

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

Prospects for Cancun

Having missed an end-May 2003 deadline for deciding on modalities (i.e. scope and methods for negotiations) for market access liberalisation, trade ministers in Cancun are expected to focus on an annex to the draft Ministerial Declaration issued in late August by the Chair of the Negotiating Group on Non-Agricultural Market Access (NAMA). Agreement on how to structure negotiations faces at least two major challenges. First, much work remains to be done to bridge the significant North-South differences on the tariff liberalisation and special and differential treatment (S&D) aspects of the Chair's draft. Second, many countries have indicated that movement on market access is contingent on agreement on modalities for agricultural liberalisation, an issue of critical importance at Cancun. On a side note, ministers may be able to provide guidance on how to integrate further liberalisation of environmental goods into the market access negotiations.

Background

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 seem discouraged by reports indicating 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.

Mandated Deadlines

- 31 March 2003, Members were to reach a 'common understanding' on a possible outline for negotiating modalities.
- 31 May 2003, Members were to reach agreement on those modalities.
- 1 January 2005, the negotiations are to conclude as part of the single undertaking agreed in Doha.

Current State of Play

A draft modalities text (TN/MA/W/35) issued by NAMA Chair Pierre-Louis Girard on 16 May put across four major elements: an across-the-board liberalisation formula, a sectoral approach, special and differential treatment, and reductions in NTBs. The text has been followed up by a 19 August 2003 revision (TN/MA/W/35/Rev.1) that attempted to integrate some of the concerns that have surfaced since May. This latest text, however, is on the backburner until after Cancun, where ministers will be focusing on a shorter 1.5-page annex outlining some of the more contentious areas of the market access modalities.

While most countries have indicated that Girard's modalities paper provides a good basis for negotiation, many developing countries are of the view that the adoption of the text must await progress on agriculture, particularly on subsidy reform in the EU.

Gaps in positions between developed and developing countries are also holding back agreement on tariffs and S&D. Developing countries, in particular many African states, feel that Girard's paper goes too far, too fast and doesn't address their concerns. They stress that they need protection for their industries and the ability to maintain fiscal revenue from tariffs. A 12 August 2003 submission by Canada, the ECU and the US (JOB(03)/163) that proposes liberalisation measures even more aggressive than those in

the Chair's drafts, especially for poorer Members, has met with much criticism from several developing countries.

Tariff Reduction Formula

To reduce tariffs on industrial products in both developed and developing countries, the Chair's paper proposes a formula for across-the-board tariff cuts.

The formula would require greater reductions on tariffs higher than a country's overall average rate and lower reductions on tariffs below the average rate. In so doing, it attempts to draw a middle path between developed countries which are seeking ambitious reductions, and developing countries, many of which are reticent about major tariff cuts.

Not all Members are happy with this arrangement, however. The EC has said that it would like to see the formula reduce high tariffs more, adding that the modalities should not reward those who maintain higher duty rates. Japan has also objected to the formula approach, saying it would prefer the use of an average percentage reduction that could allow Members to keep sensitive sectors (in Japan's case, fisheries and forestry products) from deep tariff reductions.

A group of African developing countries has said in an 11 August submission (TN/MA/W/40) that the formula would lead to a worsening balance of trade in poorer countries, as tariff reductions on their generally higher rates would not be matched by reductions in rich economies. China, India and Kenya have stressed the need for special and differential treatment for developing countries in this regard, as high tariffs on value-added goods have the greatest impact on poorer countries with weak industrial bases.

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.

Some African countries and smaller island states such as Fiji and Papua New Guinea have expressed concerns about how the modalities might affect preferential market access arrangements, noting that the Chair's draft neglected to address this issue. Kenya and others have pointed to the importance of tariffs as an instrument of development policy. Other smaller developing states have suggested that developing countries should be allowed to designate a number of products as 'sensitive', with tariffs on these items being exempted from reduction under the formula.

Sectoral Approach

In addition to the formula, the Chair's draft paper proposes a three-phase sectoral elimination modality to eliminate and bind all tariffs on products of particular export interest to developing and least-developed countries (LDCs). Namely, it targets liberalisation in the sectors of: electronics & electrical goods; fish & fish products; footwear; leather goods; motor vehicle parts & components; stones, gems, & precious metals; and textiles & clothing. The three tariff reduction / elimination phases would be of equal length (though the paper does not specify a time period). In the first phase, developed countries would eliminate tariffs in these sectors, while other Members would reduce and eliminate tariffs to a level of not more than 10 percent. In the second phase, developing countries would maintain this level, achieving tariff elimination in the third stage.

Disagreements have emerged over the nature of the proposed sectoral tariff liberalisation. Developing countries would like participation in the reductions to be voluntary, while developed countries prefer it to be mandatory. Some countries would like more sectors added, while other want some deleted. Canada has said that the sectoral list should also include forest products and chemicals, while Korea, Japan and Taiwan insist they have serious problems with including the sectors of fish and fish products and leather. Most Members have said they want to address the sectoral approach only once the overall tariff reduction formula has been approved.

