Pakistan and NAMA (Non-agricultural Market Access)

Non-agricultural Market Access (NAMA) negotiations are linked with negotiations in Agriculture. The discussion regarding modalities in NAMA will only take off when there is some progress in Agriculture.The negotiations in NAMA are divided in two separate (but related) parts: **Ambition** The three interlinked issues of the formula, the treatment of unbound tariffs and paragraph 8 flexibilities would determine the level of ambition in NAMA.

As per Hong Kong Ministerial declaration (Para 24) the negotiations in NAMA will have comparable high ambition with Agricultural negotiations. It is almost imperative that three set of numbers for these three issues would be discussed and finalized simultaneously. **Exceptions** cover issues like preference erosion, Small and vulnerable Economies (SVEs), LDCs, NTBs, Sectoral, Newly Acceded Members (NAMs) and Para 6 countries.

A. <u>AMBITION</u>

A.1 Tariff reduction Formula

In the Hong Kong Ministerial declaration (HKMD) it was agreed that tariff reduction would be through 'Swiss formula with coefficients'. As per July framework the formula shall be applied on line by line basis and would cover all the products (without a priori exclusion). The HKMD means that proposal made by Argentine, Brazil and India (commonly referred to as ABI proposal) is still on the table. The proponents insist that ABI is more equitable. It seems that the proponents are insisting on their proposal as negotiating strategy. The developed countries have always strongly opposed this idea and are not flexible on that.

The focus of discussion in this group is primarily on simple Swiss formula with two distinct coefficients, for developed and developing countries. Pakistan has proposed coefficients of 6 & 30 respectively based on the averages of current bound rates. Whereas Pakistan's proposal has support from many developing countries, developed countries are asking for more ambitious outcome. They have proposed coefficients of 10 or lower for developed and 15 or lower for developing countries. In the latest proposal submitted by US, Canada, Switzerland, New Zealand and Hong Kong it has been proposed that spread between two coefficients is very important and there should be a maximum difference of **5** points between the two.

We should continue advocating simple Swiss formula with 'dual coefficient sufficiently apart from each other'. We should also insist that the spread between two coefficients is of vital importance to deliver less than full reciprocity in reduction commitments.

The two major players US and EU are suggesting coefficient of 10 for developed countries as both EU and US are not ready to open up their sensitive sectors. Other developed countries like Canada, Norway and Switzerland have offered to go down further provided developing countries are ready to follow suit. Majority of the developing countries including India and Brazil are willing to accept the coefficient of 10 for developed countries and they are not insisting on linking the two coefficients.

Our interest is best served by bringing down coefficient of developed countries. Pakistan's aim in these negotiations is to secure the maximum possible improvement in existing access and trading conditions for all non-agricultural products especially in the sectors of our major export interest. Therefore it has more 'offensive' interests in NAMA as the tariff peaks of developed countries are hurting our exports especially in sector of our major export interest i.e. Textile and Clothing sector. Many of the countries are receiving Preferential Tariff Treatment, to the disadvantages of Pakistan (as Pakistan is not member of any meaningful FTA especially with our major trading partners e.g. USA & EU) and multilateral liberalization works better for Pakistan's interest.

The coefficient in the Swiss formula becomes ceiling for new tariffs as it will always be lower than the coefficient regardless of staring point. It cuts higher tariffs more than lower tariff. As a rule the initial tariff equal to the coefficient would be cut exactly by 50 percent (initial tariff of 30 with coefficient of 30 would be reduced to 15).The initial tariff lower than the coefficient would be cut by less than 50% and higher than coefficient would be cut by more than 50%.

A.2 Flexibilities

Paragraph 8 of Annex B of July framework states that developing countries will have longer implementation periods for tariff cuts, and additional flexibilities on binding their tariffs and making them subject to the formula cuts. Developing countries as an exception can keep tariff lines unbound or not apply the formula cuts of up to 5% tariff lines, provided they do not exceed 5 percent of the total value of a member's imports (Para 8 b). The second provision would require them to bind 100% tariff lines but allow them to apply less than formula cuts to 10 percent of the tariff lines, provided that the cuts they apply are not less than half of what is required under the formula and that the tariff lines do not exceed 10 percent of the total value of a member's imports (Para 8 a). The figures of 5 and 10 (both for number of tariff lines and trade volume) are still in brackets and there has been no agreement what these percentages will actually be. In fact this is one of the core issues.

