

Doha Mandate

"We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as nontariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions. The negotiations 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, in accordance with the relevant provisions of Article XXVIII bis of GATT 1994 and the provisions cited in paragraph 50 below [on special and differential treatment for developing and least-developed countries]. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations."

(Paragraph 16 of the Doha Ministerial Declaration)

Market Access for Non-Agricultural Products

Having missed all deadlines on non-agricultural market access leading up to Cancun, as well as failed to agree on text presented there by Minister Luis Ernesto Derbez of Mexico, at the end of the Conference ministers instructed delegations "to continue working on outstanding issues with a renewed sense of urgency and purpose and taking fully into account all the views we have expressed in this Conference".

However, in the ten months between Cancun and the end of July 2004, Members remained reluctant to seriously engage in negotiations until the level of ambition in agriculture had become clearer. As a result, there was virtually no movement during that period. Although the framework agreement on non-agricultural market access (NAMA) contained in the Annex B of the July Package helped provide a second breath to the stalled discussion, it was much less specific than the agriculture annex, outlining merely "initial elements for future work on modalities".

In the July Package, Members agreed to place an initial paragraph outlining developing country concerns in front of the Cancun NAMA text. This initial paragraph stipulates that "additional negotiations are required to reach agreement on the specifics of some (initial) elements". These initial elements relate to the tariff reduction formula, the starting point for binding unbound tariff lines, flexibilities for developing countries, participation in sectoral initiatives and preferences.

In one view, this puts the NAMA negotiations back to the starting point. Some delegations – mostly from developing countries – appear to view the language regarding 'initial elements' to mean that the modalities issue is wide open and that all options are still on the table. Developed countries, on the other hand, have suggested that additional negotiations will simply involve tweaking the elements and maintaining the essential form under the framework.

With some advances in technical discussions on agriculture, Members are now moving their attention back to NAMA. Progress in this area, which some predict could become more challenging than agriculture, will be a priority in the lead-up to the Hong Kong Ministerial in December 2005. The expiry of the Agreement on Textiles and Clothing at the end of 2004 is a major factor affecting countries and their positions on NAMA (see page 3).

Mandated Deadline

As part of the 'single undertaking', the NAMA negotiations will conclude when the Doha Round does.

Background

The Negotiating Group on Non-agricultural Market Access was established by the Trade Negotiations Committee on 1 February 2002.

Reducing tariffs and non-tariff barriers (NTBs) on industrial goods was the core of multilateral trade negotiations under the GATT, and remains central to the negotiations agreed in Doha under the WTO. Most countries support this mandate, although many developing countries and, in particular, small economies are concerned about loss of government revenue, the potential weakening of their competitiveness, and the expected erosion of preferential access margins vis-à-vis other developing country competitors. In addition, they generally feel that reductions in tariff and non-tariff barriers will disproportionately benefit developed countries, given the current organisation of production, supply and market chains in international trade.

Tariff Reduction Formula

To reduce tariffs on industrial products in both developed and developing countries, the July Package stipulates that work should continue on a "non-linear formula applied on a line-by-line basis". The reduction is to commence from current bound rates, and for un-

bound tariff lines, two times the MFN applied rate would be used. The final rates, after the application of the formula, would be bound in ad valorem terms (for a description of the NAMA annex of the July Package, see the Overview of this series of Doha Briefings).

In this regard, the conversion of non-ad valorem duties into ad valorem equivalents will be essential so they can be applied to the overall tariff reduction formula (non-ad valorem duties are based on volume; ad valorem tariffs are based on a fixed percentage of the value of imports). Currently, discussions are focusing on agreeing on a methodology to use for the conversion. The US proposed the creation of a 'sub-group' to study the implications and come forward with a formula. This idea was rejected by the EC, which argued it would duplicate efforts already underway in the agricultural negotiations.

Throughout the process, developing countries have opposed the adoption of a 'non-linear' formula, which would cut high tariffs more steeply than lower ones. A key issue for concern is that greater tariff reductions for countries that have a higher overall average rate would lead to a worsening balance of trade in poorer countries, as reduction on their generally higher rates would not be matched by reductions in industrialised countries with a lower overall average.

Developing countries have also advocated a stronger focus on reducing tariff peaks and tariff escalation. Both tariff peaks, i.e. exceptionally high tariffs on certain products (often those of critical interest to developing countries), and tariff escalation, i.e. higher tariffs on products of higher value added, have been targeted as barriers to industrialisation in developing countries.

Other issues of importance to developing countries are how previous unilateral trade liberalisation and current preferential market access arrangements would be reflected in the modalities. Certain developing countries fear that further tariff reductions would negatively impact their current preferences.

