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MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Communication from the NAMA-11 Group of Developing Countries

The following communication, dated 7 June 2007, is being circulated at the request of the delegations of Argentina, Bolivarian Republic of Venezuela, Brazil, Egypt, India, Indonesia, Namibia, Philippines, South Africa and Tunisia.

This document elaborates on the elements contained in document TN/MA/W/79 and other papers submitted by the NAMA-11 to the Negotiating Group on Market Access.

I. THE MANDATE

1. In Paragraph 16 of the Doha Ministerial Declaration (DMD), Ministers agreed to negotiations which shall aim to reduce or as appropriate, eliminate tariffs, including 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. These 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 of the DMD[1].

2. In addition to this, in the Hong Kong Ministerial Conference, in Paragraph 24 of the Hong Kong Ministerial Declaration (HKMD), Ministers instructed the negotiators “to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA”.

3. Thus, Paragraphs 16 of the DMD and 24 of the HKMD instruct negotiators to observe two conditions regarding the level of ambition of the NAMA negotiation. One is within NAMA, and it is enshrined in the concept of “less than full reciprocity in reduction commitments”; the other is the balance between NAMA and agricultural market access, according to which a comparable level of ambition has to be observed.

[1] “The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions”.

II. NAMA: THE INTERNAL BALANCE

A. THE SWISS FORMULA

4. In the HKMD it was agreed to apply a Swiss formula with coefficients with the aim of reducing non-agricultural tariffs. This formula implies that countries with higher tariffs –i.e., developing countries– have to make substantially higher tariff reductions.

5. The Swiss formula makes it difficult to compare liberalisation efforts both between developed and developing countries in NAMA and between NAMA and Agriculture. Argentina has presented a proposal to ensure comparability between the levels of ambition in NAMA and agricultural market access[2]. It is necessary, for equity and transparency reasons, to determine the impact that the coefficients of the Swiss formula would produce on the non-agricultural tariff structure of developed and developing countries (see Annex on the current tariff structure). Only by doing this will it be possible to confirm that the mandate for less than full reciprocity is achieved.

B. THE COEFFICIENTS

6. Some developed countries have proposed to use coefficients of 10 and 15 for developed and developing countries respectively. Table 1.a shows that developed countries' average tariffs will be reduced by 40%. In contrast, linear cuts for NAMA-11 and other developing countries will exceed 69%, on average.

7. As a result, developing countries will have to implement tariff reductions which, in linear terms, almost double those that will be carried out by developed countries. Furthermore, the average tariff cut in percentage points for developing countries will be nearly 9 times higher than the cut for developed members. Undoubtedly, this proposal is not consistent with the principles of less than full reciprocity and special and differential treatment set out in Doha.

Table 1
Impact of Tariff Reductions on NAMA

(a) Table 1.a Bound Tariff

	Swiss formula coefficient	**Average initial tariff**	**Average resulting tariff**	**(a)** % Reduction	(b) Reduction in percentage points
Developed Countries	10	6.8	4.0	40.4%	2.7
NAMA-11 Countries	15	34.4	10.4	69.6%	23.9
NAMA-11 Countries	35	34.4	17.3	49.5%	17.0

[2] Implementing Paragraph 24 of the Hong Kong Ministerial Declaration. TN/MA/W/67. 13 March 2006.

(b) Table 1.b Applied Tariff

	Swiss formula coefficient	**Average initial tariff**	**Average resulting tariff**	**(c)** % Reduction	(d) Reduction in percentage points
Developed Countries	10	3.4	2.6	25.5%	0.9
NAMA-11 Countries	15	12.2	6.7	44.9%	5.5
NAMA-11 Countries	35	12.2	9.1	25.9%	3.2

Note: A mark-up of 30 p.p. was applied to unbound tariff lines.

Source: based on WTO (2006). *Simulation of tariff reductions for non-agricultural products.* JOB(06)/210.

C. THE MINIMUM COEFFICIENT SPREAD REQUIRED FOR A BALANCED RESULT

8. As table 1 shows, only when coefficients at least 25 points higher than those of developed countries are used for developing countries -as set forth in the NAMA-11 proposal[3]- is there a relatively balanced result between linear cuts in both groups of countries.

9. Some developed countries argue that a coefficient of 35 would entail no reduction in applied tariffs. Besides the fact that this argument ignores the value of bindings and the important market access granted unilaterally in the form of autonomous liberalization, table 1 illustrates that, with such a coefficient, bound tariffs would be reduced by 49.5% on average, and applied tariffs would fall by 25.9% on average, more than the average linear cuts of developed countries in either bound or applied rates.

