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**THE WTO DOHA ROUND
NEGOTIATIONS AT THE
CROSSROADS**

Ambassador Nathan Irumba

The WTO Round of trade negotiations popularly referred to as the Doha Development Agenda (DDA), is now at the cross roads. The end of WTO July meetings of the trade negotiating committee which considered the draft modalities papers prepared by the chairmen of Negotiating Group on Agriculture and on Non Agriculture Market Access ended without substantive conclusion and with most developing countries expressing

dissatisfaction with the imbalances against them contained therein, especially in the NAMA draft.

Launched in Doha Qatar in November 2001, the negotiations were originally envisaged to be concluded by January 2005. However, after 6 years of hard bargaining there are still serious differences. It is as yet difficult to perceive light at the end of the tunnel. The draft modalities especially on NAMA reinforce the well founded fear of many that what was held out as a Development Round, which would place the needs and interests of developing and poor countries at the centre, might actually turn out to be a

Market Access Round for the major developed countries with the developing countries being asked to make the most onerous concessions.

The WTO ministerial conference in Hong Kong in December 2005, achieved limited success on a few issues with the most contentious being postponed. Since then the negotiations have been mainly limited to a few countries namely: the G.6, and the G.4 or the New Quad i.e. US, EU Brazil and India. The expectation has all along been that agreement among these major players would pave the way for broader agreement among the WTO membership. But also inherent in this approach was the possibility that issues of interest to other countries especially the weaker developing countries may be marginalized. This caused apprehension among member countries who called for the talks to revert to a multilateral process.

The major contentious issues that led to the suspension of the talks last year and the subsequent June impasse at Potsdam in June this year have been the need for reduction of domestic subsidies by USA and increased market access by EU in Agriculture sector on one hand, and the demand by the forum steep lowering of industrial tariffs by emerging developing countries on the other. It became apparent that the EU and U.S are not yet ready to make substantive reductions in their agricultural subsidies or increase market access by substantially reducing agricultural tariffs.

The developing countries especially those at a higher stage of development are under pressure to make substantial reductions in their agricultural and industrial tariffs. These countries consider these demands to be contrary

to the principle of less than full reciprocity as per the Doha mandate.

Developing countries are also under pressure to accept commitments for supply of services through Mode 3 (commercial presence). Yet their demand that the developed countries open more their service market for supply of services through Mode 4 (Movement of natural persons /skilled and unskilled workers) is not being conceded.

It is generally agreed that the LDCs would not be required to reduce tariffs in the industrial and agricultural sectors or undertake any commitments in the area of trade in services; but they are encouraged to bind their tariffs.

Following the breakdown of talks in Postdam among the Group of four the negotiations reverted to the multilateral process in Geneva with the chairman of the negotiating Group producing draft modalities papers, which were presented to the Trade Negotiating Committee (TNC) at the end of July.

Rather than paving the way forward, the NAMA draft evoked a strong alienation and revulsion of most groups of developing countries. In their view it failed to fulfil the requirement of less than full reciprocity in reduction commitments as per paragraph 16 of the Doha mandate and proportionality between the ambition levels in NAMA and Agriculture as per paragraph 24 of the Hong Kong declaration. The range of coefficients proposed would require many developing countries to reduce their industrial tariffs by more than twice the rates of developed countries.

The NAMA draft puts the burden of the Round on developing countries.

While willing to use the Agriculture modalities draft, developing countries, feel it gives comfort to major developed countries, and falls much short of their own offensive and defensive interests. By focusing on subsidies and tariffs the draft does not clarify modalities on issues of interest to developing countries such as tariff escalation, commodities, special safeguard mechanism, tropical products and preference erosion. The ACP group of countries has made it clear that they will not accept partial modalities.

This narrow focus has also had the effect of putting many other issues of interest to Africa and other developing countries in limbo and could easily be sidelined. These include, among others, issues of the implementation, Special and Differential Treatment, Regional Trading Agreements (which provides for rules that govern regional economic integration), environment.

Negotiations are slated to resume in September in what has been billed as make or break session of the Round. Negotiations on Agriculture will commence on 3rd September to be followed by the negotiations on NAMA the following week. When addressing the trade negotiating committee and the general council, Mr. Lamy called on member states to return after summer break ready to engage in intensive negotiations. The presumption is that the text outlined by the two chairs would serve as a basis for potential compromise. He also urged members to be ready to work on other areas of negotiations such as services, trade facilitation, rules, etc with a view of setting the stage for concluding the Round.

In the course of the TNC and General council meetings a number of countries

outlined the priorities in this regard. The EU and U.S underscored the need for similar document on services which could be considered along side the framework for Agriculture and NAMA. In reference to their earlier demand for a new peace clause in Agriculture the American representative said; "it is only logical that Members who are in compliance with their domestic (farm) support obligations should not be subject to dispute settlement action over such measures."

India indicated that it could only envisage loses in both agriculture and NAMA and would need to balance accounts through gains in other areas such as services, rules, and modification of Intellectual property rights protection to make it mandatory for patent applications to disclose the use of any biological resources or associated traditional knowledge in their inventions.

