# FOCUS WTO

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# From the Director's Desk

**Prabir Sengupta**

Negotiations on non-agricultural market access (NAMA), centred primarily on tariff reductions for industrial goods, are currently underway at the WTO. The objective is to finalize the modalities for tariff reductions early so as to realize the gains accruing from the sector.

In the recent proposal jointly tabled by India, Argentina and Brazil in mid-April 2005, a tariff reduction formula that takes into consideration the concerns of developing countries has been suggested. Provisions such as "less than full reciprocity in reduction commitments" and "special & differential treatment" for developing countries already endorsed in the July Framework are guiding principles of this proposal. This initiative has come at a time when the need for clarity on potential gains from NAMA assumes significance. The issues that require immediate attention are increased market access for developing countries and, simultaneously, the challenges they would face in adjustments to faster and greater trade liberalization. To that extent, the July Framework dealing with NAMA has specified that "developing country members shall have longer implementation periods for tariff reductions" as well as flexibilities in tariff cuts and in keeping a share of tariff lines unbound.

The developing countries would however have to contend with the pressures that their developed country trading partners have mounted for accepting a simple "Swiss formula", which would effect steep reduction in tariff thus resulting in harmonizing of tariffs of non-agricultural products across WTO members. Developing countries have argued that harmonization of tariffs is not an objective of the Doha Round. Besides, it has not been envisaged as part of the mandate and was not included in the July Framework as one of the necessary features of the formula. Developing countries have often repeated the point that harmonizing the customs tariffs amongst countries with differing industrial/economic structures and with varying societal needs will not deliver the development objective of the Round.

Future negotiations are going to be arduous and complicated.

# NAMA Negotiations

## Products of Export Interests to Developing Countries

***Rajesh Mehta****

IN the Doha Declaration Agenda (DDA), the mandate on market access for non-agricultural products (para 16) is given on: Reduction or as appropriate elimination of tariffs; Reduction or elimination of tariff peaks, high tariffs and tariff escalation as well as non-tariff barriers in particular on products of export interests to developing countries; Comprehensive coverage of products and without *a priori* exclusions; and Special needs and interests of developing and least developed countries, including through less than full reciprocity in reduction commitments.

The WTO Negotiating Group on Market Access (NGMA) is responsible for promoting the spirit of DDA on NAMA. The NGMA submitted a draft on NAMA, which as a part of the Cancun Ministerial text was circulated on 13 September 2003. The Cancun text was not adopted, but the same draft on the NAMA was adopted in July Package[1] with addition of one more paragraph, i.e. "This Framework contains the initial elements for future work on modalities by the Negotiating Group on Market Access. Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs…, the flexibilities for developing-country participants, the issue of participation in the sectoral tariff component and the preferences. In order to finalize the modalities, the Negotiating Group is instructed to address these issues expeditiously in a manner consistent with the mandate of paragraph 16 of the Doha Ministerial Declaration and the overall balance therein."

After "July Package", a number of NGMA meetings were held to bring a consensus on specific aspects of NAMA, e.g. adoption of core-modality/ formula. In this context, it should be remembered that "July Package" has adopted non-linear formula as core modality for tariff reduction commitments: "We recognize that a formula approach is key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs, and tariff escalation. We agree that the Negotiating Group should continue its work on a **non-linear formula** (emphasis added) applied on a line-by-line basis which shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments."

The main objectives of this note is to:

(i) highlight some important issues on progress on NAMA negotiations beyond "July Package", from developing countries perspective.

(ii) to outline some issues where developing countries need to give emphasis on negotiations, in future.

### Tariff Reduction and Formula

After "July Package", some important developments relating to adoption of modalities, particularly "non-linear formula" is outlined below.

Developed countries particularly the US and EU kept on insisting the adoption of pure or simple "Swiss formula" approach, which would result in steeper reduction of higher tariffs with the objective of "harmonizing" the tariffs of all WTO member countries. However, developing countries say that the "pure" Swiss formula leads (i) to "More than full reciprocity" of tariff reduction for developing counties, and (ii) to harmonization which is not one of objectives of the DDA. This is proved by number of studies - Mehta and Agarwal (2004)[2] have shown that the adoption of Swiss formula will lead to "India's average tariff falling down by 76 per cent, i.e., from 44 per cent (base rate) the tariff falls down to 10.6 per cent. On the other hand, after some quick simulations based on bound rates of three nations it is found

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that........ Canada is giving only 39 per cent cut in its average tariffs, EC 32 per cent and US 36 per cent. So with the same value..... developed countries' tariffs are not falling substantially whereas developing countries have to suffer more. Thus this formula cannot serve the interests of developing countries." The summary results are given in Table 1.

***TABLE 1***

**IMPACT OF SWISS FORMULA ON SELECT COUNTRIES**

| *Countries* | *Pure Swiss Formula* | |
|---|---|---|
| | *Reduction in bound average (%)* | *Peak Rate (%)* |
| Canada | 39 | 8.2 |
| EC | 32 | 6.9 |
| US | 36 | 10.7 |
| India | 75.9 | 14.3 |

***Source***: Mehta and Agarwal (2004)

The US and the EC have been insisting that developing countries must choose between differential tariff reduction formula (e.g. higher value of co-efficient in pure Swiss formula for developing countries) and flexibility in the implementation (e.g. long implementation period, treatment of unbound items, etc.) of formula. India and other developing counties insist that the special and differential treatment like "longer implementation periods, less than formula cuts for some tariff lines and the exclusion of some tariff lines form any formula cuts", should be addressed after the adoption of core modality (i.e. non-linear formula).

Recently, a new proposal[3] by Argentina, Brazil and India (ABI) was submitted to NAMA negotiating group. The proposal has three main submissions: (i) tariff-reduction formula, (ii) treatment of special needs and interests of developing and least developed countries, "less than full reciprocity", harmonization, and (iii) unbound items.

The tariff reduction formula suggested by ABI is similar to the so-called "Girard formula" proposed by Swiss Ambassador Pierre Girard who is former Chairperson of NGMA. It is also "Swiss-type" formula; which incorporates each country's average tariff. The formula can be written as:

$$t_1 = \frac{B \times t_a \times t_0}{B \times t_a + t_0}$$

where,

$t_1$ is the final rate, to be bound in *ad valorem* terms

$t_0$ is the bound base rate

ta is the average of the current bound rates

B is a coefficient, its value(s) to be determined by the participants

The defining features of this formula are as follows:

- The "formula" would apply to bound tariff lines; and
- The coefficient "B" will be modulated to reflect the ambition in other areas relevant to market access agreed to for this Round;

ABI proposal adds that formula is still the most appropriate because:

(i) it is based on the current tariff profile;

(ii) it has an element of progressivity in national tariffs;

(iii) it allows for less than full reciprocity in reduction commitments; and

(iv) its liberalizing effect can be adjusted by variations in the coefficient 'B'.

Commenting on paper it adds, "The overall reduction commitment it imposes in percentage terms is proportional amongst developed and developing countries, removing the shortcoming in the simple Swiss formula that imposes much greater reduction requirements on the participating developing countries."

## Less than Full Reciprocity

It is possibly the first proposal by member countries, which try to incorporate DDA mandate of "tariff reduction of less than full reciprocity for developing countries" in hard-core negotiations. The ABI submission clears that concept of "less than full reciprocity" and SDT are different. The proposal suggests that "Less than full reciprocity" should be part of core-modality. It can be incorporated by taking lower parameters value (apart from average tariff of each country) of magic co-efficient of Swiss (or Swiss-type) formula for developing countries, leading to tariff reduction at less than full reciprocity.

## Non-Tariff Barriers[4]

A number of studies have shown that non-tariff barriers faced by India and other developing countries in the foreign markets, specially the US, EU and Japan is not optimal. Developing countries continue to be haunted by variety of restrictions in the form of standards and compliance cost.

How significant are these for India from the point of exporting to US market? In order to throw some light, Figure 1 displays the percentage share of imports from India facing different non-tariff barriers (NTBs) in the US. This figure shows that 44 per cent of imports from India to the US were facing various types of NTBs. The message is that a sizeable share of Indian exports to the US faces various kinds of obstacles in the form of NTBs.

In all future negotiations, removal of NTBs should be included to the top of agenda of NAMA. Negotiators from developing countries should insist that any negotiations on tariff reduction are acceptable along with all NTBs be removed under a fast track approach. A problem with the DDA mandate is that it offers no precise guidance on how the NTB negotiation in the market access group is related with other WTO bodies such as negotiating group on Rules and Trade Facilitation, which are handling non-tariff issues as part of Doha mandate, and also the ones handling non-tariff measures as a part of their regular work programme such as Committee on Customs Valuation, Committee on Rules of Origin, and the Committee on Technical Barriers to Trade. The open nature of the mandate carries the risk of conflict and overlap with the mandate of other negotiating groups.

## Products of Export Interest to Developing Countries

Although NAMA mandate of DDA clearly outlines, **"reduction and elimination of tariffs…** as well as non-tariff barriers in particular on **products of export interest to developing countries"**. There is no emphasis on this aspect in present on-going negotiations. It is very difficult to digest that no WTO member has bothered to raise this mandate in their proposal. So far, no modality/approach/formula has been submitted keeping in view this aspect.

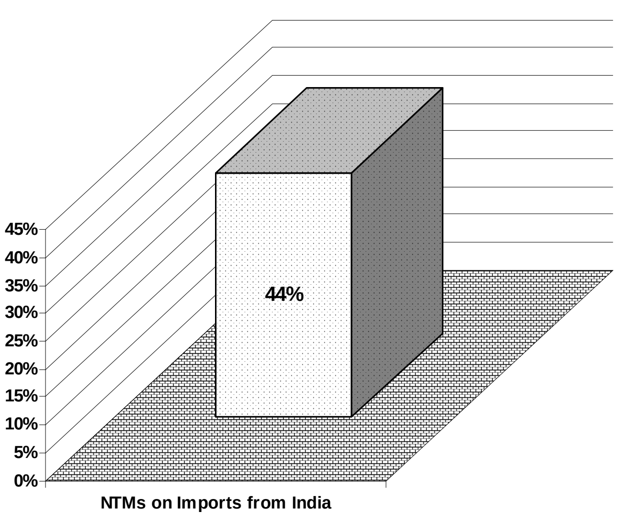
A large number of studies have shown that developed countries have very high (or peak) tariffs, and impose stringent NTBs for products of export interest to India and other developing countries.

The paper tries to identify products/commodities facing peak tariff, for exports in select developed countries, i.e. the US, Japan, Australia, Canada and the EC. A summary is given in Table 2. The levels of identified commodity/tariff lines (8 or 9 digit) are based on country's own trade classification.

We have identified commodities with peak tariff that has MFN *ad valorem* rate equal to or above 12 per cent. Since *ad valorem* equivalence for specific duty rates are not reported, we could not identify the commodities with peak tariff in case of specific duties. In case of mixed duties we have identified the commodities with peak tariff in two cases where the mixed tariff is defined as (a) *ad valorem* rate + specific rate, and (b) *ad valorem* and/or specific rate whichever is higher. In both the cases, commodities were selected on the basis of the *ad valorem* component of the mixed

***FIGURE 1***

**PER CENT SHARE OF IMPORTS FROM INDIA IN US FACING DIFFERENT NTBs-1999**




***Source:*** Mehta (2005).

*TABLE 2*

**EXPORT FACING PEAK TARIFF IN SELECT DEVELOPED COUNTRIES**

| *Countries* | *Level of tariff classification* | *Total no. of national tariff lines (all commodities)* | *Total no. of tariff lines subject to peak tariff (i.e. ≥12%)* | *Per cent of lines with peak tariffs* |
|---|---|---|---|---|
| US | 8-digit | 10,668 | 775 | 7.26 |
| Japan | 9-digit | 9,310 | 1,126 | 12.09 |
| EEC | 8-digit | 10,254 | 1,185 | 11.56 |
| Australia | 8-digit | 6,120 | 691 | 11.29 |
| Canada | 8-digit | 11,570 | 988 | 8.54 |

***Source:*** WTO, Integrated Data Base.

duties. The results are summarized Table 2.

The peak tariff for non-agricultural items was observed[5] in textile and apparel items, footwear and ceramic products in the US. In EC, peak tariffs have been observed in apparel, electric machinery and motor vehicles, etc. In Japan, peak tariff has been observed in leather, garments, footwear, etc. India and some developing countries have certainly export interest in leather, textile, garments, footwear, electric machinery and motor vehicles.

DDA mandate is very clear that reduction and elimination of tariff should be carried out particularly on products of export interest to developing countries. WTO should identify these items at 6-digit HS level, and find a way that market access is provided to developing countries on these products, as per DDA mandate. This mandate is in addition to "Special and Differential treatment" and "less than full reciprocity in reduction commitments".

## Concluding Observations

During the last one year, NAMA is being debated with different perspectives of developed and developing countries. In future, India and other developing countries should stress on the following issues:

- Any non-linear formula (core-modality for tariff reduction) must take into consideration tariff structure of countries in reduction commitments. Developing countries should totally reject pure "Swiss formula".
- As per DDA mandate reduction commitments should be "less than full reciprocity" for developing countries. Pure Swiss formula will lead to "more than full reciprocity" of tariff commitment by developing countries. The adopted formula must see that mandate of DDA is honoured.
- "Unbound item" is a product/ tariff line, whose binding rate is "infinity", i.e. there is no limit on imposition of any level of tariff by concerned country. The treatment of unbound items should be different than bound items.
- Developing countries should insist that the reduction and elimination of NTBs should be done simultaneously with reduction and elimination of tariffs.
- DDA has given mandate on **reduction in tariffs and non-tariff barriers**, particularly on **products of export interests to developing countries**. WTO has not identified these products during last four years after DDA was launched. These products should be identified, and core modality/formula must take into account this mandate. It is strange that no submission has been made by any country, which takes into consideration this specific mandate.

**NOTES**

1 WTO, "Doha Work Programme: Decision Adopted by the General Council on 1 August 2004", WT/L/579, 2 August 2004.

2 Mehta, R. and P. Agarwal (2004), "Non-Agriculture Market Access Negotiations: Post Cancun Issues and Implications for Industrial Tariffs", *EPW*, Vol. XXXIX, No.30, July 24, 2004.

3 WTO (2005), "Market Access for Non-Agriculture Products: Communication to the Negotiating Group on Non-Agricultural Market Access from Argentina, Brazil and India", TN/MA/W/54, 15 April 2005.

4 This sub-section is drawn from Mehta, R. (2005), "Non-Tariff Barriers Effecting India's Exports", *RIS DP 97*, June 2005.

5 For details, see RIS (2004), "India's Export Facing Peak Tariffs", *RIS/WTO-Nama/Job19*, Dec. 2004, www.ris.org.in

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## NEWS (NATIONAL/INTERNATIONAL)

### India Calls for Balanced Farm, Services Pact

INDIA has demanded a "balanced agreement" on market access for agriculture, services and industrial goods at the forthcoming ministerial meeting of the WTO in Hong Kong. During recent consultations at Geneva, modifications to agreements on Trade-Related Intellectual Property Rights (TRIPS) and Trade-Related Investment Measures (TRIMS) have also been sought to suit the needs of developed countries. These moves assume significance in view of current efforts to bring out by July the "first approximation", which would form the basis for the draft ministerial declaration that will be discussed at Hong Kong.

In a statement made at the trade negotiations committee meeting held in May 2005, India's ambassador & permanent representative to the WTO, Ujal Singh Bhatia, highlighted the need for focusing on "development aspects" rather than market access only – particularly in the backdrop of the Doha Development Agenda (DDA). Shri Bhatia also asked for "development audit" of the negotiations and sought suggestions from other countries, highly-placed government sources said. The demand for "balanced" outcome across the three key sectors currently under negotiations is in response to certain groups which have been focusing on services and NAMA, it is understood. While developing countries have been demanding scrapping of agriculture subsidies, industrialized nations have been focusing on increasing market access for industrial products. The "defensive" and "offensive" interests of various groups are so diverse that progress of negotiations is not satisfactory at this stage.

Even the WTO Director-General Supachai Panitchpakdi has stressed the need to speed up consensus on various issues. India feels that the services sector should be opened up quickly, especially in the context of easier visas for professionals, technically known as movement of natural persons. ".... but the maintenance of broad overall balance would be necessary. And this balance would need to encompass not only agriculture and NAMA, but other clusters as well, especially services," Shri Bhatia said. Intensive informal consultations would be necessary to bring out the "first approximation" in July, he argued. The Indian envoy also cautioned that over-ambition should not affect the process. "While we will aim to be ambitious, let our ambition emerge from the negotiation. Above all, let not the pursuit of ambition override the mandate, be it in services, NAMA or agriculture. Let us remain sensitive to the interests and concerns of all constituencies in the membership, and work towards a balanced outcome through an inclusive and transparent process," he emphasized.

