

Oxfam International contribution regarding

NAMA Negotiations

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Summary

Opening up Southern markets

Driven by short-term commercial interests, industrialised countries are pressing hard for much greater access to developing country markets. If they are successful, poor countries will no longer be able to use tariff policy to help build national industries that are capable of supplying domestic markets and of exporting, thereby increasing employment and incomes, and generating other benefits for the economy. There is a danger that excessive opening to imports will destroy local businesses and jobs, without bringing compensating economic gains, despite the claims advanced by some theories of trade. In addition, governments may face balance of payments problems and loss of tax revenue. Effects such as these have already been seen in a number of countries that have undergone structural adjustment programmes under the auspices of the World Bank and the IMF.

While selective liberalisation of imports may well be desirable — e.g. for investment goods, or where local industries have atrophied — developing countries should not be under pressure to go too far, too fast. Countries with successful growth records such as South Korea, Taiwan, Viet Nam, China, and Mauritius have developed key sectors behind protective barriers. Trade barriers were gradually lowered once growth was under way and these sectors were becoming more competitive internationally. Exactly the same policy was adopted by rich countries themselves at an earlier stage of development.

Northern protectionism

The industrialised countries are pressing in the WTO negotiations for developing countries to liberalise while at the same time refusing to make a clear commitment to dismantle their own protectionist measures. Although their average tariffs are low, rich countries maintain high tariffs and practise tariff escalation for products in which developing countries are competitive, such as steel and clothing. The European Union, for example, imposes tariffs of less than 4 per cent on Indian yarn, but if the yarn is worked into garments, the tariff jumps to 12 per cent. The average US tariff for all imports is 1.6 per cent, but this rises to 4 per cent for India and Peru, and to a scandalous 14–15 per cent for Least Developed Countries (LDCs) such as Bangladesh, Nepal, and Cambodia. In the talks, there is still no sign that the rich countries are prepared to stop charging more tax on exports from poorer countries, or honour their promise to provide full market access to the LDCs.

The industrialised countries are also avoiding discussion of certain non-tariff barriers (NTBs), even though developing countries have flagged them up as the most significant obstacles that their exporters face. For example, rich countries claim that there is no mandate to discuss health and technical standards in the NAMA talks, but this is not the case. Other NTBs that are abused for protectionist purposes include anti-dumping measures and restrictive rules of origin.

If the NAMA talks lead to improved access to industrialised-country markets, this will provide millions of jobs in the developing world, many of them for women. Of course, it is essential that governments and companies fully respect labour rights so that the benefits of trade are fairly shared with the workforce. Similarly, where the changing patterns of world trade reduce employment in more labour-intensive industries in the rich countries, governments must assist affected workers.

South–South trade

Rich country negotiators argue that the main benefit of NAMA tariff reductions will be an increase in South–South trade. While there are potential gains here, the issue should not be used to distract attention from Northern protectionism. In fact, South–South trade is already growing very fast and there is nothing to prevent individual developing countries from further liberalising their trade regimes unilaterally, regionally, or as part of UNCTAD’s global South–South trade negotiations.

The NAMA process

The process for negotiations remains biased towards the interests of industrialised countries, further weakening the legitimacy of the WTO. The interim negotiating text for the NAMA talks contained in the 2004 ‘July Framework’ was unbalanced and opposed by many developing countries, yet it remains the basis for ongoing talks. At the same time, poor countries are being asked to make concessions on tariffs in NAMA, without knowing if or when NTBs will be addressed, or what is on the table in relation to agricultural trade reform.

Conclusion and recommendations

In keeping with the Doha mandate, the principles of ‘special and differential treatment’ and ‘less than full reciprocity’ must be reflected in the negotiations. In this regard, the current text is not an appropriate basis for agreeing a pro-development outcome. The final NAMA package should contain the following elements:

- Developing countries should be allowed to choose which tariff lines to bind along with the rates at which they bind. No tariff that developing countries bind in this round should be subject to cuts; binding is already a concession.
- Developing countries should have the flexibility to choose which tariffs they reduce and by how much. Setting targets for an average reduction would be better than adopting a ‘formula approach’ to market access.
- If a formula is agreed, it must allow developing countries to exempt key sectors from tariff reductions or even to raise tariffs on the grounds of economic development policies, environmental concerns, rural development, employment, or poverty reduction.
- The agreement must radically improve developing country access to rich country markets by eliminating tariff peaks and escalation. Imposition of a cap on tariffs set by industrialised countries should be considered.
- Measures must be agreed to prevent protectionist abuse of anti-dumping actions and product standards, and excessively demanding rules of origin.
- LDCs should be exempt from all tariff commitments, including binding. They should be granted duty- and quota-free access to rich-country markets, bound at the WTO.
- Initiatives to eliminate or harmonise tariffs in whole economic sectors should be rejected.
- Studies should be carried out to assess the impact of possible future liberalisation commitments on the environment and on the livelihoods of people living in

poverty. For environmentally sensitive sectors such as fisheries and forestry, there should be no negotiations without full impact assessments.

- Preference erosion must be dealt with by WTO members, particularly those who created the preference system, who should at a minimum provide bilateral assistance to preference-dependent countries, commensurate with the impact of preference erosion resulting from implementation of the current round. This should be a binding commitment.
- The negotiating process must ensure greater participation of developing countries, and the July 2004 Framework for NAMA should not be taken as an agreement. All NAMA-related issues should be discussed at the NAMA negotiating body, even if they are negotiated elsewhere.

Introduction

*‘The majority of WTO members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration.’
— Doha Ministerial Declaration, 14 November 2001.*

Trade negotiations on Non-Agricultural Market Access — NAMA in WTO parlance — began in Doha three years ago but are now rapidly emerging as a key concern for developing countries. These talks mainly address liberalisation of trade in manufactured goods, but also cover fisheries, minerals and forestry products. The Doha Round of trade negotiations was supposed to prioritise the needs of developing countries. Instead, rich countries are pressing hard for access to developing country markets — a demand driven largely by their short-term commercial interests, rather than by development concerns in the South. Meanwhile, there has been scant discussion of the protectionist measures still used by rich countries themselves. The process for negotiations remains biased towards the interests of industrialised countries, further weakening the legitimacy of the WTO.

