GLOBAL UNIONS TRADE, INVESTMENT AND LABOUR STANDARDS (TILS) TASK FORCE, GENEVA, 11-13 APRIL 2005

BRIEFING NOTE ON NON-AGRICULTURAL MARKET ACCESS (NAMA)

NAMA negotiations in the WTO have gained momentum over the last couple of months, and their intensity can be expected to continue to grow in the run up to the 6th WTO Ministerial Conference in Hong Kong, which will take place on December 13-18. The negotiations are putting a lot of pressure on developing countries, in particular on the smaller and more vulnerable economies, to bind and reduce their import tariffs and to open up their markets for imports from other countries. If not done in the right way, this could lead to sharp increases in imports, relocation of industries, company closures, unemployment, and severe adjustment processes in many sectors and countries.

This briefing note, which summarises significant research findings and other sources of information, seeks to explain in adequate detail what NAMA is, what the important and controversial issues in the negotiations are, and what the major impact on production and employment is likely to be.

What is NAMA?

1. NAMA is the acronym for Non Agricultural Market Access, and refers to one of the ongoing negotiating groups in the WTO Doha Development Round. These NAMA negotiations focus on market access for a wide range of non-agricultural products, basically all products that are not covered by the agriculture negotiations or the services negotiations. NAMA products therefore include fish and fishery products, wood and forestry products, electronics, manufactures, automotive products, machinery, textiles, clothing, leather, chemical products, and mining products.
2. The negotiations aim to reduce and eliminate the barriers that restrict trade in these products. Negotiations therefore focus on the reduction of tariffs and non-tariff barriers (NTBs). Non-tariff barriers include, for example, quotas, safety and health standards, technical requirements, packaging requirements, and environmental standards. A complete list of NTBs to be addressed in the negotiations has not yet been decided upon, and some of these barriers are already the subject of negotiations in other groups, such as subsidies, technical barriers to trade (TBTs) and Sanitary and Phytosanitary measures (SPS). Other barriers are likely to be covered by the negotiations on trade facilitation.

The Doha mandate

3. The ongoing negotiations are based on the mandate that was given for the Doha Round at the 4th WTO Ministerial Conference (Doha, Qatar, November 2001). The Doha mandate states that NAMA negotiations should address:

    - *tariff peaks* - these are tariffs that are three times higher than the average tariff applied by a country, in order to protect a certain sector or products. Not all high tariffs are tariff peaks, since tariff peaks are defined in relative terms, as tariffs that are high in comparison to the average level of tariffs that the country applies;

- *high tariffs;*
- *tariff escalation* - tariffs that increase when the value added of a product increases. For example, average tariffs for natural resources are 5%, whereas average tariffs for processed natural resources are 15%;
- and *non-tariff barriers* (NTBs, such as quotas and technical requirements). According to the Doha text, these should be addressed in particular for those products that are of interest to developing countries.

4. The Doha text states the need for comprehensive product coverage, and for less than full reciprocity, which means that developing countries should be allowed to decrease tariffs to a lesser extent than industrialised countries and spread commitments over a longer time period. And finally, paragraph 16 of the Doha text says: "the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations".

NAMA negotiations

5. A first proposal for modalities for NAMA negotiations was made in 2003 by the Swiss chairman of the NAMA negotiating group, Pierre-Louis Girard. The main elements of the Girard text included a Swiss formula (cutting higher tariffs by a larger percentage than lower tariffs in order to achieve harmonising of tariffs), a sectoral initiative for the full elimination of tariffs in seven sectors, and some elements of Special and Differential Treatment (S&D) for developing countries.
6. During the Cancún Ministerial in 2003, a second text on NAMA was proposed, the so-called Derbez text. This text was based on the Girard text, but left more flexibility. The text included a non-linear formula (i.e. harmonising of tariffs, with similarities to the Swiss formula) and a proposed sectoral initiative (without specifying the sectors). This text was not adopted in Cancún, and was the subject of considerable opposition from developing countries, in particular from the G-90 countries (Africa, least developed countries (LDCs) and ACP countries).
7. During the July 2004 General Council meeting at the WTO, a number of developing countries strongly opposed the inclusion of the Derbez text on NAMA in the July package. They wanted to include several further proposals in future work; asked for the non-linear formula to be deleted; asked for alternative language to the proposal that "unbound tariffs should be bound at twice the applied rate"; wanted the sectoral tariff component to be voluntary; and asked for more flexibility in tariff cuts and tariff bindings.
8. However these proposals were reflected only in an introductory paragraph that was added to the annex on NAMA. The July text on NAMA was similar to the Cancún proposal (the Derbez text) except for that paragraph. The text had the following elements:

