WORKING PAPER - 3

Tariff Negotiations in NAMA & South Asia

July Agreement and Beyond

Centad

Centre for Trade & Development

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Foreword

As developing countries including those from South Asia, rally forces and evaluate options ahead of the Hong Kong Ministerial meeting in December 2005, Non Agricultural Market Access (NAMA) assumes importance as one of the most critical issues that will be up for negotiations. A longer transition period to rationalise tariffs combined with increased access into the markets of developed countries, is the elusive formula that developing and Least Developed Countries (LDCs) would like to secure. However, gaining this would not be easy and developing countries would have to be pragmatic in approach, as this paper argues.

This paper moots a bold approach to tackle tariff reductions, sectoral elimination, tariff binding and preference erosion with the interests of five South Asian countries - Bangladesh, India, Pakistan, Nepal and Sri Lanka in mind. On tariff reductions, it acknowledges that a linear formula for tariff reduction that many developing countries favour, might not evoke consensus.

Instead, it suggests a non-linear Girard formula with a smaller 'B' coefficient for developed countries and a higher 'B' coefficient for developing countries with a longer transition period. The paper explores ways to realise the Doha Ministerial Declaration so that tariffs in sectors of export interest to developing countries are reduced. It further advocates that the call from developed countries to bind all tariff lines should be resisted by developing countries. Instead, it proposes that all countries be divided into four groups according to the current tariff binding coverage and the rates at which tariffs are bound be linked to current bound rates rather than applied rates. Finally, the paper suggests various options to recompense LDCs that stand to lose out on preferential access to developed markets, once tariff liberalisation is underway.

This paper's conclusions are based on an aggregate analysis and a lot more research is called for on individual tariff lines and sectors. Achieving a positive outcome in the NAMA negotiations will require a lot more homework by the South Asian countries. Centad hopes that this working paper will provide some leads in developing a detailed research agenda to articulate the interests of South Asian Countries ahead of the Hong Kong Ministerial Meeting in December 2005. Centad will shortly be launching a special Hong Kong Series of Papers on NAMA and Agriculture, to support this cause.

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Abbreviations

ATR	:	Applied Tariff Rate
BTR	:	Bound Tariff Rate
DDA	:	Doha Development Agenda
EC	:	European Commission
EU	:	European Union
GATT	:	General Agreement on Tariffs and Trade
GSP	:	Generalised System of Preferences
LDCs	:	Least Developed Countries
MFN	:	Most Favoured Nation
MTN	:	Multilateral Trade Negotiation
NAMA	:	Non Agricultural Market Access
US	:	United States
WTO	:	World Trade Organisation

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Executive Summary

Negotiations on industrial tariffs or Non Agricultural Market access (NAMA) are crucial for developing countries. Hasty tariff liberalisation could impose harsh adjustment costs on developing countries. It is therefore necessary that negotiations on NAMA adequately reflect the concerns of developing and least developed countries (LDCs), as warranted by the General Agreement on Tariffs and Trade (GATT), Doha ministerial declaration and the July agreement. Also, the negotiations on NAMA should result in substantial market access for developing countries and LDCs by bringing down barriers like tariff escalation and tariff peaks in developed countries. One of the regions which helps in building a case against indiscriminate tariff liberalisation in the South and protectionism in the North is South Asia.

This paper on 'Tariff Negotiations in NAMA and South Asia' looks at the possible impact of the ongoing tariff negotiations on five South Asian countries namely Bangladesh, India, Nepal, Pakistan and Sri Lanka at an aggregate level or at Multilateral Trade Negotiation (MTN) categories level. The paper analyses the impact of some of the submissions and also endeavours to find out the obligations that South Asian countries may have to fulfill in the ongoing negotiations under NAMA.

Tariff Reduction

Due to lack of consensus on a linear formula or an average tariff cutting approach, the paper proposes to follow the non linear Girard formula. This formula takes into account the average tariff profile of a country while calculating the new bound rate for a particular tariff line. The non linear formula is less harsh as compared to the pure Swiss formula, which would drastically reduce the tariff rates. How drastic would the reduction of tariff rates be after applying the Girard formula, depends on the coefficient value 'B' in the formula. Higher the value of 'B' lesser would be the reduction. Hence, this paper proposes:

- A higher value of 'B' in the Girard formula for developing countries
- A lower or smaller value of 'B' in the Girard formula for developed countries.
- A longer implementation period spanning ten years for developing countries to undertake reduction commitments.

Sectoral Elimination

According to the Doha Ministerial Declaration, the tariff rates on all sectors that are of export interest to developing countries and LDCs should be substantially reduced. Sectoral elimination talks of eliminating the tariff rates on selected sectors of export interest to developing countries and LDCs.

The negotiations on sectoral elimination could follow the following structure :

- Developed countries completely eliminate tariffs on sectors of export interest to developing countries and LDCs such as 'textiles and clothing', 'fish and fish products', etc.
- Developing countries reduce their tariffs on these sectors with a lower coefficient value of 'B'. The coefficient value to be used in the sectoral elimination approach by developing countries could be smaller than the value of 'B' to be used for other tariff lines.
- Developed countries eliminate their tariffs in four years and developing countries have a ten year time period to reduce their tariff rates.

- Developing countries retain the flexibility to choose the tariff lines within a particular sector that would be subjected to reduction commitments.

Tariff Binding

Developed countries want developing countries to bind all their tariff lines. This demand should be stoutly resisted. Any further binding of tariff lines should take cognisance of the existing binding coverage.

- All countries be divided into four slabs on the basis of their current tariff binding coverage and then increase their respective tariff binding.
- Countries with less than 30 percent of tariff binding coverage could increase their binding coverage to 50 percent, countries with a binding coverage of more than 30 percent but less than or equal to 50 percent could increase their coverage up to 70 percent. Similarly, countries with binding coverage of more than 50 percent but less than or equal to 70 percent could increase their binding coverage to up to 85 percent and, countries with a binding coverage in excess of 70 percent could increase their coverage to up to 90 percent.
- The rate at which tariff lines are bound could be twice the bound tariff rate and not the applied tariff rate.

