NAMA Negotiations

Main Elements

1. Tariff Reductions
2. Flexibilities
3. Sectoral Initiatives
4. Non-Tariff Barriers
5. Unsettled Issues

Doha Ministerial Declaration 2001

- Para 16 of the Doha Ministerial Declaration (DMD) :
  - reduce or eliminate tariffs (including tariff peaks, high tariffs, and tariff escalation) as well as non-tariff barriers
  - negotiations to into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity (LTFR) in reduction commitments

WTO General Council's Framework Agreement, 2004

- Annex B:
  - a formula approach key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs, and tariff escalation
  - Negotiating Group to continue its work on a <u>non-linear formula</u> applied on a <u>line-by-line basis</u> which shall take fully into account
    - <u>special needs and interests</u> of developing and LDCs, including through <u>less than full reciprocity</u> in reduction commitments

HK Ministerial Declaration, 2005

- Para 13:
  - Reaffirm commitments in para 16 of the DMD.
  - Reaffirm all elements of Framework Agreement
- Para 14 & 15:
  - Adopt a Swiss formula
  - Reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments
- Para 24:
  - Comparably high level of ambition in market access for Agriculture and NAMA to be achieved
    - in a balanced and proportionate manner consistent with the principle of special and differential treatment

Tariff Reductions in the Uruguay Round

- US followed request-offer
- Formula Approach:
  - EEC (12), Finland, Sweden and Norway adopted EEC formula
  - Canada, Japan, and Austria adopted Canadian formula
  - Australia adopted its own formula

Tariff Reductions in the Uruguay Round

Member	Pre UR Average	Post UR Average	% cut
Developed Countries			
USA & Canada	5.1%	2.8%	45%
EC 12	6.4%	3.5%	45%
All Developed	**6.3%**	**3.8%**	**40%**
Marine products	6.1%	4.5%	26%
Textiles & Clothing	15.5%	12.1%	22%
Leather, rubber, footwear	8.9%	7.3%	18%
Developing Countries			
Brazil	40.7%	27.0%	33.66%
India	71.4%	32.4%	**54.62%**
All Developing	**20.5%**	**14.4%**	**30%**

Swiss Formula

$$T_f = (A \times T_b) / (A + T_b)$$

T_f : Final Bound Tariff, A: Swiss coefficient ,T_b: Current Bound Tariff/ Base Rate

- Features of the Swiss formula
  - All tariffs after formula cut < than 'A'
  - Higher the tariff larger the percentage cut

- 6 December 2008 draft modalities
  - Developed country coefficient – 8*
  - Developing country coefficient – 3 tiered (20, 22 and 25) linked to flexibilities

- * - This was a tradeoff against SSM in Agriculture

India's Tariff Line Simulation

Most Frequent Tariff	No of Lines	Bound Lines	Unbound Lines	Swiss 20		Swiss 22	
				Final Tariff	% Cut	Final Tariff	% Cut
0%	**219**	**219**	**0**	0.0	0.0%	0.0	0.0%
20%	**151**	**151**	**0**	10.6	52.9%	11.1	50.4%
25%	**531**	**523**	**8**	11.1	55.7%	11.7	53.4%
35%	**85**	**76**	**9**	12.8	64.0%	13.6	61.7%
40%	**2026**	**2017**	**9**	13.3	66.6%	14.2	64.5%
50%*	**81**	**1**	**80**	14.1	70.5%	15.1	68.6%
60%*	**1231**	**1**	**1230**	15.1	75.3%	16.2	73.5%
130%*	**15**	**219**	**15**	17.3	86.7%	18.8	85.5%
	Number	Average					
Total	**4712**	**43.73**		**12.91**	64.5%	**13.77**	62.6%
Dutiable	**4493**	**45.87**		13.54	67.7%	14.44	65.6%

* For the unbound tariff lines, a uniform mark up of 25% has been applied. Thus unbound lines at a tariff of 25% in 2001 have been shown as 25%+25% =50%. Similarly lines at 35% and 105% in 2001 have been shown as 60% and 130% for tariff reduction purposes.

