial products, commonly known as non-agricultural market access (NAMA). Negotiation under NAMA focus on market access for all products (mostly industrial) that are not covered by negotiations on agriculture and aim to reduce, if not possible to completely eliminate tariff or non-tariff barriers (NTBs) that restrict trade in these products. NAMA negotiation also considers products including natural resources such as fisheries, forests, gems and minerals.

The ongoing NAMA negotiations are based on the mandate given in Doha Development Agenda (DDA), agreed at the 4th WTO Ministerial Conference, in November 2001. The Doha mandate states that the current negotiation needs to address tariff peaks, tariff escalation and NTBs. The Doha text also states that, there is need for comprehensive product coverage under NAMA and less than full reciprocity i.e. developing countries need to reduce tariff to a lower extent than industrialised countries and spread commitment over a longer time period. Further, the modalities to be agreed under NAMA include appropriate capacity building measures to assist least developed countries to participate effectively in negotiations.

July Framework also, as adopted on August 2004, identified NAMA as the priority area along with the other issues of WTO and reaffirmed on what was promised in Doha to reduce the tariffs and NTBs and address tariff peaks and tariff escalation, taking fully into accounts the special needs and interest of developing and least developing countries (LDCs).

NAMA Negotiations

The first proposal for modalities of NAMA negotiations was made in 2003 by the Swiss Chairman of the NAMA negotiating group, Pierre – Louis Girard. The key areas of the proposal were a 'Swiss Formula' for tariff reductions (cutting higher tariff by a larger percentage than lower tariffs), a sectoral initiative for the full elimination of tariffs in the seven sectors [automobiles, textiles & clothing (T&C), gems and jewellery, leather products, electric & electronic products, fish & fish products and footwear] and some amount of special & differential treatment (S&DT) for the developing countries. During the Cancun Ministerial in 2003, a second text on NAMA i.e. the Derbez Text was proposed. The text included a non-linear formula for reduction of tariffs with similarities to the Swiss Formula, along with sectoral initiative for tariff reduction without specifying the sector. This proposal was strongly opposed by the developing countries, particularly the G-90 countries and was not adopted in Cancun.

During the July 2004 General Council meeting, number of developing countries opposed the inclusion of the Derbez Text of the NAMA in the July Package. The developing countries pressed for the inclusion of several further proposals and demanded abolition of the non-linear formula, wanted the sectoral tariff component to be voluntary; and asked for more tariff cuts and tariff bindings. The framework adopted for modalities for negotiations under NAMA under the Doha mandate, known as the July Package, envisages the following elements:

- A Formula Approach for tariff reduction and for reduction or elimination of tariff peaks, tariff escalation and high tariffs. The key feature of this approach are:
  - No *a priori* exclusion of products;
  - Reduction of tariff from bound rates, or from twice the applied most-favoured-nation (MFN) rate in case of unbound tariffs;
  - Credit for autonomous liberalisation (trade liberalisation on an MFN basis undertaken independently from the WTO negotiations);
  - Conversion of specific duty into *ad-valorem* duties and their binding;
- Countries that have bound less than 35 percent of their tariffs would be exempted from tariff reductions through the formula, but have to bind 100 percent of their tariff lines; and
- A sectoral approach, aiming to eliminate or harmonisation tariffs in a specific sector.

Issues of Negotiations on NAMA

The main focus or the various issues of negotiations on NAMA are as follows:

- *Product Coverage:* It still has to be determined which product is to be covered by NAMA negotiations.
- *Tariff Peaks & Escalation:* Problems of high tariffs and tariff escalation remain wide spread for developing countries even after the Uruguay Round. A significant proportion of the tariff of USA, EU, Canada and Japan continues to exceed the level of 12 percent of *ad valorem* duties, even after full

**Authors are associated with Islamabad-based Pakistan Institute of Development Economics, as Director, Chief of Research and Senior Research Economist, respectively. The views are personal.*

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implementation of the Uruguay Round and Generalised System of Preferences (GSP) rates are taken into account. The main problem in the industrial sector occurs in food industry (accounts for about 30 percent of all tariff peaks ranging from 12 to 100 percent in EU and US), T&C (textile importing countries, US, EU and Canada impose tariff in the range of 12-32 percent), footwear, leather and travel goods (tariff rates are close to 160 percent in Japan, 37.5-58 percent in US and 18 percent in Canada), automotive products, transport equipment and electronics. In addition to extremely high tariff and other protection measures, tariff escalation remains an important obstacle for developing countries to enter into industrial exports. This is particularly pronounced in the sectors, which are of direct export interest to the developing countries, including South Asian countries.

