
Negotiating Group on Market Access
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MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Communication from Argentina

The following communication, dated 9 March 2006, is being circulated at the request of the delegation of Argentina.

IMPLEMENTING PARAGRAPH 24 OF THE HONG KONG MINISTERIAL DECLARATION

I. INTRODUCTION

1. The Hong Kong Ministerial Declaration establishes in paragraph 24 that negotiators are to ensure a comparably high level of ambition in market access for Agriculture and NAMA, and that this ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.¹
2. The purpose of such a provision is to avoid the adoption of extreme opposite stances in the crucial area of access to goods markets, in view of the adverse effects that this would have on the negotiating process.
3. It is with this in mind that the present paper addresses the question of how the consistency of the Agriculture and NAMA proposals with paragraph 24 can effectively be gauged.
4. To this end – i.e. in order to consider whether the proposals are consistent with a comparably high level of ambition in market access for Agriculture and NAMA, we propose that work should focus on four central elements: (1) cutting formulas; (2) flexibilities and sensitive products; (3) maximum tariffs and the relationship between bound and applied tariffs; and (4) tariff simplification.

¹ To make comparison easier, this paper leaves out the components of special and differential treatment and less than full reciprocity for the developing countries. These will have to be incorporated in the negotiating process in due course.

II. THE FOUR ELEMENTS

1. Cutting formulas

5. As can be seen both from the Hong Kong Ministerial Declaration and from the appended reports of the Chairs of the Agriculture and NAMA negotiating groups, these two areas have different methodologies for reduction formulas.

6. In Agriculture, four bands are envisaged for the cuts, though the ceilings and floors of the bands and the cut percentages to apply within each one have yet to be defined. In NAMA, on the other hand, the plan is to work on the basis of a "Swiss formula with coefficients", which will be so defined as to observe the principle of special and differential treatment and less than full reciprocity commitments for the developing countries.

7. The fact that there are different methodologies makes the "comparison" required by paragraph 24 of the Hong Kong Ministerial Declaration difficult. It is therefore necessary to work on an empirical basis, verifying that the *ex-post* outcomes of applying linear cuts or coefficients, as the case may be, lead to relative equivalence ("comparability") in the impact of the cuts.

8. Taking as an example the European Union's proposals on NAMA and Agriculture, it can be seen that empirical analysis reveals obvious disparity, with very ambitious positions for NAMA and very defensive ones for Agriculture.

9. Applying the Swiss formula coefficient 10 proposed by the EU in NAMA would mean that a 35 per cent tariff (which is close to the developing countries' average Uruguay Round bindings)² would drop to 7.78 per cent, equivalent to a linear cut of 77.8 per cent.

10. In Agriculture, on the other hand, the European Union's proposal for the same 35 per cent tariff would give a new tariff of 19.25 per cent on the basis of its proposed 45 per cent linear cut. This linear cut is equivalent to what would be obtained by applying a Swiss formula with a coefficient of 42.78.

11. The disparity between these two situations is plain, as the Swiss formula coefficient 10 that the EU proposes for NAMA would have to be multiplied by more than 4 in order to reach the Swiss formula equivalent referred to in the previous paragraph. Such an outcome is clearly not what Ministers had in mind as a comparably high level of ambition in these two negotiating areas.

12. An empirical analysis, with the respective equivalents between linear cuts and Swiss formula coefficients, can be carried out for the bands and tiers of some of the proposals so far tabled in NAMA and Agriculture. In this way, it is possible to gauge the "comparability" required by paragraph 24 of the Hong Kong Declaration.

13. For this purpose the present paper sets out, in Annexes 1.a and 1.b, correspondence tables for linear cuts and Swiss formula coefficients.

14. Annex 1.a shows the tariffs and Swiss formula coefficients in NAMA that result from applying the linear cuts proposed in Agriculture by the European Union, the G20 and the United States.

² The report by the Chairman of the Uruguay Round Market Access Group determined that the developing countries were in line with reduction objectives if they bound their respective tariffs at a rate equal to or less than 35 per cent *ad valorem*.

