

# WORLD TRADE ORGANIZATION

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Negotiating Group on Market Access

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## MARKET ACCESS FOR NON – AGRICULTURAL PRODUCTS

Communication from Egypt, India, Indonesia, Kenya, Malaysia, Mauritius,  
Nigeria, Tanzania, Uganda and Zimbabwe

The following communication, dated 14 March 2003, has been received from Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe.

At Doha, the Ministers placed the needs and interests of developing countries at the heart of the work programme adopted by them. The Ministers stressed that positive efforts were required to ensure that developing countries, and especially the least developed among them, secure a share in world trade commensurate with the needs of their economic development. Furthermore, paragraph 16 of the Doha Declaration explicitly states that enhanced market access should be provided in particular on products of export interest to developing countries, and that negotiations shall fully take into account the special needs and interests of developing and least developed country participants, including through *less than full reciprocity in reduction commitments* in accordance with the relevant provisions of Article XXVIII bis of GATT 1994. It further states that modalities will include appropriate studies and capacity building measures to assist least-developed countries to participate effectively in the negotiations.

To implement the Doha mandate fully it is imperative that these specific elements of the Declaration are fully given effect to and built into the negotiating modalities. At this juncture in the negotiations, the group of developing countries sponsoring this paper would like to bring particular focus to these aspects through this written response to the questions posed by the Chairman of the Negotiating Group in Job (03)/27 dated 12<sup>th</sup> February 2003. The Group of developing countries would also like to reserve their right to present additional submissions / positions as considered appropriate.

1. Product Coverage: Comprehensive without *a priori* exclusions. However as an S&D measure there should be flexibility for developing countries in calibrating the level of reductions for certain bound tariff lines that are considered sensitive. In respect of currently unbound tariff lines, while the negotiations could bring about significant increase in the binding coverage flexibility should be provided for them to continue to keep certain domestically sensitive tariff lines as unbound.

2. Elimination of Tariffs: At Doha, Ministers agreed that the negotiations will aim to ‘**reduce or as appropriate eliminate tariffs...**’[emphasis added]. During discussions in the NGMA, some members referred to elimination of tariffs as a desirable objective of the negotiations. It will be difficult for developing countries to accept the elimination of all tariffs as the objective of these negotiations even in an extended time frame. The relative level of development of their domestic industry and their infrastructural and other handicaps makes it important that tariffs as an instrument of domestic industrial policy is available to them for several years to come. In the case of several developing countries, revenue from customs tariffs also forms a significant share of their overall revenue, which goes to meet their developmental expenditure. Alternative forms of taxation will take long periods of time to become available and supplement and replace the loss of customs revenue. Elimination of tariffs would imply significantly deeper concessions by developing countries, which

would be contradictory to the principle of less than full reciprocity and negate the development dimension of the Doha round.

3. Core modality: Discussions in the NGMA have shown that a formula approach is the preferred one. However, it is also clear that such an approach must build in the concept of less than full reciprocity in reduction commitments in so far as developing countries are concerned. The several approaches proposed on the basis of a Swiss – type formula impact more heavily on tariff structures of developing countries and hence are inappropriate. The argument for the harmonization of tariff structures of Members is not a valid one since it is not specified in the mandate. Instead a linear percentage reduction, in our view, would be more suitable for implementing the Doha mandate.

In formula approaches one way to achieve the concept of less than full reciprocity lies in the adoption of differentiated rates of reduction for developing and developed country participants. In the linear formula we can prescribe a higher percentage reduction for individual tariff lines in respect of developed countries and a lower percentage average reduction set for developing countries with minimum cuts on individual tariff lines. Developing countries may also be given some flexibility to decide on the level of binding of individual tariff lines, on the understanding that the overall percentage reduction as stipulated for them is achieved. For unbound tariff lines, developing country members should have the flexibility to bind them at levels generally above the highest bound rate prevailing for bound items in a country's current tariff schedule or at the applied rates as of a cut off date whichever is higher. In exceptional cases, bindings should be permitted above these levels also. Reduction commitments agreed upon would not apply to tariff lines so bound.

No core modality would be complete unless it specifically addressed products of particular export interest to developing countries in developed markets where there is a prevalence of tariff peaks. This aspect is explicitly provided for in the mandate. This can be achieved by building into the core modality a commitment that no presently bound tariff line after tariff reduction shall exceed three times the average of the reduced bound tariffs in a Member's tariff schedule. However, developing country members shall, in this regard, have some flexibility and undertake minimal cuts in respect of items considered sensitive by them, which will be in accordance with the principle of less than full reciprocity specified in the mandate.