In the case of TRIPS, India has sought alignment of the controversial pact in line with the objectives of the Convention on Biodiversity. The changes proposed by India would make it mandatory to disclose any biological content in any invention for which patent is sought. Consent of the stakeholders would be necessary and a reasonable compensation will be must for such content. Similar protection has been sought for traditional knowledge too. While the move has the support of some developing countries, industrialized nations like the US and Japan are opposed to the proposal. In the case of TRIMS, India has sought flexibility for developing countries to protect "infant industries" which are not in a position to face competition from overseas investment. Listing this as an implementation issue of major concern, Shri Bhatia called for revitalization of consultations on this pact.

(*The Economic Times*, 24 May 2005)

## US Objects to Indian Proposal on NAMA

THE US has objected to the joint proposal made by India, Brazil and Argentina on non-agriculture market access (NAMA) where the three have demanded special treatment for undertaking reduction commitments in unbound tariff lines.

The countries have said that they are not prepared to undertake line-by-line tariff reduction for all unbound products and have instead suggested that developing members should be allowed to make commitments on reducing the tariff average of such items.

Unbound products are free of tariff ceilings, which mean that countries currently have the authority to raise tariffs to any level they want. In India, about 32 per cent of total tariff lines are unbound.

According to Commerce Ministry officials, using the tariff formula suggested in the joint proposal, India will have to bring down unbound tariffs to an average of 30 per cent. As per the proposal, it would have the flexibility to fix individual tariff lines around this average.

Sources said that the US was unhappy with the proposal as it would give developing countries the power to maintain tariffs on certain products at very high rates as long as the average tariff was maintained at the level committed to in the WTO negotiations.

A team of senior officials from the US Trade Representative's office had taken up the issue with Indian officials recently. India is not prepared to budge from its position as the developed countries have not agreed to some other proposals made by it at the on-going NAMA negotiations.

While the mandate adopted during the launch of the current round of negotiations in Doha, Qatar, stated that developing countries would be allowed to either keep 5 per cent of their total tariff lines unbound or bring about small cuts (less than formula cuts) in 5 per cent tariff lines, India wants to go in for a mixture of both.

India wants to leave a very small number of its tariff lines unbound (much less than the 5% allowed) while agreeing to less than formula cuts for certain tariff lines.

Sources said that after several rounds of meetings, developed countries maintained that they did not want to give India this flexibility.

The sixth WTO ministerial meet is scheduled in December 2005, Hong Kong, where all members are expected to agree on the framework for reducing tariffs in both agriculture and non-agriculture products. The round is supposed to be completed by the end of 2006.

(*The Financial Express*, 17 May 2005)

## India Moots 2-Pronged Plan for WTO Farm Talks

INDIA has put forward a two-pronged strategy in resolving the tariff formula difficulties on agriculture negotiations under the WTO umbrella.

This proposal, submitted by the Union Commerce and Industry Minister Shri Kamal Nath, in Paris at the informal trade ministerial meeting of the WTO, would ensure greater market access for farmers of developing countries to the markets of the developed countries.

According to the two-pronged strategy, all member countries of the WTO - both developed and developing countries - convert 100 per cent of all specific duty tariff lines into *ad valorem* equivalents (AVEs) and then bind these tariffs in *ad valorem* terms after conversion; second, regardless of the formulae or methodology that is finally adopted for the conversion, the maximum agricultural tariff should not exceed 100 per cent at the end of the Doha Round.

On NAMA issue, Shri Nath came down heavily on developed countries for practising double standards. Thus, developed countries sought reduction from bound rates and were not willing to bind duties in *ad valorem* terms in agriculture, but called for reduction from applied rates and 100 per cent binding in *ad valorem* terms in NAMA. Supporting Shri Kamal Nath, the Australian Trade Minister, Shri Mark Vaile, described it as the "schizophrenia of the developed countries".

Shri Kamal Nath referred to the joint proposal on NAMA already submitted by Argentina-Brazil-India as a balanced and equitable one as it combined a satisfactory degree of liberalization with the required security for developing countries and incorporated the principle of less than full reciprocity and flexibilities in tariff reduction for developing countries.

It had the added advantage of addressing issues of tariff peaks and tariff escalation. He cautioned members not to treat harmonization of tariffs as an end itself— "it is not in the mandate so let us not make it a goal". He also urged removal of NTBs such as complex technical requirements and standards, often used as an alibi for environmental and health point of view.

(*The Hindu Business Line*, 6 May 2005)

## India Wants Specific Duties in Farm Sector Scrapped

IN a bid to break the deadlock over enhanced market access in the farm sector, India has proposed that both developed as well as developing countries should convert all the specific duties on agri products into *ad valorem* tariffs. Once the conversion is done, these tariffs can be bound like the duties on manufactured products, Commerce & Industry Minister Kamal Nath suggested at the WTO Mini-Ministerial Meeting in Paris.

During the discussion on NAMA issues, Shri Kamal Nath came down heavily on the developed countries for applying double standards. While they were unwilling to bind duties on agri products in *ad valorem* terms, he noted, they were seeking a similar strategy for NAMA. The Commerce & Industry Minister described this as "schizophrenia of the developed countries" and referred to the joint proposal on NAMA submitted by Argentina, Brazil and India as a balanced and equitable one since it combined a satisfactory degree of liberalization with the required security for developing countries.

Shri Kamal Nath cautioned members not to treat harmonization of tariffs as an end in itself and sought the removal of non-tariff barriers.

(*The Economic Times*, 6 May 2005)

## WTO Meet on Tariff Reduction Formula for NAMA

THE European Union (EU) and the developing countries group including India, Brazil and Argentina will lock horns at the WTO meeting of the negotiating group on market access for non-agriculture goods (NAMA).

The tariff reduction formula submitted by both sides earlier will be discussed at the meeting by all members and each will have to prove the appropriateness of their formula.

The EU has proposed a Swiss formula with a single reduction co-efficient which would result in steep cuts in tariffs of developing countries because it calls for sharper reduction for higher tariffs.

India, Brazil and Argentina, on the other hand, have proposed a Swiss "type" formula based on each country's tariff average which would impose a proportional percentage reduction in tariffs.

The Commerce Ministry officials said that India's formula fully complies with the mandate laid down in the Doha declaration adopted at the launch of the on-going round in Doha, Qatar.

India claims that its formula is most appropriate because it is based on the current tariff profile, has an element of progressivity in national tariffs, allows for less than full reciprocity in reduction commitments and its liberalizing effect can be adjusted by variations in the co-efficient.

Trade experts point out that the EU's proposal that developing countries should be given "credits" enabling a lowering of tariff cuts for not fully utilizing the flexibilities offered under the Doha mandate was not in conformity with the Doha mandate. The provision was narrowing and tying developing-country members' recourse to the special and differential treatment and less than full reciprocity provisions, experts point out.

India is also clear that the US inclination towards harmonization of tariffs is not valid as harmonization is not an objective of this round. In its submission, India pointed out that harmonization has not been envisaged in the Doha mandate and was not included in the July framework as one of the necessary features of the formula.

Harmonizing the customs tariffs amongst countries with differing industrial and economic structures and with varying societal needs is not desirable and would not deliver the development objective of the round, India stated.

WTO members will try to finalize a formula for tariff reduction in both NAMA and agriculture soon so that modalities for negotiating agreements in both areas can be finalized at the sixth ministerial meet of the WTO in Hong Kong this December. The tentative date for completing the on-going Doha round of trade talks is 2006-end.

(*The Financial Express*, 27 April 2005)

## India Presents Fresh Tariff Strategy at WTO

### Average Tariff should Decide Commitments

IN A bid to gain a good deal for developing countries in the ongoing WTO negotiations on market access in non-agri goods, India has proposed tariff cut commitments commensurate with the average tariffs of each WTO member. Presented jointly with Brazil and Argentina, the new formula provides an alternative to the strategies currently under negotiation.

Incorporating flexibilities for developing countries and different treatment for unbound tariff lines, the new approach was submitted to WTO's Negotiating Group on Market Access (NGMA) by India's ambassador & permanent representative to the WTO, Ujal Singh Bhatia, at a meeting in Geneva. Commerce & Industry Minister Kamal Nath had proposed that an alternative should be proposed to replace the "unacceptable" strategies that were discussed earlier.

The idea mooted by the three developing countries is aimed at working out strategies in line with the level of economic development of each WTO member, as reflected in the tariff policy of each country. The new strategy has found support among developing countries and is likely to emerge as a rallying point, highly-placed government sources said.

"The formula is flexible, in that it can be suitably adapted to deal with sensitivities of developing countries. At the same time, it is ambitious, given its non-linear character that would bring down higher tariffs more than lower tariffs," India's message to the negotiating group said.

The new formula would work on a two-pronged approach, covering both bound as well as unbound tariffs. The ideas contained are fully in line with the Doha Declaration, the sources said.

The net effect of the new proposal would be to go in for commitments in level with the economic development of each country rather than adopting a uniform standard for all WTO members. "We believe that movement towards full bindings is a desirable objective as it would impart greater predictability to the trading system. We also believe that freshly-bound tariffs should be subjected to formula cuts. However, any approach towards this objective has to take into account the higher sensitivity of the presently unbound tariff lines," Shri Bhatia's statement said.

"Our proposal is based on this understanding. We have proposed that the average, as on the base date, of presently unbound lines will be marked up by a factor to be negotiated. Thereafter, the marked-up lines could be bound at an average level after the application of the formula," the Indian envoy to WTO emphasized. India's contention is that the marked-up lines could be bound at an average level after the application of the formula.

This would give all WTO members the flexibility to fix individual lines around this average. Such an approach would lead to the desirable outcome of reducing tariffs while, at the same time, addressing the concerns regarding the levels at which sensitive tariff lines are to be bound, India and its allies have impressed on other WTO members.

(*The Economic Times*, 27 April 2005)

## Framework Identifies Modalities for NAMA

UNDER Non-Agricultural Market Access (NAMA), the framework identifies the initial elements for future work on modalities for negotiations. The negotiations *per se* seek to achieve the objective of reduction or elimination of tariffs, including tariff peaks, high tariffs and tariff escalation, and non-tariff barriers. The Framework prescribes continuation of the work on the use of a non-linear formula applicable on a line by line basis. The application of the formula, which is one of the initial elements identified for future work on modalities for negotiations, has been stated to cover all products and would commerce from the bound rates for bound tariff lines and two times the MFN rate for unbound lines. Credit would be given for autonomous liberalization and all non *ad valorem* rates would be converted into *ad valorem* equivalents based on a methodology negotiated upon. Exemptions from formula reductions have been granted to members with less then 35 per cent unbound tariff lines who would merely bind all their tariff lines instead. Flexibility granted to developing countries under the special and differential treatment and less than full reciprocity include both a longer implementation period as well as applying less than formula cuts or no cuts for a specified list of tariff lines or retaining of some of the unbound tariff lines as unbound.

On the proposal for sectoral initiatives, India, as most other developing countries, has emphasized that formula approach should be the main modality for negotiation and sectoral initiative can be considered only after the precise formula is decided upon. India's stand has been that the sectoral initiatives, if any, should focus on specific sectors of interest to the developing nations, with the concepts of "Less than full reciprocity" in reduction commitments being built into such an initiative.

As regards the issue of non-tariff barriers (NTBs), the focus has been on encouraging the WTO members to make notifications, by 31 October 2004, on such barriers faced by them to facilitate identification, examination, categorization and ultimately the negotiations on such non-tariff barriers. India has submitted a notification within the given date on some of the NTBs faced by its exports. While no modalities have been specified in this context, the Framework affirms the need for special and differential treatment for the developing nations.

(*Economic Survey*, 2004-05)

## India's New WTO Formula: Proportional Tariff Cuts

INDIA has proposed a Swiss "type" formula for bringing about tariff cuts in non-agriculture products which takes into account each country's tariff average. In a submission to the WTO, the formula, unlike the simple Swiss formula being advocated by developed countries, will not impose greater reduction requirements on participating developing countries.

Brazil and Argentina have backed the formula and have co-sponsored India's submission. The joint paper will be considered by the working group on market access for non-agriculture products (NAMA).

The overall reduction commitment that India's formula imposes in percentage terms is proportional amongst developed and developing countries. This means that developing countries like India, which have relatively higher average tariff levels, will not have to bring about heavier cuts in their duty structure as compared to developed countries. The Swiss formula, which calls for steeper cuts for higher tariffs, would have imposed a very high burden on developing countries.

WTO members will try to finalize a formula for tariff reduction in both NAMA and agriculture soon so that modalities for negotiating agreements in both areas can be finalized at the sixth ministerial meet of WTO in Hong Kong this December. The tentative date for completing the on-going Doha round of trade talks is 2006-end. The submission pointed out that an appropriate formula should comply with the Doha mandate and work towards reducing or eliminating tariff peaks taking fully into account the special needs of developing and least developed countries.

(*The Financial Express*, 25 April 2005)

## Sensitive List of Non-Agriculture Commodities Underway

INDIA is working on a sensitive list of non-agriculture products which it wants to be excluded from tariff reduction commitments at the WTO.

While the Commerce Ministry is trying to abide by the WTO condition of limiting the number of sensitive products to 5 per cent of total products, the second condition of ensuring that the value of imports of the sensitive products does not exceed 5 per cent of total value of imported goods is creating problems.

The Commerce Ministry sources said that India could keep tariff lines of about 400 products unbounded or without a tariff upper limit. “The Ministry is flooded with requests from various ministries and departments for keeping products of their interest out of reduction commitments. We are trying to be as accommodative as possible,” an official said.

The real challenge, however, lies in accommodating strategic commodities like crude oil and fertilizer in the list. Since the prices of these products are volatile and at any point of time can comprise a substantial percentage of total imports, it is not possible to include it in the sensitive list. The Ministry is planning to take up this problem at the non-agriculture market access (NAMA) meeting at WTO.

In the on-going WTO negotiations on NAMA, all members have to agree to bring down their tariffs based on an agreed tariff reduction formula. Members are allowed to keep a fixed percentage of their tariff lines unbound to protect sensitive sectors.

While developed countries like the EU nations and the US are trying to put in place a formula which would bring about sharper cuts for higher tariffs, India and other developing countries are opposing it on the grounds that it would result in huge cuts in their present tariff rates.

WTO members are trying to expedite discussions on NAMA so that a consensus on the framework for modalities of NAMA negotiations is in place by the sixth WTO ministerial meeting in Hong Kong in the year-end.

(*The Financial Express*, 21 April 2005)

## India for Consensus on Agriculture before WTO

INDIA is expecting some consensus among developing and developed countries on the contentious issues of agriculture, services and Non-Agriculture Market Access (NAMA) before the Sixth WTO Ministerial Conference in Hong Kong later this year.

Preparation of specific commitments by each member country with respect to agriculture, non-agriculture market access and services is underway and we hope some consensus on the modalities before the ministerial Conference,” said Commerce Secretary S.N. Menon at the 39th Convocation at the Indian Institute of Foreign Trade.

He also said that the commitments of the 1995 Uruguay round of negotiations have not been fully met by the developed countries. Tariff escalation has affected the market interests of high value processed products of developing countries. High tariff rates exist for sensitive and important sectors like textiles & clothing, footwear, travel goods and transport equipment.

Shri Menon emphasized that the role of WTO should be to create and facilitate environment for international trade. The attention of the WTO gets diverted from it primary function with the inclusion of new areas like competition policy, FDI, environment, labour standards, transparency in government procurement and its efficacy gets further reduced.

There is a strong feeling among the developing countries that these new issues will largely benefit the developed world and will aggravate the imbalance and inequity which exists in the current negotiations, he said.

In his address, Infosys Chairman and Chief Mentor N.R. Narayana Murthy said India must open up its industries to foreign direct investment (FDI) to achieve global labour and capital productivity standards. Terming India’s business climate as “highly restrictive”, he said that the country must create a greater openness to trade.

The inflexible and rigid labour laws of the country discouraged investment and job creation in the sector. To enable entrepreneurs across the sectors to build a global empire within the country, there was an urgent need to create a free, fair and transparent atmosphere for them. Thus, the Government and policy-makers must play a crucial role to establish an environment where trade and economy can flourish.

Shri Murthy also felt that India must look towards exports to drive the industrial growth. With the monthly per capita expenditure in rural areas at Rs 554 and in urban areas at Rs 1,022, he said the industry cannot rely purely on the domestic market for growth.

"In today's era of globalization, and with falling geographic and regulatory barriers, India cannot ignore the world market," he said.

(*Business Standard*, 18 April 2005)

## FICCI Rejects Swiss Formula for WTO

CRITICIZING the latest EU and US proposals for tariff reduction on non-agricultural products in the WTO, FICCI has said both the proposals would stall growth of many industries in developing countries.

The proposals also ignore the special needs and interests of developing countries as provided for in the Doha Declaration, FICCI added.

The FICCI noted that both the EU and US have suggested the highly controversial "Swiss Formula" for reduction of tariffs of non-agricultural products. "Swiss Formula" was heavily criticized by most of the developing countries in the run-up to Cancun Ministerial Conference. "Reviving this issue would delay the negotiations further in WTO," the FICCI said.