There was a prevailing view in Geneva that if a deal is not arrived at by the end of the year or early next year the Doha Round could move into a long period of hibernation in the light of the forthcoming elections in the U.S. It is widely believed that the expiry of, and failure by the U.S congress, to renew the Trade Promotion Authority (TPA) widely known as "fast track" would make it difficult for the U.S representative to negotiate credibly with other parties.

There is a real danger of many activists relaxing the pressure and getting their eyes off the ball in the belief that the talks are destined for hibernation. There is also a strong possibility for some developing countries making a

judgment that it may be prudent for them lock in the apparent domestic support “reductions” in Agriculture which the U.S and EU are putting forward. It is worth recalling that irrespective of what party is in White House in the U.S the external trade policy more or less remains the same and that, most probably whatever deal is signed by the incumbent, is likely to be implemented by the forthcoming administration.

The history of Uruguay Round reveals that it is when negotiations are in hibernation that deals are struck by the major players and thereafter brought into multilateral process for endorsement. The Blair Accord is vivid in the minds of those conversant of with the Uruguay Round negotiations. At that stage it becomes difficult for the weaker members of the WTO to withstand the pressures to join in the “emerging consensus”. The question is; is history about to repeat itself?

This is a modified text of an article published in Uganda *Daily Monitor* 15th August 2007

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Proposed text on modalities for Non Agriculture Market Access (NAMA) suffers from basic flaws and needs to be substantially revised

The draft text proposed by the chairman NAMA negotiating group changes what has become the principle of the Doha Round, that Agriculture should lead the ambition of the Doha Round, with the Developed countries making the greatest reforms in their trade distorting policies. Instead the draft text makes developing countries pay first in the NAMA negotiations and

requires them to make severe cuts in their industrial tariffs. It has also undermined an agreement reached at the Hong Kong ministerial meeting to ensure that the level of ambition of the NAMA negotiations shall be comparable to that in agriculture.

This was stated by Ismail Faisal South Africa’s Representative to the WTO when addressing the Negotiating Group on NAMA on behalf of NAMA 11 on 25 July 2007. Here below is an abridged version of the statement.

The hallmark of a good text is one that has the potential to build a genuine engagement, negotiation and ultimately consensus. Mr Chairperson from the point of view of the NAMA 11, and the majority of developing countries in the WTO, this text does not meet this objective. It is unusual for the introduction of the chair’s text to become the main critique of the text but in this case the introduction reveals the underlying conceptual bases of the proposals made by the chair in the main draft text and thus in critiquing the introduction we are also critiquing the main proposals in the draft text.

Mr Chairman, as the statements of the African Group, the LDCs and ACP have stated already, we are deeply concerned that the Chairs NAMA text suffers from some basic flaws that will need to be addressed:

First, the draft text prejudices the outcome of the NAMA negotiations before members have had an opportunity to negotiate these outcomes in the multilateral process. This is in sharp contrast with the agriculture draft text where members’ positions are substantially preserved allowing them significant scope to negotiate further.

- Paragraph 1 says that the text seeks to *prompt real negotiation*. However, the ranges in the brackets for developing countries that have to apply the formula *precludes any real negotiation* as the range is narrow and excludes the positions of the NAMA 11 group. Paragraph 3 goes on to state that the intention of the text is to propose specific outcomes. However, this approach does not facilitate engagement. It has largely excluded the positions of the NAMA 11. It is in sharp contrast to the approach taken by the agriculture chair who has largely accommodated the concerns of different members, in the text, to facilitate the negotiations.
- In addition, paragraph 15 the draft text proposes to limit the use of Paragraph 8 flexibilities to that already provided in the brackets and thus excludes the proposals of the NAMA 11 for these flexibilities to be negotiated upwards.
- Similarly, on the mark-up for unbound the chairs formulation seeks to close the opportunity for further negotiation.

Second, the draft text changes what has become the principle of the Doha Round, that Agriculture should lead the ambition of the Doha Round, with the Developed countries making the greatest reforms in their trade distorting policies. Instead the draft text makes developing countries pay first in the NAMA negotiations and requires them to make severe cuts in their industrial tariffs.

- In Paragraph 9, the text states that whilst the level of ambition in Agriculture may be low, and concedes that this is “a moving target”, the chair advises members who have an interest in a high ambition in Agriculture to strive for this in Agriculture and not lower the ambition of NAMA. This is a tall order! However, the chair thus unilaterally has changed one of the cornerstones of the development mandate, namely, that Agriculture is central to the Doha Round, and should lead the ambition of the round, and that the developed countries should make the greatest contribution by reforming their trade distorting agricultural policies. Instead the text has proposed that it is the developing countries that should lead the level of ambition and pay first with the hope that the developed countries will reciprocate in their agricultural offers.
- Indeed it is this logic that has created an enormous asymmetry between the two texts. In addition, the draft NAMA text is an almost complete set of draft modalities proposed by the chair, the agriculture text has not even been able to elaborate detailed modalities on several important issues that are of interest to developing countries.

Third, the draft text seeks to re-interpret the mandates of the Doha round, that has called for less than full reciprocity in reduction commitments by developing countries, by asking developing countries to contribute disproportionately, compared to the

contributions requested from developed countries.

