

Finding NAMA

How to navigate the market access negotiations



Nonagricultural market access (NAMA) negotiations are important because they go to the heart of development and the extent to which countries can govern their own development path. NAMA negotiations will determine how much domestic voice you have in deciding where jobs are created, how resources are used and distributed and what the basis will be for the creation of wealth. Despite the highly technical and complex nature of these WTO negotiations, NAMA rules will have consequences for development, employment, the environment and the extent to which sustainable policies can be implemented.

History and mandate under Doha and current talks

What is NAMA?: NAMA negotiations are mandated under the Doha ministerial declaration, which WTO members agreed to in November 2001. The aim of the negotiations is to reduce border measures to trade, especially tariffs, and other barriers to market access for industrial exports. The negotiations cover all goods not covered under the Agreement on Agriculture. The products are essentially industrial, but WTO members are also considering natural resources including fisheries, forests, gems and minerals. The aim of the negotiations is to continue the process of industrial trade liberalization that started with the first General Agreement on Trade and Tariffs (GATT) in 1947 and continued since through periodic rounds of negotiations.

Industrial tariff liberalization under GATT: Under the GATT, countries engaged in a series of tariff negotiation rounds to liberalize trade in goods. By the time the World Trade Organization was established in 1995, successive rounds of liberalization had achieved considerable tariff reduction, particularly among developed countries. In the negotiations, countries made requests and offers to reduce tariffs in particular sectors. GATT members were allowed flexibility to choose which sectors to liberalize and by how much—developing countries were

allowed greater flexibility.

Today, tariff structures of developed and developing countries are different. Developing-country tariff structures are characterized by high average tariffs. Developed-country tariffs, on the other hand, are characterized by low average tariffs with high tariffs and *tariff peaks* (very high tariffs that are 3 times the national average) for some sectors. *Tariff escalation* is also an issue in developed countries: a situation where tariffs are structured to gradually rise as products go from their raw state to a more processed good. For instance, tariffs on aluminum will typically be lower than tariffs on imported cars made with aluminum. This serves the interests of developed countries, who aim to import raw materials at low costs from developing countries and then export value-added products made from those raw materials. Tariff peaks are used to protect jobs and investment in manufacturing industries. The result is that industrialization in developing countries is made difficult and even discouraged.

Industrial tariff liberalization under the WTO: The Uruguay Round of trade negotiations, which led to the establishment of the WTO, expanded the coverage of the GATT well beyond industrial products into sectors such as agriculture, services and intellectual property. However, there was still concern from some developed-country members that industrial trade liberalization was not complete, especially in developing countries. At the 2001 Doha ministerial conference, members agreed to negotiations on NAMA. Since Doha was intended to be a development agenda, the focus of the NAMA negotiations was on the elimination of tariff peaks and tariff escalation on products of export interest to developing countries. Governments also agreed they would take into account the special needs and interests of developing countries. Paragraph 16 of the Doha Ministerial Declaration states:

“We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export

interest to developing countries [...] The negotiations shall take fully into account the special needs and interests of developing and least developed countries, including through less than full reciprocity in reduction commitments [...] To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.”

Since 2002, NAMA negotiators have sought to establish modalities. Modalities are rules specifying how and to what extent a country should reduce their trade barriers. At the 2003 Cancun ministerial conference, conference chairman and Mexican trade minister Luis Ernesto Derbez submitted a text, commonly known as the “Derbez Text,” proposing a framework for modalities in NAMA. This text received clear and sustained rejection by developing countries, particularly the Africa and Caribbean groups, since it predominantly represented the interests of developed countries without taking into account interests and needs of developing countries. The chairman of the negotiating group dealing with NAMA, Iceland ambassador Stefán Jóhannesson, continued to persuade WTO members to adopt the same text as the basis for further negotiations. The Derbez Text, known as Annex B, was finally adopted by WTO member states as part of the July Framework at the WTO General Council in Geneva in July 2004. Developing countries only agreed to the text because it included a paragraph stating:

“Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs in indent two of paragraph 5, the flexibilities for developing-country participants, the issue of participation in the sectoral tariff component and the preferences.”