In July 2003, the G90 trade ministers criticised the liberalisation measures proposed in the NAMA negotiating text, stating that they contradicted ‘the principle of less than full reciprocity enshrined in the Doha Ministerial Declaration’ and would ‘further deepen the crisis of de-industrialisation and accentuate the unemployment and poverty crisis in our countries’. Some developing countries, including India and Brazil, have expressed concern that rich countries are demanding excessive tariff cuts while continuing to block imports, such as steel and clothing. Unless the concerns of developing countries are taken into account, NAMA could prove a major stumbling-block to progress in Hong Kong.

Oxfam believes that if NAMA negotiations continue along their current lines, they will:

- prevent developing countries from pursuing effective industrial policies, jeopardising their development strategies;
- increase the risk to developing countries of de-industrialisation, unemployment, environmental degradation, and worsening poverty;
- fail to address the issue of Northern protectionism, thus missing the opportunity to contribute towards poverty reduction through improved market access for developing countries;
- fail to uphold the principle of ‘differential treatment’ and the promise of ‘less than full reciprocity’ for developing country members.

This paper explains these concerns, and makes recommendations for putting the negotiations on a development track.

Eroding the policy space for development

Industrialised countries are seeking to impose NAMA rules that would constrain the ability of developing countries to use tariffs to protect key sectors, as part of their economic development strategies or in response to import surges. Tariffs are one element of a successful industrial policy, which includes the construction of a dynamic export sector, so it is important that developing countries retain control over the levels at which they are set.

When making their case for swift and far-reaching liberalisation by developing countries, industrialised countries often cite studies that link openness to trade with growth. However, such studies have been criticised for poor or misleading measures of openness, and for failing to demonstrate a convincing causal link between openness and growth.¹ More importantly, however, those who cite these studies ignore the historical experience of rich countries themselves and of the successfully industrialised Asian economies.

While it is impossible to extrapolate a single set of ‘best practices’ in development strategies, since all countries are different and a variety of approaches to development have proven effective, countries that are considered successful, such as Viet Nam, China, or Mauritius, were not liberalisers in the early stages of their growth. They developed behind protective barriers, then gradually opened up once growth was already well under way and they were becoming more competitive internationally. In some cases, they even increased trade protection as part of their industrialisation strategies, as in the case of South Korea’s programme to develop its auto industry. Historically, trade liberalisation and changes in the extent and type of government regulation are better seen as outcomes of development, rather than as initial conditions, as currently suggested by rich countries at the WTO.

The economic explanation of historical ‘infant industry’ policies is relatively straightforward. In poor countries, domestic industry behaves differently from industry funded by foreign direct investment (FDI), and is often more desirable in terms of backward linkages to other domestic businesses, greater emphasis on technology transfer, and attention to the need for research and development. Domestic industry is also ‘stickier’ than FDI i.e. less likely to move abroad in search of lower wages or the latest batch of tax incentives.²

For these reasons, successful economies such as South Korea and Taiwan supported their domestic industries in the early stages of their development, in order for them to acquire the scale, knowledge, and technology to compete with established international companies — something that electronics firms such as Samsung and LG have clearly achieved. To do this, they used a combination of subsidies, technical assistance, tariff protection, and regulation. The type of regulation employed has included obliging domestic companies to break into export markets, and restricting the role of FDI.

Once scale and competitiveness are achieved, the benefits of liberalisation become more apparent, while the downsides of state intervention become relatively greater. Open competition with leading-edge international companies keeps up the pressure for innovation, whereas government protection can be ‘captured’ by special interest groups keen to keep up their profits by avoiding competition, thereby undermining both industrial progress and consumer welfare. Competent, accountable governments are then required to steer the economy towards a more competitive, globalised environment.

As Cambridge University economist Ha-Joon Chang has demonstrated, this trajectory has been followed by virtually every developed economy, including the US, most of Europe, and East Asia.³ Mauritius, one of Africa’s principal success stories, has increased income per capita more than three-fold since independence in 1968,⁴ and increased the value of exports more than 20 times,⁵ while having high levels of protection for its domestic industries.

Good industrial policy obviously consists of more than just tariff protection. Developing- country governments must also have realistic plans for industrial

development which target the sectors most likely to succeed and which provide credible ‘sunset clauses’ for ending government support. And no industrial policy will succeed without an underpinning investment in education, technology and economic infrastructure. Without all of these, industrial policy and state intervention can fail, as has been the case in some Latin American and African countries. However, there are no examples of countries developing without them. Removing the ability of developing countries to implement trade measures supportive of industrial development risks ‘kicking away the ladder’ of development from today’s poor countries.

Regrettably, other elements of successful industrial policy are also constrained at the WTO and in regional trade agreements. The WTO Agreement on Subsidies limits the use by developing countries of another mechanism that rich countries have historically used to promote their own industries; the Trade-Related Intellectual Property (TRIPS) Agreement places significant obstacles in the path of developing countries seeking to acquire new technology; and the agreement on Trade-Related Investment Measures (TRIMS) restricts certain performance requirements for FDI.

South–South trade

Rich country negotiators frequently argue that developing countries should lower their tariffs in order to increase South–South trade. While there are certainly potential gains here for some developing countries, the issue should not be used to distract attention from Northern protectionism. Given that industrialised economies constitute 75 per cent of world GDP, access to Northern markets remains critical for developing countries.⁶ Moreover, it is inaccurate to suggest, as many Northern trade officials do, that there is immobile South–South protectionism. Developing countries have been reducing their tariffs outside the WTO framework: during the 1990s, South–South trade grew at nearly double the rate of global trade, while intra-regional trade in Latin America and Asia also increased significantly.⁷ There is nothing to prevent individual developing countries from further liberalising their trade regimes unilaterally or as part of South–South initiatives such as UNCTAD’s ‘GSTP’ negotiations, if they consider this to be in their interest.⁸ However, they should not be forced to do so within the NAMA talks. Furthermore, rich countries should stop using the excuse that ‘it’s good for South–South trade’ to justify their aggressive push for access to developing-country markets.