In this regard, the July text states that credit would be given to autonomous liberalisation by developing countries provided that their tariffs were bound on an MFN basis since the conclusion of the Uruguay Round. The preference issue is included in the lists of elements that require further negotiations to reach an agreement.

Sectoral Approach

Beyond the formula, the new framework stipulates that further work is needed on the sectoral component, which aims at agreement on more ambitious tariff

cuts/elimination for certain sectors, including on products of particular export interest to developing countries.

Disagreements have emerged over the nature of the proposed sectoral tariff liberalisation. Developing countries prefer a voluntary approach, developed countries a mandatory one. Recently, the US proposed seeking a 'critical mass' approach, under which Members could seal a deal on eliminating tariffs for a specific product when a large percentage of countries trading in that product would agree.

Special and Differential Treatment

The market access mandate in para. 16 of the Doha Declaration refers to tariff and non-tariff barrier liberalisation "in particular on products of export interest to developing countries [...] The negotiations 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*".

In this regard, the July text contains provisions for special and differential (S&D) treatment for developing countries and least-developed countries (LDCs). These consist of longer implementation periods for tariff reductions for developing countries and duty and quota-free access for non-agricultural goods from LDCs. While LDCs are exempted from reduction commitments, the draft nevertheless calls upon them to increase their level of bound tariffs.

According to the text, developing countries would be allowed to keep only five percent of their tariff lines unbound, provided they do not exceed five percent of total import value. In addition, they would be allowed to apply less than formula cuts to up to ten percent of the tariff lines, provided they do not exceed ten percent of the total value of imports.

Non-tariff Barriers

Discussions on non-tariff barriers (NTBs) have lagged behind those on tariffs for some time. In the months following the July Package, the work related to NTBs focused mainly on two different lines. The first line refers to the compilation of NTB notifications pursuant to a new format established in September 2003, and their examination. The second line refers to exploring possible ways for categorising NTBs.

Some countries, including the US, New Zealand and Korea, have been pushing for a 'vertical' non-tariff barrier modality that would bundle together a number of NTB issues relevant to a single industry and address them in

the context of that industry. The EU, while not opposing this approach, noted that the 'vertical' approach could leave out some important NTBs and that a 'horizontal' approach should not be completely disregarded. Developing countries have indicated that capacity constraints in identifying NTBs using 'vertical' approach could limit their ability to engage in the discussions.

Concern Over Tariff Elimination

Tariffs can be important revenue generators for poorer states, where income and other tax collection systems are underdeveloped. According to IMF figures, import duties represented 15 percent of government revenue in developing countries in 1999-2001; in African LDCs, this share was 34 percent. Steep tariff cuts would mean a significant decline in prices of imported products in developing countries, where tariffs are currently high, while the decline would be only marginal for developed countries. Many Members have emphasised the importance of tariffs to government revenue.

Current State of Play

Following agreement on the July Package, the NAMA negotiating group has met twice. As expected, the work during these two meetings concentrated on technical issues and on trying to agree on a work programme.

Initial disagreements have begun to emerge on how the work plan should be structured, especially in respect to the sequencing of the elements that would require additional negotiations. NAMA Chair, Ambassador Stefan Johannesson of Iceland, circulated some preliminary ideas on how the work plan could be organised, but was not able to get broad support on any of the ideas that have been put forward. The EU suggested focusing on three elements, or a so-called 'tripod,' in the first instance, including: the formula, sectoral initiatives and flexibilities.

The concept, however, created quite a stir. A large number of developing countries, including Brazil, Thailand, Peru, Ecuador, Venezuela, Argentina, Indonesia, the Philippines, Malaysia, El Salvador, Honduras, the Dominican Republic and India opposed the use of this concept, arguing that putting the formula (a core modality for the reduction exercise) at an equal footing with the sectoral approach (which was a supplementary modality and – they said – voluntary) was wrong. In this sense, they stated that they would not agree to negotiate a sectoral component until the formula was agreed. Developing countries have also stressed that the issue of flexibilities for devel-

oping countries should be considered at every stage of the process.

Some developed countries, including the US, the EU, Australia and New Zealand reacted negatively to the position of developing countries, stating that the July Package did not set out primary modalities, and that delegations should not attempt to reinterpret or break the balance inherent in the text. Moreover, they reminded delegations that both the formula and sectoral tariff elimination were characterised as 'key', suggesting both elements as equally important.

