# The WTO's Doha Negotiations and Impasse: A Development Perspective

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# 1 Introduction

THE Doha Work Programme (DWP) of the World Trade Organisation (WTO) is facing a crisis, most recently reflected in the suspension of all negotiations under the DWP at the end of July 2006, after the failure of six major WTO member countries to make sufficient progress among themselves on the modalities of negotiations on two key areas, agriculture and non-agricultural market access (NAMA).

Many commentators have remarked that the suspension of talks will adversely affect the developing countries, as the completion of the DWP would have benefited these countries. After all, the negotiations were termed the Doha Development Agenda when they were launched and are now widely called the Development Round.

However, an objective analysis of the negotiating frameworks that have been developed up to now (including the WTO General Council's August 2004 framework agreement and the WTO's Hong Kong Ministerial Declaration of December 2005) and the major proposals that are on the table would indicate that there is little development content. On the contrary, there would be few benefits for most developing countries, and the danger of costs (some of which involve serious losses, including the loss of policy space) in many areas. Therefore the suspension of the negotiations should lead to a review, rethinking and revision of the frameworks of the DWP, instead of a resumption of talks along the same lines.

This paper provides a summary of the state of negotiations before the suspension of the talks, and some implications for developing countries. It takes a development perspective. It is only appropriate to use the yardstick of development concerns to assess the status of the negotiations, especially in view of the proclamation that this is a Development Round. Paragraph 4 of the Doha Ministerial Declaration adopted in Doha in 2001, which provides the mandate for the negotiations, states that the needs and interests of developing countries are at the heart of the DWP.

# 2 The Rise and Fall of the "Development Issues"

BEFORE and at the WTO's Doha Ministerial Conference in 2001, the developing countries argued that there must be a period spent at the WTO to "rebalance" the WTO agreements resulting from the earlier Uruguay Round negotiations and that this should be done before commencing new negotiations in other areas. The rationale given by the developing countries was that many of the existing WTO agreements are biased against their interests, and that this situation must be rectified in order to attain a more balanced multilateral trading system. Among their arguments was that the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) puts onerous burdens on the developing countries (raising the cost of consumer products such as medicines, and hindering innovation and technology upgrading); the Agreement on Trade-Related Investment Measures (TRIMs) prohibits investment measures such as local-content policy that are useful development tools; and the Agreement on Agriculture (AoA) has allowed the developed countries to maintain their high protection in this sector (through high domestic support and tariffs) while requiring the developing countries to liberalise their food imports, at the expense of food security and farmers' livelihoods.

At Doha, the developing countries succeeded in incorporating two direct "development issues" into the Doha Work Programme and as part of the "single undertaking", meaning that negotiations to obtain legally binding outcomes on these two issues would be an integral part of the overall outcome of the DWP negotiations. The two issues are: "implementation issues" (more than a hundred proposals by developing countries on how to resolve problems arising from the implementation of the Uruguay Round agreements); and “special and differential treatment” (SDT) for developing countries (numerous proposals by developing countries on strengthening existing SDT provisions in various WTO agreements and introducing new SDT provisions where necessary).

These two issues were scheduled to be resolved before new negotiations on market access in agriculture, NAMA and services. This was reflected in the earlier deadlines for completing negotiations on these two issues as compared with the deadlines for the market-access issues of agriculture, NAMA and services.

Unfortunately there has been very little progress on these two issues, even after five years. They have instead been accorded low priority. After the WTO’s Ministerial Conference in Cancun in 2003, these two issues were excluded from the list of four issues that were said to be of immediate importance. Since then the implementation issues seem to have dropped off the negotiating radar screen, except for a couple of issues (on which there has also been very limited progress). On the SDT issues, conclusions were tentatively made on a set of only 27 issues but these were issues that were commercially insignificant. A few more issues concerning least-developed countries (LDCs) have been tentatively agreed on. However, the bulk of SDT issues remain unresolved.

Moreover, in an ironic and surprising turn of events, the deadline for reaching conclusion on the SDT set of issues was set at December 2006, whereas the deadline for concluding negotiations on modalities for agriculture and NAMA was set at April 2006. Thus the order of scheduling (and prioritising) of the development issues vis-à-vis the market-access issues has been reversed, denoting the vitally important (and negative) shift in priorities and emphasis of issues since the DWP was initiated. It is unlikely that there will be significant results, or any results at all, in the implementation issues and in the remaining SDT issues, if the trend is maintained.

# 3 Agriculture

MUCH of the negotiating energy in the DWP before the talks were suspended had gone into agriculture. However, from a development perspective, the agriculture negotiations have been lacking, in both process and substance.

On the process, many developing countries have spoken up on how only a few members seem to be dominating the negotiations. The agriculture negotiations were initially conducted mainly by the so-called “Five Interested Parties” (the United States, the European Union (EU), Brazil, India and Australia), and subsequently Japan was included to form the G6. The other WTO members were expected to wait for the G6 to reach agreement among themselves, and their role was seen to be confined to endorsing any deal reached by the six. Often the majority of the members were kept waiting for the six to make a decision, without even knowing what was being discussed by them, what the different positions were, or even where they were meeting.

On substance, the negotiations are guided by the 2001 Doha Ministerial Declaration, Annex A of the August 2004 framework agreement, and the 2005 Hong Kong Ministerial Declaration.

