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Trade: Unequal rate of exchange in WTO texts and talks
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Geneva, 18 July (Martin Khor) -- In the forthcoming week of negotiations at the WTO, it can be expected that the developed countries, particularly, the United States and European Union, will put pressure on the developing countries to yield to their demands or else be blamed for the failure of the talks.

The US Trade Representative in recent days has already re-prepared the ground for this by saying that the US is ready to make concessions, but that the success of the Geneva mini-Ministerial will depend on whether Brazil, India and China (among others) are willing to open their markets.

Will Geneva July 2008 be a repeat of the G4 Ministers' Potsdam meeting in June 2007 when the US and EU pointed to Brazil and India as the culprits for not wanting to liberalise their markets to imported industrial products?

At that time, the Brazilian Foreign Minister Celso Amorim counter-argued that the "rate of exchange" was unfair - that the two major developed country members of the WTO wanted to give each other a "comfort zone" in not having to take on any significant obligations in agriculture, while still insisting on very high industrial tariff cuts in developing countries.

Since then, the term "the rate of exchange" has come to be commonly used when comparing the commitments of developed versus developing countries, and of the situation in agriculture versus NAMA and other issues.

An analysis of the latest Chairs' draft texts in agriculture and NAMA modalities (dated 10 July 2008) shows that the "rate of exchange" is still unequal.

The agriculture text continues to propose that the US reduce its allowed overall trade distorting support to a range of $13-16.4 billion. The US had indicated in WTO agriculture talks that it could consider the upper part of that range (which is close to the $17 billion it had already offered in Potsdam). Even if it offers the mid-point, or the lowest number in the range, this is still significantly higher than the reported $7 billion of its actual OTDS in 2007 or the $11 billion in 2006. So, there is a lot of "water" between the allowed and the actual level of OTDS.

Last year, the US explained that if the OTDS level it was offering had been applied in the last nine years, it would have led to real cuts in 5 to 7 of those years. What the USTR said is only partially true. In five recent years, the United States' applied OTDS level was above $17 billion (1999, 2000, 2001, 2004 and 2005). But the US did not reveal that at the start of the implementation period of the Uruguay Round, the OTDS level was very much below - at $7 billion. The agriculture domestic support simulations paper (JOB(06)/151 dated 22 May 2006) prepared by Canada shows that the applied OTDS of the US was $7.7b in 1995, $7.1b in 1996, and $7b in 1997. It then shot up to $15.1b in 1998, $24.3b in 1999, $24.1b in 2000, $14.9b in 2000, $10.2b in 2003, $18.6b in 2004 and $19.7b in 2005.

Thus, an offer of a cap at $16 billion or even at $13 billion does not reflect a decrease especially when compared to the 1995-1997 levels of a decade ago, and also allows for a large amount of "water", compared to the 2007 level of $7 billion.

As for the EU, the Chair's text proposes that its allowed OTDS be reduced by 75-85% to the range of Euro 16.5- 27.6 billion. The EU had offered a level of allowed OTDS of Euro 33b. But this is far above what it has already planned in its CAP reform, under which the actual OTDS would be Euro 26.8b in 2008 and a figure of Euro 12 billion in 2014 (estimated by the G20 in a recent statement).

In September 2007, at a Room E (Green Room) agriculture meeting, the EU indicated that it would retain its position of offering to cut by 10 percentage points more than the US. The EU expected that this meant it had to cut by at most 80%, or to a level of allowed OTDS of Euro 22 billion.

This is still far higher than the estimated Euro 12b in 2014, when the implementation period of the Doha commitments could end (i. e. if the Round completes in 2008). There is thus still a lot of "water" for comfort.

The EU like the US is shifting from the Amber and Blue boxes to the Green Box, where there are no limits and where the disciplines are lax enough to allow trade-distorting support to take place even though the Green Box is supposed to be not trade distortive or minimally trade distortive, as recent studies have shown (UNCTAD-India 2006; Marita Wiggerthale 2007). In effect, the reductions in allowed OTDS or even in applied OTDS do not mean much or anything if the subsidies continue in another form, and enable production and exports to be maintained or to grow.

