Analyse des Lamy-Vorschlags von Martin Khor/Third World Network
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BRIEF ANALYSIS OF LAMY DRAFT OF 25 JULY 2008

The Lamy draft of 25 July 2008, in the form of key points on modalities of agriculture and NAMA is basically a version of the texts of the Chairs of agriculture and NAMA (issued 10 July 2008). It therefore reflects the basic imbalances (developed vis-à-vis developing countries) within these two texts as well as between the two texts (agriculture vis-à-vis NAMA). There is thus an outcome that is unfair to developing countries and in certain ways damaging to their economic interests. The draft caters to and reflects the concerns and sensitivities of major developed countries, while rendering the instruments of flexibility for developing countries inadequate or ineffective.

Overall trade distorting domestic support (OTDS)

The allowable OTDS for the US is to be cut by 70%. This is mid-point within the range in the Chair's paper of 66-73% cut. Thus the present $48.3 bil level is cut to $14.5 bil (which is mid-point between the Chair's range of $13 – 16.4 bil). The $14.5 bil level is far below the estimated 2007 actual OTDS of $7-8 bil. The US actual or applied OTDS level in 1996-97 was also $ 7 bil before rising to $19 bil in 2005 (according to the US date notified to the WTO) before dropping to $11 bil in 2006 and $8 bil in 2007 (according to G20 estimates).

Thus the Lamy-proposed $14.5 bil allowable level is double the 2007 level, allowing the US to have a lot of "water to increase from the present $7 to 8 bil.

The allowable OTDS for the EU is to be cut by 80%. This is in line with what the EU has said it would do (i.e. to be 10 points higher than the US). This is also mid-point in the 75-85% range in the Chair's paper. The EU's present allowable OTDS is Euro 110.3 bil. A cut of 80% would bring it to Euro 22 bil. (This is mid-point between the Chair's range of Euro 16.5-27.6 bil). In 2004 the EU's applied level was Euro 57.8 bil (according to Canadian simulations in a WTO paper). According to an estimate by J. Bertholet, the estimated level in line with CAP reform would be Euro 27 bil in 2008, and according to another estimate it is expected to drop to Euro 12 bil at the end of the CAP reform in 2014. Thus the cut to Euro 22 bil, through it appears to be large, would allow for "water" vis-à-vis what is planned.

The lowering of the allowable and applied OTDS is also accompanied by a rise in the Green Box support (which is not part of the OTDS). A large part of the domestic support of the US and EU has shifted to the "Green Box", which is supposed to be non trade distorting and on which there is no limit placed. The EU subsidies are rapidly shifting from OTDS to Green Box in the CAP reform. While actual OTDS is cut, subsidies are shifted to the Green Box and total domestic support may not decline. Recent studies (eg UNCTAD India; Marita) have shown that the Green Box support can also be trade and production distorting. As BL Das (2006) has pointed out: "The really significant escape route is the Green Box which amounts to US$50 billion and Euro 22 billion in 2000 respectively in the US and EU and the possibility of unlimited increase in future…Thus the Green Box, particularly its window of 'decoupled income support' (paragraph 6 of Annex 2 of the AoA) will continue to be the route to give farmers unlimited amounts as subsidies." The proposals for amending the Green Box (which are not covered in the Lamy draft) does not limit the amount of Green Box support.

Thus the cuts in allowable OTDS for US and EU may appear large (70%, 80%) but in fact will not reduce applied or planned reductions in OTDS and moreover these will be offset by an increase (in the case of he EU) in the Green Box. The subsidies should not be there in the first place due to the distortions they cause, and their reduction should not be "paid for" by developing countries through the high price in market access in NAMA and agriculture and services being demanded of them.

The figures 70% cut in OTDS for US and 80% cut for EU are not adequate as they do not constitute effective and substantive or real cuts. In particular, the $14.5 bil OTDS for the US is not adequate, and the level should go below the range in the Chair's text ($13-16.4 bil) especially because of the changed situation of prices which have led to reductions in applied levels in recent years. In particular, the $14.5 bil level cannot be used as a "trigger" to demand such high obligations from developing countries in agriculture, services and NAMA.

Sensitive products:
Developed country tariff lines above 100% only for sensitive products
Developed country number sensitive products 4% + 2% with payment as per text

Developing countries have been demanding a tariff cap of 100% for developed countries in agriculture. This was opposed by some developed countries. As a compromise, they are allowed to exceed the 100% cap for sensitive products, which are the products most likely to have very high tariffs. Therefore the sensitivities of developed countries are catered for.

Another sensitivity is to have "sensitive products" for developed countries which can deviate significantly (one to two thirds) from the formula cut. The 4% number is within the Chair's text of 4-6%, while the "plus 2" also caters to certain developed countries. Thus their sensitivities are taken care of.

Special Products

The majority of developing countries, championed by G33, have argued for special products to promote their foods security and farmers' livelihood concerns, arguing that

SPs should not be subjected to tariff cuts (or at most have minimal cuts) especially since developed countries' subsidies continue to distort the market. The G33 position was for at least 20% of tariff lines to be self designated as SPs (with half of that having zero cut) and for a 3-tier system of cuts. This was modified to a "hybrid approach" with some lines not needing to show "guidance by indicators" while others can show such indicators guidance.

Recently the G33 made concessions with a 2-tier system (one tier of zero cut, 2nd tier with average 12% cut). The G33 rejected a one-tier system because the tariffs with zero cut within that would mean that other tariffs have to "compensate" by being higher than otherwise (to meet the average cut).