## Export subsidies

On agricultural export subsidies, the Hong Kong Declaration agreed on elimination by end-2013, and there is also a stipulation for front-loading (i.e., for most reduction to take place at the start of implementation). As Das (2006) has commented: “There is no reason for export subsidies to continue at all; hence the bulk of [the developed countries’] export subsidies, say 90%, should be eliminated right at the end of the first year of the implementation period of the outcome of the negotiations.”

**Domestic support**

On domestic support, there is a lot of confusion on two issues:

- the difference between the allowed levels (i.e., the maximum levels) that members commit not to exceed, and the applied (or actual) levels of the various subsidies; and
- the different types or “boxes” of subsidies.

The WTO’s Agreement on Agriculture distinguishes between different types of domestic support. Firstly a distinction is made between “trade-distorting” and “non-trade-distorting” subsidies. Members are obliged to fix maximum levels for trade-distorting subsidies and to reduce some of these allowed maximum levels. For subsidies considered non-trade-distorting (the Green Box), there are no maximum levels, and thus members can increase these subsidies without limit. The Green Box subsidies (such as payments to farmers to protect the environment) are supposed to be “decoupled” from production, and thus they supposedly do not distort trade; however, some experts have pointed out that many of these subsidies are also distorting in that they provide grants to recipients which assist them to maintain farming as a viable occupation, and that without these payments some of the farms or some of their production would not exist.

For the subsidies deemed trade-distorting, the developed countries have been permitted by the AoA to maintain high allowed levels of trade-distorting domestic support or TDS. These trade-distorting subsidies are in three categories:

- the Aggregate Measurement of Support (AMS) or Amber Box – which is linked to intervention on agriculture prices and considered the most trade-distorting;
- *de minimis* support – certain amounts of domestic subsidy that are allowed, calculated as a percentage of the value of agricultural production; and
- the Blue Box subsidies – which are supposed to be linked to setting limits on production, and are also considered trade-distorting but less so than the Amber Box.

The total TDS thus comprises these three types of subsidies. The AoA obliges developed countries to reduce their total AMS by 20% by 2000 below the 1986-88 level, and to limit their *de minimis* support to 10% of production value (of which 5% is for general support and 5% for product-specific support); developing countries have to reduce their AMS by 13% and limit *de minimis* support to 20%. No limit was set on the Blue Box.

Since the Uruguay Round, the developed countries have been reducing their actual levels of AMS to below the allowed levels, and they were able to do this partly by shifting the subsidies from one box to other boxes. In a trade dispute on cotton adjudicated by a WTO panel, the US was found to have been wrongly shielding some trade-distorting subsidies within the Green Box, and was asked to change its policies accordingly. The US has to remove these subsidies or shift them into one of the trade-distorting boxes. One option is to move the subsidies to the Blue Box (which it has previously not used), and the US thus seeks to change the definition or criteria of this box to enable the shifting to take place. The EU, which makes extensive use of the Blue Box, is reducing its "trade-distorting" subsidies, but significantly increasing its Green Box subsidies (decoupled payments) under its Common Agricultural Policy (CAP) reform. As stated, the Green Box subsidies are not under reduction discipline and thus can be raised without limit.

The EU and the US thus have considerable leeway to: (1) move trade-distorting subsidies from the Amber Box to the Blue Box and *de minimis* in order to make fuller use of their total allowed TDS; and (2) make creative use of the Green Box, which has no limits and has loose criteria at present, and thereby enable some subsidies that are in effect trade-distorting to be counted as non-trade-distorting.

The level of the total actual TDS is presently far below the level of total allowed TDS for the US and the EU. Therefore the developed countries can afford to reduce the level of allowed TDS significantly, before the cut reaches the level where the present actual TDS would be affected. In the informal language of WTO negotiations, this would mean the US and EU would only cut "water" (i.e., the difference between allowed and actual subsidies) and not their actual subsidies. This is the reason why the EU and US have been able to announce offers to cut their AMS and their total allowed TDS by a seemingly large degree, while in reality these offers do not necessitate real cuts in the present applied level (in the case of the US) or in the applied level that is already planned for (in the case of the EU, with reference to its CAP reform). This is one of the present stumbling blocks to the reaching of an agreement on agriculture modalities under the DWP.

In October 2005, the US announced that it would:

- cut the allowed AMS by 60%;
- restrict the Blue Box to 2.5% of production value; and
- reduce the allowed *de minimis* support from 10% to 5% of production value.

This may sound generous at first sight. However, analysis has shown that in fact this offer would allow the US to have a level of total allowed TDS of $22.7 billion. This compares with the $21.4 billion of actual TDS in 2001 (the last year in which the US notified to the WTO) and the $19.7 billion of actual TDS in 2005 that was estimated in a simulation exercise by WTO members.

In other words, the US offer would allow it to maintain a total TDS ($22.7 billion) which is $3 billion higher than its actual 2005 level. This offer was not acceptable to its partners (namely the EU, Brazil, India and Australia) in the June and July 2006 meetings of the G6 trade ministers in the WTO. They argued that the US would not have to effect any real cuts in its present TDS but would even have the "water" or space to increase its TDS by $3 billion. The refusal or inability of the US Trade Representative to improve on this offer was the immediate cause of the breakdown of the G6 talks, which in turn led to the suspension of the DWP negotiations. The demand of the developing countries in the Group of 20 (G20) is that the US reduce its allowed TDS to $12 billion, and the EU reportedly asked for a level of $15 billion.