   - A formula approach for tariff reduction and for reduction or elimination of tariff peaks, tariff escalation and high tariffs. This formula approach included the following elements:

a) no a priori exclusion of products;

b) reductions in tariffs from bound rates (bound rates indicate the maximum tariff level a country can apply), or from twice the applied most favoured nation (MFN) rate in the case of unbound tariffs (taking the level applied in 2001 as the base year);

c) credit for autonomous liberalisation (trade liberalisation on an MFN basis that was undertaken independently from the WTO negotiations);

d) conversion of non-ad valorem duties (based on quantity) into ad valorem duties (based on product value) and binding of ad valorem duties;

- Countries that had bound less than 35% of their tariffs would be exempt from tariff reductions through the formula, but have to bind 100% of their tariff lines[1];
- A sectoral approach, aiming at eliminating or harmonising tariffs in a specific sector. Seven sectors had been identified previously (in the Girard proposal) for this sectoral approach.

9. The only difference with the Derbez text was that the July text had an introductory paragraph which stated that: *"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 in indent two of paragraph 5, the flexibilities for developing-country participants, the issue of participation in the sectoral tariff component and the preferences. In order to finalise 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."* This was taken to mean that further discussion was needed on the formula, on tariff binding, on participation in the sectoral approach, on preferences and on flexibilities for developing countries.

Where do negotiations stand?

10. There are substantial differences between most industrialised and most developing countries. Most industrialised countries are being very ambitious in their proposals, whereas most developing countries are defensive. The main focus at the moment is on:

- *Product coverage*: It still has to be determined which products will be covered by NAMA negotiations.
- *The formula*: Some new elements have been added such as the possibility to have one formula with two different coefficients, one for industrialised and one for developing countries, proposed by the US (in exchange for less S&D, and for participation of developing countries in the sectoral negotiations).

[1] Those tariff lines had to be bound at an average level that does not exceed the overall average of bound tariffs for all developing countries after full implementation of current concessions.

- *Tariff binding:* this applies to “unbound” tariffs, i.e. those products where there is no commitment to place a maximum cap on the tariff for that product. It is not clear yet what percentage of unbound tariffs would be bound, at what tariff level these tariffs would be bound, and if bound tariffs should be included in the tariff formula for tariff reduction.
- *Conversion of non-ad valorem duties into ad valorem duties*. Negotiations focus on a conversion methodology.
- The *sectoral approach* and participation in this approach. As noted above, sectoral negotiations aim for complete tariff elimination. It appears acceptable to most WTO members that participation by developing countries could be voluntary, however there is an effort to try to get a critical mass of countries for participation in the sectoral negotiations.
- *Nuisance duties*: Some countries wish to eliminate low tariffs, below 3% or 5%. Although very low, these tariffs do provide important government revenues for a number of countries.
- *Flexibilities for developing countries*: how flexibilities for developing countries and least developed countries should be built into the negotiations.
- *Non-tariff barriers*: which non-tariff barriers should be included in the NAMA negotiations and which non-tariff barriers dealt with in other negotiation committees, such as TBT, SPS, Trade Facilitation and rules negotiations[2]. Another issue is which NTBs should be allowed and which should be prohibited.
- *Preference erosion*: generalised tariff reductions will lead to preference erosion for those countries that currently benefit from trade preferences, such as the ACP group.

11. The negotiators are aiming to complete draft modalities in the above areas by July/August, and to have agreement on full modalities by the Hong Kong Ministerial in December.
12. A developing country proposal is being prepared by Mexico. The African Group and ACP group are preparing a proposal on preference erosion.

Critiques of the current draft modalities

13. Many developing countries, and in particular the Africa group, have expressed their concerns with regard to the NAMA negotiations in general and the July framework in particular.[3] If the July framework were implemented, WTO members would effectively lose some of their “policy space” regarding their choice to use tariffs and non-tariff barriers as an instrument to protect strategic domestic industries and infant industries. The July text requires that countries bind their tariffs. Once tariffs are bound, they cannot be raised anymore above the bound level. Since the level of

---

[2] A Korean proposal for NTB elimination in the electronic sector proposes a methodology to choose sectors for elimination.

[3] The analysis in the section below is drawn from critiques by several groups of countries such as the African Group, ACP countries and LDCs, as well as organisations including Third World Network, Friends of the Earth International (FOEI), PSI and others.

bindings for some developing countries is very low, even below 5% in some cases[4], clearly this would make a great difference. Many of these countries have started a process of diversification, away from dependence on a single or few commodities. Substantial tariff reductions would open up these economies to foreign competition and could undermine the diversification process. Furthermore, the tariff reductions are likely to lead to company closures and unemployment if the reductions are implemented too fast for their economic actors to adapt.