"Swiss Formula" reduces higher tariffs more steeply than the lower tariffs. As developing countries generally have higher tariffs than the developed countries, application of "Swiss Formula" would imply "more than full reciprocity" rather than "less than full reciprocity" in tariff reduction commitments for developing countries, FICCI pointed out. As a result, developing countries would end-up giving more market access than the developed countries.

Around 60 per cent of WTO member countries have their simple average bound tariff for non-agricultural products greater than 20 per cent. Most developed countries have their simple average bound tariff for non-agricultural products less than 10 per cent.

FICCI feels that in view of such a huge differential in tariff structures, application of "Swiss Formula" would lead to a drastic change in the level of tariffs in developing countries thereby hampering their industrialization process.

(*The Economic Times*, 12 April 2005)

## India Not for EU Farm Tariff Plan

INDIA rejected the EU's proposal to use the Swiss formula for undertaking reduction in non-agricultural tariffs in the WTO meet. The Swiss formula entails high percentage reduction of stiff tariffs.

India said it would soon table a more equitable tariff reduction formula to secure concerns and interests of developing countries, according to an official release.

Participating in the two-day WTO mini-ministerial in Kenya, Commerce and Industry Minister Kamal Nath suggested the Girard formula, which takes into account the existing tariff structures of member countries, in line with the concerns of developing countries.

He, however, admitted that even the Girard formula had its shortcomings and added that India, Brazil and China along with some other countries were working on a modified Girard formula, to evolve a suitable formula for tariff reduction in the area of non-agricultural market access.

"We are giving final touches to this and hope to be able to table it shortly", he said. This statement by India was welcomed by the participants, who felt that this could be the basis for a breakthrough in the non-agricultural market access negotiations, an official release said.

The EU had put forward their proposal for the Swiss type formula, with credits to be given to developing countries. India responded by saying that this was not adequate.

The US reiterated its suggestions for using two different co-efficients for tariff reduction – one for developing countries and one for the developed countries. While stating that this was a step in the right direction, Shri Nath said it was still not adequate and required a lot of fine-tuning.

The mini-ministerial in Kenya mainly discussed the non-agricultural market access, services and developmental issues in the deliberations. Shri Nath raised the issue of non-tariff barriers in the non-agricultural sector, pointing out that persistence of NTBs would negate whatever flexibilities were available for developing countries in non-agricultural market access.

(*Business Standard*, 5 March 2005)

## India for New Strategy on Import Duty Cut

INDIA, along with some of its allies like Brazil and China, is working out a new strategy for phased reduction of tariffs on manufactured goods even as the spotlight at the Kenya mini-ministerial of WTO members shifted to agriculture following a setback to the US in the dispute with Brazil over cotton. This search for a new avenue follows widespread criticism among developing countries against the existing strategies–the Swiss formula and the Girard formula.

Through the NAMA negotiations, developing countries want commitment for steeper import duty cuts from industrialized nations. The Swiss formula involves reduction of tariffs by high percentages and developing countries feel that they would have to put more on the table. The Girard formula takes into account the existing tariff structures of member-countries and a modified version of this proposal could help developing countries.

While the EU is backing the Girard formula after the Swiss formula was rejected, India is working on a modified version of Girard formula along with Brazil and China. "We are giving final touches to this and hope to be able to table it shortly," Commerce & Industry Minister Kamal Nath said at the WTO mini-ministerial at Kenya.

Participating in the two-day meet, he said shortcomings in the Girard formula have to be made good. The Girard formula which used coefficients for each country–equal to its own tariff average. This is the first time NAMA is being discussed at the level of ministers in terms of tariff reduction strategies. Shri Kamal Nath strongly raised the issue of non-tariff barriers in the industrial goods sector, pointing out that persistence of NTBs would negate whatever flexibility was available for developing countries in NAMA.

Meanwhile, the mini-ministerial at Kenya witnessed hectic activity as the WTO decision on cotton subsidies intensified an already bitter north-south divide over farm subsidies. Ministers and senior officials from 33 nations participated in the Kenya meet.

As they headed into discussions, officials were looking at the impact of the WTO ruling which compels the US to dismantle hundreds of millions of dollars in subsidies paid to US cotton farmers. The US said it was studying the ruling, which upheld a Brazilian complaint that the US subsidies artificially drove down world prices and distorted competition for its producers.

(*The Economic Times*, 5 March 2005)

## WTO Meet Begins to Lower Barriers

TRADE Ministers from some 30 countries met at Mombasa to try to speed WTO negotiations on lowering barriers to business across the global economy.

Farm and industrial goods, services and development issues were amongst topics the ministers would tackle during their talks.

A summary of the state of play in the areas which was discussed, which were all part of the WTO's Doha Round. The round was launched in late 2001 but missed its initial end-2004 target for conclusion. The WTO hopes to agree a draft deal at a ministers' meeting of the 148-state membership in Hong Kong in December and wrap up a full accord next year.

The WTO achieved a breakthrough last July when the EU offered to stop directly subsidizing exports of farm goods at a date still to be fixed. But the offer is conditional on other rich nations making similar concessions. While everybody agrees that rich nations must also cut their domestic support programmes for farmers, which developing countries say keep them out of world markets, there is no accord yet on how and by how much.

On tariff barriers, there is no deal in sight on how far they should be lowered, nor on the extent to which developing countries should also open their markets to imports. But some poorer developing countries, which currently benefit from preferential access to rich state markets, are worried that lowering barriers could erode or even eliminate that advantage. But thanks to the progress on export subsidies, the farm talks are generally seen as being more advanced than other areas of the round.

Rich countries are pressing for sharp reductions in tariffs on industrial goods, in part to compensate them for concessions that they may have to make in agriculture. But it is not just a North versus South tussle.

Many developing countries also see themselves reaping potentially big gains from getting easier access to the markets of other developing nations and so boosting South-South trade.

Some 70 per cent of the duties that developing countries pay on exports of industrial goods are paid to other developing nations.

(*The Financial Express*, 4 March 2005)

## Kamal Nath Calls for Equitable Tariff Formula in NAMA Negotiations

SHRI Kamal Nath, Union Minister of Commerce & Industry, has called for an equitable tariff reduction formula in the negotiations on NAMA in the WTO, keeping in view the concerns and interests of developing countries, including India. He was participating in the two-day Meeting of WTO Trade Ministers held in Kenya, at which the subjects discussed were NAMA and Services.

According to reports from Kenya, the discussions on NAMA were constructive and useful. For the first time, actual tariff reduction formulae in NAMA were discussed at the Ministerial level. The European Union (EU) put forward their proposal for the Swiss type formula,* with credits to be given to developing countries. But India responded by saying that this was not adequate. The US reiterated its suggestions for using two different co-efficient for tariff reduction – one for developing countries and one for the developed countries. Shri Kamal Nath remarked that while this suggestion was a step in the right direction, it was still not adequate. The formulae still required a lot of fine-tuning, he said, and suggested that the Girard formula** which used co-efficient for each country equal to its own tariff average as this could be the most appropriate mechanism. However, Shri Kamal Nath said that even the Girard formula had its shortcomings and hence, India, Brazil and China along with some other countries were working on a modified Girard formula, so as to evolve a suitable formula for tariff reduction in the area of non-agricultural market access. "We are giving final touches to this and hope to be able to table it shortly", he said. This statement by India was welcomed by the participants, who felt that this could be the basis for a breakthrough in the NAMA negotiations.

Shri Kamal Nath also strongly raised the issue of NTBs in the non-agricultural sector, pointing out that persistence of NTBs would negate whatever flexibilities were available for developing countries in NAMA.

(*Commin Press Release*, 4 March 2005)

* Swiss formula: involves reduction of high tariffs by very high percentages, thereby affecting developing countries.

** Girard formula: takes into account the existing tariff structures of member countries, in line with the concerns of developing countries.

## India Seeks EC Support in Devising WTO Modalities

THE Commerce and Industry Minister Kamal Nath has sought the support of the European Commission in developing modalities for the on-going WTO negotiations in line with the principles contained in the framework agreement of July last year.

In a meeting with visiting Finnish Minister for Foreign Trade and Development Paula Lehtomaki, Shri Nath said that the modalities for agriculture should include reduction of all trade distorting domestic support and elimination all forms of export subsidies.

In NAMA, the Minister said the concept of less than full reciprocity should be built in the formula which calls for developed countries offering more market access to developing countries compared to what they seek.

The points raised by the Minister had been included in the agreement reached by WTO members in July last year. The framework agreement sought to put the on-going Doha round of trade negotiations back on track.

(*The Financial Express*, 8 February, 2005)

## India Against New Category of Advanced Developing Countries

INDIA warned that attempts by some WTO members like EU to introduce a new category of "advanced developing countries" could derail the decision process at the Hong Kong ministerial.

"Introducing new concepts of advanced developing countries which were not there in the framework agreement would delay the Hong Kong decision process," Commerce and Industry Minister Kamal Nath said, questioning the rationale of the concept at the WTO mini-ministerial at Davos on 29 January 2005.

As trade ministers from 26 member countries set out a roadmap for trade talks till December Hong Kong ministerial, including a mini-ministerial in Kenya from March 3-5, Shri Kamal Nath stressed that the process of selection of new WTO director general should not be allowed to impede the negotiations.

Emphasizing that there should be overall balance in different areas of negotiations, including agriculture, Shri Kamal Nath sought greater market access for services and indicated that New Delhi would submit its revised offers by May.

Trade ministers agreed on the need for taking urgent action for a successful conclusion of the negotiations on modalities for agriculture and NAMA by next ministerial conference in December 2005.

They also stressed on overall balance in different areas of negotiations such as agriculture, NAMA, services, rules and trade facilitation.

(*The Financial Express*, 1 February 2005)

## US, EU Must Shift to Ad Valorem Tariffs, Says India

NEW DELHI is set to push for Washington and Brussels shifting totally to *ad valorem* import tariffs, in its post-Geneva framework agreement negotiating strategy in the WTO. The move would help increase India's merchandise exports to the US and the EU. Both impose heavy "specific" import duties, virtually negating market access obligations under WTO.

The Government reckons that developed countries' obligation to cut tariff peaks and curb tariff escalation would not be met if they maintain non-*ad valorem* duties.

Senior Commerce Ministry officials said that India would aggressively pitch for a total shift to *ad valorem* duties by these countries. This, New Delhi believes, is in consonance with the tariff reduction formula which the framework agreement stipulates.

At present, nearly 50 per cent of the tariffs in the US are on account of specific duties, which are linked to quantity, often measured as weight. This provides a cushion to avoiding deeper tariff cuts on items of export interest to developing countries like India. The EU also has a similar policy, with most of the tariff lines in the *ad valorem* category. On the other hand, 99 per cent of Indian tariffs are determined on value.

Officials said post-framework negotiations on modalities would officially begin by mid-December 2004. By March next year, the positions of various WTO member countries would be clear.

Discussions on modalities are important, as most provisions in the framework that simply provide "elements and principles" for further negotiations on the Doha Work Programme are open-ended.

As regards NAMA, future negotiations are expected to ensure adoption of a formula that would effectively reduce tariff peaks, tariff escalation and high tariffs in products of export interest to developing countries. On unbound tariff lines, the option of retaining some of them as unbound or binding them at ceiling levels would be negotiated.

As per the framework agreement, developed countries will have to cut import tariffs on agricultural items through a tiered formula, with higher tariffs attracting deeper cuts. This is intended to ensure that developing countries get substantial market access in the West in products of their export interest.

Now, products of export interest to developing countries are bound by the USA and the EU at higher levels in the Uruguay Round. The agreement also allows comparatively lower tariff reduction and tariff quota commitments by developing countries, compared to the corresponding obligations on the developed countries.

(*The Financial Express*, 27 November 2004)

## India to Tear into US-EU Positions on Tariff Peaks

INDIA would launch a focused assault on the tariff highs and peaks on textile articles which the US and the EU want to maintain. This issue would come up during the NAMA negotiations beginning in Geneva. India's post-Geneva framework NAMA negotiating position would also incorporate de-escalation of tariffs across the textile value chain in the US and the EU as the principal bargaining point, according to Government sources.

The Doha Development Agenda mandates every WTO member-country to eliminate tariff highs and peaks. But the US and the EU, while conforming to this norm in case of most industrial products, maintain comparatively higher textile tariff lines. Also, tariffs in these countries are escalated in such a way that no incentive for value addition would remain.

The Government reckons that as the Multi-Fibre Arrangement under the Agreement on Textiles & Clothing is being dismantled effective from 1 January 2005, tariffs should essentially fall too.

Currently, average tariff on industrial products in the EU is just 2-3 per cent, whereas that on textile items is 6-7 per cent. On value-added products like synthetic garments, the tariff is even higher at 12.5 per cent.

Similarly, in the US, the average tariff on textile items is 10-11 per cent, while that on apparel products is 18-32 per cent, with the highest tariff on synthetic garments. However, the overall industry tariff in the country hovers around 2 per cent.

Currently, 35-40 per cent of India's textile and garment exports of $13 billion are to the EU, and about 27 per cent of exports are to the US.

The higher tariffs on textiles and garments could impede India's projected capture of markets in the quota-free regime. The new Generalized Systems of Preferences (GSP) to be adopted by the EU would anyway deny the low tariff advantage to India. The new GSP system proposes to replace the extant product-wise graduation out of GSP benefit by a sectoral graduation rule. That is, if export of any product grows fast breaching a prescribed ceiling, the whole sector would be deprived of the GSP benefit.

(*The Financial Express*, 17 November 2004)

## Non-Agricultural Market Access Negotiations — India Presses for Equitable Tariff Reduction Formula

INDIA has called for an equitable tariff reduction formula in the negotiations on NAMA in the WTO, keeping in view the concerns and interests of developing countries.

India's stance on the various negotiating points was made by the Union Commerce & Industry Minister, Shri Kamal Nath, while participating in the two-day meeting of leading WTO ministers in Kenya. The discussions on NAMA were constructive and useful.

For the first time, actual tariff reduction formulae in NAMA were discussed at the ministerial level. The EU put forth a proposal for the Swiss type tariff cut formula entailing reduction of high tariffs by very high percentage which might affect developing countries, India responded by stating that it was not adequate. The US reiterated its suggestion for using two different coefficients for tariff reduction - one for developed and one for the developing countries. While Shri Nath endorsed the US suggestion, he, however, felt that even this was inadequate, as it required a lot of fine-tuning.

The Girard formula, which takes into account the extant tariff structures of member countries in line with the concerns of developing countries and uses coefficients for each country equal to its own tariff average, is the most appropriate mechanism.

Stating that even the Girard formula had its shortcomings, Shri Nath said that was why India, Brazil and China along with some other countries were working on a modified Girard formula to evolve a suitable formula for tariff reduction in the area of NAMA. "We are giving final touches to this and hope to able to table it shortly," he said.

He also raised the issue of NTBs in the non-agricultural sector, stating that persistence of NTBs would negate whatever flexibilities were available for developing countries in NAMA.

(*The Hindu Business Line*, 5 March 2005)

## Hong Kong & China's Negotiation Objectives on NAMA

### Market Access Negotiations under the GATT/WTO

MARKET access negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT) now WTO have been a major instrument to open up markets and move towards global trade liberalization. Successive rounds of multilateral negotiations have succeeded in lowering significantly tariffs on non-agricultural products.[1] The last round of negotiations, the Uruguay Round, alone has achieved an overall reduction of about 40 per cent in average trade-weighted tariffs for developed economies and 30 per cent for economies-in-transition, and a significant increase in the coverage of tariff bindings[2] by the developing economies.

Despite successive rounds of negotiations to bring down tariffs, substantial tariff barriers remain. Though tariffs have been significantly reduced in average terms, tariff reductions do not spread out evenly across both economies and sectors. High tariffs in certain sectors are commonly found and remain a material barrier to free trade. While high tariffs represent impediments to trade, tariffs at low levels, such as those below 2-3 per cent, constitute trade nuisance because they impose administrative burden on both traders and customs officials, thus hampering efficient flow of cross-border trade.

#### Doha Development Agenda

The Fourth WTO Ministerial Conference held on 9-14 November 2001 in Doha, Qatar launched the Doha Development Agenda, including amongst others negotiations to reduce/eliminate tariffs and non-tariff barriers for all non-agricultural products. Accordingly, members are discussing the modalities for negotiations and developing proposals to reduce/eliminate tariffs and non-tariff barriers. On 1 August 2004, WTO Members reached agreement on a framework of modalities for, among other areas, non-agricultureal market access. Further negotiations are being held based on the framework.

#### Hong Kong, China's Negotiation Objectives on NAMA

As a staunch supporter of free and open trade, Hong Kong, China attaches great importance to maintaining the momentum of trade liberalization, including reduction and elimination of tariffs and non-tariff barriers. Given our free trade regime, we stand to benefit from further reduction and elimination of tariffs and non-tariff barriers by our trading partners.

Our broad objective for the negotiations on NAMA in the new round of multilateral tariff negotiations is to achieve significant market access improvements through substantial reduction and elimination of tariffs and non-tariff barriers, especially in sectors of interest to Hong Kong. Such market access improvements will be implemented as soon as possible following the conclusion of the negotiations.