From 2001 onwards (to now), the allowed levels of trade-distorting support for the US were estimated as follows:

- Amber Box $19.1 billion;
- *de minimis* $19.8 billion (being 10% of production value), made up of $9.9 billion for product-specific support (5% of production value) and $9.9 billion for general support (5% of production value);
- an implied level of Blue Box subsidy of about 5% of production value; and
- total allowed TDS $48.2 billion.

The US' actual levels in 2001 (as notified to the WTO) were:

- Amber Box $14.4 billion;
- *de minimis* $7.0 billion (made up of $216 million product-specific support and $6.8 billion general support);
- Blue Box zero; and
- total actual TDS $21.4 billion.

The Green Box subsidies amounted to $50.7 billion. Thus total domestic support was $72.1 billion.

The US offer of October 2005 was that it would:

- reduce allowed AMS by 60% to $7.6 billion;
- reduce the allowed *de minimis* to 5% of production or $10 billion [made up of $5 billion product-specific support (2.5% of production) and $5 billion general support (2.5% of production)]; and
- cap the Blue Box at 2.5% of production value or $5 billion.

The total allowed TDS would thus be $22.7 billion (or a 53% cut from the present total allowed TDS of $48.2 billion).

The EU made its offer on domestic support on 28 October 2005. This comprised the following:

- 70% cut in allowed AMS;
- 80% cut in allowed *de minimis*;
- restriction of the Blue Box to 5% of production; and
- 70% cut in the total allowed TDS.

Some independent analysts have estimated that the EU would also not have to reduce its already planned level of actual domestic support with its proposal. In fact there will be some "water" between, on one hand, what the EU has already scheduled to do under its CAP reform, and, on the other, the proposed new level of allowed trade-distorting support in its WTO offer. Thus the proposal enables the EU to have a level of domestic support beyond what it had planned in the CAP. According to one estimate, this "water" is around €6 to 13 billion, depending on the assumptions (Berthelot 2005).

In an analysis of the EU offer on domestic support, Berthelot (2005) concludes: "The claim by the EU that it is offering huge cuts in agricultural domestic supports is not backed by the evidence. In fact, the EU has given itself room to increase its supports beyond what the CAP reforms have mandated it to do. This analysis shows that [EU Trade Commissioner Peter]

Mandelson's offers are actually compatible with the CAP reforms of 2003-04, in that they do not commit the EU to do more than what it has already planned to do, and in fact give it the space to have supports at levels higher than it had planned under the CAP reforms."

The present estimated allowed levels of trade-distorting support of the EU are as follows:

- AMS €67.2 billion;
- *de minimis* €19 billion; and
- with the inclusion of the actual Blue Box level (of year 2001/2) of €23.7 billion, the total allowed TDS is estimated at €110 billion.

In 2001/2, the actual levels of trade-distorting support of the EU were:

- AMS €43.7 billion;
- *de minimis* €1 billion;
- Blue Box €23.7 billion; and
- total actual TDS €68 billion.

Through the CAP reform, these actual levels are planned to be scaled back so that by 2008 the actual levels are expected to be:

- AMS €18.8 billion;
- *de minimis* €1 billion;
- Blue Box €7 billion; and
- total TDS €26.8 billion.

The EU's 28 October 2005 offer at the WTO would reduce the allowed levels as follows:

- AMS would be cut by 70% to €20.2 billion;
- *de minimis* would be cut by 80% to €3.8 billion;
- Blue Box would be restricted to 5% of production at the end of the implementation period to €12.3 billion; and

- the total of these three would be €36.3 billion.

However, the EU also committed itself to bringing down its total allowed TDS by 70%, implying a level of €33 billion.

The significant conclusion is that the EU offer to cut its total allowed TDS by 70% to €33 billion still allows it to have "water" of €6.2 billion above the €26.8 billion that it had already planned for its total actual TDS in 2008 upon completion of the CAP reform. In other words, the EU's offer to the WTO allows it to increase its planned total actual TDS by more than €6 billion.

The conclusion from the above is that even when considering only the trade-distorting support, the US and EU offers are not sufficient to ensure real cuts in the actual or the already planned levels of domestic support. Moreover, the developed countries can continue to use the Green Box subsidies without limit as the August 2004 framework and the Hong Kong Ministerial Declaration do not put a cap on these. Some of these Green Box subsidies are actually trade-distorting (as the cotton-dispute decisions have shown) and should have been allocated to the trade-distorting boxes such as Amber or Blue or *de minimis*.

As Das (2006) has pointed out: "[T]he really significant escape route is the Green Box, with amounts of US$50 billion and 22 billion euro in 2000 respectively in the US and the EU and the possibility of unlimited increase in future…Thus the Green Box, particularly its window of 'decoupled income support' (paragraph 6 of Annex 2 of the AoA), will continue to be the route to give farmers unlimited amounts as subsidies." Das also comments that the G20 proposal has the aim of disciplining the Green Box but does not give specific quantitative criteria, and he suggests that the disciplines for the Green Box (especially the decoupled income support) include eligibility criteria for farmers in terms of their economic status, a ceiling on payments to individual farmers in a year, and exclusion of companies from such payments.

## Market access

On market access, it has been agreed that agricultural tariffs be cut according to a "tiered formula" in which there are three or four bands according to tariff ranges, with the band of highest tariffs to be cut by the highest percentage, and so on. There is pressure from the US, the Cairns Group and some exporting developing countries to have a high ambition in cutting agricultural tariffs steeply. This is resisted by the EU and the G10 developed countries that have defensive interests.