- In paragraph 6 the chair admits that it is difficult for the chairman to assess with confidence whether LTFR has been achieved but nevertheless goes on in paragraph 8 to state that he is “confident” that his proposed modalities satisfies the requirement for less than full reciprocity in reduction commitments. The NAMA 11 has demonstrated in several submissions to the NGMA that at least a 25 point difference in the coefficients of developed and developing countries will be required to meet the mandate of LTFR. Instead the chairs paper has reduced this spread by about half 25 pts and has only offered a reduction of 1 or 2 points for the developed country coefficient. Therefore the imbalance in the contributions between developed and developing countries will be considerably exacerbated, turning the concept of LTFR on its head and thus making the developing countries the major contributors of the Round.

Fourth, whilst we agree with the chair’s assertion that all must contribute, the draft text has called for contributions by developing countries that is not consistent with their development needs and levels of development.

- Indeed it the logic of the need to satisfy the commercial interests of the developed countries, rather than the development objectives of the Doha round that permeates the

chairs text. Paragraph 4 of the draft text states that the text has not shied away from making real contributions and in paragraph 12 the chairs says that his starting point is the end point (a la Stephen Covey). The end point, the chair decides, is to reduce the bound rates of members and to increase their bindings. It is this emphasis, which has neglected to provide a balance with the development objectives of the Doha Round and the NAMA mandates, which developing countries have objected to in their statements.

- The NAMA 11 is concerned that the proposals in the draft text for paragraph 6 countries in paragraph 26, 27 and 28 of the text is too onerous and not consistent with the development needs of these countries.
- Similarly, the proposed target averages for the SVEs is disproportionate and not consistent with their levels of development.

Fifth, the draft text has also undermined an agreement reached at the Hong Kong ministerial meeting to ensure that the level of ambition of the NAMA negotiations shall be comparable to that in agriculture.

- The chair concedes in his text that members have not been able to agree on a methodology for comparing or measuring the balance in the level of ambition in NAMA with Agriculture, and that he could not decide this balance for members. However, he goes on to state that members should “focus

their efforts on improving ambition elsewhere, rather than reducing it for all in NAMA". In other words, developing countries should first make onerous commitments to make drastic tariff reductions even before developed countries have agreed to fulfill their obligations to reduce their trade distorting subsidies and open their markets in Agriculture. This is not only unfair and but a negation of the Hong Kong mandate which requires that the level of ambition in NAMA should be comparable to the level of ambition in Agriculture.

- Yesterday we heard the statements and reactions of the developed countries to the chairs Agriculture text. The position of the United States on OTDS is still not clear, even on the ranges proposed by the agriculture chair. Even on Cotton, the USA is not willing to accept the Chairs formulation on the legitimate requests of the Cotton 4. The EU response to the chairs text on Market Access for developed countries makes even more unclear what the Market Access contributions of the Developed countries are likely to be. You have to be a gambler with a lot of money to spare, to bet on the outcome of the level of ambition in the agriculture negotiations. Mr. Chairman, we are not gamblers. We represent millions of people in developing countries who have high hopes for a development outcome in this round and cannot afford to allow an unfair and disproportionate outcome in the

round to create massive unemployment and de-industrialization in our countries.

Sixth, the draft text makes loose claims about reflecting the majority view when this is clearly not the case.

- In paragraph 15, 16, and 26 the chair claims to take positions and make proposals in line with the views of a clear majority. The Statements of the Africa Group, ACP and LDCs has demonstrated the fallacy of this argument.
- The text also suggests that some of us have taken a north-south approach in the NAMA negotiations. A bit of history is instructive here. The NAMA 11 was created after the developed countries closed ranks on the formula in October 2005 and proposed an unfair outcome that would have required developing countries to cut their average tariffs by 65-70 percent whilst the developed countries only cut their average tariffs by 25 percent (Swiss 10 for developed and Swiss 15 developing countries). Developed countries have chosen to close ranks. We challenge developed countries to express different views on the formula. However, we should all be aware that the needs of developing countries are different. Their needs have been largely ignored by the trading system for more than 50 years. This is why the mandate refers to the needs and interests of developing countries that have to be addressed in this Round. We cannot so easily forget the promise made in

Doha by all WTO members to make this round a development round.

The above flaws in the draft text must be corrected to secure a fair, balanced and development oriented outcome in the Doha round. This can be achieved through a genuine bottom-up and inclusive process that allows for genuine negotiation and engagement in September to address these flaws.

We the NAMA 11 Group of the Developing country members of the WTO are committed to contributing to the Doha round and to securing a successful outcome. We seek to raise the trust and confidence of members in the multilateral process and to strengthen it.

The African group calls for balanced modalities in agriculture

Speaking in the special session of the committee on agriculture Ambassador A Balihuta coordinator the Africa Group underscored their views must remain a development Round and the outcome must fully reflect the development aspirations of developed countries. He stressed that in the modalities. Text proposed by the chairman, the issue that has been given less specificity and are of great importance to the group must be fully and satisfactorily addressed in the revised text. Modalities of negotiations in a balanced manner and fully address this development dimension.