In particular, we consider that the negotiations on NAMA should :

- be comprehensive, covering all non-agricultural products;

[1] Non-agricultural products cover essentially all products falling under Harmonized System (HS) Chapters 25 to 97, and certain fish and fish products in HS Chapters 3, 5, 15, 16 and 23.

[2] Tariff binding refers to a legally binding commitment not to increase tariffs on a specific item above the level at which it is bound.

- achieve commercially meaningful tariff cuts;
- address high tariffs, tariff escalation as well as tariffs at low/nuisance level;
- expand the scope of tariff bindings of all WTO Members; and
- address non-tariff barriers.

(www.tid.gov.hk)

## WTO Trade Negotiations on NAMA and the ACP Countries

THE trade of non-agricultural products has been liberalized considerably by successive rounds of trade negotiations. However, considerable barriers to trade remain and trade in industrial products continues to be subject to significant protection that restricts trade, especially on exports of developing countries among which the African, Caribbean and Pacific countries (ACPs) associated to the EU.

The ACPs benefit from non-reciprocal trade preferences in the market of the EU through the ACP-EU Continuo Partnership Agreement and the Everything but Arms initiative (EBA). They benefit also from tariff preferences in the market of other developed countries through the Generalized System of Preferences (GSP) and the African Growth and Opportunity Act (AGOA) of the US. However, tariff peaks and tariff escalation in the markets of certain developed countries constitute major impediments to the development and industrialization of ACP countries.

In a new effort to further liberalize international trade, the 4th Ministerial Conference of the WTO (Doha, Qatar, November 2001) adopted the Doha Development Agenda (DDA) and mandated a series of new negotiations including NAMA.

This paper focuses on the mandate given to negotiators in the area of tariffs and trade in non-agricultural products. It does not elaborate on the issues of non-tariff barriers and environmental goods given the preliminary nature of the discussion on these subjects. Its main objective is to give a general picture of the ongoing multilateral trade negotiations on NAMA according to paragraph 16 of the Doha Development Agenda mandate and from the ACPs perspective. The paper addresses to the group of ACP countries as a whole with particular reference to ACP/Least Developed Countries.

Section II, refers to the position of ACP countries in the GATT/WTO system. It gives a brief description of the Doha ministerial mandate on NAMA, followed by a short description of the post-Uruguay Round situation on tariff protection of non-agricultural products that restricts export opportunities for ACP countries. Section III, contains a review of the Draft Cancun Ministerial Text (DCMT) in connection with the modalities for negotiations on NAMA.

Section IV, proceeds to the analysis of the relevance of the DCMT for the ACP-WTO relationship and for future negotiations, and describes the problems raised by the modalities for negotiations on NAMA. Finally, Section V describes the current state of play and the positions of some developed and developing countries including ACP countries.

The analysis made in Sections IV and Section V will serve to formulate, in Section V, some policy options and recommendations to be considered by the ACP Group.

(*Friedrichebertstiftung*, Geneva, November 2003)

## Deep Divisions in WTO Negotiations on NAMA

THE WTO negotiating group on NAMA held three days of formal discussions 9-11 July 2003 with members deeply divided on the modalities to be adopted for the negotiations.

On the table was the "draft elements of modalities" that the Group's chairman, Swiss Ambassador Pierre-Louis Girard had proposed in May 2003, which had gone through one round of preliminary comments at the last Group meeting.

The views of various members became clearer. On one side, the major developed countries appear to like various elements of the Chair's proposal, but want changes so as to achieve even deeper cuts to developing countries' tariffs. On the other side are many lower-income developing countries who are opposed to most elements of the Chair's proposal as they are concerned most of their tariffs will have to be bound, and the tariff cuts will be drastic, exposing local firms to much stiffer import competition and further deindustrialization.

In between are developing countries which are unhappy with aspects of the Chairman's proposals but still studying the implications of the proposed formula for tariff cuts if different values are given for the parameters. Most developing countries are, however, opposed to one element of the proposal– their being asked to join an accelerated liberalization of several sectors selected by the Chairman.

At the close of the three-day meeting, Mr. Girard gave a basically optimistic view on how his proposals had been received but said much more needs to be done and on some issues (especially the accelerated liberalization using the sectoral approach) views are still far apart. In fact, his view of the situation is over-optimistic, given the opposition to his basic formula and his sectoral approach, especially from developing countries.

The meeting's discussions focused on Girard's "draft elements of modalities", whose main points are:

(1) Tariff reductions according to a formula involving the country's average tariff (known as "at"); base rates (known as "to") which are the bound tariff lines or two times the 2001 MFN applied rate for all unbound tariff lines; and the coefficient "B" that has an impact on the magnitude of the tariff cuts. The chairman has not specified the value of "B". The lower the "B" coefficient, the greater the cut.

(2) Developing countries will be allowed to keep only 5 per cent of their tariff lines unbound provided they do not exceed 5 per cent of total import value. This means those countries that have only bound a part of their tariff lines have to extend the scope of bindings to 95 per cent of total tariff lines involving at least 95 per cent of total import value.

(3) A "sectoral approach", in which seven sectors are selected for complete tariff elimination in three equal phases. Developed countries will eliminate tariffs in the phase 1. Others will reduce tariffs to 10 per cent maximum by phase 1, observe a standstill (not requiring further cuts) in phase 2, and eliminate tariffs by the end of phase 3. The exemption allowing 5 per cent of tariff lines to be unbound cannot be used for the sectors.

(4) Additional modalities will be optional. They may include zero-for-zero sector elimination, sectoral harmonization, request & offer and eliminating low duties.

(5) No negotiating modality has been proposed yet by the Chair. He proposes that as a first step, non-tariff barriers (NTBs) should be identified and examined and that some NTBs can be dealt with by the NAMA negotiating group and others by other related WTO bodies.

The proposed modalities, if implemented, will generally result in much deeper liberalization for developing countries, since the proposed formula calls for higher percentage tariff reductions at higher levels of existing tariffs, and developing countries on average have significantly higher bound tariffs.

They will also greatly broaden the developing countries' scope of liberalization commitments, since they have previously been free to choose the scope but are required by the proposed modalities to bind almost all their tariff lines, with a mere 5 per cent exemption allowed.

The modalities will also require developing countries to rapidly eliminate all protection in the seven sectors, many of which are now sensitive to import competition, or which these countries may want to choose to develop in future. The proposed sectors are electronics and electrical goods, fish and fish products, footwear, leather goods, motor vehicle parts and components, stones, gems & precious metals, and textiles & clothing.

Despite the proposed modalities' already onerous obligations on developing countries, at the meeting several developed countries criticized the modalities for not going far enough to tackle high tariffs, as well as opening developing countries' markets.

On the tariff formula, Canada said it leaves many high tariffs and countries have to be more ambitious. New Zealand suggested choosing a very low B coefficient (so as to achieve steeper tariff cuts) but said even this would fail to produce real market access in a majority of markets.

The US believed the formula does not deliver on real market access nor equity among members. It does not sufficiently reduce tariff peaks and high tariffs. Japan said an increase in binding commitments is needed to achieve tariff reductions and market access. Singapore was for a B coefficient that is as low as possible.

The European Commission (EC) said the formula is creative but it does not guarantee dealing with tariff peaks. The formula should be amended otherwise there will be a *status quo* situation, and more tariff harmonization is needed. We don't want to impose anything or hurt anyone but we need more tariff bindings, added the EC.

Many developing countries countered that the Chairman's modalities would hurt or damage their industrial sectors.

Morocco, on behalf of the Africa Group, said the formula was actually a harmonization approach. The modalities do not take into account specific aspects of developing countries' fragile economies. They were too ambitious and penalized African countries' development strategies.

Kenya presented a paper on behalf of itself and Ghana, Madagascar, Mauritius, Nigeria, Rwanda, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe. It said the negotiations should support and not destroy industrial growth in Africa that has so far not gained from previous liberalization. Incorrectly designed modalities would pressurize countries with a weak industrial base to liberalize further, a negative situation to be avoided at all costs.

The African countries said that Doha mandated taking account of developing countries' needs, including less than full reciprocity in reduction commitments. This implies developing countries should be allowed to make lesser cuts so that they can use tariffs as a policy instrument for industrial development purposes.

They said the formula proposed is a variation of the Swiss formula having a harmonizing effect and do address the special needs and interests of developing and least developed countries other than peaks and escalations.

"Although the formula takes into consideration the different tariff profiles, it would exert a similar effect on them. The formula does not contain any special and differential component for developing countries, as countries (both developed and developing) with the same average tariffs would make the same percentage reduction.

Since cuts will impact more on high tariffs than on low tariffs, the outcome of the formula will be a significant decline in prices on imported products into developing countries, where tariffs are currently high, while it will be only marginal in the case of developed countries.

This imbalance in market access between developed and developing countries will lead to a worsening balance of trade in developing countries with its attendant consequences, such as fall in government revenue, foreign exchange and balance of payments related problems as well as the adverse effects on development initiatives, among others."

The African countries also criticized the proposal for extending tariff bindings. They said many developing countries have not bound all their tariffs because they have used this flexibility to pursue their industrial and trade goals. However, the same countries have through structural adjustment reduced their tariffs to very low levels.

"The proposal to calculate the base rates from the 2001 MFN applied rates for all unbound tariffs and increasing the scope of binding coverage to at least 95 per cent would be expecting too much from developing countries. In short, the proposal goes too far too fast. Even when the 2001 MFN tariffs are doubled, they still fall far below bound rates of some countries that have been very vocal on this issue.

That is why we have maintained that the scope of coverage should be left to each developing country to decide. If the proposed formulation is used, most of the developing countries of Africa may be forced to reduce their tariffs to levels below their applied tariffs, which would eliminate the tariff flexibility they have to use to achieve their industrial and trade development goals. We strongly recommend that any core modality on tariff reductions should be confined to bound rates. There should be no stipulation as to the extent to which developing countries would have their tariff bound. It should be left to individual countries to decide."

Brazil proposed the countries be given incentives if they are to bind more of their tariffs. It could work with the formula. It said the base rate should be based on bound rates and applied rates should not be used. India said that there are conflicting interests and views reflected in the Chairman's formula and to say that some countries must make concessions to get benefits is illusory.

On the sectoral approach, there was opposition from many developing countries, especially on its mandatory nature. They could only consider voluntary participation.

Thailand voiced serious concerns about the sectoral approach generally and asked why most of the selected sectors were of export interest to developed rather than developing countries. Indonesia said it was not ready for the sectoral approach. Malaysia expressed serious concern, it could not participate in it and it should be completely voluntary. India also said it should be voluntary.

Similar concerns came from Latin American countries. Colombia, Chile Venezuela, and Mexico said it was difficult to accept a compulsory approach and Cuba and Costa Rica said it should be voluntary.

Kenya, speaking for the 11 African countries, said African countries would not benefit from tariff elimination in the sectors, particularly those enjoying preferential market access. On the other hand, their phasing out tariffs in the same sectors in which they have not become internationally competitive will put tremendous pressure on their weak, vulnerable and limited industrial base. In addition, trade statistics reveal that developed countries have significant interests as well in almost all the identified sectors. The sectoral approach should be voluntary. There was opposition from Korea, Japan, Chinese Taipei on the inclusion of fisheries.

Many developed countries supported a mandatory approach. For example, the EC said tariff elimination was part of the Doha mandate and the mandatory approach was essential. Norway agreed it should be mandatory. So did Hong Kong.

On NTBs, some countries wanted this topic to be dealt with in other related WTO bodies but several developing countries, including Kenya, felt it should remain in the NAMA group where there is a negotiating mandate.

In his summing up, Ambassador Girard said he felt there was general agreement on how to deal with tariff reductions. On his formula, he said some countries felt it was too weak while others thought it too ambitious.

On the sectoral approach, views were far apart, he said. The majority felt that unless consensus is reached on the core modality, it was hard to focus on the sectoral approach and he noted quite a number of members wanted it to be voluntary.

On NTBs, he noted there was no agreement how to deal with them. Not all NTBs can be discussed under the NAMA group but there was no agreement how these could be handled. He noted that some countries wanted to send these topics to other bodies such as those dealing with rules, TBT and SPS but other countries said that such regular bodies do not have negotiating mandate and should remain in the NAMA group to be dealt with together with tariff issues.

(*www.twnside*.org.)

## WTO Doha Round Framework Package

THE Doha Ministerial Declaration mandated negotiations among WTO members to further progress global trade liberalization in agriculture, non-agricultural market access (industrial products) and services. The Declaration also contained a commitment by WTO members to address the needs and interests of developing countries in the negotiations and to resolve a number of concerns raised by developing countries about difficulties they were experiencing in implementing the WTO Agreement. At Doha, it was also decided that work should commence within the WTO on elaborating new disciplines on what are called the "Singapore Issues" - after the Second WTO Ministerial Conference in Singapore in December 1996 at which they were proposed. These issues are trade facilitation (improvements in customs, transit and border procedures), competition policy, investment and transparency in government procurement.

Discussions and negotiations then commenced to develop a framework agreement which would establish the commitments that members would have to make to meet the goals agreed at Doha. This agreement would then guide the next phase of more detailed negotiations on the specific modalities of these commitments. This process suffered a setback in September 2003 when the Cancún Ministerial Conference was unable to reach agreement on a text for this framework.

Following a period of reflection, momentum returned to the Doha Round in 2004 with re-engagement by major players such as the EU and the US and key developing countries. The Cairns Group, under Australian leadership, was particularly active in efforts to re-engage the G20 group of developing countries in seeking common ground on agricultural reform. The key agriculture players in the negotiations - Australia, the US, the EU, India and Brazil - also met a number of times at Ministerial level as the "Five Interested Parties" to attempt to clarify and resolve as many differences as possible before the July meeting.

In the margins of the Annual OECD Ministerial Council meeting in Paris in May 2004, key WTO Ministers, including Mr Vaile, decided to make a high-level commitment to push again for conclusion of a framework package by the end of July's General Council meeting in Geneva. APEC Ministers Responsible for Trade lent their strong support to this goal in their Declaration from Pucon, Chile in June. Ministers from the G20, the Africa Union and the G90 group of developing countries also met in the first half of 2004 and committed themselves to working towards a July outcome.

**Non-Agricultural Market Access (Industrial Products)**

The Doha mandate on industrial products provides for negotiations on NAMA on reduction or elimination of tariffs, including by addressing tariff peaks, high tariffs and tariff escalation, as well as non-tariff barriers. All products are to be covered with no exclusions. Australia is a major exporter of industrial products with its ability to increase such exports dependent upon our ability to penetrate new and existing markets. This is why we have worked hard in Geneva to preserve the possibility of an outcome to the Round that meets the Doha level of ambition.

The non-agricultural products negotiating framework (Annex B) essentially replicates the text that was presented at the Cancún Ministerial Meeting last year (known as the Derbez text). It includes a non-linear (or harmonizing) formula approach to reducing tariffs across-the-board to a similar level, thereby reducing tariff peaks and tariff escalation as required under the Doha mandate. There is also the option of supplementing the formula with sectoral initiatives. However, other provisions lessen the impact of the formula on tariff reductions, particularly through extensive flexibility provided to developing countries.

As a number of WTO members had difficulties with the adoption of the Derbez text unchanged it was agreed that Annex B would be presented as containing the "elements" for future work on modalities by the Negotiating Group on Market Access, while acknowledging that additional negotiations would be required to reach agreement on the specifics of these elements.

(*www.dfat.gov.au)*

## WTO: Market Access Negotiators Stuck over How & When to Structure Talks

DELEGATES meeting on 10-11 April 2002 in the WTO's Negotiating Group on NAMA remained at an impasse with regards to establishing a target date to agree on modalities for trade liberalization talks on industrial goods. Some developing countries, notably India and Kenya, are resisting efforts to establish a deadline to agree on negotiating modalities. A previous Chair's proposal had suggested Members could agree on modalities by 31 March 2003, in line with a similar March deadline for agriculture and services modalities.

**The Doha Mandate in Non-agricultural Market Access (NAMA)**

WTO negotiations were launched at Doha, Qatar, and the Doha Ministerial Declaration in para 16 outlines the mandate for the reduction or elimination of tariffs and non-tariff barriers for non-agricultural products. The para also singles out products of export interest to developing countries and less than full reciprocity in reduction commitments for developing countries and least-developed countries (LDCs). It further stipulates that modalities to be agreed "will include appropriate studies and capacity-building measures to assist LDCs participate effectively in the negotiations.

Modalities lay out the framework for how negotiations will proceed, and can include numerical targets, formulae, sector-by-sector, and request/offer approaches. Because they structure how and which tariffs will be targeted for reductions, they can have a significant impact on the outcome of negotiations. The single undertaking negotiations, of which NAMA is a part, are scheduled to conclude on 1 January 2005.

**10-11 April Negotiating Group**

At the 10-11 April meeting, a group of developing countries, including India, Egypt, the Philippines, and Kenya (on behalf of the Africa Group of WTO Members), rejected as unacceptable a compromise date floated by the Negotiating Group Chair, which targeted 30 April 2003 to agree on negotiating modalities [the Chair's April 2003 date was a compromise based on a previously proposed target of 31 March]. A number of these countries said that there should be no benchmark at all on market access since there was none specified in the Doha Declaration, and that more time was needed to consider the implications of using different types of modalities. China also opposed the Chair's proposal, arguing that it was difficult for developing countries to adhere to tight deadlines in a variety of negotiating groups.

