Viewpoint

Doha Round of Negotiations on Non Agricultural Market Access
The Current State of Play

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The decision to launch negotiation to cut industrial tariffs and discipline the use of non-tariff barriers (NTBs) was taken at Doha by the WTO Members when a new round of trade negotiations was launched in 2001. Negotiations on non agricultural market access (NAMA) are mandated under the Doha Ministerial Declaration. The objectives are to cuts tariffs on industrial goods and remove NTBs to market access of industrial exports. It covers all goods not covered under the WTO Agreement on Agriculture. The products are essentially industrial, but WTO Members are also negotiating on natural resources such as fisheries, forests, gems and minerals. The aim of the negotiation is to continue the process of trade liberalisation on industrial goods that started with the General Agreement on Tariffs and Trade (GATT) in 1947 and continued since then through periodic rounds of negotiation.

Main Components

The main components of NAMA negotiations include:

- Increased tariff binding and reduction;
- A sectoral initiative where WTO Members may select several products for complete tariff elimination (also called 'zero-for-zero' reductions);
- NTBs, which call for "examination, categorisation, and ultimately negotiations on NTBs";
- Special and differential treatment (S&DT) to ensure "less than full reciprocity in reduction commitments" for developing and less developed countries; and
- The issue of preference erosion for least developed countries (LDCs).

Since early 2002, the WTO Members are trying to find a modality that would meet the criteria set out in the Doha Ministerial Declaration and ultimately for achieving the negotiating and trade policy objectives of this negotiation. In NAMA negotiation, the main contentious issues are coefficients in the formula for tariff cuts, product coverage, flexibilities for developing countries, and preference erosion. Developing country WTO Members want that the agreement must adhere to the core mandate of the Doha Development Agenda on NAMA – less than full reciprocity for developing country members in their reduction commitment. However, the latest draft modalities do not address the core concerns of a large number of developing countries.

Tariff Reduction Formula

In the Hong Kong Ministerial Declaration of 2005 it was agreed to apply a Swiss formula with coefficients with the aim of reducing non-agricultural tariffs. This formula implies that countries with higher tariffs will have to make substantially higher tariff reductions. It means developing countries, who normally apply higher tariffs than developed countries, will end up making higher cut if the Swiss Formula is applied with single coefficient. This is contrary to the core mandate – less than full reciprocity in reduction commitment for developing countries.

In order to respect the mandate of less than full reciprocity differential coefficient was proposed for developed and developing countries. The NAMA-11 group calls for ensuring "less than full reciprocity in reduction commitments" through an appropriate spread between the coefficients. A Swiss formula with two coefficients, based on reductions from bound rates, may also deliver on this mandate, provided that there is a difference of at least 25 points between the coefficients for developed and developing countries. It is an imperative to take into account their respective levels of industrialisation and competitiveness, social and economic situations, and their capacity to bear the costs of adjustment. Many developed countries, however, demanded a co-efficient of 10 for themselves and that of 15 for developing countries.

In the third revision of draft modalities text released on 10th July 2008, the Chair stuck to his earlier proposal (of 19th May 2008) of a coefficient between 19 and 26 to cut industrial tariffs in developing countries and 7 and 9 for industrialised countries. Developing countries have been put under three categories for the purpose of use of coefficients. In the revised draft, the Chair said there were sharp differences among members on these numbers as they are divided into three groups. The same proposal was thoroughly criticised and rejected by NAMA-11 earlier.

The proposed coefficients are very much closer to the original developed country Members' demand of coefficients of 10 and 15, a difference of 5 points between developed and developing countries. The NAMA-11 has calculated that this amounts to an average percentage cut of 25 percent for developed countries and an average cut of 65 percent to 70 percent for developing countries. It means if the proposed coefficients are fed through the Swiss Formula, the respective cuts for developed and developing countries would not be very different from the one based on developed country Members' proposal. This clearly goes against the principle of less than full reciprocity, which is not acceptable to a larger group of developing countries.

Flexibility for Developing Countries

In July 2004 Framework text it was agreed that developing-country participants shall have longer implementation periods for tariff reductions. In addition, they shall be given the following flexibility:

- applying less than formula cuts to up to [10] percent of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's imports; or
- keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member's imports.