Flexibilities

- All developed countries had flexibilities in Uruguay Round
- Available for developing countries to protect their sensitive tariff lines from formula cuts or bindings
- December 2008 text

Coefficient	Flexibilities
20	Atleast half the formula cuts on 14% tariff lines s.t. Imports not exceeding16% of value or No cuts or binding on 6.5% tariff lines s.t. imports not exceeding 7.5% of value
22	Atleast half the formula cuts on 10% tariff lines s.t. imports not exceeding 10% of value or No cuts or binding on 5% tariff lines s.t. imports not exceeding 5% of value
25	No flexibilities

- South Africa, Argentina and a few countries want more flexibilities

- Flexibilities are subject to an Anti-Concentration Clause (ACC)

Anti Concentration Clause (ACC)

- To ensure that developing countries do not concentrate their flexibilities under specific sectors (i.e. Chapters of the HS* Classification)

- Full formula cuts (Dec, 200) to be taken on a minimum of either
  - [20] percent of national tariff lines or
  - [9] percent of the value of imports of the Member in each HS Chapter
- No ACC in Uruguay Round for developed countries

- No ACC on Sensitive products in agriculture (SeP)

- Some of the sectors likely to be affected by ACC
  - Marine products
  - Silk
  - Automobiles
  - Aircraft

Sectoral Initiatives

- Proposals for elimination (or harmonisation at low levels) of tariffs for specific NAMA sectors (demarcated by HS Chapters)

- 2005 Hong Kong Ministerial Mandate
  - In furtherance of paragraph 7 of the NAMA Framework, we recognize that Members are pursuing sectoral initiatives.
  - **To the reduction or elimination of tariffs, in particular on products of export interest to developing countries.**

  - Negotiating Group to review proposals with a view to identifying those which could garner sufficient participation to be realized.

  - Participation to be on a <u>non-mandatory</u> basis.

Sectoral Initiatives

- Uruguay Round (UR) and pre UR negotiations were on request and offer method

- Specific issues to be negotiated: coverage, critical mass, special and differential treatment etc.

Sectoral Initiatives

- Current Proposals (14)
  - Autos & related parts
  - Chemicals
  - Fish & fish products
  - Gems & Jewellery
  - Healthcare
  - Raw Materials
  - Textiles & Clothing
  - Bicycles & related parts
  - Electronics/ electrical
  - Forest products
  - Hand Tools
  - Industrial Machinery
  - Sports Equipment
  - Toys
- Sectors being actively pursued by proponents
  - Chemicals
  - Industrial Machinery
  - Electronics/ Electrical
  - Enhanced Healthcare

Sectoral Initiatives

- Reservations of the Indian industry
  - Adverse effect especially on the SME sector
  - Inversion in duty structure
  - Loss of revenue
  - Existing cost disabilities for manufacture

- Difficult to agree on sectorals for specific products. It will create implementation issues (political sensitivity)

- Studies indicate that benefits of earlier sectorals like ITA went to China, Korea, Japan, Germany (not to US)

Results of an ITA Study

Study by NCTI on the Information Technology Agreement (ITA) reveals that

- US has lost its market share –
  - largest exporter in 1996, but slipped to 4th position in 2007
- China has been the biggest beneficiary
  - 11th position in 1996 but top exporter in 2007
  - Market share gone up from 2.8% in 1996 to 33.6% in 2007

Results of an ITA Study

- Amongst EC countries, Germany has performed the best –
  - Market share up from 9.6% in 1996 to 12.1% in 2007
- Other EC countries have lost their market share
- India share in ITA exports has marginally gone up from
  - 0.14% in 1996 to 0.20% in 2007

NTB Proposals

- Mandate:
  - GC 2004/HK 2005 :
  - NTBs an integral and equally important part of these negotiations
  - To proceed with identification, examination, categorization, and ultimately negotiations on NTBs.
  - Modalities for addressing NTBs in these negotiations could include request/offer, horizontal, or vertical approaches; and
  - To fully take into account the principle of special and differential treatment for developing and least-developed country participants.
- Began with identification and notification of NTBs
- 13 textual proposals being negotiated
- Good progress on this