14. In addition to the binding of tariffs, a formula for tariff reduction would be applied to bound tariffs to reduce the tariff levels. It could lead to a reduction of bound rates below applied rates, and will in any case take away the flexibility countries have in applying tariffs in those sectors and industries that need some level of protection.

15. By reducing tariffs, countries may lose tariff incomes which, for developing countries, often represent a large part of the government budget – for example 76.6% in Guinea, more than 40% on average in Africa and around 50% in several island economies. Those revenues are often used for government spending in areas such as health and education. Replacing them with other taxes would take time and planning and, for practical and political purposes, may be next to impossible in the short to medium run. It should be noted of course that if total imports increase following a reduction in import tariffs, then to the extent there is an increase, the fall in revenue could be mitigated. On the other hand, such an increase in imports would in many cases create serious difficulties for domestic producers, with negative output and employment consequences as a result.

16. Another concern is that no impact assessments concerning possible negative effects for employment and development have been made so far.

17. A general reduction of tariffs will lead to further preference erosion, which will be negative for the many developing countries that receive preferential access (tariffs below the MFN rate) to (mainly) industrialised country markets. To be precise, reductions in tariffs will erode the advantage those developing countries (which are very often LDCs and small and vulnerable economies) have over other developing countries.

18. NTBs can include any rule or regulation that affects trade. Some of these NTBs may be used as protectionist measures to block developing country access to industrialised country markets. However, many NTBs, such as those relating to environmental and health and safety concerns, are legitimate and should not be included in the negotiations on NTBs. The effort to make concessions in the NTB negotiations risks to lead to governments giving away some policy space for domestic regulation and so having fewer possibilities to take into account social or environmental concerns[5].

19. The sectoral approach refers to a number of sectors for which complete trade liberalisation is envisaged, which means a reduction of tariffs to zero or close to zero within a given (and short) time frame. The proposal has been made for seven sectors (in the Girard text), including fish and fish products, textiles and clothing, leather,

[4] Current levels of bound tariffs are for Bangladesh 2.89%, Cameroon 0.09%, Chad 0.27%, Congo 3.13%, Ghana 1.34%, Uganda 2.86%, Zambia 4.01%, and Kenya 1.6%. Figures from Santiago Fernandez de Cordoba and David Vanzetti, *Coping with trade reforms: Implications of the WTO Industrial Tariff Negotiations for developing countries*, UNCTAD (Table A4).

[5] For example, the WTO secretariat is looking into the WTO compatibility of certification of wood products, regardless of the environmental purpose that such certification should serve.

footwear, stones, gems and precious metals, electronics and electronic goods, motor vehicle parts and components. Tariffs in many developing countries are among the highest in these sectors, because domestic industries in these sectors tend to contribute substantially to their economies. The sectoral approach does not address the concern that developing countries, in particular LDCs, may firstly lack the capacity to identify their scope for liberalisation in these sectors, and secondly that they may therefore make concessions that make it difficult to develop their domestic industrial structure thereafter. Furthermore there are likely to be other proposals that include additional sectors – for example, a proposal by the United Arab Emirates would include all raw materials, such as oil and forest products in the sectoral approach.

20. The South African trade union COSATU has developed a critique of the Derbez text focusing on its inappropriateness as a starting point for negotiations. The Derbez text contradicts the "less than full reciprocity" principle in the Doha mandate, since the formula will take away policy space for development. Tariff cuts that are based on existing tariffs (applied rates) will not favour developing countries, while the binding of tariffs and the sectoral approach with a zero tariff objective will have negative effects on developing countries. COSATU has asked the South African government to give more detailed consideration to several elements of NAMA such as the possibility of request-offer based negotiations on individual tariff lines; impact studies on NAMA commitments; making any tariff reductions from the bound and not the applied rate; adopting a voluntary sectoral approach, if any; addressing non-tariff barriers in order to ensure genuine market access to industrialised countries' markets; and addressing tariff peaks, tariff escalation, and tariff hikes. COSATU stresses that any agreement on trade should ensure effective market access for developing countries, the retention of policy space to drive development and address social and economic priorities, and no commitments to further tariff reductions that will exacerbate or reinforce negative experiences as a result of previous trade liberalisation.