Another group of developing countries, including Mexico, Brazil and Chile, advocated a more flexible approach to the market access negotiations timing. They said that Members could possibly set an informal deadline for the modalities decision, which would reflect the built-in flexibility in the Doha mandate.

Sources indicated that developing country opposition to a target date reflects a reluctance to endorse a "very ambitious" agenda on industrial market access. In particular, one developing country source said, African countries are not interested in new liberalization efforts as they have carried out many unilateral reforms as part of adjustment programmes dictated by the International Monetary Fund (IMF) and the World Bank. The source also said that it does not make sense to establish a target date for the modalities decision without having assessed whether technical assistance and capacity building have been sufficient for countries to participate in the negotiations.

For their part, industrialized country Members view a March 2003 deadline as reasonable given that the Doha Declaration foresees an end to the overall WTO negotiations on 1 January 2005. While they expressed disappointment with the Chair's proposal of an April 2003 deadline, they did not rule it out. Developed countries are concerned that if the date to agree on modalities is pushed too late in the year, it will leave them little time to confer with their capitals on what next steps to take in market access before the next Ministerial Conference in mid- 2003, and would present a serious obstacle to finishing negotiations by 2005.

During 2002, the group is scheduled to meet on 11-12 July, 12 September, 4-6 November and 2-3 December. According to sources, the first two meetings are scheduled to focus on discussion of tariffs and non-tariff barriers. The November meeting would discuss possible modalities for the market access negotiations.

The Chair's 11 April proposal also included scheduling a stocktaking session in December 2002 and three meetings in 2003: 19-21 February, 19-21 March, and 23-25 April. All 2003 meetings would focus on modalities, starting with review of possible modalities based on a paper prepared by the Chair.

Since Chair Ambassador, Pierre-Louise Girard of Switzerland — who was formally appointed as Chair of the Group at the 10-11 April meeting — was unable to broker a consensus around his proposal, sources said he would continue consultations in this area in an attempt to reach agreement in time for the meeting of the Trade Negotiations Committee on 24 April.

(*www.ictsd.org/weekly*/02-04-16/story1,htm)

## Development Central Issue to Market Access Talks

CONVERGENCE over how to structure negotiations on market access for industrial goods continued to elude countries as they met at the meeting of the WTO's Negotiating Group on NAMA in April 2002. With a 31 May deadline looming for the group to agree on a framework for negotiations on market access for non-agricultural products, many are now sceptical that Members have enough time or political will to reach agreement on how to proceed. Differences remain over a number of areas, including: how to address the mandate of special treatment for developing and least-developed country participants, including through less than full reciprocity in reduction commitments; which type of formula to use to reduce tariffs; whether these negotiations should include reference to the complete elimination of tariffs; and how to define and address non-tariff barriers. The Chair of the Negotiating Group, Pierre-Louis Girard (Switzerland), indicated that he plans to distribute an initial draft outline of parameters for the negotiations in mid-May that will attempt to bridge these areas.

### Developing Countries Express Concern over Tariff Reduction

In its intervention at the Negotiating Group on behalf of several African and Asian countries (Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Tanzania, Uganda and Zimbabwe; TN/MA/W/31, available at http://docsonline.wto.org), Nigeria highlighted the importance of "less than full reciprocity in reduction commitments" for tariffs between developed and developing countries. Nigeria told the Group that tariffs are an "instrument of domestic industrial policy" for many developing countries, and revenue from customs duties forms a significant share of their overall revenue, which goes to meet their developmental expenditure. "Alternative forms of taxation will take long periods of time to become available and supplement and replace the loss of customs revenue," Nigeria added. "Tariffs are a tool for developing countries, maybe the only tool, and if we take them away there won't be any protection left for us," the statement said.

Tariffs are important revenue generators for poorer states, where income and other tax collection systems are underdeveloped. According to IMF figures, import duties represented 15 per cent of government revenue in developing countries in 1999-2001. In African least-developed countries, the percentage was more than twice as high, at 34 per cent.

In its statement, the US countered this claim, saying that tariffs are neither an equitable nor economically efficient means for developing countries to raise revenues, as they "tend to distort resource allocation and shift the tax burden to the poorest segments of the economy". "We do not want a general nervousness about revenue consequences — or even the revenue problems associated with a particular group of countries — to limit the overall ambition of this negotiating group," the US paper said. In a 26 November 2002 paper, the US had proposed scrapping tariffs on virtually all industrial and consumer products by 2015, a perspective shared by New Zealand. At the meeting, Australia, New Zealand and the US said they wanted the option of total elimination of tariffs to be included in the Chair's forthcoming May text.

But developing countries in the Nigerian group cautioned that they would have difficulty accepting the elimination of all tariffs as the objective of the negotiations "even in an extended timeframe". Barbados, Jamaica, and Trinidad & Tobago (TN/MA/W/30) echoed the African/Asian group, saying that the economic realities and level of development of each Member must dictate the pace at which tariff reduction takes place.

### Which Formula?

According to a WTO Secretariat supporting document (TN/MA/6/Rev.1), 17 of the 25 proposals submitted so far on modalities (i.e. ways to structure tariff reduction negotiations) suggest the use of a formula approach. Different formulae exist, including those that apply on a tariff-by-tariff (line-by-line) basis, sector-by-sector, zero-for-zero, the "Swiss" formula with different coefficients, a reduction in the average tariff, or a combination of these. Harmonization and request/offer processes have also been put forward by some countries as supplementary approaches.

Developing countries are pushing for modalities that provide spaces for less than full reciprocity. According to the submission from Barbados *et al.*, negotiating modalities must not require unreasonable tariff reductions that result in serious economic and social dislocations in small domestic markets. Other important considerations in the formulation of modalities, they said, include the percentage rates for tariff reductions, special and differential treatment for sensitive products and sectors, and relevant time periods for implementation in terms of the overall negotiations.

The group including Nigeria said it preferred a linear percentage reduction in tariffs, wherein lower percentage average reductions could be used for developing countries, and higher ones for industrialized Members. They argued against Swiss-type formula approaches, saying these impact more heavily on tariff structures of developing countries. In a separate submission (TN/MA/W/10/Add.2), India proposed a formula under which the target for reductions would be 50 per cent for developed countries and 33 per cent for developing countries. Australia said that a linear based formula would not address the mandate to eliminate tariff peaks, high tariffs and tariff escalation, and said it preferred a harmonization formula, which it indicated would tackle these issues.

In another document discussed at the Group, (TN/MA/W/15/Add.2), Japan elaborated on its proposal for "zero-for-zero" and harmonization formulae. Japan's approach was opposed by a number of Members, who noted that it excluded fisheries and forestry. Malaysia and the Philippines pointed out that the two excluded sectors are heavily protected in Japan and that the proposal was "extremely self-serving". New Zealand warned against flexibility and exclusion of products, as they might constitute a "slippery slope", and said "it would be difficult to stop even developed countries from asking for sensitive selective products' exclusion".

For its part, the European Commission (EC) elaborated on its proposal to compress tariffs above 50 per cent and below to a range of 15 to zero per cent. The EC approach also aims to eliminate all so-called "nuisance" tariffs (those two per cent and below), and reduce tariff peaks and tariff escalation. While most developing countries agree with reducing tariff peaks and escalation — which often discriminate against products of higher value-added – they caution that eliminating nuisance tariffs should not be considered as a concession equivalent to reduction of higher tariffs.

**Lack of Progress on Agriculture Holding up MA Talks**

Chile noted that while the EC seemed to support free trade in non-agricultural products, its perspective on agriculture left much to be desired. "If the EC had the same ambition in agriculture as it shows here it would help a lot the Doha Round," Chile said. Other Latin American countries, including Brazil, intimated that the continuing stalemate in agriculture talks at the WTO could have ramifications in the NAMA negotiations. According to one Latin American trade source, "It is totally unrealistic to agree to modalities on NAMA without agreement on agriculture [modalities]".

**Non-tariff Barriers**

Members continue to grapple with how to address non-tariff barriers (NTBs). These are referred to in the Doha Declaration, but it is not clear how negotiations are meant to proceed. Fifteen submissions were made by developing and developed countries on NTBs (see Secretariat overview of proposals submitted, TN/MA/9), providing a variety of different approaches for dealing with this issue. Many included detailed information on what the scope of NTB negotiations should be in the Negotiating Group and elsewhere. Since many NTBs relate to existing bodies in the WTO (i.e. Customs Valuation Committee, Committee on Technical Barriers to Trade, etc.), many submissions note that the matter should be taken up in the relevant committees. Many proposals also note that other NTB issues related to negotiations (i.e. Services, Trade Facilitation, etc.) should be addressed by other negotiating bodies. Only one submission states that NTBs should be identified and negotiated in the Negotiating Group on NAMA. Like in the tariff negotiations, a range of modalities have also been proposed, though thus far there is little convergence on scope or formulae to tackle NTBs.

(www.ictsd.org)

## Consultative Meeting on WTO July Framework

THE Consultation on the WTO July Framework Agreement of July 2004 was held 26 to 28 October 2004 in New Delhi under the Project on Strategies and Preparedness for Trade and Globalization in India (Project). The participants felt that the consultation provided an opportunity for the identification of issues and the assessment of costs and benefits flowing from the elements of the July Framework Agreement. It was considered that a proper identification of the issues and the implications would help in setting things on the right course from the very beginning. The consultation accordingly covered Agriculture, Services, Non-Agricultural Market Access and Trade Facilitation.

**NAMA: Highlights of Consultative Meeting**

It was felt that the July Framework Agreement on Non-Agricultural Market Access (NAMA) only provided the initiation elements for negotiations and that additional negotiations are required to reach agreement on the specifics. The inclusion of paragraph 1 in Annex B according to some WTO Members left open the possibility that some of the key modalities are still open for negotiations.

It was also identified that the key issues in NAMA negotiations were the selection of appropriate tariff reduction formulae, the methodology for increasing binding coverage, the scope and application of sectoral approach, the question of giving credit for autonomous liberalization and the need to incorporate S&DT principles in the NAMA negotiations.

The July framework provides the use of a formulae approach to reduce average tariffs, tariff peaks and tariff escalation. The use of the formulae approach to tariff negotiations is advantageous for developing countries because they do not have to depend on market power to obtain tariff cuts on their exports. It was, however, stressed that such formulae should be simple, transparent and effective and should incorporate the concept of less than full reciprocity, which forms an important basis of Doha Development Round.

In the matter of countries with a binding coverage less than 35 per cent, the framework on NAMA required them to bind 100 per cent of tariff lines at the average tariffs for all the developing countries. However, it was felt that important ambiguities persisted; it was not clear whether the Framework referred to a simple average or a trade weighted average.

So far as India and other developing countries are concerned, the participants agreed that the major problem was the presence of tariff peaks and tariff escalation in major developed countries on products of export interest to India. A study by UNCTAD showed that the developed country tariffs on developing country exports are nearly 4 times the tariffs imposed on other developed country exports.

A view was also expressed that market access is not a panacea for developing countries. Lowering of tariffs will reduce consumer prices, but it could hurt the domestic industry. It could also result in labour retrenchment and other adjustment shocks. Further, tariffs constitute a major source of revenue for a number of small developing countries and reduction/elimination of tariffs could deprive such countries of an important source of revenue unless there are offsetting gains through productivity gains or alternative tax revenue. This would be possible only if those tariff dependent countries are given the flexibility to pursue appropriate micro-economic policies for industrial development. The discussions on NAMA were accompanied by certain country studies, including country studies of India & South Africa which looked into the sequence of trade liberalization during the last decade and the trade adjustments that were necessitated by such liberalization initiatives. In this context, the experiences of India and South Africa were discussed. The country experience of various economies in adjusting to trade liberalization provided an appropriate setting for detailed examination of the July Framework Agreement on NAMA.

**India and NAMA Negotiations**

With the above scenario in mind, it was important to identify the products/sectors in which India should seek market access and others in which India should preserve certain amount of protection for the local industry from import competition during the ongoing NAMA Negotiations. In this backdrop, certain studies indicated that India should seek significant market access in : (a) Leather and Leather Products; (b) Footwear; (c) Electrical and Electrical Machinery; (d) Plastics and Rubber; (e) Stone and Glassware; (f) Base Metals; and (g) Wood and Wood Products.

India's offer list for concessions during the NAMA negotiations could only be formulated once the list of sensitive products is identified. Out of 9,467 tariff lines, it was found that the bound tariffs on 6,066 tariff lines were high and could be reduced; similarly around 2,582 tariff lines which are not bound now could easily be bound at low levels. In short, it was identified that the bound rate was low only for around 30 tariff lines and in the case of non-bound industrial products only around 167 tariff tariff lines required high levels of binding.

On sectoral tariff elimination, it was suggested that tariff rates for all items under fish and fish products, leather and leather products, footwear, stones, gems and precious metals could be significancy cut or eliminated. However, in the case of 22 tariff lines out of 2,220 falling under textiles sector, it was suggested that tariffs could not be significantly cut or eliminated. It was, therefore, suggested that during the ongoing NAMA negotiations, India could offer deep cuts on a large number of tariff lines using approaches like linear formula. For other items, it was suggested that India should follow the request and offer approach or any such other method duly taking into account the principle of S&DT. It was also felt that the coefficient for linear reduction formula should be different for developed and developing countries.

With respect to textiles, if tariffs are eliminated in this area, China might gain some market in India. However, India could also gain some market in China in the area of non-apparel textiles items. Thus, sectoral elimination of tariffs in the case of textiles and garments may not have significantly negative welfare gains.

(*Trade Globalisation & Development*, October-December 2004, Quarterly Newsletter of UNCTAD/DFID/MOC& Project)

# BOOKS/ARTICLES NOTES

## BOOKS

**Market Access for Exports from India: Issues for Post-Cancun WTO Negotiations in Industrial, Agricultural & Services Sectors**
by Dr H.A.C Prasad, Academy of Business Studies, New Delhi, www.worldtradescanner.com

MAKING some observations at the outset, the publication says that India's export performance is obviously a function of the competitiveness of Indian products as well as the market access opportunities available to Indian products in external markets especially in markets of developed countries. The competitiveness of Indian products depends upon a variety of factors like productivity, cost of capital and the quality of infrastructure. Market access opportunities for Indian products, it says, will depend upon the commitments undertaken by different members of the World Trade Organization (WTO), since the rules governing international trade are set by the WTO.

Further, it says that the WTO members have launched a fairly ambitious world programme in November 2001 at Doha, on the occasion of the Fourth Ministerial Conference of the WTO. The negotiating mandate contained in the Doha work programme covers subjects relating to both market access and rules. In respect of market access, there are clear negotiating mandates in respect of agriculture, services as well as non-agricultural products. Developing countries like India are hoping that the ongoing negotiations relating to agriculture and non-agricultural market access will lead to significant enhancement of market access opportunities available to their agricultural as well as industrial products in developed countries' markets through reduction of tariff as well as non-tariff barriers. In the services sector, developing countries are looking forward to significant commitments by developed countries under Mode 1 as well as Mode 4.

India, it says, has to strive hard, in the ongoing negotiations, to bring down different types of barriers that its exports face in different markets. India should try to influence the outcome of the WTO negotiations in the light of its export interest and export strategy. At the same time, India has to constantly notify its export strategy mainly with the developments in the WTO.

The book makes a serious attempt to look at the ongoing WTO negotiations from the Indian perspective and has come out with many suggestions. It has brought out the intense relationship between India's export strategy and the ongoing WTO negotiations in agriculture, non-agricultural market access and services. It has particularly highlighted the negative impact of non-tariff barriers on India's export performance and has stressed the imperative need to deal with non-tariff barriers as an integral part of the ongoing negotiations. It has also critically examined the importance of the services sector for the Indian economy, various kinds of market access barriers Indian service exporters face and the policy environment required to give a boost to service exports.

It examines the market access issues in the context of the WTO negotiations for the three sectors, namely agriculture, industry and services. Besides examining the issues for future negotiations in WTO, emphasis has also been given to the existing market access barriers in these sectors, particularly non-tariff barriers in the industrial and agricultural sectors and market access barriers in services sectors. Special emphasis has also been given to policy measures to give a kickstart to services exports.

In the area of Market Access for India's Industrial Exports, the publication lays emphasis on tariffs & related issues and non-tariff barriers. The analysis on non-tariff barriers not only includes country-wise barriers, but also sector and commodity-wise barriers in the different trading partners of India, analysis of NTBs in the WTO context, issues for post-Cancun negotiations on NTBs at WTO and internal policy measures for India to tackle NTBs.

**Market Access Negotiations on Non-Agricultural Products: India and the Choice of Modalities** by Anwarul Hoda and Monika Verma, May 2004, Working Paper No. 132, Indian Council for Research on International Economic Relations, New Delhi.