Preference Erosion

With increasing tariff liberalisation the preference margins that LDCs such as Bangladesh and Nepal enjoy in developed country markets is getting eroded. Developed countries should give preferential treatment to the products of LDCs in their markets so as to minimise the harm caused due to erosion of preferences.

Developing countries including those from South Asia need to protect their interests in the ongoing NAMA negotiations. However, while doing so, these countries should not get overcautious. A pragmatic approach, with a proper blend of defensive and aggressive agenda could be followed.

1. Background

Negotiations on industrial tariffs or non-agricultural market access (NAMA) have always been a contentious process. Developing countries have apprehended that any hasty and indiscriminate tariff liberalisation will impose harsh adjustment costs on them. These costs could be in the form of balance of payment problems, de-industrialisation and hence unemployment. The rapid reduction in industrial tariffs in Sub- Sahara Africa in 1980 led to de-industrialisation and unemployment in some countries. Moreover, significant market opening by reducing tariff rates could also lead to a lower tax revenue and hamper interests of many developing countries, as import tariff is a major component of total revenue. Industrial tariff is an important policy tool and countries use this tool for numerous purposes ranging from checking any alarming rise in imports to protecting livelihoods and fostering industrialisation.

However, negotiations on industrial tariffs are not just about developing and Least Developed Countries (LDCs) adopting defensive postures but also about the protectionist stance of developed countries. The potential gains that could accrue to developing countries and LDCs, if developed countries reduce their high tariff rates on products of export interest to these countries is mammoth. Hence negotiations on NAMA are about resisting hasty liberalisation in South and dismantling excessive protectionism in North.

One of the regions that helps in building a case against hasty liberalisation in South and protectionism in North is South Asia.[1] All the South Asian countries, except Sri Lanka to some extent, maintain high industrial tariff rates. These countries rely on tariff revenue for revenue mobilisation. According to the World Bank, tariff revenue's contribution to tax revenue in South Asian countries is significant. In 2003, in Bangladesh and India, tariff revenue contributed 22.6 percent and 18.5 percent to total revenue respectively. In Nepal this figure was 27.2 percent. Similarly, the tariff revenue contribution to total revenue in Pakistan and Sri Lanka, in 2003, was 12.2 and 11.3 percent respectively. Any drastic reduction in the tariff rates could hamper the revenue mobilisation in these countries.

Some estimates show that drastic tariff reduction methodologies could change tariff revenue in India by -61 to -30 percent.[2] Even a modest tariff reduction formula will also lead to change in tariff revenue by -8 percent.[3]

Moreover, from the experience of Sub Saharan African countries like Senegal, Sierra Leone, Sudan, Tanzania, Uganda, it is clear that any drastic opening up of the markets would not augur well for development imperatives of South Asian countries.[4] At the same time, the South Asian region faces a lot of barriers in markets of developed countries in the form of tariff peaks and tariff escalation. Tariff escalation as a tariff measure in developed countries, discourages the growth of processing industry in developing countries and in LDCs. It does not allow these countries to graduate from exporting raw materials to processed and finished goods. The average US tariff for all imports is 1.6 percent, but this rises to 4 percent for imports from India and to 14-15 percent for imports from LDCs such as Bangladesh and Nepal. EC imposes tariffs of less

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[1] South Asia in the context of this study means Bangladesh, India, Nepal, Pakistan and Sri Lanka.

[2] Santiago Fernandez de Cordoba and David Vanzetti, 'Now What? Searching for a Solution to the WTO Industrial Tariffs', http://192.91.247.38/tab/namameeting/NAMAstudy.pdf (visited on 5 April 2005).

[3] Ibid

[4] Kamal Malhotra, 'Making Global Trade Work for Poor', (London: Earthscan Publications: 2003) 163.

than 4 percent on Indian yarns, but this tariff rate escalates to 12 percent if the yarn is woven into garments.[5]

Hence, from the South Asian perspective negotiations on NAMA should:

- Result in better market access for their products of export interest.
- Take into account the special needs of the region and provide flexibility in using industrial tariff as an important policy tool to pursue development objectives.

The negotiations on non-agricultural products in the World Trade Organisation (WTO) were launched in January 2002 by creating a Negotiating Group on Market Access (NGMA). The ongoing negotiations on non-agricultural products were to be completed by 1 January 2005. However, this deadline has been missed and the negotiations are still far from being completed.

The participants in the negotiation process were expected first to agree on how to conduct the tariff cutting exercise. In other words, the participants have to first agree on 'modalities'. The current state of play is that the member countries are still struggling to establish modalities for future negotiations. Though, in July 2004 the member countries agreed to a framework for establishing modalities in market access for non-agricultural products.[6] The July agreement was an important development as it was the first agreement amongst the member countries of the WTO after the collapse of the Cancun ministerial. Since it lays down the framework for establishing future modalities, it needs to be comprehended well as it could determine the future course of action.

2. Scope of the Paper

This paper looks at the July text of NAMA from a South Asian perspective and endeavours to identify a road map for future negotiations that reflect the concerns of South Asia. The analysis in this paper is not based on individual tariff lines or disaggregate level but at an aggregate level or on Multilateral Trade Negotiation (MTN) categories level. Further, the analysis in this paper uses simple tariff averages rather than weighted tariff average. Hence, the conclusions should be understood in this context. The paper looks at the following key components in NAMA negotiations:

- Tariff reduction
- Sectoral component
- Tariff bindings
- Preference erosion

3. Negotiations need to be consistent with GATT and Doha Mandate

It is frequently argued in international trade theory that customs duty and other tariff rates often act as impediments to free flow of goods across borders and hence should be substantially reduced. Article XXVIII *bis* of the General Agreement on Tariffs and Trade (GATT) 1994 reflects this principle of international trade. However, Article XXVIII *bis* also states that negotiations directed towards substantial reduction of the tariffs and other charges will be done on a mutu-

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[5] Stitched Up – How Rich Country Protectionism in Textiles and Clothing Trade Prevents Poverty Alleviation, 60 Oxfam Briefing Paper, http://www.oxfam.org/eng/pdfs/bp60_textiles.pdf (visited on 10 April 2005)

[6] Decision Adopted by the General Council, WT/L/59, adopted 1 August 2004, Annex B.