Risk of harsh adjustment costs

In the NAMA negotiations, industrialised countries are pushing for significant market opening, without listening to the legitimate concerns of developing countries that quick opening could lead to the closure of industries, balance of payments problems, lower tax revenue, and thus to unemployment, dislocation, and an increase in poverty. Mitigation of the costs of adjusting to lower import tariffs requires much more gradual, properly managed liberalisation.

Free-market enthusiasts often cite economic models predicting the effects of trade liberalisation which conclude that the decline of some industries will be accompanied by the growth of others. However, these models make a number of simplifying assumptions, including the existence of perfect competition and the ‘instant adjustment’ of labour and capital markets. They also tend to miss out dynamic effects and to assume stability in the surrounding environment when, in fact, national

macroeconomic conditions and the state of the global economy are variable and have a major effect on outcomes.

As a result, actual experiences of liberalisation have often been far from this ideal.⁹ In the worst cases of ‘transition’, liberalisation can even cause countries to take steps backward along the path of industrialisation. Countries such as Argentina and Brazil suffered declining or stagnant shares of manufactured exports, employment, and output while moving to activities with lower added value.¹⁰ In Haiti, Mali, Bolivia, and Peru, rapid liberalisation has had damaging impacts on growth, poverty reduction, and human development. And even in cases where liberalisation leads to more exports and new jobs are created in exporting sectors, resulting in an overall gain for the country’s economy, the loss of employment in sectors negatively affected may be painful, as few developing countries have safety nets or adjustment programmes in place.

Box 1. When predictions go wrong: liberalisation in the Philippines¹¹

From the 1980s onwards, the Philippines liberalised its import regime, as required under World Bank structural adjustment programmes (SAPs) and with a view to achieving the government’s goal of ‘improving efficiency and resource allocation, and attaining global competitiveness and sustained economic growth’. Tariffs fell from an average of 22.4 per cent in 1988 to 2.6 per cent by 2004. The Philippines also joined the WTO as part of the liberalisation programme, seeking enhanced access to other members’ markets. The expectation was that liberalisation would ultimately lead to more jobs and a better standard of living for Filipinos.

While simple trade theory predicts that liberalisation leads to an increase in both exports and imports, as resources shift to the most competitive sectors, the Philippines experienced a surge in imports with no corresponding increase in export earnings. The value of imports rose from \$7bn in the 1980s to \$25.4bn in the 1990s, and the trade deficit more than doubled from 1980 to 1990. While imports flowed in, competing with and ultimately reducing production in a number of sectors, transaction costs in seizing new business opportunities meant that displaced resources, including workers, were not moved to other activities. The situation was aggravated by appreciation of the exchange rate in the early 1980s. ‘Adjustment’ was slow and, as a result, Filipino workers and owners of sector-specific capital suffered.

Filipino exports have become concentrated in a small number of sectors, primarily electronics, semiconductors, and garments. Traditional exports of agricultural products, which have the potential to reduce the rural poverty rate of 47 per cent, decreased. Expectations of greater market access to key trading partners, including the USA, have not materialised; in fact, in key export sectors, the tariffs imposed on Filipino exports have actually increased since 1998.

After a quarter of a century, the anticipated benefits of market opening have not been realised. Since 1980, the country’s economy has grown at an annual rate of only about 2.5 per cent, and there has been no growth whatsoever in per capita income. Currently, manufacturing production is stagnant. The unemployment rate has risen and the economy is generating about 400,000 jobs per year fewer than the number needed.

Clearly, the assumption of perfect labour mobility between industries is unrealistic. During the 1990s in Latin America, urban unemployment doubled in countries such as Brazil, Colombia, and Peru as they liberalised rapidly.¹² And no country has fully mitigated the impact of opening on those workers who lose out. Even the USA’s Trade Adjustment Assistance programme has been criticised as poorly designed and ineffective in helping laid-off workers to find employment in other areas. In North Carolina, for example, nearly 70 per cent of laid-off workers did not apply for TAA benefits, and those who did faced a waiting period of between 90 and 180 days to find out if they were eligible.¹³ If the USA, with huge resources at its disposal, has not yet found the solution, it is difficult to imagine how poor countries can establish adequate safety nets or adjustment programmes.

Countries can also experience a sharp deterioration in their balance of payments following liberalisation, as spending on imports tends to rise faster than export earnings, due to supply-side and other constraints.¹⁴ While some analysts have sought to blame balance of payments problems on other macroeconomic factors, trade policies undoubtedly also play a role. Growing deficits can lead to currency instability, which acts as a deterrent to investment, while the measures needed to correct deficits often undercut economic growth.¹⁵

Potential loss of tax revenue due to import liberalisation is also of great concern to a number of countries. In theory, it may be desirable to replace revenue from tariffs with other types of taxes, but these reforms take time to implement and even then it is not certain that the income will be replaced entirely. The IMF has found that while high-income countries are able to recover almost all their loss of tax revenues, middle-income countries ultimately lose about 45–65 cents of total revenue for each dollar of lost trade tax revenue, and low-income countries recover almost nothing.¹⁶ In the meantime, lower government revenue means there is less money available for health care, education, infrastructure, and other critical development expenditure.

In OECD countries, tariffs account for a mere 1 per cent of tax revenues, but in developing countries the figure is much higher — it constitutes more than half of the tax total for countries such as Swaziland (55 per cent), Uganda (50 per cent), and Madagascar (53 per cent). Some non-LDCs are also highly tariff-dependent, such as the Dominican Republic (44 per cent), the Philippines (20 per cent), Paraguay (18 per cent) and Thailand (12 per cent). Countries that are asked to bind their tariffs in the current round of negotiations will be required to cut those tariffs in future rounds, undermining their revenue bases.