The following is the abridged text of the statement:

The Africa Group wishes to express their sincere appreciation for your dedicated efforts in facilitating negotiations in agriculture, despite all the difficulties. We recognize that

these negotiations are currently at a critical stage, and that accordingly there is need for all of us to be constructive in our approach if this round is to be successfully completed.

We appreciate your efforts in producing the draft modalities text, may not represent precise pre-agreement from the membership. This modalities text represents work in progress, which will need to be refined into full modalities through further negotiations and consultations.

The African Group would like to restate and emphasize that the Doha Round must remain a Development Round. This means that the outcome of the Doha negotiations must fully reflect the development aspirations of the developing and least developed countries, as contained in the agreed mandate of the negotiations.

The level of specificity in the text differs significantly between the different elements of the negotiations. The Group would also like to stress that the issues that have been given less specificity and yet are of great importance to the group must be fully and satisfactorily addressed in your next revised draft.

Indeed, we are concerned that many of the issues raised by the African Group throughout the negotiations have not been fully reflected in your Draft. We urge you to reflect on them and include them in your revised draft.

A. Domestic support

The Group reiterates its position that reductions in trade distorting domestic support should result in "real and effective cuts" The Group notes that the issue of domestic support is more developed in your modalities paper in

comparison to other issues and you have endeavored to locate points for convergence in some of the areas of Domestic support.

The Group agrees that the sought level for OTDS should not allow for further trade distortions in the agriculture sector. That is why we believe that the level of OTDS should not exceed the "low teens". We are also of the view that the base period for calculating the product specific AMS should be 1995-2000.

The Group takes note that some flexibilities have been given to developing members with regard to the reductions in AMS and *deminimis*. The Group will carefully study this in the assessment of the final result of the final DDA package. The Group appreciates the continuation of access to Article 6.2.

On the Blue Box, we agree on your approach in Paragraph 34 that the Blue box should not exceed 2.5% of the average value of production in the base period 1995-2000 from the beginning of the implementation period.

On the Green Box the Africa Group wishes to reiterate that it stands by its earlier proposal that the disciplines to be developed on the green box should be stricter to ensure that there will be no box shifting. The Group welcomes some changes of the Green Box that would accommodate the programs of developing countries.

B. Cotton

The African Group welcomes your proposals under the three pillars of the Agriculture negotiations. The Group considers that these proposals could help in delivering effective and appropriate results for cotton.

The Group would also like to stress that the development aspect of cotton should also be taken into account as decided in the July Framework Agreement (Para 5 of Annex A) and in the Hong Kong Ministerial Declaration (Para 12). By doing so, the coherence between trade and developments aspects for cotton will be observed.

The Group stresses the importance of setting up a mechanism to deal with the losses of revenue that cotton producer countries in Africa are facing, as a result of the decline in world cotton prices.

C. Market Access

As regards average level of ambition and the "tiered formula", the African Group supports the view that the average cut for developed countries should be at least 54% and for developing countries should be at most 36% allowing for flexibilities for SVEs, countries with ceiling bindings and those with low homogenous bindings as reflected in paragraph 51 and footnote 3 of your draft text.

As regards "sensitive products", the proposed modalities contain some level of specificity, while on the other hand "special products" lack such level of specificity. We note that no numbers have been proposed for special products and neither the treatment of such products. This is an indication that we have not progressed enough in this area to reach concrete modalities. However we reiterate our stand on those Issues.

On "special safeguard mechanism (SSM)", we observe that the proposed modalities limit the scope of the SSM that will apply, contrary to the proposals made by other developing countries. While we understand that

further work is still needed on some of this area, we had expected that the draft text would have at least given necessary directions on the way forward.

While appreciating the complexity of the issue of tariff escalation, we anticipated for the First Revised Modalities to contain some elements of the proposals that have been made, including those from the African Group.

On the issue of longstanding preferences, there is no concrete proposal which would have given us some degree of comfort and a good orientation for further work. While there are references to "some trade-based measures", and "lengthening of the implementation period" as one such measure, the text does not provide any concrete solution to the issue.

On commodities the African group attaches a lot of importance to this issue and welcomes your language, which to some extent accommodates the group's interests. We request that all the elements included in the African Group proposal including clarification of Article XXXVIII of GATT 1994 should be taken into.

With regard to OFQF market access for LOCs your paper restated what is contained in the Hong Kong Ministerial Declaration. The Group expected your modalities paper to indicate how this mechanism would be operationalized. We are concerned that there has been a regression on this issue.

D. EXPORT COMPETITION

Under this pillar we are concerned that some issues that are of concern to us and communicated to you have been left out. For example, on food aid,

some issues regarding the declaration of an emergency, the role of the recipient government, the role of regional inter-governmental organizations, and the role of NGOs or private charitable bodies remain unresolved.

In the area of export credits, we note that the flexibilities for LOCs and NFI, OCs is not clearly spelt out. Therefore there is need to clearly clarify on the S&O treatment for these countries. We need also to stress the importance of implementing the Marrakech decision.

The process can only move fully forward based on full modalities addressing all areas of the negotiations in a balanced manner and fully addressing the development dimension as captured in the agreed Mandate. On our part, we wish to assure you of our full commitment to the multilateral trading system, and hence full and constructive engagement in the DDA multilateral negotiations so that these talks result in successful conclusion. The African Group has a particular interest in the successful conclusion of the development round, because this Round is expected to uplift the living standards of to millions of poor people in Africa and the world at large.