10. As a result of this proposal, NAMA-11 countries new bound tariffs would face a reduction below the current applied level in 22% to 51% of tariff lines, depending on the country, without considering flexibilities (Table 2). This reduction below the applied level would affect between 9% and 37% of the value of non-agricultural imports in most of these countries.[4]

[3] NAMA-11 Ministerial Communiqué. TN/MA/W/79. 6 July 2006.

[4] Except for two countries where only 4% of tariff lines would fall below the applied level, while affecting a similar percentage of imports.

Table 2
Cuts into applied tariffs in NAMA-11 countries
Swiss formula with coefficient of 35 and mark-up of 30

	Without flexibilities		Paragraph 8.a flexibilities		Paragraph 8.b flexibilities	
(i) Country	**% of applied tariff lines affected**	**% of imports affected**	**% of applied tariff lines affected**	**% of imports affected**	**% of applied tariff lines affected**	**% of imports affected**
Argentina	25.1%	36.7%	25.1%	36.7%	24.8%	31.7%
Brazil	27.7%	23.4%	18.4%	20.7%	22.7%	19.3%
Egypt	31.6%	17.4%	26.1%	15.9%	26.6%	15.7%
Philippines	4.0%	3.3%	2.8%	1.8%	2.7%	1.8%
India	22.9%	8.9%	20.2%	8.9%	17.9%	8.7%
Indonesia	4.0%	4.1%	1.5%	2.1%	1.1%	1.8%
Namibia	35.2%	n/a	34.2%	n/a	30.3%	n/a
Pakistan	27.7%	n/a	18.1%	n/a	22.7%	n/a
South Africa	35.2%	14.1%	34.2%	10.5%	30.3%	13.1%
Tunisia	51.2%	n/a	41.2%	n/a	46.3%	n/a
Venezuela	23.1%	27.4%	13.3%	24.4%	18.1%	15.9%

Source: based on WTO (2006). *Simulation of tariff reductions for non-agricultural products*. JOB(06)/210.

D. BINDINGS AND FLEXIBILITIES

11. Developed countries' positions do not take into account the value of developing countries bindings, nor of unbound tariffs which will now be bound, nor of those already bound in previous rounds and which will now be bound at a substantially lower level. This means that paragraph 2.a of Article XXVIII *bis* of GATT 1994, concerning the value that should be attached to bindings as a safeguard against tariff increases, is actually being disregarded by developed countries. The cuts on bound tariffs do have commercial value by increasing predictability thus favouring the expansion of trade.
12. In addition, some developed countries also ignore the obligation set forth in paragraph 3b of Article XXVIII *bis* which states that "Negotiations shall be conducted on a basis which affords adequate opportunity to take into account the needs of less developed countries for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes".

13. Ministers in Hong Kong reaffirmed that paragraph 8 flexibilities are an integral part of the modalities. However, as WTO simulations show, the use of flexibilities and mark-up by developing countries has a negligible impact on tariff cut results[5]. As a matter of fact, when taking into account the effect of the coefficients on developing country tariffs, it can be seen that, even with a coefficient of 35, additional flexibilities will be needed to adjust the results in order to comply with the mandate of less than full reciprocity in reduction commitments.

E. IN CONCLUSION

14. To help negotiations move forward, developing countries have accepted an unprecedented agreement to undertake tariff cuts in NAMA using a Swiss formula, but this does not mean that developing countries will accept to apply a simple Swiss formula coefficient that would put seriously in danger their possibilities of industrial development. Only with a difference of at least 25 points

[5] WTO (2006). Simulation of tariff reductions for non-agricultural products. JOB(06)/210.

between the coefficients of developed and developing countries and enhanced flexibilities in Paragraph 8 will it be possible to achieve the results mandated by Ministers at Doha.

Box: Tariff Cuts in Previous Rounds [a]

During the first GATT multilateral trade rounds, the request-and-offer method prevailed, reaching a trade weighted average tariff cut of 36%. In the Kennedy Round, a 50% linear reduction of tariffs on industrial products was agreed. Nevertheless, the effective cut in developed countries reached 35% due to the numerous exemptions.

In the Tokyo Round, it was agreed that developed countries would apply a Swiss formula with coefficients 14 and 16. The average tariff cut in industrial products was of the order of 39%. However, the effective tariff reduction for imports originating from developing countries was lower (around 25%), since several products of special export interest to developing countries, such as textiles, clothing, footwear and travel goods, were subject to exceptions and lower cuts.

In the Uruguay Round, each developed country determined how they would achieve the 33.3% average linear cut target. For developing countries, the main objective was to increase tariff bindings. The Negotiating Group on Market Access established that if said countries bound the tariff schedule across the board at a level not over 35% *ad valorem*, this would enable them to meet the objective of a linear tariff cut equivalent to 2/3 of that of developed countries. As a result of negotiations, developed countries reduced their average tariffs by 40% and developing countries did so by 22%. As happened in the Tokyo Round, average tariffs faced by developing countries to enter developed country markets showed a lower reduction (37%), due to lower cuts made by these countries in textiles, clothing and fishery products.