Annex B: The main components

A formula for reducing tariffs: In contrast to previous industrial tariff liberalization negotiations under the GATT, this annex calls for a single formula to reduce tariffs in a way that will create uniform tariff structures across different sectors. This formula is commonly referred to as “the nonlinear formula,” but it is also known as “the Swiss formula” and “the harmonizing formula.” Another formula, the Girard formula, favored by some larger developing countries including India and Brazil, is also nonlinear but uses different variables, or coefficients, for developing and developed countries. Using a single formula to reduce tariffs in all NAMA sectors implies steep tariff cuts for products with high tariff levels and leveling of tariff structures that have tariff peaks and tariff escalation.

Increased tariff binding: A key commitment that countries make in tariff negotiations is to set a ceiling on the level of a tariff, known as a *tariff binding*. This is because under WTO rules, tariff reductions can only be made on tariffs that are bound. Many developing countries have only a small number of tariffs bound. A country can choose to apply tariffs at lower levels but, once a tariff is bound under the WTO, it cannot exceed that level. Many countries use lower applied tariffs than their bound levels. Annex B proposes that members who have less than 35 percent of their tariff lines bound are expected to bind *all* their tariffs at a specified level. Least-developed countries are asked to increase their tariff bindings. In exchange for this both groups will be exempt from applying the formula to reduce tariffs, whatever that turns out to be, during the Doha Round of negotiations.

A sectoral initiative: Annex B proposes a sectoral initiative where WTO members select several products for complete tariff elimination, also called “zero-for-zero” reductions. The question of whether to have a sectoral tariff initiative and which countries should be included is still widely contested. WTO members have proposed fish and fish products, forests, stones, gems, precious metals (such as gold), motor vehicle parts, leather goods, and electronics and electrical goods. Most developing countries do not want to include a sectoral tariff initiative because they do not want to completely lose the ability to use tariffs, but countries like the United States, members of the European Commission, South Korea and Norway are pushing hard to include them in the negotiations.

Non-tariff barriers (NTBs): Tariff barriers are not the only measures used in trade to control access to domestic markets. NTBs affect trade including health and food safety standards and packaging requirements. Annex B calls for “examination, categorization, and ultimately negotiations on NTBs” and for members to identify NTBs in other countries they feel hinder their exports.

Special and differential treatment (SDT) and “less than full reciprocity”: Both the Doha Ministerial Declaration and Annex B of the July Package affirm the importance of SDT and “less than full reciprocity in reduction commitments” as integral to the modalities. SDT is the principle developed in the GATT that developing countries should have more flexibility in meeting trade disciplines.

The issue of preference erosion: For a number of years, developed countries have used a system of partial access,

known as preferential treatment, giving low- or zero-tariff access to traditional trading partners from developing countries, often former colonies. Least-developed countries (LDCs) have been the primary beneficiaries of such systems. One of the most comprehensive preferential systems operates between the European Union and the members of the Africa, Caribbean and Pacific Group (the ACP). Inevitably, as tariffs are reduced, the value of such preferences is reduced and competition for the markets affected increases. Many of the poorest developing countries are not in a position to compete successfully for the market without the help of preferential access. Both the Africa Group and the ACP have introduced proposals voicing their demands on the treatment of preferences. Some experts are suggesting that financial compensation be provided to the affected countries.

Credit for autonomous liberalization: Developing countries have often called for modalities to grant lower tariff reduction requirements to countries that have unilaterally liberalized their economies. Developing countries that underwent structural adjustment, for example, under the auspices of the World Bank and International Monetary Fund (IMF) lending programs, have often liberalized their economies much more dramatically than WTO negotiations now propose. NAMA negotiations are likely to lead to even deeper reductions to these countries' tariffs, so it is important to give some credit for recent reductions instituted independently from the WTO. Countries that only recently joined the WTO are in a similar position, as they are inevitably asked for greater tariff reductions than WTO rules require before membership is granted.

What are governments saying?