Box 1: Developed Countries: Frequency of Post-Uruguay Round Tariff Peaks in the Industrial Sector by Product Groups

(Percentage of tariff lines within each group with duties above 12 percent ad valorem)

Product Group	***United States***	***Canada***	***European Union***	***Japan***
Leather & Leather Products	12	4	0	22
Textiles	21	45	1	1
Clothing	44	93	0	0
Footwear	42	67	0	71
Glass Products	10	5	0	0
Vehicle	4	1	8	0

Source: UNCTAD Trade and Development Report, 1999

- *Formula:* Some new elements has been added to the Swiss Formula such as the possibility to have Swiss Formula with conditional flexibility of applying two different coefficients (proposed by Norway and the US) or four coefficients (proposed by Chile, Columbia, and Mexico), a Swiss type formula with multiple coefficients based on averages and flexibilities and a credit system for developing countries [Argentina, Brazil & India (ABI)].

  While the simple Swiss Formula is transparent and easier to implement, it places disproportionate burden on developing countries, the ABI formula is more equitable as it incorporates the present tariff commitments of the members and envisages an overall reduction commitment that is proportional amongst developed and developing countries. Since none of the proposals on tariff reduction formula seem to attract consensus, to bridge the gap between the present proposals and fulfill the objective of the Doha Round, Pakistan proposed the adaptation of simple Swiss Formula with two distinct coefficients for developed and developing countries.
- *Tariff Binding*: This applies to unbound tariffs i.e. those products where there is no commitment to place a maximum cap on the tariff for that product. However it is not clear yet what percentage of unbound tariffs would be bound, at what tariff level these tariffs will be bound and whether, bound tariff should be included in the tariff formula for tariff reduction.

  Another important issue is that whether such negotiations should cover bound rate only or both the bound and the applied rate. Negotiation is also focusing on the methodology of conversion of non-*ad volorem* duties into *ad valorem* duties.
- *Sectoral Approach and Participation in this Approach:* Sectoral negotiations aim for complete tariff elimination. Although participation by developing countries, mostly LDCs could be voluntary, all other members are expected to eliminate or substantially reduce tariff on specific products. Some countries wish to eliminate low tariffs, below 3 or 5 percent. Although low, these tariffs provide important government revenues for a number of countries. Flexibilities for the developing countries and the LDCs also should be taken into considerations in the negotiation.
- *NTBs:* There are concerns on which NTBs should be included into the NAMA negotiations, which will be dealt with in other negotiation committee such as Technical Barriers to Trade (TBT), Sanitary & Phytosanitary Measures (SPS), Trade Facilitation and rules negotiations. Another issue is which NTB should be allowed and prohibited
- *Preference Erosion:* Generalised tariff reduction will lead to preference erosion for the countries that currently benefit from trade preferences due to their LDC status.

South Asian Perspective

The views from Bangladesh, India Nepal, Pakistan and Srilanka on various NAMA issues are as follows:

a) ***Bangladesh:*** Bangladesh, a LDC is not bound to undertake any tariff reduction commitment. However it has number of concerns with regard to the erosion of preferential margins presently available to Bangladesh under various GSP schemes. The ongoing NAMA negotiation should highlight this issue and search for appropriate and adequate mechanism to safeguard Bangladesh along with other LDCs.

Another major concern is the duty free access of garment and other products like fish and fish products, and leather and leather goods to US and other countries. Readymade garment industry in Bangladesh, that has so far enjoyed preferential access in developed countries, is not only important for the poor but has also created a social space for the women in Bangladesh, and hence the industry must be sustained. As these are labour intensive and female sensitive products, they can be treated as ‘sensitive products’ by the developed countries. Selective reductions in tariff in labour intensive products would lead to lower erosion of LDCs preferences.

Bangladesh also emphasise on implementation of commitment on duty free access. Bangladesh also needs to focus on the NTB issues so that its exports have easy access to the developed countries. In this context Bangladesh may peruse adequate technical assistance for compliance of NTBs, which are compatible with the WTO agreement.

b) *India:* India wants to gain greater market access in the developed countries, not much through the reduction of their tariffs, which are already low but through the dismantling of NTBs to trade and some GSP [e.g. the proposed EU-GSP on (T&C)]. India will also like to resist sharp reduction in tariffs forced open upon by developed countries. It will reduce tariff autonomously at a pace it judges suitable for the Indian industry. India will accept any tariff reduction formula only on bound rates and will counter any attempt to use applied rates as the base for application of a tariff reduction formula. India wants an equitable tariff reduction formula in the negotiations keeping in view the concerns of the developing countries.

