WORLD TRADE ORGANIZATION

TN/MA/W/65
8 November 2005

(05-5233)

Negotiating Group on Market Access

Original: English

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Flexibilities for Developing Countries

Communication from Argentina, Bolivarian Republic of Venezuela, Brazil, China, Egypt, India, Indonesia, Namibia, Pakistan, Philippines and South Africa

The following communication, dated 3 November 2005 is being circulated at the request of the Delegations of Argentina, Bolivarian Republic of Venezuela, Brazil, China, Egypt, India, Indonesia, Namibia, Pakistan, Philippines and South Africa.

In the run up to the Hong Kong Ministerial conference, Members have been discussing three elements of the NAMA package together due to the perceived inter-linkage between them; these are the formula, flexibilities and the treatment of unbound tariff lines. Resolution of these three issues is essential for ending the current stalemate.

With regard to flexibilities, we recall the provisions contained in paragraph 8 of the July Framework Agreement:

> *"8.We agree that developing-country participants **shall** have longer implementation periods for tariff reductions. In addition, they **shall** be given the following flexibility:*
>
> *applying less than formula cuts to up to [10] percent of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's imports; or*
>
> *keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of Member's imports.*
>
> *We furthermore agree that this flexibility could not be used to exclude entire HS Chapters." (emphasis added)*

This Paragraph was agreed to in the July 2004 Framework to operationalize the special and differential treatment in the NAMA negotiations by taking fully into account the special needs and interests of developing country participants in accordance with Article XXVIII bis and Part IV of GATT 1994. The Doha Mandate reiterates the principle of less than full reciprocity and makes a specific reference to these provisions so as to provide policy space to the developing country Members to address their developmental concerns.

We regard the provision of paragraph 8 flexibilities for developing countries as an essential element of the flexibilities required by developing countries to manage their adjustment processes.

./.

We therefore oppose attempts being made to reinterpret this agreement by establishing further conditionalities on the use of paragraph 8 and thus change the balance of the agreement that was reached by all WTO members in the July 2004 Framework Agreement. We view the numbers currently contained within the brackets of paragraph 8 as constituting the minimum percentages required by developing countries. We retain the right to adjust these numbers upwards to enable some of our economies to manage the adjustment of sensitive sectors and prevent the social disruption caused by job losses and closure of enterprises that would result from further liberalization.

In addition, we emphasize that paragraph 8 is a 'stand-alone' provision in the agreed NAMA framework and its position as such must be recognized if negotiations are to move ahead. Any move to link it, or use it as a trade-off with the tariff reduction formula will create unnecessary difficulties in the negotiations. The two issues are separate and should be treated as such.