21. Recently, Unctad[6] has presented several country studies which show the impact of trade liberalisation on the industrial sector in developing countries. This trade liberalisation was undertaken 'autonomously', in many cases as part of the structural adjustment programmes that were imposed by the IMF and World Bank. Gains were limited in most cases, whereas costs in terms of employment and production were significant. The studies included experiences from Malawi, Zambia, Brazil, Jamaica, Bangladesh, India, the Philippines and Bulgaria. In the majority of the countries trade liberalisation led to disappointing export and GDP growth and to rapid growth of imports of industrial products. Cheap imports led to the closure of some local industries and to stagnation or low growth in industrial jobs. For example in Zambia, tariff reductions led to closures or relocations of industries and to a decline in formal employment from 23% in total employment in 1991 to 8% in 2003. A 1997 survey found that almost all sampled firms experienced a decline in employment of over 50%. These massive job losses had increased levels of poverty. Moreover, tariff reductions led to trade deficits, with imports increasing while exports had fallen. Experiences in other countries including Malawi and Jamaica showed a decline in the manufacturing sector and in employment. The study on India showed a decline in wages as a proportion of total value added for manufacturing as a whole, because of increased capitalisation and growing casualisation of contracts.

---

[6] As summarised by Martin Khor, "*Studies show limited gains, serious costs for developing countries' industrial sector from trade reform*", 3WN, January 2005.

22. A further study by the Unctad secretariat[7] has looked at the implications of tariff liberalisation in developing countries. The study presents the results of ten different liberalising scenarios. It looks at three different formula (Swiss (harmonising) formula, Girard (harmonising) formula, and a capping formula (across the board tariff reduction)), and for each formula at three different cases: ambitious, moderate and flexible (i.e. with exemptions for developing countries, variations for tariff cuts, sectoral elimination, binding coverage, and low/nuisance tariff reduction). The tenth scenario is a free trade scenario. Keeping in mind that the results have to be taken with caution because of certain shortcomings of the model, the most important outcomes of the study are:

    a. For industrialised countries it is not the choice of the formula but the level of "ambition" (i.e. the extent of coverage and the depth of tariff cuts) that most affects the final tariff schedules.

    b. For developing country economies, it is not the choice of the formula that is most important, but rather the extent to which the agreement addresses high tariff peaks on products of strategic importance. Therefore the modelling of bilateral trade flows can help identify what is important.

    c. The ten scenarios all increase export revenues for developing countries in aggregate, with the ambitious scenarios bringing most revenues. However, the increase in revenues is unevenly distributed, with major beneficiaries (in percentage terms) being China, India, Brazil and the rest of South Asia, whereas gains for Bangladesh and Zambia, for example, are minimal, with gains in some industries and losses in others.

    d. The increase in imports into developing countries is higher for all three ambitious scenarios.

    e. The ambitious Swiss formula leads to a global reduction in tariff revenues for developing countries of 50%. The lowest income developing countries have the greatest dependence on tariffs as a source of revenue. Under a capping formula the revenue losses are significantly lower for developing countries.

    f. Changes in output tend to change in the same direction as changes in labour use. Use of national unskilled labour, which is mostly engaged in leather, lumber, paper products, apparel, light manufactures and electronics, is positive (i.e. it increases) but small in response to liberalisation. Some sectors are very sensitive to use of labour and changes in the use of labour due to liberalisation. These are textiles, wearing apparel, leather and motor vehicles. Effects on unemployment due to trade liberalisation could be substantial in some cases.[8]

    g. Changes in total employment differ from country to country and from sector to sector, so it is difficult to generalise. A separate approach for each country has to be taken. Looking at the tables on employment, it can be noted that depending on the ambitiousness of the formula, substantial changes in labour use may take place.

---

[7] Santiago Fernandez de Cordoba and David Vanzetti, *Coping with trade reforms: implications of the WTO industrial tariffs negotiations for developing countries*, January 2005.

[8] Tables A19-A29 show changes in labour use for a selected number of countries under the ten different scenarios.

h. The sectoral elimination makes a significant difference for developing countries with regard to average tariffs, trade and welfare.

i. Reducing tariffs on a non-linear basis rather than linear basis would appear to make little difference to the outcome. A capping formula provides similar effects as the complex harmonising formula.

j. Adjustment costs have to be taken into account and can be substantial, especially in some sectors.

Some key issues of importance for trade unions

23. As NAMA negotiations cover liberalisation of trade of all non-agricultural goods, they have the potential to affect production and employment in many sectors. Given the likely impact of NAMA negotiations on employment, a careful assessment of the negotiations and different proposals is needed. Tariff reductions can lower import prices and increase exports, if industries are competitive enough. However, if industries lack productive capacities and competitiveness, export gains will not be realised, whereas imports from more competitive countries will crowd out local production, possibly leading to closures, dislocation and unemployment.