Box 1: Tariff negotiations – Article XXVIII *bis* of GATT 1994

1. The contracting parties recognize that customs duties often constitute serious obstacles to trade; thus negotiations on a reciprocal and mutually advantageous basis, directed to the substantial reduction of the general level of tariffs and other charges on imports and exports and in particular to the reduction of such high tariffs as discourage the importation even of minimum quantities, and conducted with due regard to the objectives of this Agreement and the varying needs of individual contracting parties, are of great importance to the expansion of international trade. The CONTRACTING PARTIES may therefore sponsor such negotiations from time to time.

2. (a) Negotiations under this Article may be carried out on a selective product-by-product basis or by the application of such multilateral procedures as may be accepted by the contracting parties concerned. Such negotiations may be directed towards the reduction of duties, the binding of duties at then existing levels or undertakings that individual duties or the average duties on specified categories of products shall not exceed specified levels. The binding against increase of low duties or of duty-free treatment shall, in principle, be recognized as a concession equivalent in value to the reduction of high duties.

   (b) The contracting parties recognize that in general the success of multilateral negotiations would depend on the participation of all contracting parties which conduct a substantial proportion of their external trade with one another.

3. Negotiations shall be conducted on a basis which affords adequate opportunity to take into account:

   (a) the needs of individual contracting parties and individual industries;

   (b) the needs of less-developed countries for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes; and

   (c) all other relevant circumstances, including the fiscal,* developmental, strategic and other needs of the contracting parties concerned.

Source: GATT Legal Text

ally advantageous basis. Further paragraph 3 of Article XXVIII *bis* of GATT 1994 states that while conducting negotiations on bringing down the tariff rates, it is important to take due cognisance of the needs of individual countries which include fiscal, developmental, strategic and other needs (See Box 1 for the legal text of Article XXVIII *bis* of GATT).

The elements of Article XXVIII *bis* of GATT 1994 were reflected in the Doha Development Agenda[7] (DDA). Paragraph 16 of the DDA states that negotiations on NAMA will, in future, target to reduce or eliminate all kinds of tariff barriers in particular on products of export interest to developing countries. It also states that negotiations shall take cognisance of the development needs of developing countries and LDCs. Further, it recognises the special and differential treatment for developing countries by asking them to make less

[7] World Trade Organisation Ministerial Declaration, WT/MIN (01)/DEC/1, adopted 14 November 2001, paragraph 16.

Box 2: Doha Development Agenda, Ministerial Declaration - market access for non-agricultural products, paragraph 16

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. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 below. 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.

Source: World Trade Organisation Ministerial Declaration, WT/MIN(01)/DEC/1, adopted 14 November 2001

than full reciprocity (See Box 2). In other words, developing countries and LDCs should not be asked to undertake the same type and level of commitments that developed countries undertake depending on their development needs.

Thus any negotiation process or final agreement on tariff reductions should be consistent with Article XXVIII *bis* of GATT and the Doha mandate.

4. Initial Reluctance to the July Agreement

Members exhibited a great reluctance in agreeing to a NAMA text in the July agreement because there was no consensus on the modalities on agriculture. As a result, the decision on NAMA in the July agreement is not specific and most of the contentious issues have been left for the future negotiations. The decision on NAMA is not in the form of modalities. The Annex on NAMA merely outlines "initial elements for future work on modalities".

The entire text on NAMA, except the first paragraph, had been drawn from the failed Cancun ministerial text or the Derbez text.[8] In fact, it is interesting to note that the first draft of the July package that was circulated on 16 July 2004 was similar to the Derbez text. Developing countries and LDCs had vociferously opposed the NAMA portion of the Derbez text during the Cancun ministerial. The cropping up of the same text in the first draft of the July package shocked and outraged many developing countries and LDCs. The huge opposition by developing countries and LDCs led to the addition of a paragraph prefacing the entire Annex on NAMA.[9] This paragraph states that the framework on NAMA contains initial elements for future work on modalities. It further states that additional negotiations are required to reach the specifics relating to the formula for tariff reduction, issues concerning the treatment of unbound tariffs and the flexibilities to ease the participation of developing countries.

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[8] Draft Cancun Ministerial Text, Second Revision, JOB(03)/150/Rev.2, 13 September 2003

[9] Decision Adopted by the General Council, WT/L/59, adopted 1 August 2004, Annex B, paragraph 1.

The addition of this paragraph was intended to assuage the feelings of developing countries by offering them a platform for further negotiations. But this appears to be a big ask since the Derbez text forms the major body of the framework for establishing modalities on NAMA.

5. Tariff Reduction

An interesting debate on the issue of tariff reduction is whether developing countries should undertake line-by-line tariff reduction or should they be asked only to reduce their average tariff, thus, leaving the flexibility to the individual country to spread the average over different tariff lines. The proponents of the latter option argue that this would enable countries to take care of their development dynamics. Line-by-line tariff reduction will erode the policy space of developing countries. Reducing average tariff and then distributing it over individual tariff lines could be the best way forward for developing countries. However, the hard realities of multilateral trade negotiations make this option extremely difficult. How difficult this option is could be gauged from the fact that even a linear formula for line-by-line tariff reduction has no takers, let alone the option of reducing the average tariff and then distributing it to individual tariff lines.

India and many other developing countries have been advocating a linear formula for cutting tariff on non-agricultural products in developing countries (See Box 3). However, considering the developments since the formation of the NGMA to the July Agreement, it seems that the option of a linear formula for tariff reduction in developing countries is extremely difficult. The NGMA, in 2003, in its draft elements of modalities, proposed a non-linear formula.[10] Moreover, Annex B in paragraph 5 states that the negotiating group should continue its work on a non-linear formula. It seems that developing countries are also realising this hard reality. This is evident from the joint communiqué made by India, Brazil and Argentina to the NGMA in April 2005.[11] This submission proposes a non-linear formula for tariff reduction. This also indicates that the advocacy for a linear formula has not worked.