4. Supplementary approaches: Supplementary approaches should be considered only after the Negotiating Group has finalized the core modality for tariff reduction. In any case, the participation in supplementary approaches shall be on a voluntary basis to achieve reductions over and above the reductions obtained through the core modality and not instead of them. This is because participation of developing countries in approaches like 'zero for zero' or 'harmonization of tariffs' will not bring commensurate benefits to them as they require these countries to take relatively more onerous commitments. Furthermore, even if such approaches are undertaken on a voluntary basis but with the proviso that these could be in lieu of full compliance with the core modality by developed countries, this would seriously disadvantage developing countries in the overall balance of concessions as such approaches could be sought to be pushed in sectors of little interest to developing countries.

5. Elimination of low/nuisance duties: Elimination of low/nuisance tariffs has a negligible impact on effective additional market access and, therefore, should not be considered as a concession equivalent to reduction of higher tariffs.

6. Tariff peaks, tariff escalation and high tariffs: This is an integral part of the mandate. The core modality needs to be so designed that it shall be effective in addressing these issues as pointed out at paragraph 3 above.

7. Bindings/binding coverage: While calling for a significant increase in binding coverage would be an appropriate objective, developing country members would need to retain some flexibility

to continue to maintain certain unbound tariff lines, which are domestically highly sensitive or strategically important, as unbound.

8. Binding overhang: This concept is extraneous to the mandate and to the tradition of GATT/WTO negotiations. Any move to address the issue would imply taking into account the applied rate in the negotiations. This would not be appropriate since the rights and obligations negotiated in the last round were with reference to the bound rates.

9. Base Rates: Bound rates at the end of the implementation period of the UR are the last negotiated commitments undertaken by Members in the UR. Accordingly these are the only legitimate starting points for further reductions as base rates. For unbound tariff lines, developing country members should have the flexibility to bind them at levels generally above the highest bound rate prevailing for bound items in a country's current tariff schedule or at the applied rates as of a cut off date whichever is higher. In exceptional cases, higher bindings should be permitted. Such newly bound rates would not be subject to reduction commitments agreed upon.

10. Base Year: The base year should be the one for which data is available for a majority of the members.

11. Nomenclature: HS 96 could be used in the negotiations with the understanding that the results of the negotiations would be published in HS 2002.

12. Implementation and staging: There is a general recognition that developing countries should have longer staging periods as an S&D measure. To this end, a ten-year period would be appropriate for developing countries and a five-year period for developed countries.

13. Credit for autonomous liberalisation: Credit should be given for all liberalization in tariffs undertaken by Members since the Uruguay Round on an autonomous basis and not as a result of a negotiating process, and which has been bound in the WTO.

14. Non *ad valorem* duties: A common agreed methodology should be adopted for the calculation of such rates. In this respect, it would be useful if the Secretariat could prepare background information on the possible options. Additionally, during the negotiating process, members shall commit to converting all their specific and mixed duties into *ad valorem* tariffs without exception. Developing countries should however have the flexibility to retain non-*ad valorem* rates for upto 3% of the total tariff lines in their national nomenclature.

15. Simplification of tariff structure: Tariff structures reflect the level of development of members and their developmental priorities. Hence the objective of proposals in this regard is not very clear. Further, it is not a part of the mandate.

16. Export Taxes: Export taxes and export restrictions are not a part of the mandate for the current negotiations and as such should not be dealt with in this negotiation.

17. Initial negotiating rights: This could be addressed once the modality has been agreed upon.

18. Erosion of preferential margins: MFN tariff reductions could have an adverse impact on preferences enjoyed by developing countries in developed country markets. This impact may not be felt equally by all developing countries. It is crucial that the Negotiating Group explore fully this issue with a view to developing an appropriate mechanism to respond to such situations.

19. New acceded members: The Group is examining this issue and may submit its views in due course.

20. Least Developed Countries: The problems and constraints of least developed countries and their developmental needs and concerns should be taken fully into account during the negotiations. They should not be expected to undertake tariff reduction commitments or increase binding coverage that are not commensurate with their level of development. Some of the suggested solutions for possible loss of market access for erosion of preferential margins including compensatory mechanism for the export losses and easing of stringent Rules of Origin to expand the exportable products basket shall be favorably considered. Developed countries shall provide duty-free and quota free access for all the products of LDCs. Capacity building programmes envisaged in the Doha mandate shall be tailored to their specific needs.

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