The US has proposed that tariffs in developed countries be cut sharply by 60 to 90%, according to a tiered formula. It wants developing countries to reduce by almost the same rates. The EU has proposed more lenient cuts for developed countries and the designation of 8% of tariff lines as "sensitive products" which are eligible for even more lenient treatment. It has been estimated (by the G20 for instance) that the EU proposal would result in an average cut of 39% for itself (without yet calculating the effects of the inclusion of sensitive products). The G20 is quite ambitious in the cuts it proposed for developed and developing countries. Its proposal indicates an average 54% tariff reduction for developed countries and an average 36% reduction for developing countries. The African, Caribbean and Pacific (ACP) Group has recently tabled a proposal with more lenient reductions for developing countries.

The EU offer is seen as inadequate for not resulting in significant cuts, especially in products with high tariffs. The EU informally indicated it was willing to increase its offer so as to effect an average tariff cut of around 50% (near to but not reaching the G20 request of 54%). This new offer is contingent on an adequate offer by the US on domestic support. However, the US (which wants an average 66% cut by the EU) also indicated that the EU offer is still insufficient.

From a development perspective, the developing countries are most likely to get a bad deal, because there is a likelihood that the developed countries' domestic subsidies will not be really reduced, or at best by only a little. Thus the developed countries will be able to continue to dump subsidised products at artificially low prices onto the markets of poorer countries that cannot afford to subsidise. The import of subsidised food such as chicken, tomato, maize and rice from the EU and US into Africa, Central and South America and parts of Asia is a result of such subsidies. The developing countries are only able to defend themselves through tariffs, due to their inability to subsidise significantly and due to the prohibition on quantitative import restrictions. Yet they are being obliged to cut their tariffs even more steeply than during the Uruguay Round, especially since they have to cut all their tariffs (line by line) under the formula, unlike in the Uruguay Round when they only had to cut their tariffs by an overall average of 24% (subject to a minimum cut in all lines).

For countries with ceiling bindings, the problem is worse as they have bound all their agricultural tariffs at high levels. According to the tiered formula, this means that they have to cut all their tariffs by the highest or near the highest rate.

Countries that receive trade preferences will also suffer the erosion of their preference margin. The steeper the tariff cut on preference products, the greater the erosion of preference.

Most of the developing countries have defensive interests in agriculture and their main priority has been to protect the interests of the small farmers whose livelihoods and incomes are at risk from having to compete with imports. Grouped under the G33, many of these countries have been fighting to establish two instruments that developing countries can use for this purpose:

- "Special Products" or SPs (products linked to food security, livelihood security and rural development which they argue should not be subject to tariff reduction or should be subject to only small reductions); and

- “Special Safeguard Mechanism” or SSM (through which tariffs on agricultural products can be temporarily raised above the bound rates when there is a rise in import volume or a fall in import price beyond a certain extent to be negotiated).

The G33 (comprising over 40 countries) have made a firm stand that there can be an overall deal to conclude the Doha Work Programme if the provisions on SPs and SSM adequately meet the countries’ need to protect and promote food security, farm livelihoods and rural development. The group has proposed that developing countries be allowed to self-designate 20% of agricultural tariff lines as SPs. It has also proposed the price and volume “triggers” that would enable a developing country to make use of the SSM, and in what manner.

However, there is strong resistance especially from the US, which has stated that the G33 proposal on SPs would block its access to developing countries’ markets. It has counter-proposed that SPs be restricted to only five tariff lines. It also presented a proposal on SSM that severely restricts the conditions and manner of its use and thus renders it ineffective. A few developing countries that have an agricultural export interest have also opposed the G33 proposals. When negotiations resume, the US and a few other countries can be expected to put pressure on the developing countries in the G33 to make large concessions, while these countries can in turn be expected to resist the pressures. The pressure and resistance may well constitute the major battle of the future negotiations. It is unclear to what extent of effectiveness the SP and SSM instruments will be allowed to function eventually.

The agriculture negotiations are also made more complicated by the fact that the US and the EU are demanding that their proposals be linked to the condition of extreme liberalisation commitments to be undertaken by developing countries in relation to NAMA.

# 4 Non-Agricultural Market Access (NAMA)

THIS is an area where the outcome appears likely to be the least development-friendly. The August 2004 framework on NAMA (in Annex B of the framework agreement), supplemented by the Hong Kong Ministerial Declaration, is very tilted against the developing countries' interests. A new system is being created that will remove or reduce the present development flexibilities in the General Agreement on Tariffs and Trade (GATT). As a result, the deindustrialisation process that is already taking place in many countries will accelerate.

Firstly, members are asked to bind all their industrial tariffs. At present, each country can choose how many of its tariff lines it wants to bind. This flexibility will be removed as the August 2004 framework requires all members to bind 100% of their lines, or at least 95%.

Secondly, currently unbound tariffs will have to be bound at low levels. This is because the August 2004 framework proposes that the applied rates of unbound tariff lines will be multiplied by two, following which a formula (see below) will be used to reduce the tariff rates to the new bound levels. In many cases the new bound rates will be significantly below the applied rates, which are already low because of structural adjustment. In contrast, up to now, each country is allowed to choose at which level to bind its previously unbound tariffs. The removal of this flexibility would have serious implications. These implications would be grave if the August 2004 framework is adopted, because for the first time ever in the GATT/WTO system the applied rates would be used in calculating the newly bound rates, and the formula linking the two is so strict that the new bound rates will likely be close to or below (in many cases significantly below) the applied rates.