However, in return, the US and EU have asked the developing countries that come under the Swiss formula for tariff reduction in Non-Agricultural Market Access (NAMA) to accept a coefficient of 18, while the developed countries would have a coefficient of ten. This proposal is not far from the figures in the latest NAMA paper, in which the Chair proposed a range of 7-9 for developed countries and three ranges for developing countries, in which the mid-range is 21-23, which is paired with the central flexibility of exemption from tariff cuts of 5% of tariff lines or entitlement to 50% formula cuts for 10% of tariff lines.

It is difficult for most people to understand the meaning or implications (for example, in terms of the percentage cut in tariffs) of different coefficients in a Swiss formula for their countries or their tariff lines. Factors to consider include the initial tariffs (which differ from country to country and from product to product), the coefficients used, and the formula itself. No wonder it is not easy for officials from developing countries to explain to the public why they believe the demands being made on them are too onerous.

In the Swiss formula, the higher the initial tariff, the steeper will be the cut required. Thus, the formula is biased against countries with higher tariffs. In general, developing countries have higher tariffs than developed countries, and thus for the same coefficient, they have to undertake greater reductions. Also, for any given tariff line or average tariff level, the lower the coefficient, the greater will be the cut. If the average present bound tariffs of various countries are known, it is possible to calculate the effects of applying various coefficients on them.

Conducting an exercise of applying a coefficient 8 on the US and EU, and coefficient 22 on developing countries shows interesting results. The EU's average bound industrial tariff is 3.9%. Applying a coefficient 8 on this would reduce it to 2.6%, indicating a cut by 33%. The same coefficient 8 applied to the average US tariff of 3.2% would mean a cut by 29% to a new level of 2.2%. Japan has an average 2.3% tariff and applying a coefficient 8 would cut this to 1.7% or by 22%.

On average, the three major developed country members of the WTO would have to cut their average bound industrial tariffs by only a very modest 28%, should a coefficient of 8 apply to them.

On the other hand, if a coefficient of 22 is used for a developing country like Brazil with an average tariff of 31%, there would be a cut in average tariff of 58% (from 31% to 13%). For India, with average tariff of 34%, the cut would be 61% (from 34% to 13%). For Indonesia, with an average tariff of 36%, the cut would be 62% (from 36% to 14%). The average cut for these three countries is 58-62%. Those developing countries which have higher average tariffs would have to undertake even steeper percentage reductions.

In other words, the range of coefficients proposed by the Chair would result in many developing countries having to reduce their industrial tariffs by more than twice the reduction rates of the major developed countries. Even taking into account the flexibilities for developing countries (which one should not, since this is a mandated special and differential treatment), this rough figure remains since the flexibilities are so narrow, especially when they are constrained by the value of trade. This is a clear violation of the Less Than Full Reciprocity (LTFR) principle (i. e. that developing counties undertake lesser obligations).

An attempt by the Chair to explain this away through the complexities of definitions of LTFR has not succeeded. The draft has been very strongly criticized by a majority of developing countries. The Chair's proposal would mean special and differential treatment in reverse, i. e. for developed countries rather than for developing countries.

In order for the less than full reciprocity principle to be adhered to, the percentage cut of developing countries have to be less than that of developed countries. If the proportion is two-thirds, then the developing countries' cut should on average be 19.4%, compared to the 28% of the three developed country members. A country having a present average industrial tariff of 35% would require a coefficient of 140 in order to attain a reduction by 20% of the average tariff to 28%. Countries that now have an average tariff of more than 35% would require a coefficient of higher than 140 to attain a 20% reduction.

The fact that such a high coefficient of 140 would be laughed off in the present atmosphere of the Doha negotiations reveals the extent of high levels of non-transparency and obfuscation that exists in the NAMA negotiations, in which the confusion and difficulties involving the Swiss formula have clouded the discussion on the obligations that members are being asked to undertake.

In previous Rounds, negotiations on industrial tariff cuts were conducted mainly on the basis of percentage reductions. And for agriculture, whether in the Uruguay Round or in the present negotiations, the terms of negotiations have also been in percentage reductions. It would have been far easier and more transparent to be conducting the NAMA negotiations in the usual terms, i. e. the percentage reductions to be undertaken by various groupings of countries.