15. Annex 1.b shows the tariffs and linear cuts that would result in Agriculture from applying the Swiss formula with the coefficients proposed by the EU and the US in NAMA. There is no G20 proposal as such for NAMA, but the G20 proposal for Agriculture is half way between the different proposals in terms of impact, so we have also included the impact of a hypothetical Swiss formula with the various coefficients that derive for each tariff level from the linear cuts of the G20 proposal. We have called this hypothetical proposal "Hypothesis #24" and we note that, as was to be expected, the outcome of applying a Swiss formula with such coefficients produces perfect "comparability" (i.e. equivalence) in the cuts for each tariff level, both in NAMA and in Agriculture.

16. Annex 1.c summarizes the disparity that the EU, US and Japan (G10) proposals would produce in the ambition of the tariff-cutting formulas. It shows, for example, that to apply the cutting formula proposed by the EU would take the EU average and maximum agricultural tariffs to levels substantially higher than would be produced by applying the EU NAMA proposal to Agriculture. The final agricultural tariffs would have averages of 12.02 per cent (applying the EU cut for Agriculture) and 4.82 per cent (applying the EU Swiss formula coefficient for NAMA). Similarly, the maximum tariffs would be 100 per cent and 9.6 per cent respectively.

17. Lastly, Annex 1.d gives a clear picture of the "comparability" of the proposals by showing the linear cuts of the various positions: those pertaining to NAMA put forward by the US, the EU and the G10, with a Swiss formula coefficient of 10; and those pertaining to Agriculture put forward by the same countries and the G20. This table also shows the differences between the cuts for NAMA and Agriculture in some of the proposals and their divergence in terms of the objective of a comparably high level of ambition in market access for both areas, to be achieved in a balanced and proportionate manner.

2. Flexibilities and sensitive products

18. According to paragraph 8 of Annex B (NAMA) of the Work Programme approved by the General Council on 1 August 2004, developing countries would be free not to apply cuts to, or not to bind, up to 5 per cent of all tariff lines, not exceeding 5 per cent of the total value of their respective imports. Alternatively, they could apply a tariff cut of up to 50 per cent of the agreed overall reduction provided that this covers no more than 10 per cent of total tariff lines and does not exceed 10 per cent of the total value of their imports.³

19. As to the matter of sensitive products in Agriculture, total tariff lines and the value of the trade that may be affected have as yet to be defined.

20. In Agriculture, the exclusion from overall reduction commitments of a few tariff lines that cover products of high commercial importance can seriously restrict trade for a large proportion of exports from developing countries.

21. As an illustration, it is worth mentioning that the EU proposed designating 8 per cent of tariff lines as sensitive. If one were to assume that these lines correspond to the highest bound rates (expressed as *ad valorem* equivalents), this would cover 11.55 per cent of its total agricultural imports (see Annex 2.a).

22. To this 11.55 per cent of trade must be added the number of lines and the value of the trade arising from the additional flexibility proposed by the EU for products up to a tariff level of 30 per cent. Inclusion of a "pivot" in this range, whereby some tariffs would undergo a cut of only 20 per

³ The percentages for the tariff lines and value of trade have not as yet been agreed. Nor has it been decided whether these options can be applied together.

cent (less than the 35 per cent average overall cut), can mean the exception for sensitive products amounting to a significant level of trade. It should be noted that the range in question includes 1,720 tariff lines covering more than 66 per cent of the European Union's agricultural imports.

23. If a hypothetical "pivot" were to be applied to 10 per cent of these 1,720 tariff lines⁴, 6.96 per cent of the total value of EU agricultural imports would be affected (see Annex 2.b). This figure would increase to 11.94 per cent if the cut were applied to 15 per cent of the tariff lines, and to 14.80 per cent if it were applied to 20 per cent of them.

24. In short, if the flexibility ("pivot") of the first band for tariff cuts were added to the sensitive products, the total could range from 15.80 per cent to 23.60 per cent of agricultural tariff lines and from 18.55 per cent to 26.35 per cent of the EU's total agricultural imports. These percentages are well above the 5 per cent or 10 per cent of total trade under the options that would be available to developing countries in NAMA.