WTO's July 2007 Agriculture Negotiations – Potsdam Multilateralised?

Aileen Kwa

July 17 saw the release of the agriculture draft text and the non-agriculture market access (NAMA) draft text – the two major pillars of the Doha Round negotiations. This was followed, in the final week of July, by plenary sessions on agriculture and NAMA, a trade negotiations

committee (TNC) meeting (the TNC is the committee overseeing the Doha negotiations), and finally the General Council meeting on Friday 27 July.

There were very different reactions to both texts by developing country delegations. The agriculture text was seen as not entirely satisfactory, but received a more positive response from delegations than the NAMA text.

As one delegate from Africa commented on the New Zealand Ambassador Crawford Falconer's agriculture text, "People felt that Crawford had tried. It was not that he did a wonderful job, but he tried to capture the status of things the way they were. There was no country complaining that their issue had been left out. The issues were not put there in the way we wanted them to be, but all the issues in the Hong Kong declaration, as far as agriculture is concerned, are in the text."

Along these lines, many countries complained about "impartial" modalities – where the issues of importance to US and EU, such as the flexibilities in Domestic Supports had been flashed out in great detail. However, the text on Special Products and the Special Safeguard Mechanism, as well as text on preferences, were not developed.

In contrast to agriculture, the NAMA text met with huge opposition from most developing countries. Referring to Canada's Ambassador Donald Stephenson who chairs the NAMA negotiations, one delegate said: "In NAMA, the Chair tried to change what has already been agreed upon. He is trying to critique the principle of 'less than full reciprocity'. He is not acting as a Chair, but he is commanding what should happen. He is trying to develop

modalities for Members which should not be the case."

What did the TNC and General Council decide? According to one source, delegations in the meetings were very cautious not to mention that these texts would be the basis of negotiations in September. "I could see people moving away from saying that these documents were anything. The discussions were about the documents, but the discussion as to whether they would be the basis of negotiations was avoided. In the TNC, after all the speakers had finished, the chair (Pascal Lamy) just closed the meeting without saying anything". At the General Council meeting of 27 July, the Chair asked Members to refrain from repeating the statements they had made in the TNC the day before. The Chair said that their statements at the TNC would be reflected in the General Council outcome, unless delegations requested it to be otherwise. As a result, there was no discussion in the General Council on the texts.

G2 / G4 Package Multilateralised?

As these negotiations were taking place, the rumour that was making the rounds in WTO corridors was that the G4 (US, EU, India and Brazil) meeting of June 2007 in Potsdam may not have failed, as was announced. The speculation was that the 'failure' could have been fabricated so that the outcome of the G4 meeting would be 'multilateralised' and integrated more easily into the WTO system. According to a non-G4 developing country delegate:

"Brazil and India came back from Potsdam saying that the US and EU had gone to Potsdam with a pre-cooked agreement amongst themselves. They claimed that Potsdam was not a genuine G4

meeting but a G2 (US/EU) +2 (India/Brazil) meeting.

“There are two scenarios that could have happened. Either Brazil and India agreed with the US and EU on an emerging package, and they agreed to take the outcome of their decisions to Crawford for inclusion in the texts whilst also agreeing to declare Potsdam a failure, or there was a real breakdown, but the US and EU took what they had precooked and brought this to the Chairs for inclusion in the text anyway. In either case, you can see that there are areas in the (agriculture) text which is the outcome of what all four have agreed on. It seems we are caught once again in another Blair House”.¹

According to the same delegate, it is therefore not surprising that “Both the US and EU are very comfortable with the texts even though they pretend they are not”.

The Falconer agriculture text is worrying because it may have disarmed some developing country negotiators in Geneva, and especially when it is being compared to the NAMA text. What the African and Caribbean countries welcomed was the leeway the text gives to the Small and Vulnerable Economies (SVEs) and some other countries similar in characteristic to SVEs (the group includes Botswana, Cameroon, Rep of the Congo, Cote d'Ivoire, Ghana, Kenya, Namibia, Nigeria, Suriname and Swaziland) to cut tariffs by an average of 24%, instead of a line by line cut.

¹The Blair House Accord is the name of the agreement that the US and EU came up with on agriculture in the Uruguay Round which was then presented to the rest of the GATT members.

Yet, the text does not in any way correct the basic distortions in agricultural trade which the Uruguay Round had locked in through its lopsided rules. In fact, by enforcing further liberalization, the dumping of subsidized imports will be deepened. As such, the Falconer text, with its sweeteners could well end up lulling negotiators into another bad deal.

How Does the Falconer Text Cater to US and EU Interests?

How does the agriculture text reflect US and EU interests? What are some components of the G2 or G4 deal that are likely to have surfaced through the Chair's text?