Thirdly, for the first time, developing countries will be subjected to a formula to reduce tariffs. And it will be a “Swiss formula”, which cuts higher tariffs more deeply than lower tariffs. Since most developing countries have quite high industrial tariffs, their tariffs will be cut more steeply than the tariffs of developed countries (unless the developing countries are allowed to have vastly different coefficients in the formula than the developed countries). If developing countries have to cut their tariffs more than developed countries, this will also go against the principle of “less than full reciprocity” (in reduction commitments for developing countries) that is mandated in the Doha Ministerial Declaration.

The depth of cuts depends firstly on the formula and secondly on the coefficient agreed to in the formula. On the first, a non-linear formula was agreed to in the August 2004 framework and the Swiss formula (a variant of the non-linear formula) was agreed to in the Hong Kong Ministerial Declaration; the Swiss formula’s characteristic is that higher tariffs are slashed at higher rates. On the second, the lower the coefficient, the more drastic the rate of reduction. The coefficient also denotes the maximum level of tariff after the reduction exercise. The developed countries do agree that there can be two different coefficients: one for developed countries and one for developing countries. However, they also insist that there not be much difference between the two coefficients, with the coefficients 10 (for developed countries) and 15 (for developing countries) being mentioned. A coefficient of 15 for developing countries implies that their industrial tariffs will be brought down to less than 15%.

Fourthly, the cuts are to be done on a line-by-line basis. This means that every product will be cut by this drastic formula. In the Uruguay Round, the developing countries had to cut their tariffs by an overall target of 30%, but they could choose at which rate to cut which product’s tariffs, so long as the overall average came to 30%. This flexibility is to be removed.

Finally, there is a "sectoral approach" in which tariffs on products belonging to certain selected sectors will be eliminated. Developing countries want this approach to be on a voluntary basis. But pressures are being put on them to participate.

There are non-tariff barriers (NTBs) which hinder the access of developing countries' products to developed countries' markets. NTBs are supposed to be an integral part of the negotiations in NAMA. However, this issue has been given low-priority treatment and it is unlikely that there will be any significant outcome in this area which is of high export interest to developing countries.

Some flexibilities are provided in the August 2004 framework to developing countries, but they are very few and very limited. The flexibility is that they can either: (1) apply less than formula cuts to up to [10]% of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10]% of the total value of a member's imports; or (2) keep, as an exception, tariff lines unbound, or not apply formula cuts for up to [5]% of tariff lines provided they do not exceed [5]% of the total value of a member's imports.

There is a marked imbalance or unfairness in the meanness of this flexibility for developing countries in NAMA, when it is compared with the generous flexibilities proposed by the EU or the G10 for themselves in agriculture. The EU has for example proposed that 8% of developed countries' agriculture tariff lines can be self-designated as sensitive products (which will then not be subjected to the full formula cuts) and they are not limited to 8% or any level of total import value. In comparison, under developing countries' flexibilities in NAMA, only 10% of tariff lines can enjoy less than full formula cuts (even then, limited to half the formula cuts) and these tariff lines are limited to 10% of total import value. Even then, the developed countries (backed by a few developing countries) still want to reduce the NAMA flexibility for developing countries by reducing the numbers in the brackets or linking them to the severity of tariff reductions (i.e., the coefficient).

For developing countries that have bound less than 30% of their tariffs, there is a concession that they need not be subject to the formula. However, the August 2004 framework requires them to bind all their tariffs, and at a level that is the average level of bound tariffs of developing countries (taken to be 27.5%). This is an inadequate concession, for it would still ask too much of these countries in terms of wide and rapid liberalisation. These countries have put forward their own proposal for more flexibilities, but this has so far not been accepted.

The aggressiveness of the developed countries in NAMA contrasts with the leniency with which they would like themselves to be treated in agriculture, where they have more defensive interests.

For many developing countries, the obligations they have to undertake if the NAMA negotiations proceed along the present lines will require them to cut their tariffs steeply, and this will only worsen in future rounds of negotiations. It will accelerate the deindustrialisation process that is already under way in many developing countries, and hinder their prospects of industrial development.

**Translating coefficients into actual tariff cuts**

In the negotiations till now, most developing countries feel disadvantaged that they are unable to see the full picture of the implications of different formulae and coefficients on their tariffs (and on their domestic industries). Few countries have the technical capacity to work out the national figures for themselves.

The difficulties are compounded by the fact that the discourse on the NAMA tariff-reduction exercise is normally couched in terms of coefficients and formulae. It is very difficult for diplomats and policy makers (except those who are mathematically trained) to quickly work out what the coefficients would entail in terms of percentage reductions of various tariffs.

The developed countries have projected the idea that having two coefficients would take care of the requirements of special and differential treatment for developing countries, and even of the "less than full reciprocity in reduction commitments" principle that was mandated by the Doha Ministerial Declaration. But merely having separate coefficients will not fulfil these two requirements, unless there is a vast difference between the coefficients.

For example, if a coefficient of 10 in a simple Swiss formula is applied to developed countries, then the EU states, which have an average bound tariff of 3.9%, will only cut their bound tariffs approximately by 28%. With a lower coefficient of 5, the EU's cut would be by 43.8%. Compare this with the situation of a developing country with an average bound tariff of 30%, which is about the average level for developing countries. If a coefficient of 10 is applied, the average tariff would fall from 30% to 7.5% (or a reduction of 75%, far more than the EU's 28%). A coefficient of 15 leads to an average 10% final tariff (or a 66.6% reduction). A coefficient of 20 leads to a final tariff of 12% (60% reduction). Even a coefficient of 30 leads to a final tariff of just 15% (50% reduction).