Environmental Goods

In March 2002, Members decided that negotiations on "reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods" (para. 31(iii) of the Doha Declaration) would take place in the Non-Agricultural Market Access Negotiating Group, to be monitored by the Committee on Trade and Environment. At this stage the CTE is still in the process of establishing a definition of what would qualify as an environmental good. Once this work is concluded, the Market Access Negotiating Group will be in a better position to determine how to address the issue.

See Doha Round Briefing No.8 on Trade and Environment.

Textiles and Clothing

After almost a half-century as a quota-managed sector on the periphery of the multilateral trading system, on 1 January 2005 textiles and clothing will be fully integrated under WTO disciplines governing industrial goods, including market access negotiations and trade remedy rules. That day marks the expiry of the WTO's Agreement on Textiles and Clothing (ATC), created in 1995 as a transitional mechanism to phase out the system of quotas known as the Multi-fibre Arrangement (MFA), which allowed developed countries to specify quantitative restrictions on imports from individual developing countries.

While 40 years ago developed countries were the main exporters of textiles and apparel, developing countries now account for half of world textile exports and nearly three quarters of world apparel exports. Liberalisation of the textiles and clothing sector was considered one of the key 'deliverables' for developing countries from the Uruguay Round. During the negotiations, the issue was very much framed as a concession from developed countries to developing countries in return for agreements on intel-

lectual property rights and services. Indeed, the International Textile and Clothing Bureau went so far as to estimate that the liberalisation of the sector would contribute as much as one-third of the entire gains for developing countries from the Uruguay negotiations (G/C/W/495).

However, as the actual liberalisation date approaches, it has become clear that not all developing countries stand to benefit from it. The guaranteed market access provided by the quota system gave many small economies and least-developed countries (LDCs) a larger share in international textile trade than they would have had under a freely competitive regime. In these countries, many jobs essential to poverty alleviation and women's empowerment rely on this access. On the other hand, larger developing countries such as China and India had their exports constrained by import quotas, and stand to gain from the expiry of the ATC. They have been reluctant to support the efforts of countries such as Bangladesh and Uganda to create adjustment mechanisms to soften the blow from the liberalised regime that is being ushered in. The liberalisation of the sector thus threatens to divide developing countries between expected beneficiaries and losers.

Debate on how to minimise trade disruption and ensure the development interests of smaller, more vulnerable developing countries and LDCs has already started in the Council for Trade in Goods and will inevitably become a major component of the NAMA negotiations.

Background

The quota system began in 1961 as a series of voluntary arrangements under which developing countries agreed to restrain their exports to developed countries to certain quota levels – ostensibly to give developed countries a chance to adjust their markets and enable labour transition. This system was formalised into the Multi-fibre Arrangement in 1974. By 1994 only the EU, Norway, the US and Canada maintained quotas under the MFA.

The birth of the World Trade Organisation on 1 January 1995 brought trade in textiles and clothing under the purview of multilateral trade rules. The WTO's ATC provided rules and a schedule for phasing out all quotas within ten years. Quotas still exist on nearly half of the tariff lines under quota in 1990.

Back-loading

As there were no rules in the ATC about which products and how much of each type of product had to be inte-

grated at each period, developed countries had the choice of which products to remove from the quota system at each stage. They chose mainly to liberalise products that accounted for a minor share of their total imports by *volume* in the first three stages – despite representing the appropriate percentage of the *number of product categories* demanded by ATC rules. As a result, the liberalisation process has been severely back-loaded, with the vast majority of imports scheduled to be liberalised in the last stage.

This back-loading destroyed the possibility of a gradual phase-out and threatens to lead to a trade shock as prevailing patterns of international trade flows change abruptly in early 2005. Several sources suggest that China and India will increase their market share at the expense of both developed country producers and smaller countries whose exports were dependent upon quota access.¹ UNCTAD suggests that as a result of back-loading, "the brunt of the adjustments has now been shifted to manufacturers and their employees, including a large number of low-skilled women producers who are being exposed to significant and sudden structural changes" (UNCTAD, 2004). According to some sources, the proportion of restrained trade left to be brought into WTO compliance by the US and the EU at the end of 2004 is 80 percent and 68 percent respectively (G/C/W/495).

Adjustment Costs

Countries such as Mauritius, Bangladesh, the Dominican Republic, Fiji, Madagascar, Sri Lanka and Uganda, Jamaica, Nepal, Mongolia and Turkey anticipate losses from the quota phase-out. They have repeatedly requested the WTO to consider adjustment mechanisms to minimise the adverse impacts of the transition to a quota-free trading environment on LDCs, vulnerable economies, and other small developing countries.