The developing countries say that these numbers are bare minimum and should be revised upward whereas the developed countries of the view that these numbers are too generous and should be revised downward. Mexico supported by Chili and Paraguay has proposed for 5 additional points in the coefficient for those developing countries who will give up their right to use the flexibilities.

Flexibilities are the only concept whereby a country like Pakistan can keep its sensitive sectors either unbound or out of the ambit of formula reduction. We must strive that at least we get the current numbers in bracket. There is likelihood that the current numbers in brackets would be accepted as they are.

A.3 Treatment of Unbound Tariffs

For the treatment of unbound tariffs, the issue is how to reach to the base rate before applying the formula. It has been agreed that for unbound lines the applied rate of 2001 would be marked up. There is growing convergence on using the ‘constant non linear mark up’ as proposed by Pakistan. What number is to be added remains to be decided? Pakistan has proposed 30. This is comparatively easier issue to be agreed. Most countries are willing to show flexibility and so is Pakistan. Any agreement between 20 to 30 should be acceptable for Pakistan.

B. EXCEPTIONS

Under the exceptions (sometimes also referred to as second storey issues) the following issues (listed according to their importance for Pakistan) need to be decided.

1. Sectoral
2. Preference erosion
3. Implementation period
4. LDCs
5. NTBs
6. Para 6 countries
7. Credit for autonomous liberalisation
8. Environmental Goods
9. SVEs
10. RAMs
11. Product Coverage

B.1 Sectoral

Para 7 of the July Framework and Para 16 of HKMD deal with sectoral initiatives as a modality for eliminating or harmonizing tariffs. The sectoral discussion has gained importance as Turkey has proposed for harmonizing tariffs in Textile and Clothing sectors. The Turkish proposal is that liberalization of tariffs in Textile and Clothing sectors should be done ‘outside the scope’ of the formula and participation therein should be mandatory for all competitive producers. The intention of Turkey behind this proposal is to maintain their preferential edge in the EU which it enjoys being the partner in the Custom Union.

The Turkish Proposal is inconsistent with the mandate which provides that formula has to be applied on line by line basis without a priori exclusion and participations in sectorals in non mandatory. The other important aspect is that sectoral discussion is for reduction ‘over and above’ the formula (Formula or NAMA plus). This view is shared by majority of the delegates both from developing and developed countries. Turkey in response to such remarks has said that their proposal is very much consistent with the mandate as ‘harmonization’ is one of the agreed modality for sectors and reduction is on line by line basis and if needed we can always get fresh mandate.

Pakistan has opposed the Turkish proposal as it goes against our primary interest in Doha Round for getting rid of tariff peaks in EU and US markets on Textile and Clothing (EU has rate of 12% and US rates go even up to 32% in this sector).The EU has categorically opposed this proposal whereas US is saying that Textile and Clothing sector needs special consideration on account of the sensitivities attached to it and their mandate under TPA. The Turkish proposal is supported by Jordon, Tunis and Mexico. Other Countries enjoying preferences such as Central American Countries (Guatemala, Honduras, El Salvador and Dominican Republic), Kenya, Mauritius and Madagascar are likely to support this proposal as it helps to preserve their preferential access to the major markets.To get sufficient support to block this initiative we need continue stressing that sectorals are ‘formula plus’ and formula is to be applied on line by line basis. The participation in sectoral is ‘non mandatory’ as agreed in HKMD.

B.2 Preference Erosion.

Another important issue is of ‘non-reciprocal preferences’. The preference receiving countries are advocating that tariff reduction (in the developed country markets: EU and US) will erode their margin of preference thus negatively affecting their market access opportunities. Mauritius on behalf of ACP countries has submitted a list of products vulnerable to erosion of preferences. ‘Textile and Clothing’ makes a large part of this list. They are demanding lesser reduction (through use of a correction coefficient for these lines-higher than agreed coefficient for developed countries) or reduction by developed countries over prolonged period of implementation. Lately their preference is for prolonged period of reduction for developed countries. Any proposal to delay or dilute the tariff reduction would work against Pakistan’s interest.