Table 1 A: MFN average and bound tariff rates with binding coverage in five South Asian countries for non-agricultural products by MTN category

in percentage

Import market	Textiles and clothing			Leather, rubber, footwear and travel goods			Metals		
	Applied duty	Bound duty		Applied duty	Bound duty		Applied duty	Bound duty	
	Av	Av	Cov	Av	Av	Cov	Av	Av	Cov
Bangladesh	27.7	37.5	0	19.8	3	1	18.8	31.9	
India	27.1	26.6	66	28.8	35.2	51	29	38.7	54
Nepal	---	---	---	---	---	---	---	---	---
Pakistan	21.6	21.9	96	18.2	41.4	10	15.5	36.2	4
Sri Lanka	5.3	12.1	97	15.5	50.0	9	6.3	52.2	5

Source: World Trade Report, 2004, World Trade Organisation

Note: Av=Average, Cov=Coverage

[10] Draft Elements of Modalities for Negotiations on Non-Agricultural Products, TN/MA/W/35/Rev.1, 19 August 2003.

[11] Communication to the NegotiatingGroup on non-agricultural market access from Argentina, Brazil and India,TN/MA/W/54, 15 April 2005

Table 1 B: MFN average and bound tariff rates with binding coverage in five South Asian countries for non-agricultural products by MTN category

in percentage

Import market	Fish and fish products			Chemicals and photographic supplies			Wood, pulp, paper and furniture		
	Applied duty	Bound duty		Applied duty	Bound duty		Applied duty	Bound duty	
	Av	Av	Cov	Av	Av	Cov	Av	Av	Cov
Bangladesh	29.6	41.4	10	15.5	43	2	21.0	38.1	5
India	30.0	100.7	13	29.2	39.6	89	25.7	36.5	62
Nepal	---	---	---		---	---	---	---	---
Pakistan	12.0	100.0	10	13.6	48.4	53	19.1	46.8	50
Sri Lanka	9.8	50	95	3.0	9.1	5	10.8	30.8	15

Source: World Trade Report, 2004, World Trade Organisation

Note: Av=Average, Cov=Coverage

The negotiating space made available to developing countries by paragraph 1 should be used to negotiate for a linear formula for developing countries as a special and differential measure. If this is not possible, then, developing countries should negotiate for a mild non-linear formula, as Annex B does not specify what is meant by a non-linear formula. (See Box 3 for different tariff reduction formula proposed by different countries). The developing countries should also argue for elimination of tariff peaks and tariff escalation by developed countries.

Tables 1 and 2 clearly show that the countries in the South Asian region maintain high bound tariff rates. The tariff structure in these countries are also characterised by low level of binding coverage and high international (bound tariff rates in excess of 15 percent) and national peaks (bound tariff rates that are three times more than country's simple average). In India, 60.1 percent of the total tariff lines have bound tariff rates of more than 15 percent. Similarly in Pakistan, 33.2 percent of the total tariff lines have bound tariff rates that exceed 15 percent.

Table 2: Bound duties for non-agricultural products of four South Asian countries

in percentage

Import market	Binding coverage	Simple average	International peaks [12]	National peaks[13]	Last year of implementation
Bangladesh	3.1	42.9	2.7	0.2	1997
India	69.8	34.3	60.1	0.1	2005
Pakistan	36.9	35.3	33.2	0	2004
Sri Lanka	28.3	19.2	13.1	0.5	2001

Source: World Trade Organisation Secretariat, WTO Member's Tariff Profiles, TN/MA/S/4/Rev.1/Corr.1, 15 November 2002

[12] International Peaks shows the percentage of tariff lines in a country that have a bound tariff rate of more than 15 percent.

[13] National Peaks shows the percentage of tariff lines in a country that have bound tariff rates at least three times higher than the country's simple average.

Box 3: Different tariff reduction formula proposed by different countries during different stages of the negotiation process before the July agreement

- United States proposed the following formula: T1 = 8*T0/8+T0, where T1 is the final tariff rate, T0 is the initial tariff rate and 8 is the Swiss coefficient.
- South Korea proposed the following formula for tariff rates that were above two times the national average but less than 25 percent: T1 = (T0*0.8)-0.7*(T0-2*T2), where T1 is the maximum tariff rate after reduction, T0 is tariff rate before reduction (Above two times the national average) and T2 is the national average tariff rate.
- China proposed the following formula: T1 = (A+B*P)*T0/(A+P*P)+T0, where T0 is the base rate, T1 is the final rate, A is the simple average of base rates, P is the Peak factor, P = T0/A, B is the adjusting coefficient, e.g. for the year 2010, B = 3 and for 2015, B = 1.
- India proposed the following formula – India's formula was in two steps – Step 1: T1 = (1-AY/100)*T0; Step 2: T2 = T1 or 3*Ta whichever is less, where A is less than full reciprocity parameter (A = 1 for developed countries, A = 0.67 for developing countries), Y is reduction percentage (to be negotiated), T0 is the present bound tariff on an individual line, T1 is the reduced tariff after step 1 on the individual tariff line, Ta is the simple average tariff after step 1, T2 final bound tariff on the individual tariff line.

Source: Various WTO Documents.

Hence any drastic or substantial tariff reduction for the South Asian countries will not be a plausible proposition as it may impose huge adjustment costs.

In the ongoing negotiations in NAMA, only India and Pakistan in South Asia will be required to undertake tariff reduction through the formula approach. Bangladesh and Nepal are exempted because of their LDC status.[14] Sri Lanka may also be exempted if the present proposal of exempting countries from undertaking tariff reduction, which have less than 35 percent of binding coverage, is accepted.[15] (See Table 3)

Hence, in the analysis that follows, the focus is on India and Pakistan with respect to tariff reduction. It is important to reiterate that any attempt towards drastic or substantial tariff reduction for India and Pakistan will erode the policy flexibility that both these countries follow.

Further, this paper follows the tariff reduction formula proposed by the NGMA in 2003 before the Cancun ministerial.[16] This formula is called the Girard formula after Pierre Louis Girard, NAMA chair, 2003.[17] This formula takes into account the interests of developing countries by incorporating each country's tariff average in the tariff cutting formula. India along with Brazil and Argentina has suggested this formula for tariff reduction to the NGMA.[18]

In the Girard formula, the extent of tariff reduction hinges on the value of the coefficient 'B'. For instance, for a lower value of 'B', say 0.5 or 1,

[14] Decision Adopted by the General Council, WT/L/59, adopted 1 August 2004, Annex B, paragraph 9.