25. It seems clear as a consequence of the foregoing that "comparability" of outcome between Agriculture and NAMA must also involve obtaining approximate percentage values for the trade affected by the inclusion of sensitive products.

26. "Comparability" not only of the number of tariff lines but also of the values of the total trade affected because of sensitive products appears to be a prerequisite for balance between the Agriculture and the NAMA negotiations. This prerequisite constitutes the **second central element** for ascertaining whether the objective of a comparably high level of ambition in market access for Agriculture and NAMA, as laid down in paragraph 24 of the Hong Kong Declaration, has been achieved.

3. Maximum tariffs and the relationship between bound tariffs and applied tariffs

27. The wish of some Members to compute cuts in NAMA on the basis of applied tariffs – apart from being contrary to the Doha mandate – cannot be justified from a negotiating standpoint.

28. As regards trade in agriculture, in the absence of tariff quotas with reduced or zero tariffs, for many tariff lines there would be no imports in the developed countries. This is not a fact to be overlooked given the significant number of products at HS8-digit level with AVE tariffs of more than 30 per cent: 486 in the European Union, 126 in the United States and 195 in Japan (9 digits). Of these, the tariff lines with rates of over 100 per cent amount to 15.2 per cent in the European Union, 16.7 per cent in the United States and 68.2 per cent in Japan. The maximum tariff in AVE terms is 408 per cent in the European Union, 440 per cent in the United States and 1,738 per cent in Japan (Annex 3.a). A similar situation exists in other European and Asian developed countries.

29. The situation is different in NAMA, where many developing countries have a maximum bound tariff of 35 per cent *ad valorem*, which allows import flow as the trade statistics of these countries show. This rate will be reduced even further as result of the negotiations.⁵ Any tariff reduction in NAMA, even if it does not reduce the applied rate in all tariff lines, will afford security of market access.

⁴ The tariff line percentages of 10 per cent, 15 per cent and 20 per cent are defined in descending order from the 30 per cent maximum tariff in the first band.

⁵ According to paragraph 6 of Annex B (NAMA) of the Work Programme approved by the General Council on 1 August 2004, developing participants that have bound a minimum percentage of their tariff lines, as yet to be defined, will have the option not to make cuts provided they generalize binding at the level of the average of bound tariffs for all developing countries.

30. The same cannot be said of Agriculture. The incidence of high tariffs on trade can be seen in two significant examples, to be found in Annex 3.b. In the European Union 33.6 per cent of agricultural imports are subject to AVE tariffs of 30 per cent or more. Of these imports, 82.6 per cent are Intra-EU and the remaining 17.4 per cent are from third countries and enter almost exclusively through tariff quotas. Extra-EU imports of goods with tariffs of 30 per cent or more amount to only 5.8 per cent of the total value of EU agricultural imports. Much the same is true of the United States, where goods with AVE tariffs of over 30 per cent account for only 1.2 per cent of the value of agricultural imports. Here too, most imports enter under tariff quotas. The high overall tariff is in practice prohibitive.

31. The "tariffication" of Agriculture during the Uruguay Round was based on extremely low international prices or artificially high internal prices and so resulted in very high equivalent tariffs, which in practice do not allow trade. Tariff quotas are used as a make-do solution. They could be assimilated to a lower applied tariff, but with a quantitative restriction in addition. The difference between bound tariffs and applied tariffs in NAMA, on the other hand, is the outcome of an autonomous reduction in tariffs which would allow trade at bound rates, but which – for reasons of public policy – the developing countries have decided to reduce, maintaining the political leeway that a better level of binding would afford.

32. Accordingly, a reduction in applied tariffs in Agriculture, if it gave rise to further high tariffs, would have an insignificant trade effect – even less of an effect than might result from the certainty that would be afforded by the possibility of entering a market at a reasonable tariff level in NAMA, even if it were – temporarily – higher than the applied rate. In concrete terms, expectations of market access are much higher with a bound tariff of 30 per cent and an applied tariff of 20 per cent, than with a bound and applied rate of 100 per cent. Consequently, to argue that a reduction of a prohibitive applied rate to another applied rate which is also prohibitive in Agriculture must be offset by a reduction in applied rates in NAMA, is indefensible, particularly in the context of paragraph 24.