In these cases (coefficients 10 to 30), the developing country would have to undertake far deeper cuts than the EU. Only at much higher coefficients will this developing country undertake similar percentage reductions as the developed countries. For example, with a coefficient of 70, the developing country will cut its tariff from 30% to 21%, a reduction of 30%. Even this is still more than the 28% reduction by the EU if it applies a coefficient of 10.

However, the developing countries are not required to undertake the same level of commitments as the developed countries since the Doha Ministerial Declaration says they are to undertake "less than full reciprocity in reduction commitments". They can cut their tariffs by less than the percentage rates of developed countries.

Thus, if the EU were to cut its tariffs by an average 28%, then the developing countries should be required to cut by only a fraction of that. If that fraction is half, then their required reduction is 14%. If the fraction is two-thirds, the required reduction is 18.5%. Taking the two-thirds fraction, the developing country in our example would have to reduce its average tariff by 18.5%, or from 30% to 24.5%. It would require a coefficient of 120 to cut the tariff from 30% to 24% (or by 20%). Thus, a coefficient of 10 for the EU would mean that the developing country would need a coefficient of at least 120 in order that the "less than full reciprocity" principle is met. (This analysis is also valid in relation to the US as its average industrial tariff is even lower than that of the EU.)

This fact is not so immediately evident because most of the NAMA discussions are in terms of formulae and coefficients when it should be in terms of percentage cuts, as happens in the agriculture negotiations and as has happened in previous GATT negotiations. There is ground for concern that many developing countries that are affected by the formula are finding it more difficult to follow the NAMA negotiations. This may remain so unless it is made transparently clear to them what percentage reductions are involved under each coefficient and formula.

**Harming industrialisation prospects**

The danger is that with the confusion engendered by discussions focusing on coefficients, developing countries will be put under greater pressure to give in to the demands of the developed countries to accept a low coefficient, which would require their tariffs to be slashed by very high percentages.

As a result, the local industries in many sectors and many countries would not be able to withstand competition from imports that suddenly become much cheaper. Governments would also lose a significant part of their revenue as tariffs are brought down sharply and suddenly. The prospects of future industrialisation of the affected developing countries would also be undermined.

The implications of the NAMA proposals are serious as their adoption is likely to exacerbate the deindustrialisation that has already taken place because of rapid liberalisation, mainly under the structural adjustment programmes of the International Monetary Fund (IMF) and World Bank. For example, the domestic industries of many African countries closed down or were seriously damaged in the 1980s and 1990s.

There is a myth that developed countries and successful developing countries industrialised because they had low or zero tariffs, and that the lower the tariff the higher the industrial growth. In fact, developed countries made use of high tariffs to protect their industries during their industrialisation phase. Also, the successful East Asian economies of Taiwan, South Korea and Japan resorted to tariff measures to pursue their industrial development. Two recent papers, by Cambridge University economist Ha-Joon Chang and by Yilmaz Akyüz, former Chief Economist of the UN Conference on Trade and Development (UNCTAD), have demonstrated this.

For example, the US maintained average applied industrial tariffs of 40 to 50% from 1820 to 1931. France had average tariffs of 20 to 30% from 1913 to 1931. Spain had 41% tariff in 1913 and 1925, rising to 63% in 1931. Germany's tariff was 20-21% in 1925 and 1931 and 26% in 1950 (Chang 2005).

The US had 44% tariff in 1913 when its per capita income (at 1990 prices) was $5301, and 14% tariff in 1950 when its per capita income was $9561. Germany had 26% tariff in 1950 when its per capita income was $3881, and the UK's tariff in 1950 was 23% ($6907 per capita income). In contrast, in 2001, the average applied tariff was 13.6% for LDCs ($898 per capita income), 8.1% for developing countries ($3260 per capita income), 10.4% for Brazil ($5508 per capita income), 12.3% for China ($3728 per capita income) and 24.3% for India ($1945 per capita income). (Per capita incomes are on a PPP basis at 1990 prices.) (Akyüz 2005: p14).

Asking developing countries to reduce their tariffs to very low or zero levels is akin to industrial countries, having reached the top, kicking away the ladder which others are climbing.

The ability to use tariffs to promote industrialisation is all the more important since the use of other policy tools (which other countries had employed during their industrialisation) has now been constrained by WTO rules, for instance the rules on TRIMs and subsidies. Also, for many developing countries, customs revenues constitute 20 to 30% or more of government revenue, while for developed countries this is less than 1%. Cutbacks in government revenue could result in decreased social spending such as on health and education.

Another relevant point is that developing countries need the policy space and flexibility to be able to modify their tariff levels at various phases of industrialisation, as Akyüz (2005) has shown. In an early phase, a country would be wise to have higher tariffs on consumer goods it wishes to produce, while having low or zero tariff on inputs and machinery. In a second phase, it can lower the tariffs on consumer products as it gets more efficient, while raising tariffs on inputs that it may now want to produce. In a third phase, it may increase the tariff on machinery so as to produce capital goods, while reducing tariffs on consumer goods and inputs. In an advanced phase, it can afford to have low tariffs on the various categories of goods. Thus, it should not be the case that a country binds tariffs at low or zero levels on products it does not presently produce. It should have the space to increase its applied tariffs on some products as it develops. It is important to maintain this policy space, i.e., a difference between the bound and applied rates.