Ministerial Declaration on Remanufactured Goods (Japan, Switzerland, US)

- Art 5: Reman proposed to be defined as those entirely or partly comprised of
  - Parts obtained from disassembly of used goods
  - Processed, cleaned, inspected or tested for ensuring original working condition
  - Has a warranty

Reservations on Remanufacturing

- No conceptual or definitional clarity and interchangeable use of terms like re-used, refurbished, repaired, recycled etc
- Ploy to transfer environmental/safety burden to developing countries
- Other WTO disciplines like customs valuation, rules of origin, intellectual property, certification , enforcement etc
- Adverse effect on sensitive domestic industries
- Unorganised domestic market with little export interest
- Remanufactured products can't be "*as good as new*".

Unsettled Issues in NAMA

- Sectoral Initiatives (participation by large developing countries like India)
- Higher flexibilities for South Africa, Argentina and Venezuela
- Transparency or “no surprises” on flexibilities
- NTB proposals
- Non reciprocal preferences
- Environmental Goods and Services

Unsettled issues

- **Non reciprocal preferences**
  - Current list of 57 EC lines and 29 US lines where longer implementation period is a balance between the preference beneficiaries (ACP, AGOA, CBERA) and exporters.
- **Higher flexibilities for South Africa, Argentina and Venezuela**
  - Support for South Africa but little support for the others
- **Transparency on flexibilities**
  - The US seeks "*no surprises*" on flexibilities but this is not acceptable.
- **Environmental Goods and Services**
  - Must be negotiated in CTE

Carve Outs for developed countries

- Erosion of preferences - longer implementation period of 10 years for
  - 57 EC tariff lines and
  - 29 US tariff lines

- Product coverage carve outs
  - Japan (scheduling Ag tariff lines as NAMA)
  - Switzerland (scheduling NAMA tariff lines as Ag)

THANK YOU

Possible Criteria for Sensitive List

- Employment intensive sector
- Sectors in rural, semi-urban and undeveloped regions of India
- Sectors employing vulnerable sections of the population such as women, children
- Low binding tariff lines
- Unbound tariff lines
- Products traditionally considered agriculture
- Other domestic sensitivities (SSI etc)

Possible Sensitive List for India

- Fish & Fish products
- Fertilizers
- Rubber products
- Textiles (including coir, carpets)
- Clothing
- Autos & auto parts
- Products of MSME

Other NAMA Slides

Procedures for Facilitation of Solutions to NTBs (Horizontal Mechanism)

- Fast track dispute resolution
- Informal low key & less adversial
- Expert facilitator (Chair, Vice Chair or Friend of Chair)
- Mandatory at request/ response stage (Stage I)
- Voluntary at resolution stage (Stage II)
- Within the existing WTO Committee's
- Confidentiality of data in Stage II
- Provision for 3rd parties to participate
- Independent of rights under DSU
- Flexible procedures
- Timelines for resolution

LTFR Principle (% cut in dutiable lines)

	Brazil	India	EC	US
Developed Country Proposal				
Swiss 10 & 15	66%	73%	33%	35%
NAMA 11 Proposal				
Swiss 10 & 35	45%	54%	33%	35%
Swiss 5 & 30	49%	57%	49%	51%
Chairman's Modalities				
Swiss 8 & 20	59%	68%	38%	40%
Swiss 8 & 22	57%	66%	38%	40%

Framework Understanding on NTBs

- **Cross cutting text**
  - ISO, IEC and ITU as relevant international standard setting bodies
  - Window to permit other international standard setting bodies
  - Tightening of disciplines for deviation from international standards
  - encouraging Member bodies to participate in international accreditation systems
  - Transparency provisions tighter than TBT

Framework Understanding on NTBs

- **Industry specific text**
  - Textiles, footwear, leather and travel goods
  - Automobiles (2 proposals on the table)
  - Electronics (2 proposals on the table)
  - Chemicals (being discussed with Argentina)