33. Maximum tariffs are another important element of a comparison of level of ambition. On this matter proposals in the range of 100 per cent for Agriculture and 10 per cent for NAMA coexist.

34. It need hardly be said that in such a context and in view of complying with paragraph 24, any tariff reduction in NAMA will require major compensation in terms of tariff quotas.

4. Tariff simplification

35. The report by the Chair of the NAMA group indicates that agreement was reached on binding the tariffs resulting from the negotiations in *ad valorem* terms.

36. For the purpose of comparing ambition, a similar measure is needed for Agriculture, on the one hand because of the increased protection that could arise from the use of specific tariffs where there are price fluctuations, and on the other, for reasons of transparency regarding border protection measures.

37. The binding of tariffs in *ad valorem* terms is an important preliminary to seeking a balance or comparing level of ambition, and is the **fourth element** of the objective of complying with paragraph 24 of the Hong Kong Declaration.

III. BALANCE

38. The observations and comments in the previous section are of assistance in identifying elements and parameters for examining or analysing proposals in order to ascertain whether they are

consistent with the Ministers' instruction in paragraph 24 of the Hong Kong Declaration that a comparably high level of ambition is to be achieved in market access for Agriculture and NAMA.

39. Meeting the requirements pertaining to each of the four elements identified in the previous section is the basis on which to secure a balanced outcome to the Round. This will prevent the implementation of proposals that lack the balance or comparison required by paragraph 24 from compounding the current imbalance in the treatment of agricultural and non-agricultural products and jeopardizing the objectives set forth in the Doha Round mandate.

IV. CONCLUSION

40. The aim of the multilateral negotiations in the WTO is to achieve liberalization of trade and eliminate discriminatory treatment in international relations. Paragraph 24 contributes to achieving this goal by requiring negotiators to ensure that there is a comparatively high level of ambition in market access for Agriculture and NAMA. It is therefore undoubtedly a constructive means towards attainment of the objective of agreeing on negotiating modalities in these two sectors by 30 April 2006 at the latest.

Annex 1.a

Impact of Linear Cuts in Agriculture Proposals and Swiss Formula Equivalents for NAMA

Initial tariff (%)	Linear cut proposed for developed countries (%)				Resulting tariff (%)				Equivalent coefficients using the simple Swiss formula*			
	EU		G20	US	EU		G20	US	EU		G20	US
	Minimum	Average			Minimum	Average			Minimum	Average		
5	20	35	45	55	4.00	3.25	2.75	2.25	20.00	9.29	6.11	4.09
10	20	35	45	55	8.00	6.50	5.50	4.50	40.00	18.57	12.22	8.18
15	20	35	45	55	12.00	9.75	8.25	6.75	60.00	27.86	18.33	12.27
20	20	35	45	55	16.00	13.00	11.00	9.00	80.00	37.14	24.44	16.36
25	20	35	55	65	20.00	16.25	11.25	8.75	100.00	46.43	20.45	13.46
30	20	35	55	65	24.00	19.50	13.50	10.50	120.00	55.71	24.55	16.15
35		45	55	65		19.25	15.75	12.25		42.78	28.64	18.85
40		45	55	65		22.00	18.00	14.00		48.89	32.73	21.54
45		45	55	65		24.75	20.25	15.75		55.00	36.82	24.23
50		45	55	65		27.50	22.50	17.50		61.11	40.91	26.92
55		45	65	75		30.25	19.25	13.75		67.22	29.62	18.33
60		45	65	75		33.00	21.00	15.00		73.33	32.31	20.00
65		50	65	75		32.50	22.75	16.25		65.00	35.00	21.67
70		50	65	75		35.00	24.50	17.50		70.00	37.69	23.33
75		50	65	75		37.50	26.25	18.75		75.00	40.38	25.00