A larger group of WTO Members comprising of ACP (Africa, Caribbean and the Pacific), the Africa Group, the NAMA-11, and Small and Vulnerable Economies (SVEs) through their joint submission reiterated the demand of flexibility. The statement reads as follows:

"Flexibility is a crucial element addressing the development dimension of this round. Developing countries have demonstrated their diverse need for flexibilities, for both tariff lines and trade covered. Some have suggested that there should not be limits to the trade covered as is the case in agriculture; some have submitted that there is the need for additional flexibilities to preserve the common external tariff in customs unions; some to address social economic and labour concerns; and others to address concerns arising from a large number of low applied and unbound tariffs. The final outcome of this Flexibility is a crucial element addressing the development dimension of this Round. Development round must capture this diversity in development needs by making available the flexibility provisions to the appropriate and adequate extent."

However, both the 19th May and 10th July 2008 NAMA modalities text has violated the mandate given in the Doha Development Agenda, 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,
- Non-mandatory participation in sectoral tariff cuts, and
- De-linking coefficients from flexibilities for developing countries.

The latest draft text on modalities is a disappointment on this particular front. It has provisions which 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.
- Chapeau of Paragraph 12 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 Less Than Full Reciprocity 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 was 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

Preference Erosion

While most countries (developed as well as developing) recognise the benefits of dismantling the remaining barriers to trade in industrial products, some (notably the least developed countries and some small island economies in Africa, the Caribbean, and the Pacific) are apprehensive. To ensure that their concerns are reflected in the final text of the Doha Round, the LDCs and ACP countries have joined forces to form the Group of Ninety (G-90).

Many of these countries have been enjoying duty-free access for their exports in key markets such as the European Union (EU) and the United States. The preference schemes are aimed at encouraging export growth and economic development in poor countries. This means that they would have little to gain from additional market access that may arise from multilateral trade liberalisation in industrial products. More importantly, multilateral removal of trade barriers would erode the price advantage that trade preferences confer and would expose countries whose exports rely on this advantage to fierce competition from more cost-efficient big exporters.

The G-90 demanded that due to the critical importance of preferences for its Members, solutions to the question of preference erosion must be obtained within the WTO negotiations. The text of the WTO's July 2004 Framework Agreement made explicit reference to preference erosion, recognising it as an issue that ought to be addressed in the Doha Round. Later on in December 2005, the Hong Kong Ministerial Declaration too reiterated the urgency of addressing the issue of preference erosion.

The draft modalities text of February 2008 proposed that in order to provide these Members with additional time for adjustment, the reduction of MFN (Most-Favoured-Nation) tariffs on those tariff lines shall be implemented in 7 equal rate reductions instead of 5 equal rate reductions by the preference-granting developed-country Members concerned. The first reduction shall be implemented on 1st January of the year following the entry into force of the Doha Agreement and each successive reduction shall be made effective on 1st January of each of the following years.

The latest draft modalities text issued on 10th July 2008 has made some progress in this regard. As per Paragraph 28 under non-reciprocal preferences, these Members would be given additional time for adjustment. The reduction of MFN tariffs on those tariff lines shall be implemented in 9 equal rate reductions by the preference-granting developed-country Members concerned. The first reduction shall be implemented two years after the first reduction required under Paragraph 6(f) and each successive reduction shall be made effective on 1st January of each of the following years. The relevant tariff lines shall be those contained in Annex 2 for the European Communities and in Annex 3 for the United States.

Besides this, the text calls for preference granting Members to increase their assistance to other specific Members through mechanisms such as the Enhanced Integrated Framework for Least Developed Countries and other Aid-for-Trade initiatives. They are also urged to simplify the rules of origin in their preference programmes so that preference receiving Members can make more effective use of such preferences.

The text also tries to do a balancing act between preference receiving countries and other developing countries, which do not enjoy the same depth of market access in preference granting countries. It is worth mentioning that some developing countries from the South Asian region expressed their reservation at Hong Kong when the duty-free, quota-free market access to LDCs was discussed. Keeping in view the concerns of these countries, the text proposes that reduction agreed in the relevant tariff lines shall be implemented in [5-6] equal rate reductions in the relevant preference granting markets. The first reduction shall be implemented on 1st January of the year following the entry into force of the Doha Agreement and each successive reduction shall be made effective on 1st January of each of the following years.

Other Issues

Among other issues, the two important subjects are non-tariff barriers (NTBs) and sectorals. As regards NTBs, there are no definitive words from the Chair. This indicates that no significant progress has been made on this complex but important issue for meaningful market access.

On sectoral tariff reduction, there is some deviation. As originally agreed that participation in sectorals would be on a non-mandatory basis (demanded by India and other developing countries), the latest text seeks some kind of binding commitments from developing countries. Preference receiving countries are also opposed to sectoral initiatives.

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