[15] Decision Adopted by the General Council, WT/L/59, adopted 1 August 2004, Annex B, paragraph 6.

[16] The tariff reduction formula proposed by the NGMA is T1 = B*T2*T0/B*T2+T0, where T1 is the final bound rate, T2 is the average of the base rates, T0 is the base rate and 'B' is a coefficient.

[17] This analysis is not to suggest that the use of the Girard formula is the only option available for developing countries to undertake tariff reduction. There are other options available like reducing overall average tariff rate or using the linear formula.

[18] Communication to the Negotiating Group on non-agricultural market access from Argentina, Brazil and India, TN/MA/W/54, 15 April 2005, paragraph 4.

Table 3: Binding coverage of agricultural and non-agricultural products of four South Asian countries

in percentage

Country	All products	Agriculture products	Non agriculture products
Bangladesh	15.8	100	3.1
India	73.8	100	69.8
Pakistan	44.3	92.6	36.9
Sri Lanka	37.8	100	28.3

Source: World Trade Report 2004, World Trade Organisation

the tariff reduction in the average bound tariff rates for both India and Pakistan would be huge, especially for higher tariff rates (See Tables 4 and 5). In the case of India, the bound tariff rate for 'fish and fish products' is 100.7 percent. If the tariff reduction for this category takes place with a lower value of 'B', say 0.5, then the tariff rate after reduction will be 14.6 percent. The tariff rate after reduction, for this category with 'B' = 1, will be 25.5 percent. As the value of 'B' increases, the rate of reduction in the final tariff rate declines.

Table 4 depicts the impact of the Girard formula with different coefficients on the average bound tariff rates for non-agricultural products of India by MTN categories. Higher coefficients of 'B' lead to drastic reduction in the tariff rates and hence devoid the countries of the required policy flexibility and also disable them to pursue social and developmental needs.

If South Asia has to negotiate on a non-linear formula it should negotiate for Girard formula with a higher value of 'B'.

Table 4: The impact of the Girard formula with different coefficients of 'B' on the average MFN bound tariff rates for select non-agricultural products of India by MTN category.[19]

in percentage

Product	MFN average BTR as on 26/03/04	Coverage	BTR, B = 0.5	BTR, B = 1	BTR, B = 1.5	BTR, B = 1.75	BTR, B = 2	MFN average ATR as on 26/03/04
Textiles and clothing	26.6	66	10.4	14.9	17.5	18.4	19.1	27.1
Leather, rubber, footwear and travel goods.	35.2	51	11.5	17.3	20.8	22.1	23.2	28.8
Fish and fish products	100.7	13	14.6	25.5	33.9	37.5	40.8	30.0
Metals	38.7	54	11.8	18.1	22.0	23.5	24.7	29.0
Wood, pulp, paper and furniture	36.5	62	11.6	17.6	21.3	22.6	23.8	25.7

Source: Author's calculation on the basis of the data given in Table 1.

[19] The figures in this table have been have been calculated by using the formula, T1 = B*T2*T0/B*T2+T0, where T1 is the final bound rate, T2 is the average of the base rates, which is equal to 34.3, T0 is the base rate and 'B' is a coefficient. The average base rate is the simple average of the MFN bound tariff rates in India.

It is important to understand that if India and Pakistan agree to the Girard formula for tariff reduction, they will make a big concession. Accepting a non-linear formula means agreeing to relatively steeper reductions in tariff rates and hence, foregoing important rights. Thus, it is important that they are duly compensated. In case no compensation is offered, India and other developing countries should withdraw their proposal on a non-linear formula.

This compensation could be in the form of developed countries cutting their tariff rates using the Girard formula with a value of 'B' less than 1 or providing preferential access to their markets. It is important that agreeing to the non linear approach be used as a bargaining chip by countries like India and Pakistan to get developed countries to agree to a lower value of 'B' for tariff reduction. The July agreement specifically provides that negotiations on market access for non-agricultural products will be directed towards reduction or elimination of tariffs, tariff peaks, and tariff escalation, particularly on products of export interest to developing countries.[20] On this basis, India and Pakistan can press for reduction in tariff rates of developed countries by adopting a lower value of 'B'. India and Pakistan can have a higher value of 'B' as a special and differential treatment measure on the basis of paragraph 1 and 2 of Annex B.

After the July agreement many countries have made submissions on how tariff reduction should take place. The submissions made by developed countries mainly focus on the Swiss formula with some minor changes. The Swiss formula remains unacceptable to majority of developing countries. India has firmly opposed the Swiss formula approach for cutting tariff rates. Box 4

Table 5: The impact of the Girard formula with different coefficients of 'B' on the average MFN bound tariff rates for select non-agricultural products of Pakistan by MTN category.[21]

in percentage

Product	MFN average BTR as on 26/03/04	Coverage	BTR, B = 0.5	BTR, B = 1	BTR, B = 1.5	BTR, B = 1.75	BTR, B = 2	MFN average ATR as on 26/03/04
Textiles and clothing	21.9	96	9.7	13.5	15.4	16.1	16.7	21.6
Leather, rubber, footwear and travel goods.	41.4	10	12.3	19.0	23.2	24.7	26.0	18.2
Fish and fish products	100.0	10	14.9	26.0	34.5	38.1	41.3	12.0
Metals	36.2	4	11.8	17.8	21.4	22.8	23.9	15.5
Wood, pulp, paper and furniture	46.8	50	12.7	20.1	24.8	26.5	28.1	19.1

Source: Author's calculation on the basis of the data available in Table 1.

[20] Decision Adopted by the General Council, WT/L/59, adopted 1 August 2004, Annex B, paragraph 2.

[21] The figures in this table have been have been calculated by busing the formula, T1 = B*T2*T0/B*T2+T0, where T1 is the final bound rate, T2 is the average of the base rates, which is equal to 35.3, T0 is the base rate and 'B' is a coefficient. The average base rate is the simple average of the MFN bound tariff rates in Pakistan.