The United States wants an ambitious tariff reduction formula with total elimination of all tariffs on goods covered by NAMA by 2015. They favor a zero-for-zero approach on particular sectors, especially environmental goods. In practice, it is not clear that the U.S. Congress supports the U.S. Trade Representative in this agenda, but the strong and radical proposal from the U.S. forces talks into a much tougher place than if U.S. proposals were more moderate.

The European Commission favors a Swiss-type harmonizing formula (that cuts higher tariffs by more than lower tariffs). Most developed countries are also of this view.

Japan would like to remove forests, fish and fish products, footwear and leather goods from the sectoral approach. In other respects they, like the EC, want to

harmonize tariffs through the application of a Swiss formula.

China, like most developing countries, is skeptical of the merits of a sectoral approach. China also advocates strongly for "less than full reciprocity" for developing countries in reduction commitments. As a newly acceded country, China is likely to benefit from some version of the credit for autonomous liberalization discussed above—China is still implementing the tariff reductions negotiated when it joined the organization in 2001. Credit for newly acceded countries is more accepted by WTO members than the request for credit for implementation of structural adjustment programs.

The African, Caribbean and Pacific (ACP) countries reject Annex B. They are concerned that the Annex B proposals contradict the principle of less than full reciprocity as enshrined in the Doha mandate. "And as such," say the trade ministers of the African Union, "would further deepen the crisis of de-industrialization and accentuate the unemployment and poverty crisis". They strongly criticize all elements of Annex B and argue for assessments of the effects of previous liberalization and tariff reduction. They want the negotiations to be explicitly linked to "the results and findings of specific studies." They call for meaningful SDT and the full operationalization of "less than full reciprocity." They also argue that "solutions to the question of preference erosion should be obtained within the WTO negotiations."¹

India and Brazil support the so-called Girard formula for tariff reduction. This formula uses different coefficients for developing and developed countries.

Mexico, Chile and Colombia propose to adopt a formula that would permit developing countries to make lower cuts in their tariffs if they agree to bind their tariffs, apply the formula and agree to shorter periods for implementation. They would like big overall cuts to tariff levels.

Trade liberalization and the impacts on development

A strong industrial base is essential to economic development. Flexibility to structure and set tariffs as the domestic situation warrants is essential to developing such an industrial base. Tariffs are transparent and easy to use, especially for developing countries. They are often better than non-tariff measures, used more commonly by the U.S. and EU, which are less transparent. Using tariffs allows countries to control the price, speed and volume at which imports enter their domestic markets to protect local production until such time as they are ready to compete.

Imports can and do play a positive role in industrial development: Open borders allow goods that are not produced locally to enter the local market at a lower cost. This is especially useful if the goods contribute to building up the local industrial sector (for example, by making more advanced technology and machinery available). Competition from imports can also play a positive role by stimulating innovation and more efficient production from local firms. However, imports can also undermine and even destroy domestic industrial growth. All of today's industrialized countries used measures of border protection to allow their domestic industries to grow. Tariffs have been among the most commonly used instruments. Hence the successive rounds of talks to reduce tariffs in the first place.

Whereas GATT rounds gave countries some flexibility, the current Doha round is attempting to drastically remove flexibility. Developed countries are using NAMA to push for low or zero tariffs in developing countries to improve market access for developed-country industrial products. For a number of reasons, the current proposals under Annex B are directly counter to the commitment taken by governments in Doha to allow developing countries the flexibility and space they need to promote their development.

First, the nonlinear formula approach completely defies the experience of industrial development where countries use tariffs as an instrument to protect certain products and allow access for others. Industrialized countries used selective market access policies during their industrialization process and they continue to rely on tariff peaks and escalating tariffs to protect and promote certain sectors. The insistence on a single formula is simply inappropriate.

Second, when countries increase their tariff bindings, they forgo some flexibility in economic policy. Binding tariffs is seen as important and can be useful because it provides a degree of transparency and reliability for exporters in relation to the maximum tariff levels that can be applied to their exports. However, exporter interests are thereby given priority over other actors who are affected by trade policy. Many developing countries, especially in Africa, have a high number of unbound tariffs and it is a major concession to bind all their unbound tariffs in one round of negotiations. The fact is that, by requesting that tariffs be bound at a specified level, the July Framework goes further than simply asking countries to bind tariffs. This is a further concession, and one resulting in further loss of policy space. It is unprecedented in GATT/WTO history and ignores the empirical evidence: a one-size-

fits-all approach to development does not work.