# 5 Services

THE WTO's services agreement, the General Agreement on Trade in Services (GATS), is said to be rather development-friendly because there are many development flexibilities built into its provisions.

In the present GATS architecture, a developing country can decide whether to enter any service sector in its schedules of commitments; thus, particular sectors can be excluded. And if a sector is included in the schedule, the country can decide the extent of liberalisation to commit in that sector, in each of the four modes of service delivery. Restrictions and limits can be placed, for example restrictions on foreign equity ownership in Mode 3 on "commercial presence."

Negotiations are based on the bilateral request-offer modality. Countries can make requests for liberalisation in certain sectors. However, it is up to each developing country to decide how to respond to the requests it receives. The country can make as much or as little in its offers as it deems appropriate to its interests.

Additional "special and differential treatment" clauses have been established in the GATS and in subsequent documents that clarify that developing countries should be allowed to liberalise less than developed countries and to choose their own pace of liberalisation. These development provisions are especially contained in Article IV of the GATS, Article XIX(2) of the GATS, and the Guidelines and Procedures for the Negotiations on Trade in Services of March 2001, which is the main document guiding the present services negotiations.

However, these flexibilities and even the architecture of the GATS itself came under threat in 2005 from proposals for "benchmarking" or, in more recent terminology, "complementary approaches" or "establishment of targets and indicators." The proposals were mainly put forward by developed countries including the EU, Japan and Australia, supported by the US.

Under these proposals, countries would be required to liberalise in a certain minimum number of key sectors. The EU on 28 October 2005 proposed that developing countries be required to improve their commitments or make new ones in 57% of the services sub-sectors. Other proposals are that developing countries would be required to bind in the GATS their present level of liberalisation in the various sectors, and then to extend the level of liberalisation through new GATS commitments. These proposed changes would, if accepted, affect the present architecture of the GATS and remove much of its present development flexibilities.

Particularly targeted was the liberalisation of "commercial presence", or Mode 3 of the GATS. The developing countries were asked to open up a minimum percentage of sub-sectors for the participation of foreign service enterprises and providers. Some proposals called for developing countries to bind existing levels of actual liberalisation, and then go further by committing to liberalise even more deeply.

If this approach is adopted, it would remove many of the current development-friendly aspects of the GATS and would coerce many developing countries to commit to liberalisation in several important services sectors such as finance, telecommunications, distribution and professional services. The small service enterprises and professional service providers of developing countries will not be able to compete with the giant transnational service corporations if developing countries' markets are rapidly opened up. A major component of their economies would be at the mercy of big foreign companies that choose to establish commercial presence.

Another proposal by the developed countries is that "plurilateral" negotiations be established to complement the bilateral request-offer modality. In the plurilateral modality, a set of countries that demand wider and more rapid opening in a service sub-sector can formulate their demands and requests to a set of countries for negotiations on these demands. This plurilateral approach was also opposed by many developing countries which believed that they would be subjected to greater pressure under this method, and that this would also go against the development flexibilities of the GATS.

At the Hong Kong Ministerial Conference in December 2005, the "benchmarking" or "numerical targeting" approach was rejected by a large number of developing countries, and thus it has been left out of the negotiating agenda, at least for now. However, the plurilateral modality of negotiations was adopted, despite the opposition and reservations of many developing countries during most of the conference period.

After the Hong Kong conference, the new modality of plurilateral negotiations has been implemented, and a number of rounds of plurilateral negotiations have been conducted, in more than 20 sub-sectors or areas of negotiations.

The course of the services negotiations shows the intense pressures that the developing countries have come under to liberalise their services sub-sectors under the Doha Work Programme. In fact, the negotiations for modalities for the services negotiations had been completed already, with the Guidelines and Procedures for the Negotiations on Trade in Services adopted in March 2001, ahead of the modalities for agriculture and NAMA (which are yet to be settled). Despite this early resolution of the services modalities, the developed countries put the developing countries under severe pressure to totally alter these Guidelines and Procedures by introducing new modalities (benchmarking and plurilateral approach). This was another attempt to stress the market-access aspect of the Doha Work Programme, at the expense of the development aspect.

The developed countries argued that they need the new approach in order to get developing countries to liberalise at a faster rate. But this goes against the principle that developing countries be able to choose their own rate of liberalisation, which is the centrepiece of the GATS.

Moreover, the developed countries themselves have moved very slowly, if at all, in the only area where most developing countries could benefit from the GATS, which is in Mode 4 or the movement of service-providing workers. The offers by them in this area have been few and of low quality. Thus, developing countries rightly argue that it is the developed countries that are not forthcoming in making services commitments, and that they should not pressurise the developing countries to liberalise faster than what they can bear.

# 6 Conclusion

DUE to unrelenting pressure by the developed-country members of the WTO, led by the US and EU, the Doha Work Programme negotiations have veered from their proclaimed direction oriented to a development-friendly outcome, towards a market-access direction in which developing countries are pressurised to open up their agricultural, industrial and services sectors.