Box 4: Tariff reduction proposals by different countries after the July agreement

- The European Commission (EC) proposed a Swiss formula in NAMA negotiations in March 2005. The EC formula is $T_1 = (X * T0) / (T0 + X)$ where T_1 is the final tariff, X is the given coefficient and T0 is the initial tariff. According to this ambitious proposal unveiled by EC, developing countries that accept this Swiss formula "could use the provisions of paragraph 8 of Annex B of the July Decision in full". The so-called flexibility given in paragraph 8 is grossly inadequate to take into account the concerns of developing countries. This is explained in section 5 of the paper. The EC proposal states that if developing countries do not use the flexibility given in paragraph 8 of Annex B they earn 'credits', which are used to increase the coefficient (X).
- US proposed a Swiss formula with dual coefficients. One coefficient for developed countries and another for developing countries. The US proposal also states that the two coefficients must be "within sight of each other", which means that the coefficient for developing countries should not be significantly greater from the coefficient for developing countries. It further states that the two-coefficient approach would be an alternative to paragraph 8 of Annex B.
- Norway submitted a non-linear tariff cutting formula with two coefficients that includes a simple and transparent system of credits. The formula is T1 = (A*T0)/A+C), where T1 is the new bound tariff after formula cut, T0 is the old bound tariff, A is the coefficient indicating the level of ambition. A will have different values for developed and developing countries, C is the credit that a country gets for binding 100 percent tariff lines, participating in sectoral tariff component, foregoing the use of flexibilities given in paragraph 8 of Annex B.
- Argentina, Brazil and India submitted a communication to the NGMA proposing the same formula that the NGMA had proposed before the Cancun Ministerial, which India had rejected before the Cancun ministerial. This is called the Girard formula. The formula is T1 = B*T2*T0/B*T2+T0, where T1 is the final rate, T0 is the bound rate, T2 is the average of the current bound rates and 'B' is a coefficient.

Source:

1. Third World Network, 'North Onslaught on South's Industrial Tariffs in NAMA, http://www.twnside.org.sg/title2/twninfo 195.htm (visited on 10 April 2005)
2. A proposal for a simple Non linear Formula with Credits, Communication from Norway, TN/MA/W/7/Add.1, 11 March 2005
3. Communication to the Negotiating Group on Non-Agricultural Market Access from Argentina, Brazil and India, TN/MA/W/54, 15 April 2005.

provides information about some of the Swiss formula approaches submitted by developed countries. All these proposals are disastrous for countries like India and Pakistan, as they would lead to drastic reductions in the existing bound tariff rates. The flexibility that these approaches offer is minimal and in many cases require more than full reciprocity, which is a violation of Article XXVIII *bis* of GATT, the DDA and the July Agreement.

From Table 6 and Figure 1 it is clear that applying the EC proposed Swiss formula (Box 4) with single coefficient, would result in India and Pakistan reducing their MFN bound tariff rates on 'fish and fish products' by 66.8 and 66.7 percent respectively. On the other hand, the same formula with the same coefficient would result in US and EC reducing their MFN bound tariff rates on 'fish and fish products' by a meager 9 and 18.7 percent respectively. This clearly demonstrates 'more than full reciprocity' on part of India and Pakistan. The only alleged gain that countries like India and Pakistan may achieve by agreeing to a single coefficient Swiss formula approach is to have the flexibility given in paragraph 8 of Annex B.

This paragraph talks of providing flexibility to developing countries by enabling them to apply less than formula cuts to up to [10] percent of the tariff lines or as an exception keeping the tariff lines unbound.[22] This flexibility implies that 90 percent of tariff lines of developing countries would be subject to tariff reduction through the formula approach and only 10 percent would be exempted from the full formula approach. However, this does not mean that the 10 percent of tariff lines are completely exempted from tariff reduction. These tariff lines would be subjected to less than formula cuts. In other words, they would be subjected to partial cuts. This connotes that no tariff line would be completely immune from tariff reduction commitments.

Table 6: Hypothetical application of the EC proposed Swiss formula on the MFN bound tariff rates of 'fish and fish products' of US, EC, India and Pakistan demonstrating 'more than full reciprocity' by India and Pakistan.[23]

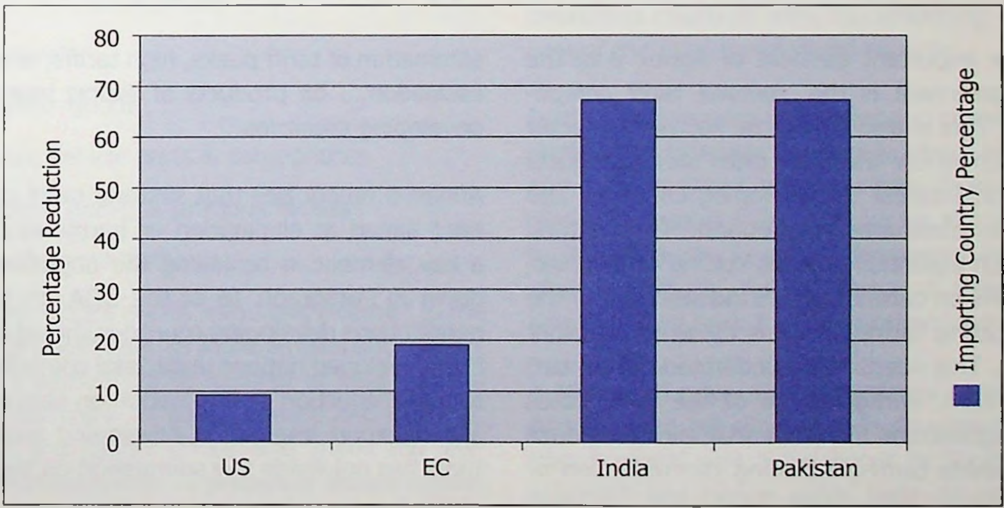
in percentage

Importing country	MFN bound tariff rate (T0)	Bound tariff rate after reduction (T1)	By how much does the initial tariff get reduced
US	1.1	1.0	9
EC	11.2	9.1	18.7
India	100.7	33.4	66.8
Pakistan	100	33.3	66.7

Source: Author's calculation

Developing countries need more flexibility than this. These countries should aim at having at least 15 percent of tariff lines not subjected to reduction, either through the tariff reduction formula or any other approach. In other words, developing countries should have the freedom to choose 15

Figure 1: Percentage reduction in the MFN bound tariff rates for 'fish and fish products' of US, EC, India and Pakistan on application of Swiss formula demonstrating 'more than full reciprocity' by India and Pakistan.[24]



[22] Decision Adopted by the General Council, WT/L/59, adopted 1 August 2004, Annex B, paragraph 8

[23] The calculations in this table have been done by using the Swiss formula T1 = (X * T0) / (T0 + X) where T1 is the final tariff, X is the given coefficient and T0 is the initial tariff. In this table X = 50 for all the four countries.