Some WTO delegations, notably the USA's, have dismissed the concerns of countries with a reliance on tariffs of less than 20 per cent, claiming that anything under this figure should not count as 'tariff dependency'. One only has to imagine how a European or US finance minister would react to losing 19 per cent of their country's revenue to realise how unconvincing this position is. To put these figures in a development context, the Philippines is already estimated to have a shortfall of \$2.2 billion in the government spending needed to meet the Millennium Development Goal targets — more than one-fifth of its annual government revenue.¹⁷ In this round, the Philippines is being asked to bind, then cut, more than 30 per cent of its tariff lines, in addition to cutting the lines that are already bound at the WTO.

Some rich countries argue that developing countries might actually increase their tax revenue or, at least, not suffer significant losses as tariffs fall, due to increases in volumes of imports. However, evidence reviewed by the UK's Department for International Development suggests that average tariffs in Africa (15–20 per cent) are already at or below the revenue-maximising point, which is estimated at around 18 per cent, while in the Asia-Pacific region tariffs of 12–16 per cent are far below their revenue-maximising point of around 28 per cent. This means that further tariff cuts will indeed reduce tax income. Even if implementation periods are ten years or more, that may not be enough to enable poor countries to cope with adjustment, and longer transition periods do not address the question of whether drastically reducing tariffs in this Round is the best way to promote development.

Northern protectionism allowed to continue

Although it is not an end in itself, trade can be a key contributor to improvements in human welfare. For example, between 1978 and 1997, average incomes in China

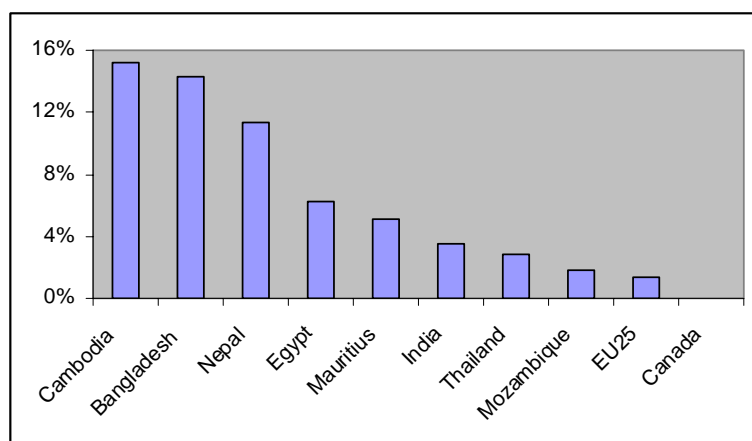
doubled, with spectacular growth in export earnings playing a major role. Some 200 million people were lifted out of poverty during this period.¹⁸ Cross-country studies tend to find that successful export promotion is associated with economic growth, although this must be balanced with measures to strengthen the domestic market and to ensure that the fruits of growth are widely shared. One key factor in assuring and sustaining the equitable distribution of the benefits of trade is government and corporate respect for labour rights.

Exports, of course, require markets, and since the OECD countries account for three-quarters of the global economy, access to their markets is vital for developing countries. Unfortunately, it has become apparent that while rich countries call for developing countries to make concessions in NAMA talks, they expect different standards to apply to their own trade barriers, repeatedly stating that high tariffs in developing countries are the main issue. Although they maintain low average tariffs on industrial goods — about 3 per cent — rich countries use tariff peaks, tariff escalation, and a variety of non-tariff barriers (NTBs) to keep developing country products out of their markets. Developing countries are rightly concerned that the NAMA negotiations will fail to adequately address these problems because of protectionist lobbies, such as US steel and clothing manufacturers.

To take the USA as an example, the average tax rate for all NAMA imports is 1.5 per cent. However, this rises to 3.5 per cent for goods from India, and to 14–15 per cent for LDCs such as Bangladesh and Cambodia — despite the commitment made by rich countries in the 2001 Doha Declaration to extend duty- and quota-free access to imports from LDCs.¹⁹ Tariff peaks, which are tariffs that are more than three times the national average tariff, are a particular problem for developing countries. These are concentrated in sectors of interest to them, such as textiles and clothing, footwear, and electronics. Developing countries account for less than one-third of rich country imports overall, yet their products constitute two-thirds of those subject to peak tariffs.²⁰ The perverse result is that poor countries often contribute more to the coffers of rich countries than do their industrialised counterparts. For example, the US government claims more import duties on Vietnamese goods than on Dutch goods, even though the Netherlands' sales are four times those of Viet Nam, and its per capita income is ten times greater.

Tariff escalation, the imposition of higher tariffs on goods subject to higher levels of processing, also undermines development by hindering poor countries' efforts to diversify production towards goods with more value-added. For example, the EU imposes tariffs of less than 4 per cent on Indian yarn, but if the yarn is worked into garments, the tariff jumps to 12 per cent. Switzerland provides duty-free access to silk, but imposes a tariff of CHF \$205kilo on dyed silk, and \$257per kilo for printed silk.²¹

Effective US tariffs on manufactured goods²²



Tariff discrimination against poor countries, damaging as it is, is at least easily identifiable and quantifiable, and the Doha mandate explicitly calls for the elimination of tariff peaks and escalation. Less transparent tools of protection used by rich countries include anti-dumping measures, abuse of Sanitary and Phyto-Sanitary (SPS) and Technical Barriers to Trade (TBT) measures, and restrictive rules of origin.²³ These measures provide a particular challenge for developing countries, as it is extremely difficult to ascertain how they are being deployed. And notification of NTBs has been neither complete nor timely, so developing countries face problems in obtaining information on NTBs, in addition to complying with them.

The EU launched 53 anti-dumping investigations involving garments during the 1990s, of which 80 per cent were targeted at developing countries.²⁴ For developing countries, fighting these cases is very expensive and, as a result, many simply agree to increase the prices of their exports. In fact, 40 per cent of the EU investigations were terminated before they were concluded because developing countries agreed to change their trade practices. Protectionist use of anti-dumping measures by WTO members is on the rise, and so agreeing disciplines to curb such abuse should be a priority in this round.