IN its introductory remarks, the publication says that Non-Agricultural Market Access was one of the important items on the agenda of the Doha Round of Multilateral Trade Negotiations in the WTO. In the past rounds, the contracting parties of the erstwhile GATT employed different techniques in tariff negotiations such as request-offer or product-by-product procedures, linear or harmonization formula approach, or sectoral harmonization or elimination.

It also says that India was initially a reluctant participant but by the time of the Fifth Ministerial Session held at Cancun in September 2003, it appeared to be ready to engage in these negotiations. In future negotiations, it says, India will have to take a decision in the best way to advance its interest.

The article opines that there are good reasons for India to be ambitious in its outlook and proactive in approaching the negotiations.

In addition, it says that if participation in sectoral liberalization is to be mandatory, India must ask the developing countries to retain the tariffs at 5 per cent.

The publication has been presented in five parts. Part I analyzes the WTO rules relating to tariff negotiations and the past practices. Part II describes the proposals on modalities which were made initially by members and provides a detailed analysis of those made by the Chairman of the Negotiating Group on Non-Agricultural Market Access. Part III discusses the considerations that should determine India's approach towards these negotiations. Part IV makes recommendations on the position that would be in the best interest of India. Finally, Part V summarizes the main conclusions and findings.

**From Doha to Cancun: Delivering a Development Round** edited by Ivan Mbirimi, Bridget Chilala, and Roman Grynberg, 2003, Commonwealth Secretariat, London (UK).

THE publication contains a chapter entitled "Market Access Proposals for Non-Agricultural Products". This chapter looks at approaches which have been used in the past and makes an attempt to make a preliminary evaluation of these proposals.

In its opening remarks, it says that at the Doha meeting, WTO ministers agreed to reduce tariffs, keeping in view the interest of the developing countries.

The current market access negotiations in non-agricultural products, it says, are being handled procedurally by a negotiating group who is mainly concerned with tariff reductions.

The chapter further points out that the main focus of discussions has been on finding a modality that would meet the criteria set out in the Doha Declaration.

In its concluding remarks, it says that there are serious policy dilemmas for developing countries in reconciling their own trade and industrial policy strategies in the area of market access for non-agricultural products. For many countries, it says, a cautious approach may be preferable. On the whole, a formula approach, it says, would seem best to address the needs of developing countries for improved access to major markets against the backdrop of their lack of bargaining power.

**WTO Non-Agriculture Market Access Modalities: A Case Study of Impact on A Developing Country** by Rajesh Mehta and Pooja Agarwal, September 2003, RIS Discussion Paper: RIS-DA 59/2003, Research and Information System for the Non-Aligned and Other Developing Countries (RIS), New Delhi.

THE publication makes an attempt to assess the implications of "Millennium Round of WTO

Negotiations of Indian Industrial Tariffs". Giving a background of the subject, the publication says that market access for the non-agriculture products is one of the principal agenda items in the WTO negotiations. The developing counties, it says, should concentrate on reduction in peak tariffs and tariff escalations. They should also demand that all the countries should define their binding rates in the form of *ad valorem* rates, because it has been noticed that *ad valorem* equivalence of *non-ad valorem* duties are very high.

Further, it says that it is not easy for developing counties to completely accept the tariff elimination in some sectors even in an extended framework keeping in view their development and infra-structure. On the domestic front, tariff elimination, it points out, will lead to substantial reduction in customs revenue, which is the main source of revenue receipt for the developing countries. As such, the developing countries need to be given full advantage of "less than full reciprocity".

The book has been presented in four sections. Section I provides a background on the subject with a review of Doha mandate on market access of non-agriculture products. Section II discusses the current position of modalities used or negotiations. Section III discusses implications of these negotiations on Indian industrial tariffs. Finally, the concluding section presents the main findings and conclusions.

# ARTICLES

**Third World Coalition to Seek Market Access**, *Business Standard*, 6 May 2003, p. 8.

IN its opening remarks, the article says that developing countries, are trying to build a coalition to achieve their objectives of higher market access in agricultural and industrial goods. Development issues should be the focus of negotiations in the World Trade Organization (WTO).

Twenty-eight developing countries, including India, China, Brazil, South Africa, Malaysia, Mexico and Pakistan, at a recent meeting held in Geneva demanded real market access concessions from the developed members of the world trade body through a solution to issues like tariff hikes and removal of trade distorting policies, particularly in agriculture.

Keeping the terms of trade in mind, the developed countries were asked to address the issues of non-tariff barriers to trade, including technical barriers to trade, sanitary and phyto-sanitary measures, market entry barriers, restrictive rules of origin and imbalances of rules to subsidies and anti-dumping.

**NTBs a Major Tool to Bar Market Access,** *The Hindu Business Line*, 22 April 2004, p. 6.

THE article makes a reference of a recent study conducted by the Ministry of Commerce, on "Non Tariff Barriers" which reveals that middle and low-income developing countries and the least developed countries confront market access barriers, which become substantially stiffer with products having lower value added and technological content, particularly agricultural products, textile, clothing, footwear and leather products.

The study says tariff intervention was the principal mode of protectionism till the inception of the 1970s. But with falling tariff levels both (WTO bound and applied tariffs), non-tariff barriers have become a major barrier to market access to exports of interest to developing countries.

While direct NTBs are explicitly designed and implemented for purposes of restrictive trade and cover measures such as quantitative restrictions, tariff quota, voluntary export restraints, orderly marketing arrangement, export subsidy, export credit subsidy, Government procurement and import licensing, indirect NTBs are domestically implemented to meet some other policy target but impacting on trade flows in the process. The latter includes measures such as health and safety regulations, technical standards, environment controls, customs valuation procedures, rules of origin, labour laws and even anti-dumping duties, countervailing duties, regional subsidization and subsidization of public enterprise.

**Non-Agricultural Market Access Negotiations: India Presses for Equitable Tariff Reduction Formula,** *The Hindu Business Line*, 5 March 2005, p. 9.

THE article highlights a gist of the points raised recently by Shri Kamal Nath, Minister of Commerce and Industry at the 2-day ministerial level meeting of the select developing countries at Nairobi (Kenya) pertaining to India's stand on Non-Agriculture Marketing Access.

India, he said, wants an equitable tariff reduction formula in the negotiations on non-agricultural market access in the World Trade Organization, keeping in view the concerns and interests of developing countries.

The article elaborates on the stands taken by the EU and US on the issue. The article states that for the first time, actual tariff reduction formulae in NAMA were discussed at the meeting.

The European Union put forth a proposal of the Swiss type tariff cut formula entailing reduction of tariffs by high percentage which may affect developing countries. India, on the other, responded by stating that it was not adequate. The US reiterated its suggestion for using two different coefficients for tariff reduction, one for the developed and the other for the developing countries. While, in principal, the Commerce Minister endorsed the US suggestion, he, however, felt that even this was inadequate as it required a lot of fine-tuning.

Further, the article explains that the Girard formula which takes into account the tariff structures of member countries in line with the concerns of developing countries and uses coefficients for each country equal to its own tariff average, is the most appropriate mechanism. Stating that even the Girard formula had its shortcomings, Shri Nath said that was why India, Brazil and China along with some other countries were working on a modified Girard formula to evolve a suitable formula for tariff reduction in the area of non-agricultural market access.

The Commerce Minister also raised the issue of non-tariff barriers (NTBs) in the non-agricultural sector, stating that persistence of NTBs would negate whatever flexibilities were available for developing counties in non-agricultural market access.

**Kamal Nath Outlines India's Roadmap for Post-July WTO Framework Negotiations,** *India & the WTO,* A Monthly Newsletter of the Ministry of Commerce and Industry, Vol. 6, Nos. 9-10, September-October 2004.

DELIVERING the keynote address at "The WTO Framework Agreement of July 2004: The Way Forward", organized by UNCTAD in New Delhi on 26 October 2004, Shri Kamal Nath, Minister of Commerce & Industry, Government of India, said that various sectors have been identified which are of direct export interest to developing countries. These are fish products, leather, footwear, textiles, jewellery, electronic goods and auto components. The proposal is for all countries, developed as well as developing, to bring their tariffs down to zero in these sectors. The only special treatment for developing countries, he said, is a longer phase-out period which developing countries would get. India welcomes the idea of sectoral initiatives, in the light of considerable scope for enhanced trade in these areas.

Further, he said that flexibility for developing countries in the NAMA negotiations is important. Since the completion of the Uruguay Round, the implications of tariff commitments have become somewhat clearer and there is also more clarity about domestic sensitivities. The flexibilities for developing countries should be such that they address the specific development related requirements of all developing countries. The present framework, he said, provides flexibility for sensitive products of developing countries through no cuts, or through reduced cuts, for a designated percentage of tariff lines.

Services, he said, is an area of special interest for India in view of our strengths and comparative advantage. India played a major role in including services in the July package by having a separate paragraph for it in the Framework along with an Annex containing recommendations for future progress. The text specifically refers to the need for "high quality offers" by developed countries, especially in sectors and modes of export interest to developing countries.

**WTO and Technical Barriers to Trade (TBT): Creating Barriers Against Furthering Marketing Access** by Biswajit Dhar and Murali Kallummal, *Focus WTO*, July-August 2004, Indian Institute of Foreign Trade, New Delhi.

THE article says that increasing TBT coverage of traded commodities and its linkages with tariffs, technology levels, and production process methods would pose serious challenges to overall market access conditions. While it is expected that efforts in the direction of tariff reductions under various agreements and committees dealing with agricultural and non-agricultural goods would benefit the overall market access prospects, conditions created by increased TBTs, especially those with little transparency as regards product coverage, may seriously undermine the benefits that are expected from tariff reduction. Countries which have little role in the spurt of TBTs but have been participating fully in the tariff reduction exercise undertaken by the multilateral trading system face a piquant situation wherein they find that they have conceded more than they had bargained for. The possible win-win situation for developing countries in a world where the tariffs are becoming insignificant, as has been predicted by many experts, may, in fact, prove otherwise.

Further, it says that this spectre looms large on many developing countries which have low levels of technological competence in their goods and services sectors alike. These countries would find that their inability to meet the exacting standards that are being put in place by the developed and the relatively more advanced developing countries could prove to be formidable road-blocks to their market access prospects.

**Non-Agriculture Market Access Negotiations: Post-Cancun Issues and Implications for Industrial Tariffs**, by R. Mehta, and Pooja Agarwal, *Economic and Political Weekly*, 24 July 2004, pp. 3378-3386,

MAKING some observations at the outset, the article states that market access for non-agriculture products has been one of the principal agenda items in WTO negotiations. The basic mandate in the Doha declaration under the category "tariff and trade of industrial products" is both broad and comprehensive. Developing countries, it says, should concentrate on reduction in peak tariffs and tariff escalations. They should also demand that all countries define their binding rates in the form of *ad valorem* rates, because it has been noticed that *ad valorem* equivalence of *non-ad valorem* duties are very high.

The article makes an assessment of the implications of the millennium round of WTO negotiations on Indian industrial tariffs. Beginning with a review of the Doha mandate on market access of non-agriculture products, it examines the various elements of the negotiating group on market access-chairman's draft (NGMA-CD) proposal for their likely impact on Indian industrial tariffs.

The Doha ministerial declaration, it says, had mandated undertaking negotiations on market access for non-agriculture goods. In this regard, the negotiating group on market access (NGMA) had been created within the WTO. India, being a member of WTO, has to take care of its development strategy and trade policies.

It has been presented in seven sections. Section I provides a background on market access of non-agriculture products. Section II discusses various elements of the NGMA-chairman's draft (NGMA-CD) proposal and examine the formula proposed in this draft with its likely impact on Indian industrial tariffs. Section III contains the outcome of "NGMA-possible options" draft on Indian bindings. Section IV discusses results of the tariff cutting exercise conducted as per the formula proposed by EC-US-Canada. Section V outlines the major differences in the consequences of the formulae proposed by NGMA-CD and EC-US-Canada on Indian industrial bindings. Section VI puts forth the important observations noticed in lieu of draft Cancun ministerial text with respect to NAMA modalities. Section VII makes a summary of the main findings and conclusion.

**Tariff Binding not Import-Sensitive: A Study,** *The Business Line*, 18 May, 2004, p. 6.

THE article highlights main findings of a study on "Non-Agricultural Market Access (NAMA) Agreement" and has found that India's current binding for most lines/commodities, does not reveal a domestic sensitivity of competitiveness from imports. The study says that there exists a huge scope for a widespread binding of Indian industrial lines/ items. There are very few lines/commodities, which are highly import sensitive. India, it says, can still keep such industrial lines in the unbound category or undertake to bind these at a high level in the present negotiations.

According to the study, only one item, i.e., urea should remain unbound. In other words, the number of industrial lines, subject to binding rates, can be increased from the 70 per cent figure at the Uruguay Round to around 99 per cent in the forthcoming round.

The study advocates India to offer tariff cuts on a large number of tariff lines. An analysis of 9,467 tariff lines reveals that India could offer significant tariff cuts on as many as 8,643 lines (including 2,582 unbound lines). Out of the remaining 167 unbound tariff lines, India could think of binding 166 lines at relatively higher tariff rates.

Stating that India should adopt a mixed tariff reduction formula in the Doha Round, the study notes that it could offer deep tariff cuts on a large number of lines using approaches such as the linear formula. For other items, India should follow the request and offer method because (i) it cannot reduce the extant level of bound rates or (ii) propose that the binding rates should be relatively on the higher side.

According to the study, India should start the process of negotiations from the bound rates (or given rates for unbound items) and not from the applied rates. This might enable India in binding its rates on the higher side. On the other hand, it might not lead to a deeper reduction in the binding rates by other developing countries because their applied rates are significantly lower than the corresponding binding rates.

Finally, the study says that India and other developing countries should demand special and differential treatment for (i) level of base rates for unbound items; (ii) higher cut-off points for identification of peak tariffs; and (iii) higher reduction in the tariff rates of finished goods compared to tariff cuts of unfinished or semi-processed products.

**Improving Market Access for Least Developed Countries,** UNCTAD/DITC/TNCD/4, 2 May 2004, pp. 1-158, United Nations Geneva.

THE article examines steps to be taken to improve market access in the area of preferential tariffs and rules of origin. Obviously, market access, it says, is not limited to these aspects but encompasses other trade instruments such as SPS, TBT, anti-dumping, countervailing duties and safeguards measures which are not specifically dealt with in the article.

Further, it says that for improving LDC participation in international trade, the basic conditions which need to be fulfilled include:

(i) Ensure Security of the preferential treatment granted.

(ii) Duty-free treatment to be provided to all products.

(iii) Rules of origin requirements should be realistic, to match the industrial capacity of LDCs; in order to ensure the effective and full utilization of preferences, these should be harmonized among donor countries and subject to simplified customs documentation and procedures. and

(iv) to devise ways and means to ensure that the duty free access is not frustrated by non-tariff measures.

**Market Access: Govt. Urged to Reject US-EU Formula**, *The Financial Express*, 22 January 22 2004, p. 11.

THE article says that tariff reduction formula for non-agricultural goods proposed by the United States, the European Union and Canada would lead to a 76 per cent decline in the country's average tariff while the formula proposed by the chairman of the negotiating group on market access would cause a 51.8 per cent decline in the country's current bindings.

Further, making a reference to a case study on "Impact of WTO Non-Agriculture Market Access Modalities on the Developing Countries" carried out by the Research and Information System for the Non-aligned and Other Developing Countries (RIS), it says that India should push for adoption of different reduction coefficients for the developing and developed countries.

The adoption of the negotiation group chairman's formula with a coefficient value of 1.0 will result in a 35 per cent decline of the country's MFN (most favoured nation)-applied rate and that the government should not agree to a lower coefficient value, says the report. A reduction coefficient of 0.5 would require the country to reduce tariffs by 67 per cent while a lower coefficient of 0.25 will bring down tariffs by 81 per cent, points out the report.

As a special and differential treatment, the draft Cancun ministerial text allows the developing countries to apply less than formula cuts to 10 per cent tariff lines or keep 5 per cent of lines unbound.

According to analysis done by Rajesh Mehta of RIS, only 7 per cent of total tariff lines of the country covered under non-agriculture are sensitive to import. The value of imports of these lines, during 1999-2001, came to 3.3 per cent of total value of corresponding imports of non-agricultural products.

The EU-US-Canada proposal of a non-linear formula with a single coefficient, it says, is unacceptable as it will put the developing countries at a disadvantage. While the formula would require India to reduce its average tariff by 76 per cent, tariff cuts by Canada will be 39 per cent, by the EU it will be 32 per cent and by the US it will be 36 per cent.

**Developed Nations Seek More Market Access for Industrial Goods**, *The Hindu Business Line*, 14 August 2003, p. 87.

THE US, the EU and Canada, the article says, have recently tabled a joint paper to the WTO for increased market access for industrial goods in the ongoing round of global trade negotiations. The paper proposes that WTO members may use a simple mathematical formula both to achieve sizeable cuts in tariff rates and reduce higher rates. Developing countries, it say, would be allowed to cut their tariffs less than developed countries, based on their economic status, and the poorest countries would be allowed even more flexibility, including a longer time for implementation.