For example, even if one wants to retain the principle of "deeper cuts for higher tariffs", the tiered tariff-reducing formula used in agriculture could have been used in NAMA to make the percentage cuts for developed and developing countries more transparent. In agriculture, it has been agreed that the developing countries would have cuts two-thirds the rates of the developed countries, which is in accordance with at least the narrow definition of LTFR.

The developed countries deliberately did not want easy public comparison of the demands and offers in NAMA in terms of percentage reduction. They have also resisted the comparison of the "levels of ambition" between NAMA and agriculture. This is because the inequities in these NAMA proposals of developed countries would become so much more evident - not only within the NAMA outcome but also in comparison with what these countries are offering in agriculture.

The demands of developed countries and the Chair's NAMA July 2008 text are also imbalanced when compared to agriculture - where the offer of the US in domestic support would be only to cut some water, and the offer of the EU would be to cut their tariffs on average by 50% (and in effect lower than that if the lenient treatment for sensitive products is taken into account).

The double imbalance - first, within NAMA itself; and the second, between NAMA and agriculture - is what constitutes part of the "unequal rate of exchange". There is an even larger meaning to the unequal exchange on the table. The developing countries should not even be asked to "pay" for the developed countries' efforts in agriculture, even if these efforts were genuinely to reduce the distortions (subsidies, tariffs and non-tariff barriers) in their agriculture.

This is because the developed countries already enjoyed decades of a major concession of exclusion of agriculture from the GATT rules in the 1950s because the developed countries' agriculture would not have been able to compete. High agricultural subsidies and quantitative restrictions by developed countries were allowed, while they were banned or highly restricted for industrial goods.

Then in the Uruguay Round, there was a "rate of exchange" (even larger than the one now being negotiated in the Doha talks) contracted between North and South - that the North agree to reverse course and return agriculture to the multilateral trade rules, and the South agree to bringing non-trade issues (especially services, intellectual property and investment measures) under the wing and the rules of the WTO.

It later turned out that so many loopholes had been placed in the Agriculture Agreement that the developed countries did not have to undertake liberalisation when they implemented their Uruguay Round commitments, and were able to impose high tariffs, and were even able to increase their domestic subsidies.

The Uruguay Round agreement itself recognised that its Agriculture Agreement was only a starting point, and mandated that further agriculture negotiations had to be carried out, to continue the "unfinished business" of the Uruguay Round. Thus, further removal of distortions in the developed countries' agricultural markets was on the agenda of the WTO, and negotiations on this would have taken place whether or not there was the launching of a new Round.

The parameters for these agricultural negotiations - for a continuation of the reform process - has been laid out in Article 20 of the AoA of the Marrakesh treaty. The four parameters set out in the treaty are: "(a) the experience to that date from implementing the reduction commitments; (b) the effects of the reduction commitments on world trade in agriculture; (c) non-trade concerns, SPECIAL AND DIFFERENTIAL TREATMENT TO DEVELOPING COUNTRY MEMBERS, and the objective to establish a fair and market-oriented agricultural trading system, and THE OTHER OBJECTIVES AND CONCERNS MENTIONED IN THE PREAMBLE TO THIS AGREEMENT; and (d) what further commitments are necessary to achieve the above mentioned long-term objectives (emphasis added).

And the fifth and sixth paras of the preamble in relation to developing countries, stipulate:

"Having agreed that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the (Uruguay Round) Mid-term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops.

"Noting that commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment, having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform programme on least developed and net food-importing developing countries."

The Uruguay Round significantly did not mandate further negotiations on reducing industrial tariffs. NAMA was added on to the Doha agenda as an "extra", mainly on the demand of the developed countries, and despite the objections of several African countries. There is thus much justification for the argument that removal of agriculture distortions and providing for a "greater improvement of opportunities and terms of access for agricultural products of particular interest to these (developing country) Members" is the major priority of the Doha work programme, and liberalisation of industrial tariffs is an item that is lower on the agenda, not even mandated when the Uruguay Round was concluded with the signing of the Marrakesh Treaty and its annexed agreements.