The participation of developing countries in the first rounds of negotiations was optional and only intended for cases in which concessions were required of them. In the Kennedy Round, it was agreed that developed countries were not to expect reciprocity from developing countries. No formal obligation whatsoever was established for developing countries to make tariff cuts. The Tokyo Round endorsed the principle of less than full reciprocity uphold by the Kennedy Round: developing countries were not obliged to adopt the tariff reduction formula agreed upon. During the Uruguay Round, developing countries had to make lower linear tariff cuts than developed countries, while least developed countries did not have to make any cut at all.

a. This box is mostly based on Anwarul Hoda (2001). *Tariff Negotiations and Renegotiations under the GATT and WTO Procedures and Practices*. Cambridge University Press.

III. NAMA AND AGRICULTURAL MARKET ACCESS

A. THE MANDATE

15. Ministers at Hong Kong agreed that there shall be a comparably high level of ambition in agricultural market access and NAMA, consistent with the principle of special and differential treatment.

B. THE DIFFERENCES

16. Trade in non-agricultural products is more liberal than in agriculture: tariffs are much lower, there are fewer tariff peaks, and simpler tariff structures –there are practically no quotas and specific tariffs, among other features.

17. Another important difference concerns distorting measures: in Agriculture, even after the Doha Round, significant domestic support will continue to be provided. This, in spite of its legality, is in contradiction with the strict disciplines on non-agricultural products in place since the Uruguay Round, which contemplate the possibility of applying countervailing duties if trade distorting domestic support were verified.

18. As for tariff reduction modalities, there are important differences between Agriculture and NAMA:

(i) In Agriculture it was agreed to apply a tiered formula with four bands and different linear cuts to be applied in each of the bands, whereas in NAMA there was agreement on the application of a Swiss formula with coefficients.
(ii) In Agriculture, the possibility of imposing a maximum tariff limit or cap is still under discussion, whereas in NAMA, given the characteristics of the Swiss formula, there will be a maximum limit matching the coefficients adopted.
(iii) In NAMA it was agreed that all non-ad valorem duties would be bound in ad valorem terms; this has not been agreed in Agriculture.
(iv) Furthermore, in Agriculture, developed countries will have the possibility of exempting a percentage of sensitive products from the general tariff reduction, including products in the lower bands, without any limit as to the value of trade involved. Meanwhile, in NAMA, paragraph 8 flexibilities for developing countries have explicit limitations to trade value.
(v) In Agriculture, tariff-rate quotas will be maintained. It is worth noting the significant difference existing between the out-of-quota bound tariff and the in-quota applied tariff. Thus, for example, if the EU proposal in Agriculture were applied, the out-of-quota tariff would fall below the in-quota level in only 6% of tariff-rate quota lines. As can be seen, the developed countries' insistence that developing countries applied tariffs on non-agricultural products should be reduced is not matched by their agricultural proposals, which leave most in-quota tariffs unaffected.
(vi) In Agriculture, the Special Safeguard (SSG), on top of being unpredictable, represents a severe obstacle to market access. There is not such an instrument in NAMA.

19. Apart from all the foregoing differences, the imbalance between developed countries' level of ambition in NAMA and Agriculture is worth noting. This imbalance is in opposition to the Doha Mandate and to paragraph 24 of the HKMD.[6]

IV. FINAL CONSIDERATIONS

20. The Doha Round is in its sixth year and substantial differences in NAMA and between NAMA and Agriculture remain as yet unresolved.

21. Developed countries proposals in NAMA show a noticeable imbalance arising from substantially lower contribution they are offering in tariff reductions, both in linear terms and in percentage points, compared to the exaggerated demands they are requiring from developing countries.

22. Making this imbalance worse, developed countries do not take into account the significant value of bindings offered by developing countries, either by binding currently unbound tariffs or by substantially reducing already bound tariffs.

23. Moreover, the differences between what developed countries are willing to offer in Agriculture and what they demand in NAMA show a position that is in clear disagreement with paragraph 24 of the HKMD.

24. In view of the situation described, there is a need for a change in negotiating positions as well as for significant leadership to reverse the foregoing imbalances.

25. Since the Swiss formula makes it difficult to compare liberalization efforts between developed and developing countries, it is undoubtedly convenient to reconsider it as the exclusive tool for tariff cuts, giving instead the choice to members whether to use it or to resort to linear cuts so as to

[6] *See Implementing Paragraph 24 of the Hong Kong Ministerial Declaration.* TN/MA/W/67. 13 March 2006.

reach the average cuts that will eventually be agreed upon. This was the case during the Uruguay Round in NAMA with proportionally higher average cuts for developed countries, taking into account the principles of less than full reciprocity and special and differential treatment for developing countries.