[24] Ibid.

percent of tariff lines for which no tariff reduction is required. Similarly, developing countries need to have flexibility in binding tariff lines.

Other two major disadvantages in using the EC proposed single coefficient Swiss formula are:

- If a larger coefficient is used both for developing and developed countries, the tariff rates of developed countries will not come down drastically and hence the issue of tariff peak and tariff escalation in developed countries will remain unresolved.
- In case a smaller coefficient is used for both developing and developed countries, the tariff rates of developing countries will come down drastically and hence will not be consistent with their development needs.

In both the situations developing countries stand to lose.

5.1 Implementation Phase

An important issue towards establishing modalities for future negotiations on NAMA is to agree on a differential implementation period. This is also warranted by the special and differential treatment principle. It is important to note that a differential and a longer implementation period will extend the desired policy flexibility that developing countries need to purse their social and development needs. Also, a longer implementation period will mitigate the harsh adjustment costs. The July agreement states that developing country participants shall have longer implementation periods.[25] However, the moot issue is how long will be the implementation period for developing countries?

This author's submission is that the implementation period for developing countries should comprise of five phases – each phase being of 2 years. Hence, the total implementation period will be of 10 years. The tariff rate to be brought down should be reduced in equal installments over a span of 10 years. For developed countries the implementation period should be of two phases i.e. 4 years. However, the tariff reduction by developed countries should be forward loaded. In other words, the rate of tariff reduction by developed countries should be descending or decreasing. This implies higher cuts in the first implementation phase.

6. Sectoral Approach

Another important element of Annex B of the July Agreement is the 'sectoral tariff component'.[26] This is also called the sector–by–sector approach where the tariff rates on all products of export interest to developing countries and LDCs, is eliminated and bound. The sectoral approach essentially means cutting or eliminating tariffs on certain sectors independent of the tariff cutting formula that is followed for other sectors. This needs to be understood in context of the DDA. Paragraph 16 of the DDA states that negotiations in NAMA shall aim to reduce or eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation.... on products of export interest to developing countries.[27]

Annex B recognises that sectoral tariff component aimed at elimination or harmonisation is a key element in achieving the objectives laid down in Paragraph 16 of the DDA. In further negotiations developing countries should ensure that developed nations undertake commitments to tariff reduction or elimination on sectors that are of export interest to developing countries. India has not made any submission on the issue

[25] Above n 22.

[26] Decision Adopted by the General Council, WT/L/59, adopted 1 August 2004, Annex B, paragraph 7.

[27] Above n 7.

Table 7: MFN applied and bound tariff rates of four developed countries for select non-agricultural products by MTN categories

in percentage

Importing market	Textiles and clothing		Fish and fish products		Leather, rubber, footwear and travel goods		Mineral products and precious stones and metals	
	Applied duty	Bound duty	Applied duty	Bound duty	Applied duty	Bound duty	Applied duty	Bound duty
United States	9.6	8.6	1.1	1.1	4.3	4.4	2.0	1.9
European Union	7.9	7.9	11.7	11.2	4.2	4.2	2.0	2.0
Canada	11.7	12.5	1.0	1.3	5.7	7.6	1.7	2.8
Japan	7.4	6.7	5.7	5.0	6.4	6.6	1.1	1.0

Source: World Trade Report 2004, World Trade Organisation

of sectoral liberalisation. India's argument is that the sectoral approach should be voluntary in nature and should be taken up only after the issue of tariff reduction formula is settled.

The NGMA in 2003 proposed the following sectors for tariff elimination[28]:

- Electronics and electrical goods
- Fish and fish products
- Footwear
- Leather goods
- Motor vehicle parts & components
- Stones, gems, & precious metals
- Textiles and clothing.

All these sectors are of "exporting interest" to the whole of South Asia. In India, textiles and apparel industry account for 35 percent of total national export earnings. In 2003, 'textiles and clothing', 'leather and leather goods' and 'gems and jewelry' constituted over 50 percent of India's exports to EC. For the same period, over 60 percent of export from Pakistan to EC was in textiles. Textile products are also principal exports of Bangladesh, Sri Lanka and Nepal. 75 percent of total exports from Bangladesh to EC are in textiles.

Moreover, developed countries like EC, US and Canada are the major export destinations of South Asian countries. Nearly 75 percent of Bangladesh's exports in 2002 were destined to developed countries with, EC absorbing 43 percent of the total Bangladeshi exports.

Further, sectors such as 'textiles and clothing' and leather and footwear are hugely labour intensive sectors in the South Asian countries. In India, textiles and apparel industry provides employment to 38 million people, and is the largest employer after agriculture. Textiles sector in Bangladesh employs more than 1 million women workers.

If MFN tariff rates on these sectors come down drastically or get eliminated in developed countries it would give a big boost to South Asian exports[29] and hence serve their development

[28] Draft Elements of Modalities for Negotiations on Non Agricultural Products, TN/MA/W/35/Rev.1, 19 August 2003, paragraph 9.

[29] Some may argue that it is too simplistic to suggest that mere reduction or elimination of tariff rates in the identified sectors will give a boost to exports from South Asia as these exports continue to face many non tariff barriers such as anti dumping measures, rules of origin, standards etc. This is true. However, high tariff rates are certainly one of the factors that restrict the growth of exports from South Asia. If these high tariffs rates are substantially brought down or are eliminated it will certainly have a beneficial impact on South Asian exports.