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 response to this, Girard's draft modalities text puts forward provisions for S&D for developing countries and least-developed countries (LDCs). These consist of, *inter alia*, 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 number of bound tariffs.

According to the text, developing countries would be allowed to keep only 5 percent of their tariff lines unbound, provided they do not exceed 5 percent of total

import value. Under this provision, developing countries that have only bound part of their tariff lines would have to extend the scope of bindings to 95 percent of total tariff lines, effectively curtailing their policy space to pursue development goals (see TN/MA/W/40).

Some developing countries have indicated they need more time to consider the S&D provisions. A few low-income African countries that are not LDCs have expressed concern that they might be required to make tariff concessions that could affect an important source of government revenue for them. One developed country Member indicated that the Quad (Canada, the EC, Japan and the US) might be able to show some flexibility in terms of finding solutions to help those countries, so long as these solutions would not put the whole S&D agenda at risk.

In their new 12 August proposal, Canada, the EC and the US suggest a 'performance-based credit system' that would be available to developing countries to compensate for any negative impact from tariff cuts. Initial reactions to this proposal have been mixed. A number of developing countries have expressed opposition to the idea, arguing that it is contrary to the principle of "less than full reciprocity" that underpins the market access mandate in para. 16 of the Ministerial Declaration.

Non-tariff Barriers

According to Girard's draft text, Members would proceed with an identification and examination stage of non-tariff barriers (NTBs). This would be followed by a categorisation phase, at which point they would be 'dealt with' by the Negotiating Group or by other WTO bodies, as appropriate. In the Negotiating Group, they could be addressed on the basis of request / offer, horizontal, or vertical modality approaches.

The Negotiating Group has asked the Secretariat to prepare a common format to be used by Members when notifying non-tariff barriers, and Chair Girard has called on Members to start clarifying the scope and treatment of non-tariff barriers to be addressed in the negotiations. On 7 April 2003, the Secretariat released an overview of proposals submitted on non-tariff barriers (TN/MA/9), which indicated that 18 written submissions had been received thus far, looking at both content and categorisation issues around NTBs.

Given that there has been relatively little discussion on this point compared with the tariff talks, the Chair said at a 9-11 July Negotiating Group session that he would extend until October 2003 the period for NTB notifications. For its part, the US has been pushing for a 'vertical' non-tariff barrier modality (TN/MA/W/18/

Add.3). According to the US, this approach would bundle together a number of NTB issues relevant to a single industry and address them in the context of that industry. The US has suggested automotive products and textiles and apparel as possible priority areas for vertical NTB agreements, noting that there are other highly-globalised industries that might also be appropriate for the vertical approach.

Developing countries have indicated that reductions in non-tariff barriers against their goods are a priority. Papua New Guinea, for instance, has suggested that developed countries imposing NTBs on developing countries provide technical and financial assistance to comply with such measures.

Concern Over Tariff Elimination

A number of developing countries have expressed concern that the modalities do not go far enough to take account of their development priorities. Morocco, on behalf of the Africa Group, has said that the modalities are too ambitious and would harm African countries' development strategies. Others have said that they do not do enough to tackle high tariffs, or to open developed countries' markets.

In its intervention at a 14-16 April meeting of the Negotiating Group on behalf of several African and Asian countries (TN/MA/W/31), Nigeria told the Group that tariffs are an "instrument of domestic industrial policy" for many developing countries, and that customs duties provide a significant share of their overall revenue, which goes to meet their developmental expenditures. Barbados, Jamaica, and Trinidad and 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.

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 least-developed countries, the percentage was more than twice as high, at 34 percent.

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 NAMA, to be monitored by the special session of the Committee on Trade and Environment (Doha Brief No. 9). At this stage, the CTE is still in the process of coming up with a definition of what would qualify as an environmental good. Once this work is concluded, the NAMA will be in a better position to determine how to address the issue.

Due to the lack of any clear decision on environmental goods, the sector was not included in Chair Girard's draft modalities text.

In their 11 August submission (TN/MA/W/40), a group of African developing countries reminded the Members that para. 16 of the Doha Declaration must also apply to environmental goods. In particular, special attention should be paid to environmental "products of export interest to developing countries". They further noted that African countries have a comparative advantage in agricultural-based environmental goods, and raised the question of which negotiating group should deal with this issue.

Thus far, only one proposal for structuring environmental goods liberalisation has been forwarded. In a 7 July 2003 paper presented to the NAMA and to the CTE special session (TN/MA/W/18/Add.5), the US suggested that two lists be established: a core list of goods that all Members agree are 'environmental' (i.e. sewage treatment equipment); and a second list of other proposed environmental goods. Tariffs would be eliminated on the core list of goods by 2010, and countries would be required to liberalise a certain

percentage of products from the second list of proposed goods by 2010.