1) Protecting US' Concentrated Supports in 'Program Crops'

Much of the debate both within the G4, but also beyond the G4, has been centered on the issue of US' domestic support cuts, in terms of what WTO classifies as 'overall trade distorting supports' (OTDS). Note that the US provides 70-80% of its supports in the Green Box which is not being captured by the OTDS, so in reality, this discussion on domestic supports is a very limited one. The G20 has asked the US to bind their OTDS at 12 bn. Their 2006 OTDS is only 10.8 bn, and their 2007 OTDS is expected to be even lower than that, due to high commodity prices. The OTDS consists of several subsidy categories – the aggregate measure of support (AMS), the Blue Box, and the de minimis supports.

The major point to note regarding US domestic supports is that they are largely concentrated in only a number of commodities – the so-called 'program crops', which include corn, soybeans, wheat, cotton, rice and dairy amongst others. US' key concern is not about providing support to all of their

producers, but to ensure that the rules negotiated will not impede their ability to continue supports in these 'program crops'.

Box: US Subsidies to Specific Crops

According to the US Congressional research Service, over the last 10 years, government subsidies constitute 72% of producers' receipts for rice, 45% for sorghum, 34% for wheat, 30% for barley, 25% for corn, 21% for sunflower seed, 20% for canola. The CRS report notes that whilst these shares are high, they understate the situation because they are 10 year averages. In certain years, supports are much higher. In 2000, rice and cotton subsidy payments amounted to 174% of farm cash receipts, and sorghum, wheat and corn payments were 110%, 101% and 66% of cash receipts respectively. **They draw the conclusion that "it is only with the aid of subsidies that a substantial portion of US production is made economically sustainable"** (p. 31).

Source: Schnepf and Womach 2007 "Potential Challenges to US Farm Subsidies in the WTO"

This issue of subsidy concentration has been central in the agriculture negotiations for the G20 in the past few years. Currently, however, it seems that the leadership of the G20 is no longer pushing hard on this issue. The Falconer text goes out of its way to accommodate US' ability to continue high subsidies in key crops in the following paragraphs:

Para 22: The Chair provides special and differential treatment for the US. Whilst for other developed countries, the product specific domestic support is capped at the 1995-2000 period, Falconer suggests that the US should cap these supports at the 1995 – 2004 period. This makes a big difference for the US – their supports sky rocketed from about 2000, due to low

commodity prices, and this was reinforced by the 2002 Farm Bill. With a 'special' base period as reference, their product specific caps would therefore be significantly larger and will not require them to lower their supports in these key products.

Para 23: This para states that if a member's product specific AMS support has risen above the de minimis after the base period, then the member can disregard the base period (1995-2000) product specific capping and simply use the two most recently notified post base period years. The US has deliberately not notified their domestic supports in the WTO since 2001 because of the high supports post 2002 resulting from their Farm Bill. In certain commodities, US supports were non-existent before the 2002 Farm Bill, but were high post Farm Bill eg. peanuts. In the 2007 Farm Bill debates, there has been strong lobbying by the recipients of program crop supports to carry the 2002 Farm Bill commodity programmes into the 2007 Farm Bill. This clause would facilitate such an arrangement.

Similarly, the Blue Box capping criteria in the Falconer text is loose and allows the US huge latitude to concentrate supports. Para 36 of the text caps Blue Box supports in individual products to the average value of Blue Box support provided during 1995-2000. Paragraphs 37 and 38 go on to negate this product specific capping if it is difficult to achieve! Inference is made to US commodity crops again in Para 37. The paragraph says that within the 2.5% of value of production for the Blue Box, countries can spend up to 110 or 120% of the amount of product specific support that has been domestically legislated.

Para 38 again gives special treatment to the US. It says that where there was

no AMS support between 1995-2000 in a certain product, the Blue Box cap for that product can be within 10% of the overall Blue Box ceiling! (The Blue Box ceiling is 2.5% of the average 1995-2000 value of production – roughly US\$5 bn. 10% of this is 500 million).

2) The Sacred Green Box

Where the text provides space for the US to maintain their product specific supports, it caters to both US and EU needs by doing nothing to tighten the Green Box criteria to make these payments genuinely non-trade distorting. Both the World Bank and UNCTAD research² have shown that it takes a long stretch of the imagination for certain Green Box supports to be claimed as genuinely non trade distorting. It seems that amongst the G4, there is agreement not to push the US and EU anymore on this issue.

Falconer's text does nothing to discipline the Green Box. One of the issues the G20 had earlier suggested on the fixed and unchanging base period has also been dealt with by Falconer in a manner that is simply cosmetic. Green Box decoupled payments to producers in US and EU are based on production levels of previous years. Payments are then made to producers whether or not production continues. The idea of decoupled payments is that they should be transitional payments so that producers phase out of production. According to the World Bank (Baffes and Gorter 2005), if these payments are not transitional, on-going decoupled payments are no different

² Baffes, J and Gorter H 2005 "Experience with Decoupling Agricultural Support", in Global Agricultural Trade and Developing Countries, edited by Aksoy A and Beghin J, World Bank, Washington. UNCTAD India Team 2006 "Green Box Subsidies: A Theoretical and Empirical Assessment".

from other forms of subsidies and when exported are equivalent to export subsidies.

As long as governments update their base period upon which payments are made with each Farm Bill or CAP reform, farmers are most unlikely to stop production, since they may not be paid in the future. The G20 therefore suggested that the base period for such payments should be fixed and unchanging, giving farmers a genuine choice to stop production.