The NAMA 11 has proposed that there be at least a 25 point difference between the coefficient for developed countries and the coefficient for developing countries. For example, if the former is 10, the latter could be 35.

At Potsdam, when Brazil and India indicated that coefficient 18 for developing countries was far too low, and that 30 to 35 was the more reasonable figure to put on the table, the US and EU reportedly angrily rebuked the two developing countries for such "ridiculous" numbers.

Another aspect of the agriculture-NAMA rate of exchange is the complaint by developing countries such as Brazil, India and South Africa that at in recent months and weeks the negotiations in agriculture have focussed on accommodating the sensitivities and defensive concerns of the developed countries
(for example, on issues like sensitive products and tariff capping), while in the NAMA negotiations the already limited flexibilities for developing countries have been narrowed even further (for example, by the anti-concentration clause).
Meanwhile, the imbalance is widened by developments in the services negotiations. The developed countries have pressed to have a "services text", even though Annex C on services in the Hong Kong Ministerial Declaration already serves as a modalities text, together with the earlier Guidelines on Services Negotiations. And the US in mid-November 2007 proposed that services market access ambition must be comparable to the ambition in agriculture and NAMA. Most developing countries argue that agriculture is the leading factor driving the Round, with NAMA to follow, and services is only a third factor, at least in terms of sequencing. The US paper was an attempt to put services on the same basis as agriculture and NAMA.
In its key operational demands, the US paper also asks that a services text set "guidelines instructing Members" to positively respond to bilateral and plurilateral requests with a view to achieve higher liberalization, and reducing or eliminating adverse effects on services trade as a means to provide effective market access by offering commitments to: (a) reflect current levels of market access and national treatment; and (b) provide new market access in sectors where trade impediments remain.
At an informal services meeting on 15 November, Brazil made a lengthy and detailed criticism of the US proposal. In contrast, ten developing countries (India, China, Brazil, Philippines, Thailand, South Africa, Indonesia, Pakistan, Argentina, and Morocco) in fact issued a conference room document, setting out their "possible elements of a services text", which mainly reaffirmed Annex C and the GATS development flexibilities, while asking that improved and significant commitments in sectors and modes of interest to developing countries be reaffirmed.
Most developing countries had been reluctant to have a text, while three countries (Venezuela, Cuba and Bolivia) have made clear that they oppose any text at all. On 17 July, the Chair of the services negotiations issued a report in the form of a text which in one paragraph provides language that contains most of the points demanded by developed countries, including that "Members shall, to the maximum extent possible, respond to the bilateral and plurilateral requests by offering deeper and/or wider commitments. Such responses shall, where possible, substantially reflect current levels of market access and national treatment and provide new market access and national treatment in areas where significant impediments exist, in particular, in sectors and modes of supply of export interest to developing countries, such as modes 1 and 4, in accordance with Article IV of the GATS."
Thus, in exchange for promises of doing something in agriculture which does not amount to anything significant, the developing countries are asked to pay the heavy price in agriculture itself (as some developing countries are asked to cut their tariffs through a formula that results in more drastic cuts than in the Uruguay Round); cut drastically their tariffs on goods imports in NAMA, and more market access for developed country corporations in services.
"In fact, the present agriculture offers from the EU and US are really worth nothing," according to Chakravarthi Raghavan, a renowned analyst of the WTO negotiations. "And in any case, developing countries have paid a price thrice over in advance (in the Uruguay Round culminating in the Marrakesh Treaty) in return for the promises and commitments of the developed countries that they would reverse course in agriculture and carry out a reform programme. Hence, the developed countries should not be asking anything in return. In agriculture, they have in fact been regressing since Marrakesh. And there is ample evidence that they have been cheating in terms of notifications to the WTO about the amounts of subsidies and

support." This is the "rate of exchange" that is on the table in the July 2008 negotiations linked to the mini-Ministerial.

If the negotiations are to succeed, the participants have to be prepared to "think outside the box" - the box being the July 2008 texts on agriculture and services and the ranges of figures in them. If the negotiations are only to be on the basis of picking the exact and magic figure within a range, then the unequal rate of exchange will be accepted. And this does not augur well for the reputation of the Doha "Development Round" and the World Trade Organization and its future.