SPS and TBT standards, which in principle are justified to protect health and safety and the environment, have been criticised by developing countries as ‘invisible’ protectionist measures. For example, Bangladesh reports that its exports of jute yarn and twine are subject to certification and SPS measures applicable to live animals.²⁵ And because of overly complex or restrictive rules of origin, developing-country exports to rich countries regularly enter under ordinary tariffs rather than under the preferential tariffs available to them. More than 50 per cent of Bangladesh’s exports to the EU, and 64 per cent of Cambodia’s, are taxed, despite the promise of the Everything But Arms initiative to extend duty-free access to LDC goods.

The July Framework agreed at the WTO last year recognises that NTBs are an ‘integral’ part of the NAMA talks. Yet there is a risk that NTBs flagged by developing countries as significant barriers to market access will not be adequately addressed. While it may make sense to negotiate certain NTBs outside the NAMA negotiating body (for example, anti-dumping negotiations fall under the remit of the WTO Rules Committee), these negotiating bodies should report to the NAMA committee, so that developing countries can make an overall assessment of what real improvements in market access are on offer.

In addition, the rich countries are seeking to take SPS and TBT measures off the table altogether, insisting that there is no mandate to discuss them and that the agreements

governing their use, combined with the dispute settlement procedure, are enough to discipline them. This is simply not true: the definition of NTBs is flexible enough to include these issues in the NAMA talks. And because SPS and TBT measures are two of the main concerns cited by developing countries in their notifications to the WTO on NTBs, they must be included on the agenda.

If the NAMA talks lead to improved access to industrialised-country markets, as they should, this will create millions of new jobs in the developing world, many of them for women. Of course, it is essential that governments and companies fully respect labour rights so that the benefits of increased trade are fairly shared with the workforce. Similarly, where the changing patterns of world trade reduce employment in more labour-intensive industries in the rich countries, governments must assist affected workers and communities. Unlike governments in the developing world, governments in the North have the resources to do this.

Special and differential treatment: ignored or misinterpreted

The Doha Development Round was launched with the promise that the concerns of developing countries would be put first, instead of pursuing the tit-for-tat exchanges that typically characterise trade negotiations. This promise has not been kept. Instead, the granting of special and differential treatment (SDT) in the NAMA text is considered by countries, including the USA, to be a concession that must be paid for elsewhere in the negotiations. For example, in January 2005, the US Trade Representative proposed injecting more flexibility for developing countries into the tariff formula — for a price. In return, developing countries would be expected to give up certain elements of the already weak SDT provisions. This is unfair in that both ‘less than full reciprocity’ and SDT are meant to be the guiding principles of the talks. Moreover, rich countries are changing the approach they have always taken with regard to binding and cutting tariffs, seeking much greater concessions from developing countries than they have ever sought from each other in years past.

According to the GATT treaties, developed countries should not expect full reciprocity for concessions given, and developing countries should not have to make concessions inconsistent with their development needs.²⁶ These principles are restated in the Doha Ministerial Declaration, which specifically cites the need for less than full reciprocity in the NAMA negotiations.

In the NAMA negotiations, the industrialised countries have rightly accepted that the LDCs should not be asked to make import liberalisation commitments, although they are being asked to substantially increase their bindings which itself is a significant commitment for certain members. Unfortunately, and inconsistently, this flexibility is not extended to other developing countries. Rich country promises of SDT remain vague or couched in the language of ‘best endeavours’. These problems are particularly evident in the proposals for tariff binding and reduction and in the lack of serious consideration given to development concerns, such as erosion of preferences and government revenue.

Under the GATT, rich countries chose which tariff lines to bind, along with the level at which they bound them. They then reduced the bound tariffs in subsequent rounds of negotiations. This gradual process took place over 50 years of negotiations, during which time countries were given significant leeway to pursue tariff policies commensurate with the development of their industries. In this round, by contrast, countries with unbound lines are expected to bind and cut all tariff lines, and all within a single round. This is unprecedented.

Tariff bindings

The approach to binding tariffs at the WTO is an important issue for many developing countries, as once tariffs are bound they are subject to cuts in future trade negotiations. Developing countries that have bound less than 35 per cent of their tariff lines would, under the current negotiating framework, have to bind all of them. This would constitute a significant commitment, since some countries currently have binding coverage as low as 1 per cent. Ghana, for example, has a binding coverage of only 1.2 per cent, and Kenya 1.6 per cent. Considering that not all rich countries have bound 100 per cent of their tariffs, it is ridiculous to insist that the less well-off WTO members should do so²⁷.

Worse, the July Framework would impose a ceiling on the levels at which these countries could bind their tariffs, set at the average tariff rate of developing countries. This could mean a ceiling as low as 12.5 per cent if the weighted average tariff of developing countries is used as the reference.²⁸ Under the July Framework, WTO members with over 35 per cent of their tariffs already bound would also face a ceiling when binding the remainder: they would be required to bind tariffs at twice the applied rate in each line. This means that some developing countries would be forced to bind their tariffs at levels lower than the bound rates of other developing countries.

Under the GATT, countries set the levels at which they bound tariffs, and it is clear from tariffs in certain agricultural products that industrialised countries took full advantage of this approach, setting some as high as 300 per cent. Developing countries should be able to choose which lines they bind and at what level, and it should be explicitly recognised that any binding is a concession. The EU recently acknowledged this when it proposed allowing more flexibility, depending on the extent to which countries bind tariffs and close the gap between bound and applied rates in this round.

Tariff reductions

Paragraph 4 of the July Framework proposes that work be continued on a non-linear formula applied line by line, meaning that each and every tariff would be subject to a cut, in keeping with a mathematical formula. 'Non-linear formulas' are designed to cut higher tariffs more than lower tariffs, with the extent of cuts dependent on what co-efficient is inserted into the formula.

This approach is anathema to most developing country members, as it is inconsistent with the Doha mandate and contravenes the principle of less than full reciprocity. Further, line-by-line application of a formula is a significant departure from past practice and would impose a disproportionate burden on developing countries. This is because developing countries on average have higher tariffs, which would require greater cuts. It would also, as noted above, undermine such countries' ability to raise revenue from customs duties, and to protect infant industries as part of their development strategies.