Initial tariff (%)	Linear cut proposed for developed countries (%)				Resulting tariff (%)				Equivalent coefficients using the simple Swiss formula*			
	EU		G20	US	EU		G20	US	EU		G20	US
	Minimum	Average			Minimum	Average			Minimum	Average		
80		50	75	85		40.00	20.00	12.00		80.00	26.67	14.12
85		50	75	85		42.50	21.25	12.75		85.00	28.33	15.00
90		50	75	85		45.00	22.50	13.50		90.00	30.00	15.88
95		60	75	85		38.00	23.75	14.25		63.33	31.67	16.76
100		60	75	85		40.00	25.00	15.00		66.67	33.33	17.65

(*) a = ((1- %Reduction)*Initial tariff)/ % Reduction

Annex 1.b

**Impact of Using the Swiss Formula in NAMA Proposals and
Equivalents in Terms of Linear Cuts in Agriculture**

Initial tariff (%)	Swiss formula coefficient for developed countries		Resulting tariff (%)		Equivalent linear cut (%)	
	EU/US	Hypothesis # 24	EU/US	Hypothesis # 24	EU/US	Hypothesis # 24
5	10	6.11	3.33	2.75	33.3	45.0
10	10	12.22	5.00	5.50	50.0	45.0
15	10	18.33	6.00	8.25	60.0	45.0
20	10	24.44	6.67	11.00	66.7	45.0
25	10	20.45	7.14	11.25	71.4	55.0
30	10	24.55	7.50	13.50	75.0	55.0
35	10	28.64	7.78	15.75	77.8	55.0
40	10	32.73	8.00	18.00	80.0	55.0
45	10	36.82	8.18	20.25	81.8	55.0
50	10	40.91	8.33	22.50	83.3	55.0
55	10	29.62	8.46	19.25	84.6	65.0
60	10	32.31	8.57	21.00	85.7	65.0
65	10	35.00	8.67	22.75	86.7	65.0
70	10	37.69	8.75	24.50	87.5	65.0
75	10	40.38	8.82	26.25	88.2	65.0
80	10	26.67	8.89	20.00	88.9	75.0
85	10	28.33	8.95	21.25	89.5	75.0
90	10	30.00	9.00	22.50	90.0	75.0
95	10	31.67	9.05	23.75	90.5	75.0
100	10	33.33	9.09	25.00	90.9	75.0

Annex 1.c

Impact on Agricultural Tariffs of Agriculture and NAMA Proposals by the European Union, the United States and Japan (G10)¹

European Union*

	Current tariff (%)	Resulting tariff (%)	
		With Agriculture proposal	With NAMA proposal ²
Average tariff	22.49	12.02	4.82
Maximum tariff	407.82	100.00	9.76
Number of lines = 2,205			

*The average 35 per cent reduction was used for the first tariff band (0%-30%).

United States

	Current tariff (%)	Resulting tariff (%)	
		With Agriculture proposal	With NAMA proposal ²
Average tariff	10.93	3.40	3.01
Maximum tariff	439.87	65.98	9.78
Number of lines = 1,741			

Japan

	Current tariff (%)	Resulting tariff (%)	
		With Agriculture proposal	With NAMA proposal ²
Average tariff	172.67	23.33	4.52
Maximum tariff	1738.68	956.27	9.94
Number of lines = 1,590			

Note:

1. In *ad valorem* equivalents; taking all bound agricultural lines with *ad valorem* and non-*ad valorem* tariffs. The AVE calculations provided to the WTO by each country in 2005 were used for lines with non-*ad valorem* tariffs.
2. A Swiss formula with a coefficient of A=10, as supported by the above countries in the NAMA negotiations, was applied to the current agricultural tariffs.

