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NEGOTIATING GROUP ON MARKET ACCESS

Comments by the NAMA 11 Group of Developing Countries¹

While reiterating the elements contained in documents TN/MA/W/65, WT/COMTD/W/145, TN/MA/W/68 and the room document with respect to small, vulnerable economies, the NAMA 11 Group of developing countries submits this non-paper to the Negotiating Group on Market Access to clearly enunciate their position on all aspects of the modalities.

A. **FORMULA, FLEXIBILITIES AND UNBOUND TARIFFS**

1. **FORMULA**

Ministers in Hong Kong agreed to adopt “a Swiss Formula with coefficients”. This formula should result in reduction commitments which are consistent with the following principles that are necessary for “advancing the development objectives of this Round through enhanced market access for developing countries”.

- **Comparably high level of ambition in NAMA and Agricultural Market Access**, as mandated in Paragraph 24 of the Hong Kong Ministerial Declaration: the coefficients for the formula in NAMA for developing and developed countries, shall result in average tariff percentage cuts comparable to the cuts in Agriculture.
- **Enhanced market access for developing countries:** it entails, in particular, that developed countries must reduce or eliminate their national tariff peaks, high tariffs and tariff escalation.
- **Less than full reciprocity in reduction commitments:** developed countries shall undertake greater average percentage reductions in their bound tariffs as compared to those by the developing countries.
- **Reduction commitments from agreed bound rates²:** the contribution of Members shall be calculated on the basis of the tariff reduction effected on the agreed base rates, i.e. the final bound rates for previously bound tariff lines and the applied rates as on 14 November 2001 with the appropriate mark-up for

¹ Argentina, Bolivarian Republic of Venezuela, Brazil, Egypt, India, Indonesia, Namibia, Philippines, South Africa and Tunisia

² See Document TN/MA/W/68 for a more detailed discussion on this issue.

unbound tariff lines.

2. **PARAGRAPH 8 FLEXIBILITY**

The numbers between brackets in paragraph 8 shall be considered the bare minimum. Greater flexibilities in terms of higher number of tariff lines and larger trade coverage may be required by developing country Members to address their specific situations. Such requests will be given due consideration and accommodated appropriately.

3. **TREATMENT OF UNBOUND TARIFFS**

The binding of unbound tariff lines is a concession in itself.

A constant mark-up of 30 percentage points to the applied tariff rates as on 14 November 2001 will be adopted to appropriately address the sensitivity of both low and high unbound tariffs.

4. **IMPLEMENTATION PERIOD**

In accordance with paragraph 8 of the July Framework Agreement, “developing-country participants shall have longer implementation periods”. The implementation period for developing countries shall be at least 10 years, taking account of the implementation period in Agriculture to be agreed. Requests for additional time periods for specific tariff lines by individual developing countries to address particular sensitivities will be considered favourably.

5. **PRODUCT COVERAGE**

Work on product coverage must be finalised on a common list of NAMA products applicable to all Members. Such a common list would not only provide fair treatment during this Round, but would also eliminate uncertainties that occurred after the Uruguay Round, when some Members deviated from the broadly agreed definition.

6. **CREDIT FOR AUTONOMOUS LIBERALISATION**

Appropriate credit for autonomous liberalisation by developing country Members who have bound their tariffs on an MFN basis since the conclusion of the Uruguay Round will be given.

7. **BINDING IN AD VALOREM TERMS**

The decision in the July Framework Agreement to bind all tariffs in *ad valorem* terms is an essential element in fulfilling the mandate.

B. OTHER ISSUES

8. PARAGRAPH 6

The demand for paragraph 6 countries to bind 100% of their non-agricultural tariff lines at the “overall average of bound tariffs for all developing countries after full implementation of current concessions” would amount to an excessive burden for those countries.

The binding of tariff lines is a concession in itself, in this regard, the NAMA 11 notes that the paragraph 6 countries will be making a fair contribution to the Round by dramatically increasing their tariff bindings, starting from figures as low as 0,1%, as well as by abiding to a certain target tariff average.

Considering that the target tariff average for paragraph 6 countries was fixed on the basis of the “overall average for all developing countries”, the same rationale can be used to determine their binding coverage. The NAMA 11 therefore proposes that the paragraph 6 countries reach the same average binding coverage as was assumed by developing countries at the end of the Uruguay Round.

9. SECTORALS

The NAMA 11 reiterates that participation in sectorals is on a voluntary basis, and this should be reflected in the modalities

10. LEAST-DEVELOPED COUNTRIES

With regard to defensive interests of LDCs (paragraph 9 issues), the NAMA 11 Group of developing countries supports the language proposed by the LDCs: “We recall the decision of July 2004 General Council to exempt LDCs from participating in the formula for tariff reduction and the sectoral approach. However, as part of their contribution to this Round of negotiations, LDCs are expected to substantially increase their level of tariff binding commitments. We therefore reaffirm that individual LDCs will determine the extent and level of tariff binding commitments in accordance with their individual development objectives.”