Presenting the proposal in Geneva on 11 August 2003, Ambassador, Linnet Deily, US Permanent Representative to the WTO, said that with Cancun just a few weeks away, it was important for US, the EU and Canada to "give leadership to the process."

**Technical Barriers, Import Licenses and Tariffs as Means of Limiting Market Access**
by Jan G. Jorgensen and Philipp J.H. Schroder, April 2003, University of Southern Denmark, Department of Economic, Campusvej (Denmark).

THE article states that technical barriers (standards), import licenses and tariffs may be deployed as means of limiting the market entry of foreign firms. It examines these measures by employing a simple two-country monopolistic competition model of international trade to study the impact of technical barriers on trade, standards, import licenses and tariffs, and the policies related with market access to the overseas competitors. Further, it deals with welfare impact of such policies. For low levels of protection, it says, that tariff will be the better policy tool. Overall, all the three policy tools, it says, do reduce welfare.

Non-Agricultural Market Access (NAMA), it says, is an area of vital interest to India, and to the poor countries, in general. Para 2.5 of the Draft Text refers to this. Para 16 of the Doha Declaration talked about "the reduction or elimination of tariff peaks, high tariffs and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries". Yet the negotiations under the Work Programme so far have yielded very little results. Although the general tariff levels in the developed countries are low, their practices in terms of peak tariffs and tariff escalation on the products of export interest to developing countries, continue with little abatement. On the other hand, there is mounting pressure by major developed countries on the developing counties to obtain steep reduction commitments. This is in spite of the assurance of "less than full" reciprocity in the reduction commitments for developing countries, enshrined in the Doha Declaration. Such manoeuvres are dangerous since they could not only affect industrialization of the poor countries but could lead to their deindustria-lization. This has already happened in Africa. Besides, the poor nations depend on tariffs to provide vital State revenues. As a leader of the poor nations, India, it says, should participate in the NAMA negotiations carefully in order to protect the legitimate interests of these countries in the long run.

In its concluding remarks, it says that India has been under great pressure to reduce industrial tariffs. It should go by its judgment and not buckled down to pressure. It should play an aggressive and leader-like role in NAMA negotiations that would benefit the poor nations.

**WTO Market Access: India Pitches for Duty Cut on Bound Rates**, *The Financial Express*, 13 January 2003, p. 7.

THE article states that in its second submission on market access for non-agricultural goods at the WTO, India made a variety of proposals. These are as under:

(i) Reduction in import tariffs by member should be undertaken from bound rates and not from applied rates.

(ii) The mandate requiring less than full reciprocity in reduction commitments from the developing countries should be strictly conformed to.

(iii) In determining the reduction to be effected by the developing countries, their dependence on customs tariff for revenue should also be kept in view.

(iv) As a special and differential measure, developing countries should be given flexibility to decide on the actual bindings on some tariff lines while maintaining the percentage reduction on an average basis as agreed upon.

(v) Supplemental "zero for zero" or "tariff harmonization" proposals should be kept to a minimum level because they impose onerous obligations on the developing countries.

(vi) In the limited sectors where such approaches may be agreed upon, flexibilities for the developing countries including higher harmonized tariff levels, greater credit for tariff reductions and longer implementation period should be incorporated.

(vii) The precedent set in the Uruguay Round of giving developing countries more implementation time should be followed for tariff commitments on non-agri goods, the submission said. The actual duration should also depend on the extent of commitments undertaken.

**India to Focus on Increasing Market Access in WTO Industrial Tariff Negotiations,** *PIB Release*, 29 November 2002.

IN its opening remarks, the article says that India will take up the issue of peak tariffs in the developed country market and the non-tariff barriers so as to substantially increase market access of India's goods and services in these countries. This was stated by Deepak Chatterjee, Commerce Secretary, while addressing a Round Table on WTO Negotiations on Industrial Tariffs and Market Access organized by Federation of Indian Chambers of Commerce & Industry (FICCI). Shri Chatterjee said that these issues have become onerous in view of the various preferential trading arrangements (PTAs) and Free Trade Areas (FTAs) that have come up giving many other developing countries far better access. He reiterated the Government's resolve to continuously consult all stakeholders in the WTO matters and emphasized the importance of seeking suggestions of all participants in deciding the approach that the country should take in the ongoing negotiations on market access for non-agricultural products (industrial tariffs).

Explaining the background, Shri Chatterjee said that the mandate for negotiations on market access for non-agricultural products had been given by the Doha Declaration which was adopted at the Doha Ministerial Conference of the WTO in November 2001.

The mandate for negotiations on market access for non-agricultural products was fairly clear, Commerce Secretary said. The focus, he said is on reduction/elimination of tariffs, particularly in respect of products of export interest to the developing countries.

Modalities, he said, have an important role in the negotiations. Normally, these are taken to mean what approach we should take to tariff reductions, whether it will be by formula, or by request offer, etc., whether all unbound items should be bound, what is the base year to be used for reference and what is the base rate of duty from which to make reductions, etc. We need to exercise with great care even at this state of formulation of modalities since they will have a great bearing on the actual negotiations that will follow", he said.

Some of the developed countries have already submitted their proposals. Earlier, the US Trade Representative (USTR) had also announced a far-reaching proposal, which needs to be examined, he said, adding that the government is in the process of formulating its proposals on the modalities.

The whole issue of industrial tariffs has to be looked at in the context of reforms that have been undertaken in India including thorough reductions in tariff. In the last two budgets, a clear roadmap was laid down to bring down the country's tariffs to the level of 10 per cent and 20 per cent by 2004. It is important to see how these tariff reductions that were brought about could be leveraged with a view to securing grater market access for India in other countries. In this, the objective of achieving high export growth was of paramount importance, he said.

Shri Chatterjee also pointed out that the results of the market access negotiations would be implemented over a period starting from the conclusion of the negotiations by around 2005 and could extend up to 2010 thereafter, going by past precedents.

**WTO Tariff Leeway for India in Seven Areas Likely,** *The Financial Express*, 9 October 2002, p. 8.

IN its opening remarks, the article says that the WTO Committee on Non-agricultural Market Access has come out with a new draft proposal to pacify the developing countries, which are opposed to any mandatory zero-for-zero import duty commitment. The proposal provides a major relief with respect to developing countries on seven sectors, including auto components, textiles, gems & jewellery, leather products and electric & electronic products, which were to be made free of any tariffs in all member countries within a time period.

The original draft had proposed special and differential treatment and "less than full reciprocity" for developing and least developed countries. Developing countries were allowed to keep up to 5 per cent of their tariff lines unbounded provided they do not exceed 5 per cent of the their total value of imports.

**Market Access for Developing Countries** by Hans Peter Lankes, *Finance & Development*, September 2002, pp. 8-25.

THE article states that in the context of the Doha Development Agenda, the WTO is committed to negotiations aimed at substantially improving market access for agricultural and industrial products, in particular, for developing countries. Increased market access for developing countries, it says is a necessary first step in helping them to grow their economies. But it is not sufficient. It must be part of a broader strategy for developing countries to promote a vigorous supply base. Inefficiencies in key sectors like telecommunications, transport and financial services often add more to these countries' port costs. Finally, it says that reform of trade policies and the investment environment in developing countries will be necessary complements to better market access.

**Market Access in Non-Agriculture Sector: Negotiating Strategy for Developing Countries in Millennium Round** by Rajesh Mehta, *Focus WTO*, July-August 2002, Indian Institute of Foreign Trade, New Delhi.

IN its opening remarks, the article says that the reduction in tariff commitments agreed in the UR would lead to a decline in the average tariff rate of industrial products imported by the developed countries from all sources by 40 per cent. The tariff cuts accorded by the developed countries were maximum for wood, paper, metals and non-electric machinery, while the cuts were below average in categories such as fish & fish products, textiles, leather and transport equipment.

Further, the article lists out various tips which India should keep in mind while negotiating on market access. These are as under:

- India should offer deep tariff cuts on large number of lines using approaches like the linear formula, modified Swiss formula (different coefficient values for developed, developing and least developing countries) or sector-by-sector, etc. For sensitive items, it should follow the request and offer method, as it cannot reduce the present level of bound rates, or the proposed binding rates should be relatively on higher side.

- Many commodity groups have been identified where the tariff cuts can be carried out for most of items/lines. In case the sector-by-sector approach is adopted, India should emphasize on the commodity groups such as mineral products, pharmaceutical products, select chemical products, wood & wood products, printed books & newspapers, ceramic products, iron & steel and nickel & articles thereof.
- India should start the process of negotiations from the bound rates and not from applied rates. This may help India in binding its rates on the higher side.
- India must lay emphasis on tariff escalation, i.e. higher reduction of tariff rates of finished goods as compared to reduction in tariff rates of raw material or semi-processed goods. There can be no disadvantages in stressing this issue because India's tariff structure does not have significant differences in the tariff rates of raw material, semi-manufactures and finished goods.
- India's concern should be for a reduction in peak tariff and not on reduction in the average tariffs.

**Industrial Tariffs: Negotiate Market Access Not Protection** by T.K. Bhaumik, *The Economic Times*, 6 May 2002, p. 8.

THE article states that following the mandate of the Doha Ministerial Conference of the WTO in November 2001, several issues are not going to be taken for negotiations. Market access for industrial goods, i.e. industrial tariffs, is one such issue. As mandated in the Doha Ministerial Conference, the negotiation on "industrial tariffs" shall aim to reduce or eliminate tariff peaks, tariff escalations, etc. as maintained by developed countries against products of interest to developing countries. In all probability, it is going to be one of the toughest negotiations, not because the countries do not want to reduce tariffs, but because the mandate has touched upon several tricky issues pertaining to industrial tariffs, i.e. high tariff, tariff escalations, non-tariff barriers, etc.

From India's point of view, this is a very significant negotiation, and calls for good preparation. Further, the negotiations are expected to take into account special needs and interests of the developing countries and the least developed countries. These are some of the positive outcomes of the Doha Ministerial for India since the basic thrust of the negotiations.

**Market Access for LDCs**, by Stefano Inama, *Journal of World Trade*, February 2002, 36(1), pp. 85-116.

THE article points out that, notwithstanding the importance of expanding preferences to cover all products, product coverage itself represents only one of the several dimensions to substantially enhance market access conditions for LDCs' exports.

Recent initiatives undertaken by major trading partners to improve market access conditions for LDCs, like the "Everything But Arms" (EBA) initiative by the EU, are a welcome step towards the objective of bound, duty- and quota-free access for LDC exports.

In the case of most products of LDCs' export interest, tariff preferences are conditional upon fulfillment of rules of origin requirements which often exceed the manufacturing capacity and industrial development of the LDCs.

Finally, duty-treatment is often frustrated through non-tariff measures such as SPS regulations and trade remedies. LDCs are frequently unable to benefit from tariff preferences because of their inability to comply with the standards and regulations applied in the agricultural and industrial sectors by developed countries. SPS measures, in particular, are considered one of the most important barriers to agricultural and food exports, as LDCs lack the resources necessary to exploit the opportunities offered by the provisions of the SPS Agreement. This reflects the relatively poor scientific and technical infrastructure in LDCs.

In view of all this, further efforts are needed to design a preferential system in favour of LDCs which takes into account of the past experience with previous trade preferences, which have often shown low rates of utilization of available tariff preferences.

**Access to Medicines and Public Health in Developing Countries: India Seeks Improvement in TRIPs Agreement,**
*Press Information Bureau*, 25 June 2001, New Delhi.

THE article says that India has sought greater flexibility and improvement in the interpretation of the Trade-Related Intellectual Property Rights (TRIPs) Agreement of the World Trade Organization (WTO) in order to ensure affordable access to essential medicines and life saving drugs in keeping with the public health concerns of the developing countries. The issue of TRIPs and access to medicines was discussed in a Special Session of the TRIPs Council of the WTO in Geneva on 20 June 2001 on the Public Health and Access to Medicines. India, and the African Group of countries, viz. Barbados, Bolivia, Brazil, Dominican Republic, Ecuador, Honduras, Indonesia, Jamaica, Pakistan, Paraguay, Philippines, Peru, Sri Lanka, Thailand and Venezuela jointly submitted a paper on TRIPs and Public Health to the TRIPs Council where they demanded that the WTO should ensure that TRIPs Agreement does not undermine the right of the WTO members to formulate their own public health policies and adopt measures for providing affordable access to medicines. Nothing in the TRIPs Agreement should prevent governments from taking measures for protecting public health, the paper says. It should also be clarified and reconfirmed that governments should be able to issue compulsory licenses to achieve public policy objectives and ensure that nothing in the TRIPs Agreement limits the grounds for governments to issue compulsory licenses.

Further, it says that the TRIPs Council should explore ways to provide greater flexibility in interpreting the provisions relating to the compulsory licensing with a view to ensuring that members are able to provide affordable access to medicines including flexibility to issue compulsory licenses for exports also. It should also consider further extension of transitional period as prescribed in Article 65.4 for implementation of the provisions of the TRIPs Agreement for developing countries.

Finally, it says that the developed countries should engage in all sincerity and seriousness to find ways and means to address the issues and concerns raised by India and other developing countries, by collectively confirming that the TRIPs Agreement does not, should not and need not come in the way of governments dealing effectively with public health concerns. The Doha Ministerial Conference should send a powerful message to the world that WTO cares for the people and it is not an organization, as is generally perceived, designed to serve only the business interests of big companies, India's statement at the TRIPs Council meeting said.

**Negotiating Preferential Market Access – Case of the North American Free Trade Agreement,**
by Antoni Estevadeordal *Journal of World Trade*, February 2000 34(1), pp. 141-166.

THE article makes an attempt in explaining the dynamics of negotiating preferential market access in FTAs. In particular, it offers a detailed analysis of one of the most important preferential Free Trade Agreements that is NAFTA among the United States, Canada and Mexico. It provides an analytical framework for exploring the interdependence among various commercial policy instruments used in preferential market access negotiations. It lays the focus on the role of two key instruments: the preferential tariff phase-out programme and the accompanying Rules of Origin (RoO) negotiated under the NAFTA.

Although the article focuses on the NAFTA negotiations between the United States and Mexico, it also discusses issues that can be extended to other FTAs, in particular, those agreements in the Americas which have been modeled after NAFTA. The most immediate precedent of NAFTA was the United States-Canada FTA, which was negotiated during the second half of the 1980s and entered into force in 1989.

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# DOCUMENTS

## Negotiating Group on Market Access

# Market Access for Non-agricultural Products

### COMMUNICATION TO THE NEGOTIATING GROUP ON NON-AGRICULTURAL MARKET ACCESS FROM ARGENTINA, BRAZIL AND INDIA

The following communication, dated 15 April 2005, is being circulated at the request of the Delegations of Argentina, Brazil and India.

1. The Framework contained in Annex B to the July Framework Agreement represents the mandate provided for the non-agricultural products negotiations in paragraph 16 of the DMD. Accordingly, the formula shall reduce tariff peaks, high tariffs and tariff escalation and take fully into account "less than full reciprocity in reduction commitments" and special & differential treatment for developing countries.

2. The concepts of "less than full reciprocity in reduction commitments" and "special and differential treatment" are different:

(i) "Less than full reciprocity in reduction commitments" has to be an in-built component of the formula and would be achieved through the incorporation of sufficiently higher coefficients for developing countries as compared to developed countries, resulting in higher percentage reductions for developed countries and taking into account the differences in tariff profile amongst Members;

(ii) Special and differential treatment relates to flexibilities in the application of the formula, including longer implementation periods, less than formula cuts and the exclusion of some tariff lines. The present structure of the S&D provisions in the Framework contained in paragraph 8 of Annex B is the minimum necessary to meet the development goals of the developing countries in this regard.

3. Harmonization of tariffs is not an objective of this Round. It has not been envisaged in the Mandate and was not included in the July Framework as one of the necessary features of the formula. Harmonizing the customs tariffs amongst countries with differing industrial/ economic structures and with varying societal needs is not desirable and would not deliver the development objective of the Round.

4. After consideration of the various formulae proposed for these negotiations, a Swiss “type” formula incorporating each country's tariff average seems best suited to address the mandate in its entirety. This could be expressed as:

$$t_1 = \frac{B \times t_a \times t_0}{B \times t_a + t_0}$$

where,

$t_1$ is the final rate, to be bound in *ad valorem* terms

$t_0$ is the bound base rate

ta is the average of the current bound rates

B is a coefficient, its value(s) to be determined by the participants

The defining features of this formula are as follows:

- The "formula" would apply to bound tariff lines; and
- The coefficient 'B' will be modulated to reflect the ambition in other areas relevant to market access agreed to for this Round;

5. All non-ad valorem duties shall be converted to ad valorem equivalents before the adoption of the formula, and bound in ad valorem terms.

6. This is an equitable formula as it takes into account the present tariff commitments of Members. It improves the tariff profiles by compressing the dispersion of tariffs within each Member. It is transparent as it uses a well known factor, each Member's tariff average, as the basis. It seeks to match the ambition level in all areas of market access negotiations in the WTO, with the inclusion of a 'B' factor. The overall reduction commitment it imposes in percentage terms is proportional amongst developed and developing countries, removing the shortcoming in the simple Swiss formula that imposes much greater reduction requirements on the participating developing countries.