24. One element of the negotiations focuses on the binding of tariffs for goods. This means that countries will lose the possibility to make broader use of tariffs as an instrument for industrial policy. Binding tariffs, and the subsequent lowering of tariffs reduce policy space for the flexible use of tariffs to protect strategic and infant industries or to address temporary surges in imports.

25. Tariff reductions have an impact on government revenue. If governments are required to reduce their budgets in consequence, this could decrease spending in areas such as health, education and social protection. Replacing tariff revenues with other forms of taxation may not be an easy task and will have implications for many other areas of policy, particularly if governments use payroll taxes as one of their means of raising revenue.

26. The sectoral approach will focus on some sectors that are particularly important for trade unions. At an international level, these sectors and their global union federations are textiles and clothing, leather and footwear (ITGLWF), wood (IFBWW), fish and fishery products (ITF and IUF), stones, gems and precious metals (mining) (ICEM), electronics and electronic goods (IMF), and motor vehicle parts and components (auto-industry) (IMF). Moreover there are proposals to include other sectors as well.

27. An important part of production in many of these sectors takes place in EPZs. Trade liberalisation in these sectors stands to stimulate further production in EPZs and hence increase the pressure on working conditions and trade union rights of workers in these sectors.

28. Both the sectoral approach and overall tariff liberalisation will lead to reduction of tariffs and so preference erosion for many developing countries. Such preference erosion can therefore have serious consequences in terms of export reductions for some sectors and countries. One of the sectors which is going through major adjustment at the moment, namely textiles and clothing, will experience increased pressure if major tariff reductions are made. This is particularly an issue in LDCs and small and vulnerable economies.

29. Elimination of NTBs could threaten social or environmental regulations that are necessary to protect workers or the environment. Therefore clear criteria for any consideration of NTBs need to be established, so as not to undermine environmental and social concerns.

30. Taking into account all the above arguments, there is a need for a trade union response at the national and international levels as well as at the sectoral level. Research findings show results that differ from country to country and from sector to sector, depending on several factors. For example, the effects will depend on a country's tariff level and on the level of tariffs applied in the major export markets of that country. Effects will depend on the non-tariff barriers that are applied in export markets. Effects will depend on productive capacity, which may well differ from sector to sector within a country. For competitive industries it might be advantageous to liberalise, but for less competitive industries it is likely to be harmful.

31. Besides an international and more general approach, trade unions should develop a national approach. Some of the following elements need to be considered by trade unions in formulating such a position:

    a. looking at different sectors under NAMA: which are competitive and which are not;

    b. looking at the tariff structure of your country to see how important tariffs are as an instrument for industrial policies[9];

    c. looking at the economic structure of your country in order to put NAMA negotiations in a longer-term development perspective;

    d. countries that have very low binding of tariffs should consider whether more extensive binding is advisable, and if so at what level;

    e. looking at the percentage of the government budget that is made up of tariff income. What effects would tariff reduction have on government spending and what alternatives would the government have to replace tariff revenues with other forms of income?;

    f. considering the tariff structures of your main export markets, to see any potential to benefit from NAMA;

    g. if your country receives preferences such as AGOA or EU-ACP, taking into account the erosion of these preferences if an agreement is negotiated that will substantially lower tariffs generally in major export markets;

    h. looking at the possible positive and negative impacts of multilateral tariff liberalisation on employment;

    i. calling for impact assessments prior to NAMA liberalisation;

    j. finding out the position your government is taking in the negotiations;

    k. demanding adequate adjustment policies and social safety nets in national policy;

    l. calling for your government to support respect for and enforcement of workers' and trade union rights in WTO negotiations.

---

[9] Tariff structures of all WTO members can be found in the document: TN/MA/S/4/Rev.1/Corr.1, on the WTO web site.

32. The above analysis indicates a number of general points that should be discussed by the TILS meeting with regard to NAMA:

    a. impact assessments, in particular with regard to employment and income distribution;

    b. how to address preference erosion;

    c. the problem of losses in government revenues, and the consideration of alternatives;

    d. increased pressure on working conditions and workers' rights due to trade liberalisation;

    e. the impact on national policy space that allows countries to develop their trade policies in line with overall development objectives;

    f. the need for effective, employment-oriented adjustment programmes and social safety nets to accompany any liberalisation of trade in non-agricultural products.

* * * * * * * * * * * * * *