A development-oriented outcome would have:

- given top priority to satisfactory conclusions on resolving the "development issues" (implementation issues and the strengthening of special and differential treatment);
- resulted in significant real reduction in domestic support and in tariffs in agriculture in developed countries, while enabling developing countries to protect and promote the interests of their small farmers;
- allowed developing countries to continue to make use of existing flexibilities in NAMA so as to promote domestic industrial development, while developed countries commit themselves to eliminating or significantly reducing their industrial tariff peaks and high tariffs and eliminating their non-tariff barriers; and
- enabled developing countries to maintain and make full use of the development flexibilities contained in the GATS and reaffirmed in the March 2001 Guidelines and Procedures for the services negotiations.

Besides the above, there are several other development outcomes expected by developing countries, such as resolving the issues of the relationship between the TRIPS Agreement and the UN Convention on Biological Diversity (for example, by amending the TRIPS Agreement to incorporate requirements for disclosing in patent applications the source of origin of genetic materials and traditional knowledge), and providing meaningful concessions and preferences for least-developed countries.

However, the developed countries have succeeded in:

- marginalising the "development issues";
- minimising or trivialising the development components (including the principles of special and differential treatment and less than full reciprocity) in the agriculture and NAMA negotiations;
- not committing to reduce their total trade-distorting domestic subsidies beyond the actual levels or the already planned levels, and not committing to effectively discipline or limit Green Box subsidies, thus ensuring the continuation of high subsidisation in their agriculture sector;
- introducing new modalities in services which make it potentially easier to pressurise developing countries to liberalise, while not making meaningful offers in areas (especially Mode 4 on labour services) that can practically benefit developing countries; and
- so far blocking progress in the TRIPS negotiations on disclosure on genetic resources and traditional knowledge.

The developed countries have turned the negotiations into demands for developing countries to provide greater market access in all three areas of agriculture, NAMA and services. As the Indian Commerce Minister, Kamal Nath, correctly pointed out in the June-July 2006 meetings in the WTO, this was supposed to be a Development Round, but the developed countries were trying to ignore development concerns and turn it into a Market Access Round, which he found unacceptable.

The current impasse in the negotiations (with the DWP talks suspended in all areas) provides an opportunity to review the negotiating positions and proposals from a development perspective.

On the "development issues", it is imperative that progress is made, in order to rebalance the existing WTO rules in the various areas and make the multilateral trading system more fair. As these issues are part of the single undertaking, it must be made clear that there can be no agreement on the DWP unless there is a satisfactory outcome on the development issues.

On agriculture, the developed countries have to improve their offers by making commitments to reduce their total allowed trade-distorting subsidies to levels that would significantly cut their actual or planned levels, including at the product level. There should be effective disciplines on the Green Box subsidies, including criteria on which farmers are eligible to receive them, and limits placed on amounts receivable per farmer, while excluding corporations. Developing countries should have enough flexibilities in their market-access obligations (in the tariff-reduction formula and in terms of Special Products and Special Safeguard Mechanism) that allow them to effectively safeguard food security, livelihood security and rural development.

It should be recognised that the current NAMA frameworks (Annex B in the August 2004 framework and the Hong Kong Ministerial Declaration) are inappropriate for meeting the desired goal of facilitating industrial development in developing countries. The proposed outcome would seriously erode the present flexibilities available to developing countries. A standard tariff-reduction formula that will apply to all affected members is inappropriate. This is all the more so when that formula is a non-linear Swiss formula and when it is to be applied on a line-by-line basis. The remaining flexibilities are too limited and even then there are proposals to further limit these flexibilities or even remove them.

There should be a rethinking of the modalities as Annex B is inappropriate and potentially extremely damaging to the industrial prospects of developing countries.

A more suitable approach for developing countries is that of the Uruguay Round, in which developing countries committed themselves to reducing tariffs by an overall and average target rate. During the Uruguay Round, members could choose the method by which to cut their tariffs, as long as they met the minimum target. Thus, for the current NAMA negotiations, members can choose to apply the Swiss formula if they so wish. But developing-country members should not be obliged to do so.

There should also be adequate flexibility in the treatment of unbound tariffs. The method of multiplying by two the applied rate and then applying the tariff-reduction formula is unsuitable. Members should have the flexibility to retain as unbound a significant percentage of their tariff lines, and also to bind their unbound tariffs at levels of their choice, as is the case under the current system.

On services, the existing principle of development flexibility should be upheld, that developing countries be able to select which sectors they will commit to liberalising under the GATS, to what extent and at the time of their own choosing, according to national policy priorities.

The main negotiating method should remain the bilateral request-offer basis. Attempts to introduce "benchmarking" or "targets and indicators" where developing countries are obliged to commit to liberalisation in a certain number of sub-sectors have been rejected and should not be revived. The plurilateral approach, which was agreed to in Hong Kong, should not be mandatory for a country to join. Any plurilateral approach should be on a voluntary basis and there should not be any pressure put on a developing country.

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# THE WTO'S DOHA NEGOTIATIONS AND IMPASSE: A DEVELOPMENT PERSPECTIVE

The multilateral trade negotiations held under the aegis of the World Trade Organisation (WTO)'s Doha Work Programme has been touted as a "Development Round" that will benefit the developing countries. However, in assessing the state of play of the negotiations, this paper finds development-oriented content to be distinctly lacking in all the major subject areas covered: trade in agricultural and industrial products, services, and the treatment of specific developing-country concerns such as the "implementation issues" and "special and differential treatment".

The talks were suspended in July 2006 due to differences between member states, but resumed in the beginning of 2007. Written while the suspension was still in effect, this paper calls for a review and revision of the negotiating framework in order to steer the talks in a development-friendly direction – a call which is all the more timely now as the newly revived negotiations get back in full swing.

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