In July 2004, Mauritius called for an emergency meeting of the Goods Council on the quota phase-out. Due to lack of consensus on the need for such a meeting, the Council did not discuss the issue until 1 October, when Bangladesh, Mauritius, the Dominican Republic, Fiji, Madagascar, Sri Lanka and Uganda (subsequently supported by Jamaica, Nepal and Mongolia) presented a proposal (G/C/W/496) asking the WTO Secretariat to prepare a study on adjustment-related issues and costs arising from quota elimination and to establish a WTO work programme to discuss possible solutions to the problems identified in the study.

On 18 October, Tanzania made a similar submission (WT/COMTD/LDC/W/36) on behalf of the LDCs to the WTO's Sub-Committee on Least-developed Countries, requesting the Secretariat to identify, analyse and suggest measures to alleviate any adverse impacts of the expiry of the ATC. Turkey subsequently submitted a proposal (G/C/W/497) to the Goods Council reiterating the need for adjustment mechanisms, suggesting options ranging from "a monitoring mechanism that will concentrate on the threat of market distortions" to a "unique safeguard mechanism that has a self-triggering structure".

India, China and some other members of the International Textiles and Clothing Bureau have opposed these proposals and insisted that the ATC must be implemented according to plan. These Members maintain that adjustment challenges could be met by encouraging investment by developing country textile producers in the textiles sector, modifications in rules of origin by major importing countries, and greater coherence with institutions such as the International Monetary Fund and World Bank in supporting adjustment assistance.

There still is no consensus on any initiative on adjustment-related issues. However, textile and clothing issues may play out in other fora.

See also Doha Round Briefing No.12 on Technical Assistance and Capacity-building.

NAMA

Given the large range and overall high level of tariffs in this sector in both developed and developing countries, the formula used for tariff reductions within NAMA will have strong effects on market access in the textiles and clothing trade. The US has been vocal in its demands that developing countries open up their textile and clothing markets, but developing and least-developed countries are likely to use the 'less than full reciprocity' principle to avoid having to rapidly open up their textile and clothing sectors.

Also relevant in this context is the effective erosion of preferences that will result from the most-favoured nation (MFN) tariff reductions in the sector: LDCs and other vulnerable countries will potentially be unable to compete with large developing countries in spite of their zero tariff rate and large export-oriented, employment-intensive and poverty-reducing industries.

Ways Forward

Given these risks, the LDCs and smaller developing countries may attempt to create a sectoral initiative within NAMA to enable gradual adjustment in market shares and to protect industry in their countries. Another potential course of action in the textiles and clothing sector is for the possible 'losers' from liberalisation to seek enhanced preferential access in developed countries, including through improved rules of origin that would allow for more extensive regional cumulation, i.e. allow for several countries to be considered as one source for the purposes of rules of origin. For example, Canada recently changed its trade rules to allow developing countries market access under its preferential regime so long as the components of the product were made in any developing country. By contrast, the US and the EU only allow developing countries preferential market access if a certain proportion of the product's value is added within the exporting country itself.

Implementation

Particularly pertinent in this context is paragraph 4.2 of the Doha Round Implementation Decision, which says in relation to the ATC that "Members will exercise particular consideration before initiating investigations in the context of anti-dumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO." Similarly, on 1 November 2004 WTO Director-Gen-

eral Supachai Panitchpakdi warned Members against excessive litigiousness in the post-ATC textile world, saying that efforts by some private industry groups to push governments into pursuing WTO dispute settlement complaints on their behalf "are mainly because of the lack of adjustment [in] the private sector" and that companies "have to understand this is something that has been agreed upon".

A significant number of anti-dumping duty requests have been already been filed in the textiles and clothing sector; this number promises to increase after the quota phase-out. Several issues have been brought up during rules negotiations that are especially relevant to textiles trade remedies. These include proposals to change the 'sunset clause', which currently allows Members to extend anti-dumping duties after five years if national authorities determine that their removal "would be likely to lead to a continuation or recurrence of dumping and injury", to make the expiration of such duties mandatory after five years. Also relevant are proposals to constrain back-to-back anti-dumping claims, which are pervasive in certain categories of textile and clothing goods.

Endnotes

¹ Hildegunn Kyvik Nordas, *The Global Textile and Clothing Industry post the Agreement on Textiles and Clothing*. Geneva: WTO, 2004.

Key Documents

G/C/W/495 ITCB/India

G/C/W/496 Mauritius

G/C/W/497 Turkey

WT/COMTD/LDC/W/36 Tanzania

For other Members' proposals see <http://docsonline.wto.org/> under TN/MA/W/*.

For documents produced by the WTO Secretariat search for TN/MA/S/*.

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