As recently as the Uruguay Round, the USA could not accept the line-by-line application of a non-linear formula, agreeing instead to cuts in average tariff levels according to which lines it chose to cut, the way it cut them, and by how much it cut them. The heavy-handed message from rich countries is: 'Don't do as we did, do as we say'.

Although the July text notes that the formula should fully reflect the principles of SDT and less than full reciprocity, this is impossible if the non-linear formula plus

sectoral initiatives pushed by most of the rich countries (see Box 2), are agreed. Calculations indicate that even if a different co-efficient is applied to developing countries under a non-linear formula, due to their higher average tariffs they will end up providing proportionately much greater market access than they will receive. The approach currently under consideration would therefore lead to 'more than full reciprocity' for developing countries, with the extent of the imbalance depending on a number of factors, notably the treatment of developing countries' unbound tariff lines during the round, the degree of sectoral elimination, and the level at which countries are able to bind their tariffs.

Box 2. The formula: adjusting the level of ambition yields very different results for developing countries

The level of ambition of the tariff approach is a key determinant of the cuts that developing countries would have to make under a NAMA package. UNCTAD modelling shows that under a non-linear approach, with separate co-efficients for developed and developing countries, the outcome could range from:

(a) developing countries moving from an average (applied, weighted) tariff of around 8 per cent to 6.3 per cent, with developed countries cutting their tariffs from 3 per cent to 0.8 per cent; to

(b) developing countries cutting their tariffs from 8 per cent to 3.3 per cent, while developed countries move from 3 per cent to 0.6 per cent.

The difference between (a) and (b) is the 'level of ambition' in terms of the formula used, the co-efficient used, the introduction of a separate sectoral initiative, the extent of SDT in the text, and the treatment of unbound tariff lines.

These scenarios demonstrate that, depending on the treatment of a variety of issues, the outcome could require significantly different tariff cuts for developing countries — one-fifth versus three-fifths — while only slightly altering the level of cuts required by developed countries. Ideally, the formula should leave developing countries with the flexibility to protect sectors key to development, employment, and poverty reduction, while imposing a cap on developed-country tariffs in order to cut peaks and reduce tariff escalation.²⁹

In light of the industrialised countries' aggressive push for market access, consideration should be given to the creation of a special safeguard mechanism for developing countries. Progress has been made on this type of SDT measure in talks on agriculture. Similar mechanisms might make sense in NAMA, depending on the tariff commitments undertaken by developing countries in the current round of negotiations.

Preference erosion

Many developing countries and LDCs face erosion of their preferences relative to other WTO members as liberalisation proceeds in the industrialised-country markets to which they export. This is a serious loss for these countries, and one for which they should be compensated. Addressing the issue of preference erosion in the Doha package will be central to ensuring that the benefits of international trade are shared by all WTO members. Several complementary approaches for dealing with preference erosion have been proposed, including expanding market access for products of vital export interest to preference-dependent countries, and simplifying rules of origin or enacting other measures to ensure they can effectively use existing preferences. Preference-dependent countries should at a minimum receive a binding commitment from rich countries — especially those who created the preferences system — to provide bilateral assistance to ease the transition, commensurate with the impact of preference erosion. This should not be left exclusively to the international financial institutions, as has previously been the case.

Sectoral initiatives pose problems for developing countries

As if it were not enough to push for aggressive tariff cutting through line-by-line application of a formula, rich countries have also been calling for total elimination of tariffs in certain sectors. They are pressing developing countries to accept a 'sectoral approach' to market access, with the aim of achieving the 'elimination or harmonisation' of tariffs. Because developing countries have on average much higher tariffs than industrialised countries, harmonisation or elimination would constitute much bigger concessions for them — another instance of 'more than full reciprocity' in NAMA negotiations. Although Paragraph 7 of the July text states that sectoral initiatives will be key to the talks, developing countries have been vocal in opposing them.

Industrialised countries began NAMA talks by calling for the total elimination of tariffs — 'zero for zero' in NAMA-speak — as part of a package of sectoral initiatives that would be mandatory for all WTO members. The USA, a key demander of sectorals, has recently changed its position, stating that sectoral initiatives do not necessarily have to reduce tariffs to zero, and proposing the voluntary participation of a 'critical mass of countries'. Based on a proposal by Canada and the USA, it appears that sectoral initiatives would move forward only if countries representing a certain percentage of trade in a sector agreed to participate. Participation would therefore be voluntary, although the developing countries needed to achieve 'critical mass' would undoubtedly face enormous pressure to participate in the initiatives, whether they were ready to sharply reduce their tariffs in the sector or not.

The continuing consideration of sectoral initiatives remains problematic for developing countries. Sectoral initiatives would create pressure for liberalisation beyond what would happen under the formula, the application of which would already entail a departure from past practice under the GATT and a significant market access commitment by developing countries. Further, it is unclear what would happen to the flexibilities that are provided in the NAMA text for developing countries in relation to the tariff lines covered by sectoral initiatives.

While rich countries have promised that sectors selected for these initiatives would be 'sectors of particular interest to developing countries', those that have been proposed — including electronics, fish and fish products, and motor vehicle parts and components — have been criticised by some developing countries as being more reflective of industrialised countries' interests than of development.³⁰ For example the auto sector, often specified as a possibility for a sectoral initiative, was cited by UNCTAD in a recent paper as one sector where production would actually move away from developing countries following liberalisation.³¹

The inclusion of fish and fish products amongst the suggested sectoral initiatives is also of particular concern, given the environmental implications of trade in these products. According to the UN, around half of the world's fishing grounds are already being exploited to their biological limits.³² The fish sector is particular in that over-exploitation by one country directly affects the resource base in other countries. Further liberalisation could have serious implications for sustainability, as well as threatening the livelihoods of millions of poor people in developing countries who depend on fishing for their living.³³ Meanwhile, rich countries continue to subsidise their fishing industries, with subsidies to commercial fleets amounting to \$20bn annually, leading to over-exploitation of natural resources.³⁴ Similar environmental concerns exist in the forestry sector, which is also covered by the NAMA

negotiations. Developing countries must retain the flexibility to set appropriate policies, including tariffs, with regard to these sectors.