Source: WTO

Annex 1.d

Linear Cuts of NAMA and Agriculture Proposals
in Percentage Terms

Initial tariff (%)	NAMA proposals	Agriculture proposals			
	US, EU and G10	US	G20	EU	G10
	(1)	(2)	(3)	(4)	(5)
5	33.3	55	45	35	27
10	50.0	55	45	35	27
15	60.0	55	45	35	27
20	66.7	55	45	35	27
25	71.4	65	55	35	31
30	75.0	65	55	35	31
35	77.8	65	55	45	31
40	80.0	65	55	45	31
45	81.8	65	55	45	31
50	83.3	65	55	45	31
55	84.6	75	65	45	37
60	85.7	75	65	45	37
65	86.7	75	65	50	37
70	87.5	75	65	50	37
75	88.2	75	65	50	45
80	88.9	85	75	50	45
85	89.5	85	75	50	45
90	90.0	85	75	50	45
95	90.5	85	75	60	45
100	90.9	85	75	60	45

Annex 2.a

Imports of Sensitive Agricultural Products, EU-15¹
 2003

	ECU (thousands)	Share of total agriculture (%)
Extra-EU	5,844,856	9.09
Intra-EU	20,803,350	12.50
Total	26,648,206	11.55

Note: 1. Taking 8 per cent of agricultural tariff lines with the highest bound rates expressed as *ad valorem* equivalents, i.e., 176 lines.

Source: WTO and Eurostat (2004)

Annex 2.b

EU Flexibilities^{1,2}

A. Tariff lines

	10% of lines with the highest tariffs	15% of lines with the highest tariffs	20% of lines with the highest tariffs
Number of tariff lines	172	258	344
Share of total agricultural lines (%)	7.80	11.70	15.60

B. EU-15 imports, 2003

	10% of lines with the highest tariffs		15% of lines with the highest tariffs		20% of lines with the highest tariffs	
	ECU (thousands)	Share of total agriculture (%)	ECU (thousands)	Share of total agriculture (%)	ECU (thousands)	Share of total agriculture (%)
Extra-EU	2,034,846	3.16	4,129,760	6.42	5,313,801	8.26
Intra-EU	14,022,347	8.42	23,426,201	14.07	28,840,174	17.33
Total	16,057,193	6.96	27,555,960	11.94	34,153,976	14.80

Note:

1. Flexibility resulting from the EU proposal for products in the 0%-30% tariff band.
2. Taking agricultural lines with *ad valorem* and non-*ad valorem* tariffs. The AVE calculations provided to the WTO by the EU in 2005 were used for lines with non-*ad valorem* tariffs.

Source: WTO and Eurostat (2004)

Annex 3.a

Bound Agricultural Tariffs

	EU¹	US¹	Japan²
<i>Number of lines</i>	2,205	1,741	1,590
30% or above	486	126	195
100% or above	74	21	133
<i>Share per tier (%)</i>			
30% or above / total lines	22.04	7.24	12.26
100% or above / lines at or above 30%	15.23	16.67	68.21
<i>Maximum tariff (%)</i>	407.82	439.9	1738

1. HS 8-digit lines
2. HS 9-digit lines

Note: The AVE calculations provided to the WTO by each country in 2005 were used for headings with non-*ad valorem* tariffs.

Source: WTO

Annex 3.b

EU and US: Agricultural Imports and Tariffs Above 30 Per Cent

	Agricultural imports		
	Intra-EU	Extra-EU	Total
EU-15¹			
<i>Total agricultural products</i>			
ECU (thousands)	166,461,342	64,312,669	230,774,011
<i>Agricultural products with tariffs > 30%</i>			
ECU (thousands)	64,116,258	13,507,996	77,624,254
Percentage share	82.60	17.40	100.00
Share of total intra- and extra-EU agric. prod. (%)	38.52	21.00	33.64
Share of total agricultural imports (%)	27.78	5.85	33.64
US²			
<i>Total agricultural products</i>			
US\$ (thousands)			52,426,453
<i>Agricultural products with tariffs > 30%</i>			
US\$ (thousands)			616,639
Share of total agricultural products (%)			1.2

1. 2003

2. 2005

Note: The AVE calculations provided to the WTO by each country in 2005 were used for headings with non-*ad valorem* tariffs.

Source: Eurostat (2004), USITC and OMC