In Annex A of Falconer's draft modalities text, he says that 'an exceptional update is not precluded'. Such an update, he says, can be done if it does not increase the support to producers. This is not useful, since it merely caps the decoupled payments, but would allow decoupled payments to be the new form of export subsidies post Doha.

BOX 2: Green Box Criteria that Should Be Included in the Modalities if the Green Box is to be Disciplined

- i) For developed countries, Article 2 of Annex 2 (Green Box) on General Services should only be provided to producers with low levels of income, landholding or production levels. (According to UNCTAD's analysis, general services, due to their quantity, reduce production costs by up to 11-16%).
- ii) Article 5 of Annex 2 should include specific reference that direct payments should not be linked to production levels, including input levels.

iii) Article 6a on decoupled income support should again specify the need for decoupled income support to be provided to producers of “low levels of income, landholding and production on a notified fixed and unchanging base period”.

iv) Article 11 b of Annex 2 (Green Box) on structural adjustment assistance provided through investment aids, and Article 13a on Payments under regional assistance programmes, should also have the ‘fixed and unchanging historical period’ inserted, and for developed countries, this time period should not be updated, not even exceptionally!

v) The language Falconer has included for developing countries on the fixed and unchanging historical base period is not helpful. As special and differential treatment, developing countries should not have to abide by a fixed and unchanging historical period. Most countries have traditionally taxed, rather than subsidized their agricultural sectors. Fixing supports to a base period will unnecessarily hamper developing countries from investing in their farmers.

For suggestions on specific language, see Kwa, The Dirty Green Box, <http://www.focusweb.org/the-dirty-green-box-chair-pushes-eu-us-positions-on-the-green-box-in-2nd-instal-2.html>

3) Flexibility in Export Subsidies for EU

The EU is also playing games in terms of not wanting to eliminate its export subsidies. In the discussions of the past, developing countries have made it clear that export subsidies have to be eliminated – both in terms of budgetary outlays, as well as in terms of volume of subsidized exports. The two components go hand in hand.

The EU in Geneva, has been making it known that it cannot undertake volume reductions because the volume of agricultural production has already been agreed upon in the 2003 EU Common Agriculture Policy (CAP) reform up to 2013. It says this issue is politically sensitive. The Chair’s text is clearly catering to the EU in para 143, where there is no clear end date in sight for the elimination of subsidized volume outlays that are exported, and no indication of complete elimination of volume outlays - another S&D provision! Both budgetary and volume outlays should be eliminated in tandem, as is the case for developing countries (para 144).

4) Sensitive Products

An important issue for the EU is the maintenance of tariffs for certain sensitive sectors. The text says that 4-6% can be declared as sensitive. Members which have over 30% of their with tariff levels in the highest tariff tier (i.e. over 75%) is provided 6-8% of sensitive lines.

5) Special Products (SP)

Whilst it is assumed that developed countries have freedom to self-designate the products they want as sensitive, the Chair is making it very difficult for developing countries to self-designate special products. In fact, the existing language between sensitive and special products definitely provides S&D treatment to the developed countries!

The chair suggests that the negotiations be based on indicators rather than be fixated on numbers. This is also the current US position. The G33 has developed a list of their own indicators at their last Ministerial meeting in Jakarta. However the US, working with Pakistan, produced a much more limiting list of 'indicators'.

Clearly the US will attempt to dilute the indicators negotiations, to make it as difficult as possible for countries to choose the products they want declared as an SP.

The Chair places constraints on G33's ability to decide on their own products to be classified as SPs in para 95. He says that "the indicators have to be transparent (which means accessible), objective and thereby, open to verification. These would utilize data that is either internationally collected and diffused or is available at the national level in a form that is also accessible to other members". Since data is a huge challenge in many low income countries, this clause is likely to severely limit their ability self-designate.

6) The Special Safeguard Mechanism (SSM)

Like the SP, the US is not keen to provide developing countries with SSM for all products – which has been

the G33 position. The Chair's texts finds ways to water down the scope of application for an SSM. The FAO import surge research has shown that import surges take place with astounding frequency – of 23 food groups in 102 developing countries, 12,167 surges occurred between 1982 and 2003.³

What is the impact of these surges on domestic production? The FAO table below is illustrative:

Country / Commodity	Imports Increased by:	Local Production Decreased by
Senegal-Tomato Paste	15 times	50%
Burkina Faso – Tomato Paste	4 times	50%
Jamaica – Vegetable Oils	2 times	68%
Chile – Vegetable Oils	3 times	50%
Haiti - Rice	13 times	small
Haiti – Chicken Meat	30 times	small
Kenya – Dairy Products	“dramatic”	Cut local milk sales
Benin – Chicken Meat	17 times	Declined

Source: FAO 2003 “Some Trade Policy Issues Relating to Trends in Agricultural Imports in the Context of Food Security”, Committee on Commodity Problems, CCP 03/10, 2003.

³ FAO 2005 “FAO Import Surge Project Working Paper No. 2, May.”