WTO Secretariat has refined the ACP list by applying certain filters (like preferential margin more than 5% etc) and has come up with a list of 22 tariff lines at 8 digit level for each market (US &EU) with some overlap of lines related to clothing. These tariff lines have substantial share (28% of our total NAMA export to US) of Pakistan’s export to the US market and according to WTO working Pakistan is one of the ‘disproportionately effected’ country with Bangladesh, Cambodia, Sri Lanka and Hong Kong. These 22 tariff lines in US cover more than 55% of their clothing import from all over the world. The Chair in his remarks has referred to longer implementation period as a solution. For countries disproportionately affected, as compensation, he has indicated accelerated implementation.

We have been opposing any list approach as the products in the list are of our export interest and we have also opposed longer implementation period. We should advocate a non-trade solution like ‘Aid for Trade’ for these countries. Pakistan has support from Costa Rica, Ecuador, Uruguay, Sri Lanka and New Zealand. However, many Members have indicated their willingness to consider the longer implementation period including US & EU. This kind of solution sits well with US as their domestic manufacturing lobby is forcing them for special treatment to these products. Sri Lanka has proposed that if longer implementation period is offered as a solution the countries disproportionately affected be given immediate and unconditional preferential access.

We should oppose any longer implementation period as MFN liberalization works in our interest. The grant of longer implementation period means reverse S&D for developed countries. It is less likely that we would be successful in that as the developed countries see this as incentive for ACP countries to come on board and it also serves their domestic sensitivities. However, we can get more support by linking the issue in NAMA with Agriculture.

As a second option we should propose something to further shorten the list. This is possible through concept of proportionality (percentage share of preferential imports versus total import in any tariff line). We can propose that only those tariff lines would be considered for longer implementation period where share of preferential imports is more than [X] % of total imports from all over the world. This can be substantiated by saying that there is no justification for a solution which benefits a very low percentage of trade and adversely affects the major share of trade.

By taking a benchmark of 15% would reduce the list in US markets to 2 tariff lines and 16 in EU markets. For those products that has share lower than the proposed cut off percentage we are not suggesting that these lines do not deserve any solution. Those deserve a solution but any trade solution would be inequitable as it will solve problem for a very little percentage and create problem for much bigger volume of trade. The equitable solution for these lines should be a non trade solution like aid for trade.

B.3 Implementation Period

The July Framework provides that developing countries shall have longer implementation period. NAMA 11 has proposed that developing countries should have minimum 10 years as implementation period. There has not been much discussion on this issue. We should be looking for immediate implementation or implementation over a short period of time (say 2-3 years) for developed countries but should be comfortable as long as it is less than 5 years for developed countries and somewhere between 8 to 10 years for developing countries. The important is that reduction is done in equal yearly stages.

B.4 Least Developed countries

Para 9 (level of contribution by LDCs), Para 10 (duty free and quota free treatment) and paragraph 15 (appropriate studies and capacity building) relate to LDCs treatment.Paragraph 9 says LDCs shall not be required to apply formula or participate in the sectoral. However, they are expected to substantially increase their binding commitments. LDCs have proposed that level of binding would be determined by LDCs themselves keeping in view their development need. US have suggested that on voluntary basis LDCS might reduce certain tariffs to which LDCs have not agreed. We should be ready to go along the consensus.

Paragraph 10 deals with market access opportunities with LDCs under duty free and quota free treatment. We should be comfortable as long as the decision taken at Hong Kong is adhered to in letter and spirit. The current proposal by LDCs is in line with HKMD. LDCs have also proposed Rules of origin for such preferential access which are not acceptable to Pakistan. We may oppose this by saying that preferential Rules of Origin is not subject of WTO as WTO Rules of Origin Agreement deals only with non preferential Rules of Origin. These Rules may by formulated by preference granting Countries. Paragraph 15 deals with appropriate studies and capacity building measures. It is cross cutting issue not confined only to NAMA. We should be ready to go along the consensus.

B.5 Non Tariff Barriers (NTBs)

Paragraph 14 of the July Framework and Para 22 of HKMD deal with non-tariff barriers. EU and NAMA11 countries have submitted two different but similar proposals for establishing a mechanism for resolution of future NTBs in a non-legalistic manner. The proposal is for a solution based approach rather than rights based approach. Countries like US and others have expressed their concerns about such proposal primarily that its relationship with DSU is not clear. Such a mechanism is more favorable to countries like Pakistan, hence we may support this.

