

**AFRICAN REGIONAL WORKSHOP ON WTO  
NEGOTIATIONS**

**31 AUGUST – 2 SEPTEMBER 2005  
CAPE TOWN, SOUTH AFRICA**

**STATE OF PLAY IN THE WTO  
NEGOTIATIONS ON  
NON-AGRICULTURAL PRODUCTS  
(NAMA)**

## MANDATE

- The Mandate of the Non-Agricultural Market Access (NAMA) negotiations is contained in paragraph 16 of the Doha Ministerial Declaration which foresees:
  - Reduction or as appropriate the elimination of tariffs.
  - Reduction or elimination of tariff peaks, high tariffs and tariff escalation and non-tariff barriers in particular on products of export interest to developing countries.
  - Need to fully take into account the special needs and interests of developing and least developed countries through less than full reciprocity in reduction commitments.
- Annex B of the Decision adopted by the General Council on 1st August, 2005 elaborates this mandate and sets a framework to assist the negotiating group to fulfill the mandate of paragraph 16.
- Main objective: Adoption of the full fledged modalities in NAMA at the Hong Kong Ministerial Conference (December 2005).

# GENERAL

- Situation before Doha
- Events in Doha which influenced inclusion of NAMA in the DDA.
- Derbez text (Cancun Ministerial Conference December 2003)
- Process after Cancun
- Adoption of the July 2004 General Council Decision “July Framework” Annex B.
- Annex B of the July 2004 General Council Decision (July Framework) was based on the so called Derbez text which was rejected by a large number of developing countries
- Given the concerns expressed by developing countries on the “Derbez text” the framework included paragraph 1 which provides that “these are initial elements on modalities for further negotiations”.

- The paragraph calls for “additional negotiations” to reach agreement on the specifics of these elements:
  - The formula
  - The issues concerning the treatment of unbound tariffs.
  - The flexibilities for developing country participants.
  - Participation in sectoral initiatives
  - Preferences
- Different interpretations of paragraph 1 of Annex B.
- July 2005 “First approximation” text on modalities in NAMA unsuccessful due to lack of convergence on any of the issues under negotiations.
- Results of the negotiations up to July 2004; Chairman’s personal assessment on where issues stand on the various elements of the framework on NAMA.

# STATUS ON THE VARIOUS ELEMENTS UNDER NEGOTIATION

## FORMULA (PARAGRAPH 4)

- The framework recognizes that a formula approach is key to reducing tariffs. It provides for a continuation of work on a non-linear formula applied from bound rates on a line by line basis.
- The non-linear formula requires deeper cuts for higher tariffs. Many African countries maintain higher bound tariff structures.
- Six proposals are on the table:
  - **US Proposal:**
    - Swiss Formula with two coefficients for developed and developing countries.
    - The higher co-efficient for developing countries will replace paragraph 8 flexibilities
  - **EC Proposal:**
    - Swiss Formula one coefficient for all members,
    - Coefficient to vary according to the utilization of paragraph 8 flexibilities.
    - Lesser use of paragraph 8 > higher coefficient, lesser formula cuts.

– **Norwegian Proposal:**

- Swiss Formula two coefficients for developed and developing countries.
- Credit system:
  - Limited for developed countries
  - credit to be provided to developing countries < use of paragraph 8 flexibilities.

– **Chile, Colombia, Mexico Proposal (CCM):**

- Swiss formula – one coefficient for developed countries and a limited number of coefficients for developing countries.
- Level of coefficient for developing countries dependent upon selection from a menu of flexibilities to be determined.

– **Argentina, Brazil and India Proposal (ABI):**

- Coefficient for each member based on average level of current bound levels and multiplied by B coefficient (reflect level of ambition)
- B coefficient to be negotiated.

– **Antigua and Barbuda, Barbados, Jamaica and Trinidad and Tobago (Caribbean proposal):**

- Coefficient for each member based on the average of current bound rates for each member:  $T_a$  multiplied by a factor  $(B+C)$
- $B$  = Values to be negotiated by participants.
- $C$  = Credits to be accorded to developing countries
  - Substantial tariff binding coverage
  - Autonomous liberalization
  - Revenue dependence
  - Adjustment costs due to preference erosion

- Existing proposal on the formula are of 2 types:

- **Simple Swiss**

$$\text{Final Tariff} = \frac{\text{Coefficient} \times \text{Initial Tariff}}{\text{Coefficient} + \text{Initial Tariff}}$$

**US, Norway, EC, CCM**

- **Swiss Type**

$$\text{Final Tariff} = \frac{(\text{Coeff.} \times \text{National Bound Average Rate}) \times \text{Initial Tariff}}{(\text{Coeff.} \times \text{National Bound Average Rate}) + \text{Initial Tariff}}$$

**ABI, Caribbean**

- Developing countries have expressed concern on the impact of the proposed formulas on their economies.