India endorses the suggestion put forward by US for using two different coefficients for tariff reductions – one for the developed country and one for the developing countries, but with a lot of fine-tuning, rather than using the Swiss Formula.

India is also against the proposal of a mandatory 'zero for zero' reduction on the seven specific products by 2015 as these constitutes the bulk of the India' export basket and are also product reserved for the small-scale sector. A 'zero for zero' regime would spell their doom by granting unmitigated access to large foreign firms in the same market. India also highlights the need to link adoption of tariff reduction formula with concrete time bound progress on eliminating NTBs.

c) *Nepal:* Nepal, a LDC with low level of industrialisation has a significant stake in the ongoing NAMA negotiations in the WTO. Though Nepal has bound 99.3 percent of its tariff lines during its accession to the WTO and is not required to make any tariff reduction commitment, the outcome of the negotiations will have far reaching impact on Nepalese manufacturing sector in terms of loss of policy flexibility, export competitiveness and preference erosion. Nepal's objectives in NAMA negotiations an to resist sectoral initiative and 'zero for zero' approach, emphasising developed and developing countries to expand market access for products of export interest to Nepal. Bilateral assistance could be one way of doing this. Nepal also emphasise the developed countries to use a corrections coefficient to improve the preference margins for the products that are enjoying preferential access.

It also advocates for the establishment of a 'Competitiveness Fund' with contribution from developed and advanced developing countries to enhance the supply side capabilities of LDCs and weak developing countries. Nepal wants to ensure that the tariff reduction formula has appropriate coefficients to address the problems of tariff peaks and tariff escalation and ensure that the tariff reduction formula results in improved market access in developing countries, including India.

It also demands effective technical assistance from developed and developing members to enhance institutional and human resources necessary to implement WTO agreements such as SPS and TBT. Nepal also wants temporary waiver on SPS and TBT requirements on non-agricultural exports from LDCs and also incorporation of immediate and effective mechanism to address NTBs being faced by it.

d) *Pakistan:* Pakistan, like the other South Asian countries, believes that the tariff peaks be removed, the tariff escalation minimised and the developing countries are provided free market access. Pakistan is concerned on the issue that there is hardly any tariffs on the goods of developed countries and tariff only apply to goods of developing countries. The tariff rate for the goods of developing countries is almost 4 times that of the developed countries. This is creating problem for market access and also South-South trade. Pakistan is also of the view that special consideration is given for the products of export interest of the developing countries and there should be less than full reciprocity for developing countries.

Although various proposal on the formula for tariff reductions are advocated by different countries, Pakistan is of the view that none of these seems to attract consensus.

With the view to bridge the gap between the present proposals while at the same time ensuring that the Doha Round are not compromised, Pakistan has proposed adoption of a simple Swiss Formula with two distinct coefficient for developed and developing countries. These coefficients should be based on an objective criterion i.e. taking the overall average of the bound tariff lines for developed and developing countries as their respective coefficients. The treatment of unbound tariff is an important issue in the market access negotiations, and although different proposals has been tabled, Pakistan has proposed that instead of non linear mark up of 30 percentage points in absolute terms, a markup of 30 percentage points should be added to the base rate (applied rates of 2001) for each unbound line before the application of the formula for tariff reduction.

e) Sri Lanka: Sri Lanka's negotiating position on NAMA puts the fact that the developed countries should eliminate barriers to free market conditions and ensure duty free, quota free market access for non-agriculture products originating from developing and least developing countries. Sri Lanka also highlights the issues such as Formula Approach of tariff cuts, tariffs bindings, reduction or elimination of tariff peaks and tariff escalation, sectoral approach and reduction of NTBs. For Sri Lanka where bound coverage is low, but applied rate is also low, the proposed tariff reduction formula penalises the country in terms of the extent of tariff reduction.

To avoid pitfalls, Sri Lanka spearheaded moves to include paragraph 6 of the Doha mandate in the framework text that allows a small number of developing countries not to undertake tariff reductions if their bound rate is less than 35 percent. However, these countries will be required to bind their tariffs at the average of bound rates for all developing countries. Preference erosion is another issue of concern to Sri Lanka. Given that the core work of the WTO is on MFN basis, Sri Lanka's concern is more on gaining access to markets through tariff reductions rather than directly addressing issues of preference erosion. Sri Lanka is yet to make a clear stand on carrying forward negotiations on a sectoral basis given the complexities in arriving at common ground.