26. The NAMA-11 proposal on non-agricultural products and the G-20 proposal on Agriculture redress the imbalances. They are both constructive, ambitious and middle ground proposals. Thus, they constitute a solid base to fulfil the Mandate and successfully conclude the Doha Round.

Annex: Tariff structure of Non-Agricultural Products

1. Trade in non-agricultural products explains near 90% of world exports of goods. As time went on, it has acquired greater relevance driven by the greater dynamism of the demand for these products, on the one hand, and helped by the restrictions and distortions that impact negatively on agricultural trade, on the other.

2. Although developing countries share less than 25% of the value of world trade in non-agricultural products, they evidence greater dynamism as regards import demand than developed countries, which proves their prominent role and positive contribution to the multilateral trading system.

3. The pattern of tariffs on non-agricultural products followed by developed countries shows marked differences from that followed by developing countries. Average bound and applied tariffs are 6.3% and 3.4% in the former, whereas in the NAMA-11 Group[7], these amount to 32.1% and 12.2% respectively (Table A1.a). The lower average tariff in developed countries is the result of capital and technological knowledge accumulation, which has entailed high levels of efficiency and competitiveness for their industries. In developing countries, higher tariffs tend to compensate for lower efficiency. At the same time, they aim to attract capital flows so as to boost industrial diversification and growth, gradually closing the competitiveness gap with developed countries. This point is essential to understand the dimension of development and the subsequent need for flexibility in the contribution of developing countries.

Table A1.a

(a) Average tariffs by region. Non-agricultural products

Region	Tariff	
	Bound	**Applied**
Developed Countries	6.3	3.4
NAMA-11 Countries	32.1	12.2

Source: based on WTO (2006). *Simulation of tariff reductions for non-agricultural products.* JOB(06)/210.

4. A relevant aspect to bear in mind within NAMA negotiations is that trade weighted average tariffs8 imposed by developed countries on non-agricultural imports originating from developing countries are higher that those imposed on imports from other developed countries. On average, developed countries levy a 2.1% weighted tariff on each other imports, while the weighted tariff applied on imports originating from developing countries is 3.9% (Table A1.b).

[7] The NAMA-11 countries average tariff is very similar to that of the group of developing countries.
[8] This data includes preferential tariffs.

Table A1.b

(b) Weighted average applied tariffs by region[1]. Non-agricultural products

(i) Exporter	Importer		
	Developed Countries	**Developing Countries**	**Least Developed Countries**
Developed Countries	2.1	9.2	11.1
Developing Countries	3.9	7.2	14.4
Least Developed Countries	3.1	7.2	8.3
Total	**2.9**	**8.1**	**13.6**

[1] Weighted by trade share. Including preferential tariffs.

Source: Fernández de Córdoba, Laird and Vanzetti (2004) based on UNCTAD TRAINS data.

5. This difference is even larger in the textile and clothing sector: developing country exporters face an average 8.4% tariff when exporting to developed countries, whereas the tariff for other developed countries is 3.4% (Table A1.c).

Table A1.c

(c) Weighted average applied tariffs, by sector and region[1]. 2001

Exporter	**Importer**	
	Developed Countries	**Developing Countries**
(i) Textiles and Clothing		
Developed Countries	3.4	18.2
Developing Countries	8.4	20.5
Other Manufactures		
Developed Countries	1.0	9.9
Developing Countries	1.3	9.2

[1] Weighted by trade share. Including preferential tariffs.

Source: Hertel and Keeney (2006) based on GTAP 6.

6. Although non-agricultural tariffs are relatively moderate in developed countries, there are tariff peaks: on average, more than 3% of tariff lines have applied rates over 15%, while 8.3% of lines have applied tariffs three times higher than the average tariff (Table A1.d). Most tariff peaks correspond to textiles, footwear, automobiles, fishery products and hides and skins.

Table A1.d

(d) Percentage of tariff lines with tariff peaks, by region

Tariff	Region	% of lines with tariffs 3 times higher than the average
Bound	Developed Countries	6.3
	NAMA-11 Countries	0.2
Applied	Developed Countries	8.3
	NAMA-11 Countries	2.5

Source: based on WTO (2006). *Simulation of tariff reductions for non-agricultural products.* JOB(06)/210.

7. Tariff escalation in developed countries increases effective protection and thus discourages developing countries from producing higher value added goods, hindering their productive diversification and industrial development.

8. Although developing countries bound tariffs on non-agricultural products are higher than average bound tariffs in developed countries, they allow trade flows without any quantitative constraints. In contrast, in developed countries, agricultural imports in many cases only take place through the concession of tariff-rate quotas with reduced in-quota tariffs.