Falconer attempts to narrow the possible use of the SSM. He says in para 103 that it should only be used in “special situations” and that it should not be used to disrupt “normal trade” (para 104). It is not clear that the Chair means by “normal trade” since these days, import surges are so common, but, judging from the table above, no less devastating to local small producers.

Falconer also suggests that the volume trigger could be at 110% i.e. there needs to be a 10% increase in volume imported before the SSM can be invoked and a higher tariff implemented. Setting such a high threshold will lesson the effectiveness of the SSM for developing countries. Action Aid research on Nepal (rice from India) has already shown that smaller import surges of 7% can already cause devastating impact on the local producers and the local economy.⁴

Conclusion

The text effectively goes into great detail to cover the issues important to developed countries, particularly by ensuring that their domestic supports can be continued. The problem is not that developed countries chose to support their producers, but that dumping of exports into the developing world will not be curtailed. There are too many loopholes in the text – from side-stepping product specific caps in the AMS and Blue Box, to the entire Green Box which is not being disciplined.

In the meantime, developing countries are asked to pay – to further liberalise their markets, both in agriculture, NAMA and also in services. One is

⁴ Sharma B 2005 “Import Surge in Nepal: Case Study of Rice”, an Actionaid commissioned study, December.

left with the question -for whose development is this round serving?

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Editorial: The DOHA Round: Will it ever deliver on its developmental mandate?

**Aulline H Mabika*

The Chairmen of WTO Non Agricultural Market Access (NAMA) and WTO Agricultural negotiations have released their respective draft modalities text which summarises discussions in both negotiating groups at this stage and propose draft modalities to guide the continuation as well as the conclusion of both negotiations. These are not final but are subject to further discussion and finalisation. They have however been responses to these drafts some cautious but some very negative.

As agreed at the end of the Uruguay round, agricultural negotiations on the process of farm policy reform will continue. It however is clear from the responses to the Agriculture and NAMA texts that the continuation of these negotiations is failing to address critical issues that are of major concern to developing countries.

The NAMA text seems to burden developing countries with commitments that are blind to the developmental needs of these countries

These NAMA commitments extracted from developing countries are unprecedented in the history of the multilateral trading system. When implemented, they will have severe de-industrialisation effects. As one of the commentators rightly observes, the provisions of the NAMA text makes

demands on developing countries that go beyond their developmental status.

Ismail Fraisal echoes the same sentiments in his statement that, the NAMA text expects developing countries to 'first make onerous commitments to make drastic tariff reductions even before developed countries have agreed to fulfill their obligations to reduce their trade distorting subsidies and open their markets in Agriculture.' These requirements ignore the developmental status of these countries and depart substantially from the Hong Kong mandate as Fraisal correctly states.

Developments within the Doha round of negotiations carry very scary prospects for Agriculture, the backbone of most developing countries. If developing countries agree blindly to reduce their industrial tariffs without a corresponding address of trade distortions by their developed counterparts then they would have sold out. It is clear that the developing countries are getting a raw deal under the NAMA agreement whose focus drifts substantially from the consensus that members are driving at in the Agriculture agreement.

The question of developed countries addressing trade distortions is a big one. As long as the issue of domestic support is not thoroughly addressed the negotiating mandate of the Doha round will not be executed. 'In the agriculture sector, the major developed countries have technically fulfilled their obligation of reducing domestic subsidies when in reality, by a very clever use of the provisions of the Agreement on Agriculture, which by the way its drafted actually increases the quantum of subsidies. It shows that the pronouncements of the industrialised countries in the WTO

about liberalisation and reduction of subsidies in agriculture are not backed by political will.'

Ambassador A. Balihuta coordinator the Africa Group raises important agricultural issues for developing countries such as cotton, domestic support, market access as well export competition. It is however important to add that the chair's paper leaves out important modalities for many issues that are of major concern for developing countries such as special products, special safeguards mechanisms, tropical and diversification product tariff escalation and commodities. If these issues are left out in the final paper, this will have negative implications for their development.

The Doha round must become a truly development round. It is rather disturbing to note that the recent chairs' statements clearly validate the claim by many trade justice activists that in the WTO forum, global commerce takes precedence over every other consideration.

Until now not much progress has been made with regards to the developing countries' proposals on developmental issues in the multilateral trade arrangement. Indeed as has been confirmed by the Hong Kong Ministerial conference 'the "development issues" mandated in Doha have been put in a corner in a state of comatose' (Third world network, 2005).

A number of civil society groups have also reacted to the statements by the chairs of Agriculture and NAMA. The letter which was given to the two chairs, trade ministers as well to Pascal Lamy the WTO Director of trade questions the relevance of the Doha

round as a developmental round as well as calling world leaders to exercise their minds on coming up with an alternative to the current model of multilateral trade. They state thus:

"We believe that the time has come to officially declare the Doha Round of the WTO negotiations dead and to provide the necessary space to re-think the kind of multilateral trade rules that are needed to create employment and achieve sustainable development," said the civil society groups in their letter to

the Trade Ministers.(SUNS July 19,2006)

The challenge is how to make the Doha Round a source of hope for the least developing and developing countries to fulfill their developmental aspirations. This takes us back to the question how international trade can be used by developing countries as a tool for development?

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