Although some developing countries may see in the sectoral initiatives the chance to achieve more substantial market access for key exports — e.g. footwear or textiles and clothing — this could be achieved in the negotiations in other ways. For example, a flexible formula paired with a cap on rich countries' tariffs could be a way to reduce peak tariffs and tariff escalation, without having to give concessions in return. If developing countries do decide to move forward with sectoral initiatives, the principles of SDT and less than full reciprocity should guide their commitments within them, including longer transition periods and smaller cuts to their tariffs in comparison with the cuts made by industrialised countries.

The negotiations process is flawed

NAMA has been kept on the back burner until recently, as most delegations at the WTO have focused their energies on agriculture. There are now calls, mainly from the rich countries, for NAMA to 'catch up' with agriculture. Rich countries have insinuated that in order to obtain the gains of a new agriculture agreement, developing countries are expected to give more market access in NAMA negotiations. However, because there are no numbers in the agriculture text, it is impossible for countries to assess the costs and benefits of what they are getting and giving up across the different areas of negotiations. Cross-concessions across agreements are part and parcel of how the WTO works, but it is not fair to expect developing countries to sign a blank cheque to rich WTO members. Special and differential treatment should be an integral part of all aspects of the Doha agenda, rather than a concession granted by rich countries in exchange for major concessions on market access.

The July text fails adequately to address issues raised by the majority of members — developing countries and LDCs — including the fact that it uses only vague and 'best endeavours' language when dealing with issues of concern to them, while incorporating clear messages on the priorities of industrialised countries. Of primary concern is the fact that the text under consideration is the same text that has been around since the 2003 Cancun Ministerial meeting. This text has been consistently opposed by developing countries, and its continuing existence as the basis for discussions is testament to the lack of real democracy at the WTO. In July 2004, in order to arrive at the framework package as the deadline rapidly approached, a 'vehicle' was agreed among members: i.e. a paragraph recognising that nothing in the NAMA text was yet agreed and that the text should merely be a jumping-off point for further negotiations. Rich countries have a short memory and are moving ahead as if the text from the July framework set out definitive parameters for negotiations in 2005. This is unfair and contrary to what was actually agreed.

The process from here is likely to involve discussion in small groups, an approach that could make it difficult for developing countries to follow progress, especially if the meetings are held outside Geneva, as has been the case with mini-Ministerial meetings. Some delegations have suggested that small groups of experts be set up to discuss issues raised in sub-committees. This approach carries the risk that experts will be chosen by developed countries and that developing countries will not be able to participate in all groups or follow what they are doing. The result could involve ugly surprises if the experts come up with suggestions as to what should be done on the various issues they have considered, presenting their suggestions to the membership for quick ratification and inclusion in the new NAMA agreement.

Finally, while rich countries are packing the NAMA talks with their own offensive interests, they are attempting to remove from the talks some of the issues of greatest interest to developing countries, such as SPS and TBT measures and rules of origin. This is unacceptable. Furthermore, if talks on NTBs, such as anti-dumping measures, remain outside of the NAMA negotiating group, effective monitoring and reporting mechanisms must be put in place to facilitate the participation of developing countries.

Conclusion and Oxfam's recommendations

As negotiations gear up to the Hong Kong Ministerial in December 2005, members should ask themselves what a pro-development outcome would look like. Thought should be given to the right process for arriving at such an agreement, and negotiators should bear in mind that the July 2004 agreement specifically states that none of that text was agreed definitively.

Oxfam believes that a new approach is needed to a number of issues, as the current text is not an appropriate basis for agreeing a pro-development agreement on NAMA. In keeping with the Doha mandate, the principles of 'special and differential treatment' and 'less than full reciprocity' must be reflected in the negotiations. Developing countries must be given sufficient flexibility to pursue industrial development, create jobs and protect the environment. The final NAMA package should contain the following elements:

- Developing countries should be allowed to choose which tariff lines to bind along with the rates at which they bind. No tariff that developing countries bind in this round should be subject to cuts; binding is already a concession.
- Developing countries should have the flexibility to choose which tariffs they reduce and by how much. Setting targets for an average reduction would be better than adopting a 'formula approach' to market access.
- If a formula is agreed, it must allow developing countries to exempt key sectors from tariff reductions or even to raise tariffs on the grounds of economic development policies, environmental concerns, rural development, employment, or poverty reduction.
- The agreement must radically improve developing country access to rich country markets by eliminating tariff peaks and escalation. Imposition of a cap on tariffs set by industrialised countries should be considered.
- Measures must be agreed to prevent protectionist abuse of anti-dumping actions and product standards, and excessively demanding rules of origin.
- LDCs should be exempt from all tariff commitments, including binding. They should be granted duty- and quota-free access to rich-country markets, bound at the WTO.
- Initiatives to eliminate or harmonise tariffs in whole economic sectors should be rejected.
- Studies should be carried out to assess the impact of possible future liberalisation commitments on the environment and on the livelihoods of people living in

poverty. For environmentally sensitive sectors such as fisheries and forestry, there should be no negotiations without full impact assessments.

- Preference erosion must be dealt with by WTO members, particularly those who created the preference system, who should at a minimum provide bilateral assistance to preference-dependent countries, commensurate with the impact of preference erosion resulting from implementation of the current round. This should be a binding commitment.
- The negotiating process must ensure greater participation of developing countries, and the July 2004 Framework for NAMA should not be taken as an agreement. All NAMA-related issues should be discussed at the NAMA negotiating body, even if they are negotiated elsewhere.