The Lamy draft had rejected the G33 position by having only one tier. Only 12% of tariff lines can be special products (which is on the low side of the Chair's range of 10-18%). Within the 12%, 5% can have zero cut, but the 12% as a whole will have an average cut overall of 11% (Chair's range was 10-14%).

The Lamy draft's decision to have only one tier makes it difficult for developing countries to have zero-cut SPs as well as SPs with low cut. If the country chooses 5% of tariff lines to have zero cut, the other 7% of tariff lines have to be cut by an average of 19%, so as to meet the overall average cut of 11% for all the 12% SP tariff lines.

This is far from especially the original G33 position of at least 20% of tariff lines as SPs, with half of that having zero cut, a quarter having 5% and a quarter having 10% cut.

On top of this, developing countries have to cut non SP tariffs by a significant extent. In the Chair's text, tariffs above 130% are cut by 44-49%, tariffs that are 30-60% are cut by 38% and tariffs below 30% are cut by 33%; the overall average cut is 36% which is much higher than the Uruguay Round average cut of 24%. This is a high commitment to make, especially since the developed countries' domestic subsidies will continue.

Special Safeguard Mechanism

The Lamy draft specifies so many conditions on the use of the SSM as to render it operationally ineffective. The SSM will in name help developing countries' farmers but in practice it will not, thus giving a false impression that livelihood and food security concerns are taken care of.

The main problem is that the draft restricts the ability of SSM to bring the applied tariff to above the current (or the Uruguay Round or the pre-Doha) bound levels.

SSM for bound rate trigger is 140% of base imports. This creates a new condition and limitation – that a separate and more difficult trigger is set for products where the SSM will lead to tariffs exceeding the pre Doha level. Before this (eg in Chair's texts, in G33 proposals), the same triggers are used. To meet this high volume trigger of 40% increase in volume of imports would mean that few products can avail of having tariffs above the Uruguay Round levels. **There should be only one set of triggers for all products using SSM.**

Remedy for above pre-Doha bound level has ceiling of 15% of current bound tariff or 15 points, whichever is greater. This is extremely restrictive as this low level of extra duty allowed will be insufficient to address the problem of import surge or declining import prices. Therefore the objective of SSM – to protect food security and farm livelihoods by effectively address the problem of import surge and price decline – will not be met. The normal safeguard (i.e. the safeguard agreement in WTO) and the present SSG does not have any limit on whether the SSM duty can exceed the duty level of the previous Round. By having such a condition, the SSM becomes weaker than the normal safeguard or the SSG, thereby erasing its purpose (which is to be **special**. **Therefore there should not be any limitation as to whether the SSM can exceed the pre-Doha level. It should be allowed to have an extra duty that is effective in addressing the problem of price decline or volume surge (by having a duty that enables the local product price to be competitive with imports).**

That remedy is not normally applicable if prices are not actually declining. This implies that the use of the volume trigger is conditional on the second trigger (price decline) being also present. Such "cross checking" should not be there as each trigger in itself should enable action. **Thus this condition should be removed.**

Maximum number of tariff lines for above bound is 2.5% tariff lines in any year. The 2.5% is too low. In fact the limitation by number should not be there. As long as the trigger comes into effect, the SSM should be allowed to be used to the degree required to address the problem (i.e. to maintain the competitiveness of local products). There was no such numerical condition or limitation in the normal safeguard or the present SSG.

NAMA Coefficients and Flexibilities

The Lamy draft basically uses the coefficients and flexibilities of the Chair's 10 July text. This text is extremely imbalanced and does not fulfil the less than full reciprocity principle. It requires the developing countries to undertake tariff reductions by more than developed countries. It also cuts the developing countries' bound tariffs very deeply, thus reducing many applied tariffs, and/or seriously reducing policy space to make use of tariffs for industrial development.

Coefficient 8 for developed countries would mean that the average bound tariff of the three major developed countries would be reduced by about 28% (i.e. EU by 33%, US by 29%, Japan by 22%).

Coefficient 22 (the central coefficient in the Lamy draft) would reduce the average tariff of developing countries like India, Brazil, Indonesia, Venezuela by about 60%.

The flexibility of 10% for cuts that are half of the formula cuts, or 5% exemption in the central coefficient of 22 is not sufficient and is further restricted by the value of imports. The higher flexibility (14% plus 16% or 6.5% and 7.5%) is also not sufficient for the lower 20 coefficient. And it is also very serious to have zero flexibility if a country chooses 25 coefficient.

The less than full reciprocity principle must be respected and reflected in the coefficients. Thus if coefficient 8 is chosen for developed countries, the tariff reduction rates for developing countries should at most be two thirds of the reduction rates of the developed countries. This should be reflected in the coefficients for developing countries. The figures in the draft cannot be accepted, just as they could not be accepted when they appeared in the Chair's text.

ACC 20% of lines, 9% value. The limitations in the flexibilities are made worse by the draft's anti-concentration clause that 20% of tariff lines with at least 9% of the total import value (in any sector or HS chapter) must be subjected to the full formula cuts. **This anti-concentration clause came into the Chair's text very recently, for the first time in 10 July text. It should not be included, as the language in the Hong Kong Declaration is sufficient, as so many developing countries have argued.**

Sectorals

Many developing countries objected to the linking of sectorals to flexibilities or coefficients. This linkage is maintained in the Lamy draft. But worse, the draft for the first time also includes the new obligation that certain countries (listed in Annex Z) have committed to participate in negotiations in at least 2 sectoral tariff initiatives. This seems to contradict the "non mandatory nature of sectoral initiative", which is stated in the paragraph of the draft. It is not clear whether countries can choose`whether to have their names listed in the proposed Annex Z.