7. The impact of any tariff reduction formula depends on the numbers which are the essence of the formula. At this stage the important consideration is whether the formula by its nature complies with the mandate, i.e. whether it reduces or eliminates tariff peaks, high tariffs, and tariff escalation taking fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments. We believe the above formula is still the most appropriate because:

(i) it is based on the current tariff profile;

(ii) it has an element of progressivity in national tariffs;

(iii) it allows for less than full reciprocity in reduction commitments; and

(iv) its liberalizing effect can be adjusted by variations in the coefficient 'B'.

8. Having agreed on the basic structure of the formula, Members would have to address the part of the mandate related to Special and Differential treatment for developing country participants in the application of the formula on current bound tariffs. Particular sensitivities of developing countries would be attended by longer implementation periods, less than formula cuts for some tariff lines and the exclusion of some tariff lines from any formula cut. The figures related to those flexibilities would have to be negotiated after an agreement on the formula itself.

**Treatment of Unbound Tariff Lines**

9. Increasing the binding coverage to 100 per cent is a desirable objective for this Round. However, it must be recognized that appropriate flexibilities are required by developing countries to achieve this objective. The average as on the base date of presently unbound lines will be marked up by x times, which shall be negotiated as indicated in the framework agreement. Thereafter, the marked up unbound tariff lines could be bound at an average level after the application of the formula. Developing country Members would then have the flexibility to fix individual tariff lines around this average. The formula for unbound tariff lines will be slightly modified i.e., the formula would apply only on the tariff average and not on a line by line basis. The modified formula for unbound tariff lines shall be as follows:

$$t_{a1} = \frac{B \times x\, t_a \times t_a}{B \times x t_a + t_a}$$

Where:

$t_{A1}$ is the average for newly bound lines

$x_{tA}$ is the marked up tariff average of MFN applied rates as on the base date

$t_A$ is the tariff average of MFN applied rates as on the base date

B is a coefficient, its value(s) to be determined by the participants

10. Members covered by paragraphs 6 and 9 of Annex B of the framework shall not undertake tariff reductions in this Round. Members should also recognize liberalisation recently undergone by newly acceded Members.

(TN/MA/W/54, 15 April 2005)

## Negotiating Group on Market Access

# Market Access for Non-agricultural Products

## Treatment of Non-reciprocal Preferences for Africa

The following communication, dated 17 February 2005, is being circulated at the request of the Delegation of Rwanda on behalf of the African Group.

### I. INTRODUCTION

1. Trade preferences play a crucial role in Africa's development. Paragraph 16 of Annex B recognizes that challenges may be faced by non-reciprocal preference receiving Member countries as a result of NAMA negotiations. This paper points to the rationale for these preferences and proposes some preliminary ideas for the treatment of non-reciprocal preferences in these negotiations, taking into account the developmental needs of some African economies.

2. The paper also addresses those NTBs that are linked to preferences. NTBs are an integral part of the NAMA negotiations as indicated in paragraph 14 of Annex B.

### II. BACKGROUND

3. Non-reciprocal preferences under the GATT have been cemented by the principle of special and differential treatment, (S&D) for developing countries and LDCs, which has evolved over time, and remains an important part of the WTO legal framework. S&D in preferential tariff margins, has been realised by the principle of less than full reciprocity in Part IV of GATT, the Enabling Clause, exceptional circumstances which warrant a waiver of the MFN Principle of GATT Article 1.1, and other relevant circumstances in tariff negotiations, including fiscal, developmental and strategic.

4. Most African countries depend on non-reciprocal preferences for a large share of their exports. Any further liberalisation must take into account this commercial reality to avoid further marginalization of some African countries which need to progressively adapt their weak industrial base.

5. In the NAMA modalities, reductions in MFN rates will reduce the preferential margin with negative effects on trade flows in some African countries. These countries rely on non-reciprocal preferences as a development tool and they will be faced with increased competition in their traditional export markets. Consequently, resulting adjustment costs will disrupt the sequencing necessary for the growth and industrialisation process. Due to the loss of preferential tariff margins, African economies will need the support of the multi-lateral trading system to meet their trade and development needs, as encompassed in the Doha Development Agenda. The crux of our expectations has been previously articulated by a group of African countries in the submission TN/MA/W/27.

### III. DOHA DEVELOPMENT AGENDA

6. Development concerns form an integral part of the Doha Work Programme and the Doha Ministerial Declaration. In paragraph 2 of the Doha Declaration, Ministers placed the needs of developing countries and LDCs at the heart of the Doha work programme and agreed to make positive efforts to ensure that these countries '…secure a share in the growth of world trade commensurate with the needs of their economic development'.

7. In paragraph 16 of the Doha Declaration, Ministers agreed that NAMA negotiations shall take fully into account the special needs and interests of developing countries and LDCs, including through less than full reciprocity in reduction commitments. Furthermore, paragraph 16 of the Doha Declaration incorporates paragraph 50 of the same Declaration whereby, Ministers further linked NAMA negotiations to Part IV of the GATT 1994 and the Enabling Clause.

8. In the Doha Work Programme paragraph 1 (d), under "Other Development Issues" and paragraphs

1 and 16 of Annex B, Members agreed to consider the issue of preferences in the NAMA negotiations, recognizing the challenges faced by non-reciprocal preference beneficiary Members. Additionally, in paragraph 3 of Annex B, Members further incorporated paragraph 16 of the Doha Declaration into the NAMA framework for establishing modalities.

9. Negotiations on NTBs are an integral part of the NAMA negotiations as indicated in paragraph 14 of Annex B. In Paragraph 2(b) of the Enabling Clause, Members agreed to permit differential and more favourable treatment with respect to the provisions of the General Agreement pertaining to non-tariff measures. African countries expect that in the NTB negotiations, the principle of S&D treatment for developing countries and LDCs will fulfil the objective of paragraph 16 of the Doha Declaration.

## IV. RATIONALE FOR THIS PROPOSAL

### (i) Development Needs

10. In Article XXXVI:8 of GATT 1994, it was agreed that Members from developed countries "do not expect reciprocity" in trade negotiations from less-developed contracting parties. The interpretative note on article XXXV1:8 clarifies that "less-developed Members should not be expected, in the course of trade negotiations, to make contributions which are inconsistent with their *individual* development, financial and trade needs, taking into account past trade developments".

11. On industrialization, Members recognized the need for increased and favourable market access for processed and manufactured goods of particular export interest to developing countries and LDCs, as indicated in article XXXVI:5 of GATT.

12. On tariff reduction, GATT article XXVIII *bis* affirms that tariff negotiations shall accord adequate opportunity to take into account the concerns of individual countries and sectors and "….all other relevant circumstances, including fiscal, developmental, strategic and other needs of the contracting parties concerned".[1]

13. The Appellate Body has interpreted the Enabling Clause to allow for differential and more favourable treatment to some developing countries, without according such treatment to others.[2] Additionally, the principle of non-reciprocity is also reiterated in the Enabling Clause.

### (ii) Exceptional Circumstances

14. In exceptional circumstances, a waiver from paragraph 1 of article 1 of the General Agreement on Tariffs and Trade has been sought to permit some developing countries and LDCs to obtain preferential access to markets of developed countries. The ACP-EU Agreement is one such example.

## V. BENEFITS OF PREFERENCES

15. Preferential trade overcomes the inherent disadvantages of some African countries, and in particular weak and vulnerable economies that have not been effectively involved in previous rounds of negotiations. The inequality of economic factors and levels of development means that these countries cannot participate in reciprocal trade without devastating their economic structures. Many of these countries are reliant on specific industries and have economies that are sensitive to tariff fluctuations.

16. Non-reciprocal preferences have generally been beneficial to preference-receiving developing countries and LDCs. Preferential market access increases export earnings, promotes industrialization and accelerates rates of economic growth. Preferences are credible instruments of development that help beneficiaries strengthen their industries, to face competition in the long term.

17. Even though preferences are covered by a narrow range of tariff lines, they have made a positive impact on the countries that have exploited them. Under the right conditions and flexibilities, preferences have contributed significant economic gains for weak and vulnerable economies. For instance AGOA provides a number of products with duty free access to the US market for about 37 Sub-Saharan African countries. AGOA has boosted clothing and textile exports from Africa, by attracting investment, creating employment and promoting diversification opportunities through the establishment of clothing and textile industries. This

preferential initiative has also triggered upstream processing activities with enormous impact on poverty alleviation efforts. Additionally, to the EU market, African countries have benefited from preferential exports of fish and fish products, chemicals, paper and leather products among other products.

18. The phasing out of import quotas in the clothing and textile sector is a concern for preference receiving countries. These countries will be seriously challenged by the intensified competition resulting from the post ATC environment. Non-reciprocal preferences will enable weak and vulnerable countries to offset these competitive disadvantages in the medium term.

19. Due to the devastating decline in the terms of trade for agricultural commodities, preferential treatment of a range of manufactured goods originating from developing countries and LDCs has been valuable. These preference receiving goods have contributed to economic gains and industrial diversification. The rapid expansion of the economies of some African countries will therefore be facilitated by the continued use of preferences and the reduced dependence on the export of primary products.

20. African economies need to develop strong industrial sectors. To accomplish this, they need more industrial output, employment and markets for their exports. Preferences can and must continue to spur development in Africa. In fact, based on the analysis of *Iancovicina et.al. (2002)*, it is estimated that "(i) if 37 sub-Saharan African countries were to receive unrestricted preferential access to the markets of the Quad countries (EU, US, Japan, Canada), their welfare would increase by about $1.7 billion; and (ii) a 25 percent MFN tariff liberalization by the Quad countries will erode the preference margin received by these countries and reduce their welfare by about $0.5 billion or about 30 percent".[3]

## VI. PROPOSED TREATMENT OF PREFERENCES IN THE NEGOTIATIONS

21. The treatment of non-reciprocal preferences in the non-agricultural tariff reductions should create opportunities to promote the trade and economic development needs of some African countries and not further deepen the crisis of de-industrialisation or accentuate the unemployment and poverty. Due to the critical importance of preferences for these weak and vulnerable economies, suitable treatment of products from African countries, currently enjoying non-reciprocal preferential access should be considered in the NAMA negotiations. The African group proposes the application of a correction co-efficient to an approach that will be agreed by Members, to improve the preference margins for these products. Longer staging periods would be required for this option. For products which are not zero rated, preference-giving countries would use the same rates of reduction points to ensure the non-reciprocal margin of preference is maintained.[4]

22. In view of Africa's low levels of industrialisation, sectoral initiatives will hinder development of industrial sectors in Africa.

23. NTBS in developed country markets have impacted on the effectiveness and usefulness of preferences for developing countries and LDCs. Some of the NTBs which have reduced the utilisation rate of preferences include rules of origin, SPS and TBT measures. In accordance with article 2(b) of the Enabling Clause, the preference giving Members should improve the conditions attached to the preferential schemes, including non-trade concerns and non-tariff barriers.

## VII. CONCLUSION

24. Non-reciprocal preference receiving African countries need more time to adjust themselves and rectify their structural imbalances. These preferences can provide the policy space needed to undertake gradual national industrial objectives and commitments which are consistent with development goals of some African countries. Therefore, liberalization of products enjoying preferential market access should be given special treatment in the current negotiations. African countries are additionally concerned about NTBs imposed by the preference-giving countries and hope that in alignment with Paragraph 16 of Doha Ministerial Declaration, these NTBs will be reduced or eliminated, in order to meet the development objectives of these negotiations.

This paper has addressed non-reciprocal preferences. In accordance with paragraph 1 of Annex B, the African Group reserves the right to make further submissions on the specifics of preferences.

**NOTES**

[1] The interpretive note on article XXXVI: 8 of GATT states that non- reciprocity will apply in the event of action in article XXVIII *bis,* among others.

[2] See Appellate Body Report WT/DS246/AB/R.

[3] Iancovicina, Elena, Aaditya Mattoo and Marcelo Olarreaga 2002, "Unrestricted Market Access for Sub-Saharan Africa: How much is it worth and who pays?" Journal of African Economies, vol. 10, no. 4, PP. 410-432.

[4] See definition in supplementary notes to Article 1 paragraph 4 of GATT 1994.

(TN/MA/W/49, 21February 2005)

# Negotiating Group on Market Access

REPORT BY THE CHAIRMAN, AMBASSADOR S. H. JÓHANNESSON, TO THE TRADE NEGOTIATIONS COMMITTEE

**I. Status of Work**

1.1 The NAMA Group met for the second time this year from 14-18 March. The meeting was convened by WTO/AIR/2525 and Add.1 and the proposed structure of work was communicated to Members through an organizational fax dated 1 March 2005. For this meeting, I used a mix of plenary and restricted open-ended sessions, and I think that this organization of work was useful in helping delegations focus on the issues at hand.

1.2 In plenary, discussions took place on the basis of the following documents: "Treatment of non-reciprocal preferences for Africa" (TN/MA/W/49) by the African Group; "Market access for non-agricultural products" (TN/MA/W/53) by the ACP Group of States concerning also non-reciprocal preferences; "Squaring the circle of ambition plus flexibility: providing options for developing countries" (TN/MA/W/50) by Chile, Colombia and Mexico; "A proposal for a simple non-linear formula with credits" (TN/MA/W/7/Add.1) by Norway; "Unbound tariff rates – establishment of base rates" (TN/MA/W/51) by Canada; Hong Kong, China; New Zealand and Norway; "Elimination of low rates" (TN/MA/W/52) by Canada and Norway; "How to create a critical mass sectoral initiative" (JOB(05)/37)[1] by Canada and the United States, "Swiss formula with dual coefficients" (JOB(05)/36) by the United States. A statement was made by the European Communities concerning their proposal on a formula. This proposal was presented in detail in the restricted open-ended session and a copy of the presentation was handed out to participants. Malaysia also circulated a paper entitled "Proposal for treatment of unbound tariffs", which was discussed in detail in the restricted open-ended session.

1.3 At the restricted open-ended sessions, the following topics were taken up: Formula (on the basis of the proposals by Chile, Colombia and Mexico; EC; Norway; the US and my draft checklist of issues); treatment of unbound tariff lines (on the basis of the paper by Canada; Hong Kong, China; New Zealand and Norway, the paper by Malaysia and my draft checklist of issues); *Ad valorem* equivalents (the paper circulated in the Committee on Agriculture in Special Session dated 11 January 2005 and entitled "Conversion of final bound non-*ad valorem* duties into *ad valorem* equivalents (AVEs)" was used as background document for the discussions); Product coverage (on the basis of a Secretariat document JOB(05)/32).

1.4 On non-tariff barriers (NTBs), the Group conducted a multilateral examination of notified NTBs as contained in Part I of the Secretariat document JOB(04)/62/Rev.2 The examination took place on the basis of questions I had provided in my organizational fax. The Group also took note

[1] Subsequently circulated as TN/MA/W/55.

of Norway's NTB notification circulated in document TN/MA/W/46/Add.11.

1.5 In the wrap up session, participants reported on the work they had undertaken in the context of private consultations. It is evident that this practice of giving time to delegations to meet privately is valuable. I reported on my discussions with the Chairman of the Committee on Trade and Environment in Special Session on the status of work on the identification of environmental goods. I also provided some concluding remarks concerning this session which were circulated in document JOB(05)/54.

**II. Outstanding Issues**

2.1 The main challenge facing this Group continues to be to achieve the right balance between ambition and flexibilities.

**III. Future Work**

3.1 The next meeting of the Group is scheduled for 25-29 April. I have communicated to participants the organization of work for that session in a fax dated 12 April 2005.

(TN/MA/15, 22 April 2005)

1. **अंतरराष्ट्रीय व्यापार : अवधारणा, नीतियाँ, प्रक्रिया** डा० रवि शंकर, संतोष कुमार वर्मा (सम्पादक); 2005, रू 125/-
2. **Biotechnology in Agriculture: Food Security, Food Safety and WTO-Related Issues,** B. Bhattacharyya (ed.), 2000, Rs 250
3. **WTO Consistency of Trade Policy of Select Partner Countries of India,** 2000, Rs 300
4. **Industrial Development and Export Potential of North Eastern Region,** Rs 1,000
5. **Seattle and Beyond: The Unfinished Agenda,** B. Bhattacharyya (ed.), 2000, Rs 300 (Paperback), Rs 400, (Hardbound)
6. **Impact of Trade Liberalisation on Small-Scale Industry in India,** 1999, Rs 150
7. **Non-Conventional Technology Based Services: Capabilities and Export Opportunities,** H.A.C. Prasad and Vijaya Katti, 1998, Rs 600
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9. **The Impact of the Expansion of the European Union on India's Exports,** 1998, Rs 150
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16. **The Indian Carpet Industry: Evolving Concerns,Prospects and Strategies,** B. Bhattacharyya and L. Sahoo (eds.), 1996, Rs 350
17. **Carpet Industry: Prospects and Perspectives,** B. Bhattacharyya and L. Sahoo (eds.), 1996, Rs 250

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