Notes

- ¹ D. Rodrik and F. Rodriguez (1999), 'Trade Policy and Economic Growth: A Skeptic's Guide to Cross-National Evidence', NBER Working Paper 7081, April 1999.
- ² A. Amsden, (2001), *The Rise of the Rest*. Oxford: Oxford University Press.
- ³ Chang, H.-J. (2002), *Kicking Away the Ladder: Development Strategy in Historical Perspective*, Anthem Press.
- ⁴ 'Who can explain the Mauritian miracle?', chapter by Roy, D. and A. Subramanian in Rodrik, D. (Ed.) (2003) *In Search of Prosperity: Analytic Narratives on Economic Growth*, Princeton University Press.
- ⁵ UN Comtrade: <http://unstats.un.org/unsd/comtrade>.
- ⁶ Oxfam background briefing on South-South trade and GSTP, June 2004, p.1.
- ⁷ Ibid., p.2.
- ⁸ GSTP is the 'Generalised System of Trade Preferences', a mechanism set up by UNCTAD to facilitate the lowering of trade barriers by developing countries vis-à-vis the products of other developing countries.
- ⁹ Case studies were presented at an UNCTAD conference entitled 'Adjusting to Trade Reforms: What are the Major Challenges for Developing Countries?' 18–19 January 2005, Geneva.
- ¹⁰ Y. Akyuz (2004), 'Trade, Growth and Industrialisation in Developing Countries: Issues, Experience and Policy Challenges', Penang, Malaysia. UNDP Asia-Pacific Conference on Trade.
- ¹¹ This case study, including all statistics, is drawn from 'Trade Gains and Transaction Costs: Making Trade Work for the Poor' by Ramon Clarete. The paper was presented at the UNCTAD conference 'Adjusting to Trade Reforms: What are the Major Challenges for Developing Countries?', 18–19 January 2005, Geneva.
- ¹² O. Dancourt (1999), 'Neoliberal reforms and macroeconomic policy in Peru', *CEPAL Review* 67, New York: UN and ECLA (2001) 'Social Panorama of Latin America 2000-2001', Santiago: Economic Commission for Latin America. Cited in Oxfam (2002), 'Rigged Rules and Double Standards', p.81.
- ¹³ J. Giermanski and P. Lodge (2002), 'An Analysis of NAFTA and Textile Closing in North Carolina,' Summer 2002, *Journal of Textile and Apparel, Textile and Management*, Vol 2. Issue 3. Cited in Oxfam (2004), 'Stitched Up', p 29.
- ¹⁴ A notable exception to this was China, which during the 1990s experienced a rise in export earnings that outpaced its increase in imports.
- ¹⁵ Akyuz, p.14.
- ¹⁶ T. Baunsgaard and M. Keen (2004), 'Tax Revenue and (or?) Trade Liberalisation', IMF working paper, draft version, 20 September 2004, on: www.imf.org.
- ¹⁷ A. Seth and B. Singh, 'Methodologies Used to Estimate Financing Requirements of the MDGs,' paper prepared for UNDP South & West Asia Sub Regional Resource Facility. http://mdgr.undp.sk/PAPERS/Methodologies_Used_to_Estimate_Financing_Requirements_of_the_MDGs.doc and www.unmillenniumproject.org.
- ¹⁸ World Bank (1997), 'China 2020,' Washington: World Bank, cited in *Rigged Rules and Double Standards*, (Oxfam International, 2002, p.51). It should, however, be noted that poverty reduction in China has slowed significantly since the mid-1990s, as rising inequality has undermined the impact of continued high growth.
- ¹⁹ Source: www.usitc.gov. 2004 data. This tax rate is derived by comparing the value of imports with the value of duties collected.

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- ²⁰ B. Hoekman, F. Ng and M. Olarreaga (2001), 'Eliminating Excess Tariffs on Exports of Least Developed Countries', World Bank Working Paper No. 2604, World Bank: Washington.
- ²¹ World Customs Organisation website: <http://www.wcoomd.org/ie/index.html>.
- ²² Source: www.usitc.gov. 2004 data.
- ²³ Sanitary and Phyto-Sanitary (SPS) measures are standards put in place in principle to protect public health in an importing country, while Technical Barriers to Trade (TBT) are put in place to ensure that imports meet technical standards and other specifications for use in the importing country.
- ²⁴ WTO, 'Anti-Dumping Actions in the Area of Textiles and Clothing', communication from Costa Rica and other countries, 14 July 2003.
- ²⁵ WTO document TN/MA/W/25.
- ²⁶ Enabling Clause of 1978, GATT XXXVI: 8 and 5, and GATT XXVIII bis.
- ²⁷ Iceland has 94.1 per cent binding coverage and Australia 96.5 per cent. Data from WTO Secretariat TN/MA/S/4/rev1 (Table 8).
- ²⁸ If the simple average tariff applied by developing countries is used as the reference, the ceiling would be 29 per cent. The July Framework does not specify whether the weighted average or the simple average tariff should be used.
- ²⁹ S. Fernandez de Cordoba and D. Vanzetti (forthcoming, 2005), 'Now what? Searching for a solution to the WTO industrial tariff negotiations'. Draft version presented at UNCTAD conference, January 2005.
- ³⁰ The ex-chair of the NAMA negotiations, Ambassador Girard of Switzerland, proposed as possible sectors: electronics and electrical goods; fish and fish products; footwear; leather goods; motor vehicle parts and components; stones, gems and precious metals; and textiles and clothing.
- ³¹ S. Fernandez de Cordoba and D. Vanzetti, op.cit.
- ³² UNEP (2000), *Environment and Trade: A Handbook*, International Institute for Sustainable Development, Geneva: UNEP. Cited in *Rigged Rules and Double Standards*, (Oxfam International, 2002, p.60).
- ³³ The UN Food and Agriculture Organisation estimates that 34 million people worldwide who earn less than one dollar a day rely on fishing <http://www.ifg.org/analysis/wto/NAMAenv.html>.
- ³⁴ D. Boyer (2001), 'Trade: The Connection Between Trade and Sustainable Livelihoods,' Washington: Oxfam America. Cited in Oxfam (2002), 'Rigged Rules and Double Standards', p.92. © Oxfam International April 2005.

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