Box: 2 Issues in Hong Kong Ministerial Meeting for the Least Developed Countries
• Binding commitment for duty free market access in developed countries market for all industrial goods export from developing countries. • Appropriate measures to offset preference erosion, including creation of dedicated funds. • Flexible, non-trade restrictive, simplified Rules of Origin (RoO). • Transparent evaluation criteria for NTBs. • Binding of unbounded tariff lines be left to the LDCs to undertake in autonomously on voluntary basis. • Significant enhancement of resource allocation for strengthening of integrated framework initiative.
Source: Centre for Policy Dialogue, Bangladesh, 2005

Negotiating Strategy For Market Access

A variety of techniques and modalities evolved during the different round of trade negotiation, which took place under the (GATT). South Asian countries have to adopt an approach that results in securing maximum tariff reductions on products, which they export. As regard their commitment to reduce import duties, they may use product-by-product approach. For such products that relate to industries in which country do not have the long run comparative advantage, they may agree on steep cuts while the other industries, where long run comparative advantage exists but procedures have become lethargic due to heavy protection, they may reduce the duties to ensure exposure to competitive without jeopardising the industrial growth.

Preceding the industrial negotiations it is necessary to agree on the ground rules that would be followed in the conduct of tariff negotiations so that to ensure that different needs and objectives of the participating countries are adequately taken into account. In other words, the negotiations must accommodate the special needs and interests of the developing and the LDCs' participants as ordained in different Articles of GATT.

Developing countries needs to determine the extent to which they are willing to liberalise their own economy to win tariff reductions and removal of other barriers with a view to have access to the markets of their trading partners The developing countries may agree to reduce the bound rates and where they do not have comparative advantage to steep fall in tariff cuts, both in bound and applied rates. The developing countries should strive to seek substantial reductions in peak MFN tariffs, which apply to products of export interests to them e.g. textiles, leather products, footwear etc. and if feasible, aim at elimination of all other MFN rates of tariffs and tariff escalations in sectors where they exist.

The developed countries ought to seek due allowance for autonomously liberalising their economies. One way of ensuring credit for the autonomous liberalisation is to have greater flexibility in the choice of 'Base Tariffs' to be used as a basis for tariff cuts as a result of the industrial tariff negotiations. The developing countries must seek flexibilities in staging of tariff reductions. The ground rules for the negotiations should provide the developing countries longer period than that provided to developed countries for staging of tariff reductions.

The developing countries may press for international financing for training public officials, screening industrial countries' trade policies, and building a network with other developing countries, which could help to address some of these problems.

Conclusion

The South Asian countries are labour surplus, heavily dependent on the agriculture sector and have limited domestic markets. Economic liberalisation through the reduction of tariff and NTBs should go a long way towards liberalisation of the growth potential of these economies. However the South Asian countries should watch out their interests, rather carefully in view of the misuse of the safeguard measures and incorporation of various standards in the economy.

Although the smaller economies like Bangladesh, Nepal and Srilanka are exempted from tariff reduction, the bigger South Asian economies – India and Pakistan must reduce the level of tariffs under the Formula Approach to expose their economic activity to international competition. The countries must also address tariff peaks, tariff escalation and formula of tariff cut to facilitate a degree of harmonisation.

The developed countries at the same time must reduce the obstacles that the product of the developing country face in the developed country by reducing all high tariffs, tariff escalation, subsidies and other protection measures. Also the South Asian countries taking measures to liberalise trade unilaterally outside WTO framework must be given credit for the unilateral tariff reduction.

Both the India and Pakistan should press for an implementation period of 10 years for tariff reductions and for 4 years implementation period for developed countries. The countries should also oppose 'zero for zero' approach and ask for 10 years implementation period with back loading. The South Asian countries amongst themselves or with other developing economies may negotiate industrial tariffs on the MFN basis on trade between them, at the same time the countries must take a joint stand relating to antidumping, environment, labour standards and other safeguard measures. This would go a long way towards liberalisation of trade and improvement in their welfare level.

This is an abridged version of the chapter "Non-Agriculture Market Access: *Priorities for South Asia*", written by A.R. Kemal, Musleh-ud-Din and Ejaz Ghani in the book "South Asian Positions in the WTO Doha Round: In Search of A *True* Development Agenda". The abridged version has been prepared by CUTS Centre for International Trade, Economics & Environment (CUTS-CITEE), D-217, Bhaskar Marg, Bani Park, Jaipur 302 016, India. Ph: 91.141.228 2821, Fx: 91.141.228 2485, E-mail: citee@cuts.org, Web Site: www.cuts-international.org and printed by Jaipur Printers Pvt. Ltd., M. I. Road, Jaipur 302 001, India.

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