With regard to offensive interests of LDCs (paragraph 10 issues) and the Decision on Measures in Favour of Least-Developed Countries contained in paragraph 36 of Annex F of the Hong Kong Ministerial Declaration, the NAMA 11 supports the concerns of LDCs on the importance, in terms of business and investment predictability, to receive information on possible exclusions from the coverage of duty free, quota free initiatives. Therefore, the NAMA 11 urges Members to inform how they intend to implement the commitments undertaken in Hong Kong.

Besides, the NAMA 11 takes note of the recognition, in the said Decision, that those developing countries declaring themselves in a position to grant duty free quota free market access shall be permitted to phase in this commitment and shall enjoy appropriate flexibility in coverage.

11. RECENTLY ACCEDED MEMBERS

NAMA 11 recognises the diversity in the tariff profiles of the RAMs as well as their specific situations. Accordingly, it would be appropriate that RAMs that declare themselves to be akin to developed countries should adopt the modalities applicable to developed countries. Other RAMs should adopt the modalities applicable to developing countries or LDCs, as the case may be, with all the attendant flexibilities and special and differential provisions. The NAMA 11 also proposes that the RAMs be allowed a longer implementation period.

The particular situation of some recently-acceded low income economies in transition shall be considered separately, to allow them adequate and appropriate flexibilities.

12. NON-TARIFF BARRIERS – HORIZONTAL ISSUES

The NAMA 11 attaches significant importance the mandate: to reduce or as appropriately eliminate non-tariff barriers, particularly those notified by developing country Members. It is also important to put into place a mechanism that would allow prompt resolution of the NTBs that arise in future after the conclusion of this Round. In this regard the NAMA 11 draws Member's attention to the proposal contained in document TN/MA/W/65/Add.1 for the establishment of a horizontal NTB resolution mechanism based on the facilitative approach and urges an early agreement on the same. This will provide an opportunity for those developing countries and particularly the LDCs who have not been able to notify NTBs thus far to have their concerns addressed.

The NAMA 11 would like to point out that there is no mandate to consider export related policy instruments in this Round. Proposals to eliminate or impose disciplines on export policy instruments cannot be considered without a specific mandate.

Noting that trade in remanufactured products can prejudice the mutual supportiveness of trade and the environment, and as such, is not an issue for discussion under the mandate for non-tariff barriers.

13. PREFERENCE EROSION

The problem of preference erosion is limited to a few products and a few Members. A first step to finding a solution is to clearly define the scope of the problem in terms of the tariff lines and Members affected. The scope of

preferences under consideration should be limited to ‘long standing preferences’ as ‘preferences’ *per se*, would have a broad and unmanageable scope.

There is agreement among Members that in addressing preference erosion, tariff liberalisation should not be undermined, and that the main concern is to have preference erosion ‘effectively managed to smooth the transition’.

In this regard, the NAMA 11 proposes a two-pronged solution:

- i) **A longer implementation period for the reductions affecting such tariff lines.** This implementation period for those developed country Members who provide preferences shall not be longer than the implementation period set for developing country Members.
- ii) **Additional technical and financial assistance,** including through the Aid for Trade initiative, to help address supply constraints, promote diversification of markets, export basket and sources of imports and mitigate the costs of adjustment and restructuring.

Developed countries who have been granting long standing preferences shall explore ways to achieve the fuller utilization of existing schemes, including, for example through the simplification of rules of origin.

The developed countries shall ensure that adequate steps will be taken to remedy the disproportionate adverse effects on non-beneficiaries by any measures agreed in this regard.

14. ENVIRONMENTAL GOODS

The NAMA 11 group of developing countries takes note of the ongoing work in the Committee on Trade and Environment in Special Session with a view to appropriately fulfilling the mandate contained in paragraph 31(iii) of the Doha Ministerial Declaration. This includes work on what would constitute an ‘environmental good’; the approach that should be adopted to meet the mandate fully, and how to *inter alia* enhance the mutual supportiveness of trade and environment. Some members of the NAMA 11 have made proposals in the CTE-SS in this regard.

Considering that an ‘environmental goods’ sector is only now emerging in most developing countries, an important outcome of the negotiation should be to strengthen this sector in developing countries. This is the only means of ensuring a win-win-win for the environment, development and trade. Comprehensive special and differential treatment provisions therefore must be an integral part of these negotiations. S&D provisions should include provisions of longer implementation period and lower reductions. Additionally provisions addressing NTBs and issues related to the transfer of technology and know-how are crucial.

This would be particularly important as all NAMA environmental goods will in any case be subject to the NAMA modalities.

It should be noted that the CTE-SS has recently embarked on an intensive work programme with respect to fulfilling this aspect of the mandate. For the discussion of appropriate modalities in NGMA, the NAMA 11 believes that the CTE-SS should continue and first finalise their work before the NGMA can approach the issue of tariff treatment.