Third, the total elimination of tariffs negotiated under the sectoral initiative will make it virtually impossible to set up industries in those sectors in the future. Furthermore, eliminating tariffs will severely restrict a government's ability to manage their natural resource base and could have disastrous impacts on sustainable development and the environment.

Fourth, current language on special and differential treatment and "less than full reciprocity" under negotiation does not reflect the Doha mandate. Developing countries need meaningful SDT that provides them with choices and the flexibility to decide how and when to use tariffs. They need to be assured that they will not be locked into a structure which would undermine their prospects for development.

Fifth, reducing tariffs leads to a loss of public revenue for governments in developing countries. Tariff revenue contributed 32 percent of total government revenue in least-developed countries in 2001. In industrialized countries, tariff revenues only represent on average 1 percent or less of government revenue.² For a least-developed or low-income developing country, losing the revenue from tariffs can have a crippling effect on the government's ability to provide essential goods and services for its people. Given the already difficult public budget situation of many developing countries a loss of up to 32 percent will seriously aggravate the situation.

Another concern in the negotiations is the inevitable erosion of preferences. Even though preference schemes prove to have mixed results, they do provide some sectors in some of the world's poorer countries with vital income. The Trade Integration Mechanism (TIM) of the IMF, whereby countries experiencing erosion of preferences can apply for an IMF loan, is an inappropriate and insufficient mechanism to address the issue, so other forms of compensation will have to be considered.

On the question of non-tariff barriers, developed countries in particular are major users. Some are normal and important such as safety standards on food imports and environmental checks on pests and diseases from imported flora and fauna. Others are simply a way to protect a sector from competition, including the use of exaggerated standards or outdated laws to restrict imports or abusing laws meant to protect against dumping (the sale of exports at prices below those prevailing in the domestic market in the country of origin). WTO members are

engaged in the task of separating valid NTBs from those measures whose primary purpose is to shield domestic producers from foreign competition. Progress on the reduction of inappropriate NTBs is likely to be very slow.

Who is expected to gain from a new agreement on NAMA?

The United Nations Conference on Trade and Development's recent analysis on the negotiations shows that "whatever the approach, the developing countries will be required to make the greater cuts in their bound tariffs and will face greater proportional increases in imports. They will also suffer substantial losses in tariff revenues and this will be a serious concern in a number of cases."³

The EU, U.S. and Japan stand to get more than a third of the total estimated global revenue gains from increased exports with new NAMA rules. Among developing countries, it is principally China, India, Brazil and a few other Southeast Asian countries who receive the rest. Of the estimated \$314 billion export revenue gains, "\$175 billion accrues to developing countries, particularly China (\$67 billion), South East Asia (\$22 billion), India (\$16 billion) and the Middle East and North Africa (\$16 billion). Export gains for the European Union, the USA and Japan are \$43 billion, \$36 billion and \$27 billion respectively."⁴

Trade liberalization in nonagricultural markets therefore mainly benefits those countries with an established industrial base.

How civil society can get involved

To date, NAMA negotiations have been given little attention by civil society groups. If WTO members agree to the current proposals, developing countries will be locked into binding international rules that discourage the use of tariffs and even aim at eliminating them completely in certain sectors. This removes flexibility to develop industrial policies that could promote development, increase employment and ensure a sustainable use of natural resources. Trade unions, social movements and nongovernmental organizations both in the south and the north need to analyze and understand the public interests at stake, reveal the potential impact of such an agreement and expose the severe pressure from developed countries to further open the markets of developing countries.

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Selected groups working on NAMA

ActionAid actionaid.org

Centre for International Environmental Law ciel.org

Friends of the Earth International foei.org

Greenpeace International greenpeace.org

Institute for Agriculture and Trade Policy iatp.org

International Centre for Trade and Sustainable
Development ictsd.org

Oxfam International oxfam.org

Third World Network twinside.org.sg

World Forum of Fisherfolk

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