- Development concerns can only be fulfilled through differentiated coefficients at a sufficient distance to allow different outcomes for developed and developing countries.
- Chairman's assessment;
  - Members support the use of the Swiss Formula as the central tariff cutting mechanism.
  - 2 approaches have emerged
    - Use of a limited number of coefficients to be negotiated.
    - Pre-determined coefficient for each member using its national bound tariff average as a starting point.
  - Proposed movement from the debate on structure into **a number based negotiations** both for the coefficients and for paragraph 8 flexibilities.
- 8 African countries to apply the formula in NAMA: Morocco, Tunisia, Egypt, Gabon, South Africa, Swaziland, Botswana and Namibia.

# ELEMENTS REGARDING THE FORMULA (Paragraph 5)

## Product Coverage

- Members have generally agreed that the NAMA negotiations should encompass **all products not covered by Annex 1 of the Agreement on Agriculture**.

## Unbound Tariffs

- Recognition that binding all tariff lines should be the ultimate objective for all members.
- Proposals made so far narrow down to **a non linear mark up and a target tariff average**.
- Challenge; to ensure low unbound tariffs are not penalized and that the sensitivities of those maintaining high unbound tariffs is maintained.
- Most members argue that it is difficult to agree on the treatment of unbound tariffs until there is a common understanding on the structure of the formula.

## Ad Valorem Equivalents

- Preference- conversion methodology using the unit value methodology and the integration database where appropriate.
- Convergence on working on the basis of the agriculture guidelines without the filters.

# FLEXIBILITIES FOR LEAST DEVELOPED AND DEVELOPING COUNTRIES

- Chairman's assessment; A successful outcome in NAMA has to strike the right balance between flexibilities and ambition.

## Paragraph 6

- Contributions to be made by developing country members with low binding coverage below [35%] (**Cameroon, Congo, Cote d'Ivoire, Cuba, Ghana, Kenya, Macao China, Mauritius, Nigeria, Sri Lanka, Suriname and Zimbabwe**).
- Exempt from making tariff reductions through the formula but to contribute to the negotiations by binding [100%] of their tariff lines at an average lower than the average bound tariffs for all developing countries (27.5%) after the implementation of their current commitments.

- Proposal by Congo, Cote d'Ivoire, Cuba, Ghana, Kenya, Mauritius, Sri Lanka and Zimbabwe:
  - Remove conditions attached to exemption to enable these countries retain policy space to address their industrial policy objectives.
- Caution; that beneficiaries of paragraph 6 should not re-open this paragraph by seeking to enhance the flexibilities already contained in this paragraph.

## **Paragraph 8**

- Major Challenge; Define relationship between the formula and the flexibilities for developing countries contained in paragraph 8 (apply less than formula cut on 10% of tariff line or keep 5% of tariff lines unbound).
- Developed and few developing countries have drawn direct link between the formula and flexibilities.
- Paragraph 16 and Annex B: contains no linkage between the formula and flexibilities.

- Proposals on the table:
  - Paragraph 8 flexibilities are a stand alone provision and de linked from the formula or level of ambition in the negotiations.
  - Trade off between formula and flexibilities.
  - Eliminate/replace paragraph 8 flexibilities for a higher coefficient for developing countries.

## **Paragraph 9**

- LDCs: exempted from applying the formula or participating in sectoral approach.
- Contribution; substantial increase in level of binding commitments.
- No disagreement among members.

# SECTORAL TARIFF COMPONENT (PARAGRAPH 7)

- Framework provides for a sectoral tariff component aimed at elimination or harmonization of tariffs as a key element in NAMA negotiations.
- Participation by all members; important
- Issues to be negotiated;
  - Definition of product coverage
  - Participation
  - Flexibility for developing countries.
- Negotiations on the sectoral component are conducted through **an informal member driven process based on the critical mass approach.**
- Substantive reporting is made in the multilateral setting (formal meetings NGMA).

- Work on-going on the following sectors;
  - Electronics/electrical equipment
  - Bicycles and sporting goods
  - Chemicals
  - Fish
  - Footwear
  - Forest Products
  - Gems and Jewellery
  - Pharmaceuticals and Medical Devices
  - Raw Materials
- Participation in sectoral initiatives is not mandatory
  - Outcome emerging from such initiatives will be applied on an MFN basis and included in the schedules of concessions.
- Imperative that Africa assesses the impact of sectoral approach to Africa's potential export performance on the sectors identified.

# IMPROVED MARKET ACCESS FOR LEAST DEVELOPED COUNTRIES (LDCS) (Paragraph 10)

## Framework:

- Enhance the integration of LDCs into the MTS and support the diversification of their production and export base.
- Developed members and others who so decide called upon to grant unrestricted market access for non agricultural products originating from LDCs.
- More efforts needed in this regard.

## **NEWLY ACCEDED MEMBERS (NAM)**

- Annex B: recognize the need for special provisions for tariff reductions for NAM due to extensive market access commitments as part of accession process.
- Proposal; flexibilities as LDCs and other vulnerable developing members.
- General consensus that special needs of NAMS can only be addressed after agreement on the formula.

## **SUPPLEMENTARY MODALITIES**

- Pending agreement on core modalities for tariffs the possibilities of supplementary modalities should be kept open:
  - Zero for zero sector elimination
  - Sectoral harmonization
  - Request offer
- No discussions.