The US has further argued, *inter alia*, for closer co-ordination between the CTE and the NAMA in order to obtain greater market access for environmental goods (TN/MA/W/3). For its part, the EC has highlighted its desire to negotiate deeper-than average tariff cuts for products identified as environmental goods. Malaysia has warned that negotiations on environmental goods should not imply agreeing to environmental standards for various industrial products.

Implementation Issues

A 29 October 2002 paper on implementation concerns by St. Lucia to the regular Committee on Market Access (G/MA/W/44) addressed development-related areas in negotiating modalities for small and mid-sized exporting countries. In its paper, St. Lucia argued that none of the negotiating modality approaches employed in past GATT/WTO negotiations — including request-offer, across-the-board, zero-for-zero and 'cocktail' approaches — had secured outcomes that addressed the particular circumstances of certain smaller economies. Echoing an earlier comment made by Kenya, St. Lucia emphasised that modalities should not be based on a one-size-fits-all approach or formula. There has been little progress on this point in the Committee, as Members have focused on discussions in the NAMA.

Also see Doha Brief No. 1 on Implementation issues and concerns for an update on the Committee's discussions regarding the definition of 'substantive interest' in quota allocation.

Members' proposals can be found at <http://docsonline.wto.org/> under TN/MA/W/.
For documents produced by the WTO Secretariat search for TN/MA/S/*.*

Doha Round Briefings is published by the International Centre for Trade and Sustainable Development (ICTSD) in collaboration with the International Institute for Sustainable Development (IISD).

Mark Halle (IISD) and Ricardo Meléndez-Ortiz (ICTSD) conceived the Briefings. Series Editors are Anja Halle, Heike Baumüller and Malena Sell. Series Directors are Ricardo Meléndez-Ortiz and Mark Halle. The Cancun Updates have been written by Heike Baumüller, Hugo Cameron, Ricardo Meléndez-Ortiz, David Primack, Malena Sell, Mahesh Sugathan, David Vivas and Alexander Werth. Trineesh Biswas (IISD) served as copy editor, and layout was done by Alice Chardonens on a design by Donald Berg. Christophe Bellmann (ICTSD) was publication manager. Heike Baumüller and Malena Sell served as editors and Ricardo Meléndez-Ortiz as chief editor. Funding for this project has been provided by the Swiss Agency for Development and Cooperation (SDC) through IISD and by ICTSD's supporting donors. The full series including April 2003 "Developments Since the Fourth WTO Ministerial Conference" as well as upcoming updates can be found at www.ictsd.org and at www.iisd.org. Copyright: ICTSD and IISD, 2003.

The International Centre for Trade and Sustainable Development (ICTSD - <http://www.ictsd.org>) is an independent non-profit and non-governmental organization based in Geneva. Established in 1996, ICTSD's mission is to advance the goal of sustainable development by empowering stakeholders in trade policy through information, networking, dialogue, well-targeted research and capacity building to influence the international trade system. ICTSD is the publisher of BRIDGES Between Trade and Sustainable Development®, and BRIDGES Weekly Trade News Digest®. Co-publisher of PASSERELLES entre le commerce et le développement durable® (with ENDA Tiers-Monde); PUENTES entre el Comercio y el Desarrollo Sostenible® (with Fundación Futuro Latinoamericano - FFLA and Centro Internacional de Política Económica para el Desarrollo Sostenible - CINPE); and BRÜCKEN Zwischen Handel und Zukunftsfähiger Entwicklung® (with GERMANWATCH). ICTSD is funded by development cooperation agencies, private foundations and civil society organisations. ICTSD's main core and project funders in 2003 include SIDA, DGIS, DFID, DANIDA, SDC, NORAD, Finland, IDRC, the Rockefeller Foundation, the John D. and Catherine T. MacArthur Foundation, Novib, Christian Aid, Oxfam, and the Swiss Coalition of Development Organisations (SCDO).

The International Institute for Sustainable Development (IISD - <http://www.iisd.org>) contributes to sustainable development by advancing policy recommendations on international trade and investment, economic policy, climate change, measurement and indicators, and natural resource management. By using Internet communications, we report on international negotiations and broker knowledge gained through collaborative projects with global partners, resulting in more rigorous research, capacity building in developing countries and better dialogue between North and South. IISD's vision is better living for all-sustainably; its mission is to champion innovation, enabling societies to live sustainably. IISD receives operating grant support from the Government of Canada, provided through the Canadian International Development Agency (CIDA) and Environment Canada, and from the Province of Manitoba. The institute receives project funding from the Government of Canada, the Province of Manitoba, other national governments, United Nations agencies, foundations and the private sector. IISD is registered as a charitable organization in Canada and has 501(c)(3) status in the United States.