Similarly EU has proposed a separate agreement for eliminating export taxes and Japan has proposed an export licensing agreement to address the issue of export restrictions. Some members take the view that measures such as export taxes are not NTBs and are thus not a part of the mandate and should not be discussed in the Negotiating Group. We may go along the consensus as long as export taxes and export restrictions are not specifically mentioned therein as NTBs and the mandate is not construed to negotiate any new agreement.

B.6 Paragraph 6 countries

In pursuance of paragraph 6 of the July framework developing members having low binding coverage are exempt from making reduction through the formula. Figure of 35% as a bench mark for binding coverage earlier in bracket has now been agreed. By virtue of this agreement 12 countries (Cameroon, Congo, Cote d' Ivor, Cuba, Ghana, Kenya, Macau, China; Mauritius, Nigeria, Sri Lanka, Surinam and Zimbabwe) are required to bind their NAMA tariff lines at an average equal to over all average of bound tariff for all developing countries after full implementation of Uruguay round concessions (28.5%). The question to be decided is what would be their binding coverage. The current number in bracket is 100 whereas these countries have proposed 70% and many other members are asking them to bind 95%. Pakistan should be willing to go along the consensus.

B.7 Credit for Autonomous liberalization

July framework provides that credit should be given to those countries who has autonomously liberalized their tariff by binding it at MFN level beyond the Uruguay Round commitments. Pakistan has bound more than 60% of its NAMA tariff line after Uruguay Round commitments.India on behalf of NAMA 11 countries has proposed that credit should be given to such countries who have bound their tariffs after Uruguay Round but before commencement of Doha Round. Their proposal is for a higher coefficient in the formula for those tariff lines. This proposal is not in line with the July

Framework agreed in 2004 and also excludes Pakistan from the list of prospective beneficiaries. We need to stress that there is no cut-off date envisaged in the July Framework. All tariff lines bound at MFN level before finalization of modalities should be eligible for any envisaged credit.

B.8 Environmental goods

Doha mandate requires reduction or as appropriate elimination of tariffs on environmental goods and services. The responsibility has been given to Committee on Trade & Environment, Special Session (CTESS) to identify environmental goods. CTESS has not been successful in identifying such a list. Developed countries like EU, US and New Zealand have proposed for elimination of tariff by 2008 or start of the implementation period by developed countries and developing countries declaring themselves in a position to do so and other developing countries are required to eliminate tariffs after [X] years. We are of the opinion that unless the process of identification is complete, the Negotiating Group should not agree on any modalities. The position of Pakistan is also shared by NAMA 11 and other developing countries. There is less likelihood of bridging this gap but we can suggest that the way forward can be to consider environmental goods at par with other sectoral initiatives where participation is on voluntary basis.

B.9 Small and Vulnerable Economies

A group of countries declaring themselves as small and vulnerable have expressed that it is difficult for them to apply the formula on account of size and vulnerability of these economies. The criterion for eligibilities has been proposed as less than 0.10% share of NAMA trade in the world trade. The proposed solutions are extended to paragraph 8 flexibilities (higher number of flexibilities than agreed for other developing countries) or paragraph 6 type solutions (binding their 100% tariff at an agreed average). Pakistan has been flexible and is ready to go along with the consensus.

B.10 NAMs (Newly Acceded Members)

July framework provides that taking into account the extensive market access commitments undertaken as part of their accession these members shall have special provision for tariff reduction. The list of these countries also includes China who have proposed 1.5 times higher coefficient, and further flexibility in paragraph 8 through enhancing figures of 10% and 5% to 15% and 10% of tariff lines for less than formula reduction or no formula reduction respectively, additional three years of implementation period and three years of grace period. Many countries have opposed such a treatment and questioned whether the same treatment should be available for the entire NAMs. Countries like EU and US have indicated that they would only consider a longer implementation period for this group of countries. Pakistan is flexible about this issue and is ready to go along the consensus. There is political sensitivity attached to this issue on account of China being one of the members of this group.

B.11 Product coverage

The issue is that which tariff lines should make part of NAMA and which should be under agriculture. The Chairman NAMA has come up with his proposal which is acceptable to majority of the delegates. There have been, however, differences by Japan and Switzerland which NAMA chair has tried to address through a foot note. Pakistan has no specific concerns and we are ready to go along chair’s proposal.