# NON-TARIFF BARRIERS (NTBS)

- Framework recognizes that NTBs are an integral and equally important part to achieve the objectives of paragraph 16 of the DDA.
  - Members to make notifications
  - Identify, examine, categorize and negotiate on NTBs
  - Modalities could include:
    - Request offer
    - Horizontal approach (across the board)
    - Vertical approach (sector specific)
  - Take account of S&D treatment for developing countries.
- Members are moving from the identification and categorization phase to the examination and negotiation of NTBs.
- Negotiations are conducted on bilateral, vertical and horizontal basis.

- Monitoring progress in all these approaches and assessing how the outcome in each approach will be multilateralized has been a challenge for many African countries.
- Few notifications on NTBs from Africa.
- Need for detailed reporting on the progress of the outcome of various approaches to assess how these respond to specific NTBs notified by African countries.
- NTBs have a significant impact on the export performance of African countries.
- African countries should follow the negotiations on NTBs closely to ensure the results offer additional unrestricted market access for African products.
- Due to the complexity of the issues under discussion, negotiations may continue after the Hong Kong Ministerial Conference.
- Chairman: Members should table specific written negotiating proposals.

# APPROPRIATE STUDIES AND CAPACITY BUILDING

- The framework recognizes that appropriate studies and capacity building measures shall be an integral part of the modalities to be agreed.
- This issue has not been adequately addressed.
- Lack of specific requests from developing countries.

## **NON-RECIPROCAL PREFERENCES AND TARIFF REVENUE DEPENDENCY**

- The framework recognizes the challenges that may be faced by non-reciprocal preferences beneficiaries and members that are dependent on tariff revenue.
- Polarization between preference receiving countries and other WTO Members on the need to address the issue of preferences.
- Challenge; definition of the scope of the problem faced and the appropriate solution to be adopted.
- ACP and African Group Proposal on preferences:
  - Introduction into the formula of a coefficient to mitigate on the effect of erosion of preferences on some products.
  - Possibility of examining where the C coefficient proposed by the CARICOM countries could be applied to address this issue.
  - Same principle to apply to Revenue dependent countries (submission of proposals encouraged.)

# NON-AGRICULTURAL ENVIRONMENTAL GOODS

- Framework calls for closer cooperation between the NAMA negotiating group and the Committee on Trade and Environment (CTE) in addressing non-agricultural environmental goods 31(iii) DMD.
- CTE working on a common list of environmental goods.
- Stock taking at appropriate time.

# CONCERNS EXPRESSED BY DEVELOPING COUNTRIES

## **Drastic Tariff Reduction**

- Developing countries required to drastically reduce tariffs and bring them closer to the level of tariffs in developed countries. It has taken developed countries 50 years to get to current tariff level.

## **Infant Industry Protection**

- Despite mounting evidence that past liberalization has not benefited many countries, developed countries are pressing on developing countries to engage in rapid liberalization even though their industries are not mature enough to face global competition.
- History has shown that countries have to go through the infant industry protection before liberalizing to face the global competition.

## **Government Intervention**

- History also teaches us that in all successful cases, government intervention has been important in the process of industrialization. In short comparative advantage has to be created overtime.

## **Raising of tariffs (Safeguard in NAMA?)**

- Process of liberalization may require raising of tariffs in some sectors and lowering in others e.g. tariffs on capital goods are very low in Africa because of the non existence of capital goods industry. However, in future as industrialization takes place Africa may need to raise tariffs in order to protect firms producing machinery and equipment.
- Proposals made by developed countries are at odds with their past experiences regarding the use of tariffs in the course of industrial development. For instance, when the US income was close to US\$10,000 in 1950, its average applied tariffs were higher than the total average tariff in LDCs today.

## **Harmonization of Tariffs**

- There was no harmonization in the past among today's developed countries when they were at different levels of their industrial developments. Harmonization should not be compulsory in an organization where members are at different levels of industrial development.

- Before the Second World War industrial tariffs were close to zero in the UK; between 6 and 10% in Netherlands, 21% in Germany, 30% in France, 46% in Italy and 48% in the US.

**S&D Treatment vs. less than full reciprocity same concept?**

# MAIN CONCLUSIONS

- Members have reached an impasse on the most fundamental element; the formula:
  - Level of ambition in the formula.
  - Linking flexibilities to the level of ambition in the formula.
- Issues of interest to developing countries have not been addressed fully in the NAMA negotiations.
  - NTBS
  - Treatment of unbound tariffs under paragraph 6
  - Preferences
  - Revenue implications
  - Potential impact on the proposed formulas on the industrialization prospects of countries with weak industrial base.
- Linkages between NAMA and other areas of the negotiations.

- Need to intensify work and political will in the NAMA negotiation for a successful Hong Kong, Ministerial Conference.
- The outcome of the negotiations on NAMA should facilitate and accelerate the development and industrialization processes in Africa.
- The specific vulnerability of African industries and the need to integrate Africa into the MTS should be fully taken into account in the negotiations.
- The challenge is on the African countries to ensure that this objective is achieved.

Thank you.