Box 5: Potential gains for Bangladesh from duty free access to developed country markets

If Bangladesh gets duty free and quota free access to the markets of Quad countries (US, EU, Canada and Japan) its export revenue would increase by 45 percent. Exports of textiles and clothing to Canada and US would rise by more than US $ 700 million.

Textiles sector in Bangladesh is hugely labour intensive. It employs more than 1 million women workers. Since this is a labour intensive sector any gains to this sector have wide ranging benefits. It is estimated that increased textile exports from Bangladesh to the US and Canada after the elimination of tariff peaks and other restrictions would significantly increase employment. Further increased exports would also help generate resources needed to make domestic industry more competitive.

Source: Kamal Malhotra, 'Making Global Trade Work for Poor', (London: Earthscan Publications: 2003) 162.

needs by providing better market access and augmenting employment. A South Asian country that perhaps would gain the most from elimination of tariff peaks and tariff escalation or from duty free and quota free access to developed country markets is Bangladesh (See Box 5).

However, from Table 7 it is clear that developed countries maintain high tariff rates especially on sectors such as 'textiles and clothing' where South Asian countries have tremendous export potential. If we take the specific case of US, the bound tariff rate for textiles and clothing is 8.6 percent, which is much higher than the simple average of MFN bound tariff rates for all non-agricultural products of 3.2 percent. Similarly for EC, the simple average of the MFN bound tariff rates for non-agricultural products is 3.9 percent. However, the bound tariff rates of both 'textiles and clothing' and 'fish and fish products' are almost two to three times higher than the simple average in EC. Nearly one half of clothing exports of Bangladesh to US face an ad-valorem duty of 15 to 20 percent. Another 13 percent of clothing exports are subject to tariffs in excess of 25 percent. It is hence necessary that both EC and US bring down or eliminate their tariff rates in these two sectors.

6.1 Zero for Zero Approach

An important issue that often emerges in the sector–by–sector approach is the zero for zero approach. This approach implies that in the identified sectors all countries should bring down the tariff rates to zero.

This is a violation of the 'less than full reciprocity' principle. In order to fulfill the principle of special and differential treatment, developing countries need to have flexibility in the sectoral approach. Moreover, asking all developing countries to bring down the tariff rates in the identified sectors to zero also means depriving countries with the policy flexibility necessary to pursue development needs. This is again a violation of Article XXVIII *bis* of GATT. In the South Asian context, this applies to India and Pakistan. In India and Pakistan in 'fish and fish products' category the binding coverage is only 13 and 10 percent respectively. In other words, in this sector, India and Pakistan have 87 and 90 percent of tariff lines unbound, respectively. Most of these tariff lines are unbound because of their sensitive nature. In sectors where such high proportion of tariff lines is unbound, it is not economically prudent to ask for a complete binding let alone tariff elimination.

However, developing countries like India and Pakistan should consider increasing their tariff binding coverage in these identified sectors and, also bringing down their high bound tariff rates by adopting a different value of 'B' in the Girard formula if developed countries agree to eliminate their tariffs. This may be used as a bargaining

Table 8: The hypothetical application of the implementation period proposal for a developing country assuming hypothetical bound tariff rate

in percentage

Product	Final bound tariff (T2)	Initial bound tariff (T1)	Tariff after Phase 1 (Ta)	Tariff after Phase 2 (Tb)	Tariff after Phase 3 (Tc)	Tariff after Phase 4 (Td)	Tariff after Phase 5 (Te)
			T1 – X[30]	Ta – X	Tb – X	Tc – X	Td – Y[31]
X	14.8	100.0	87.22	74.44	61.66	48.88	14.8

Source: Author's Calculation.

chip to induce developed countries to eliminate their tariffs.

The following three important steps could be followed in the negotiations on sectoral approach:

- Developed countries reduce the tariff rates to zero on all the sectors, which are of export interest to developing countries and LDCs.
- Developing countries undertake tariff reduction in the identified sectors by adopting the Girard formula with 'B' = 0.5 for tariff rates ≥ 50 percent and 'B' = 1 for tariff rates < 50 percent.
- Developing countries should have the flexibility to decide the number of tariff lines they want to commit to reduction, under the sectoral approach in an identified sector. For instance, if 'fish and fish products' is identified as one of the sectors for the sectoral approach, then developing countries should have the flexibility to identify which tariff lines in this product category would be committed to reduction under the sectoral approach. In this regard, it is proposed that only 80 percent of the total tariff lines falling under a particular category or sector should be committed to reduction under the sectoral approach.

Hence the sectoral approach could be called zero for 'a' approach, where 'a' is the tariff reduction value determined after adopting the Girard formula where 'B' = 0.5 or 1 depending upon the tariff rate. The reason to link the tariffs of developing countries under the sectoral approach to the tariff reduction formula is to link the final rate to the initial tariff rate. Any arbitrary value of 'a' would not do justice to the initial tariff rate and may at times lead to drastic reductions.

6.2 Implementation Process

The NGMA in 2003 had proposed a three-phase implementation process of equal length for the sectoral initiative. According to the NGMA proposal, developed countries shall eliminate tariffs at the end of the first phase and developing countries shall do this in three equal phases.

This author's submission is that the implementation phase should be of five stages with each stage being of two years. The reduction in the tariff rates by developing countries should be spread over all the five phases. It is proposed that 60 percent of tariff reduction should take place in the first four stages (equal installments) and 40 percent of reduction in the last phase. For instance, assume that the initial bound tariff rate for a product is 100 percent and the simple average of the bound tariff rates is 35 percent. The final bound tariff rate after applying the Girard formula with 'B' = 0.5 would be 14.8 percent. So the tariff reduction that has to take place is 85.2 percentage points. Now 60 percent of 85.2

[30] X = 60 percent of (T1-T2)/4, where T1 is the initial bound rate and T2 is the final bound tariff.

[31] Y = 40 percent of (T1-T2), where T1 is the initial bound rate and T2 is the final bound tariff.

should be reduced in the first four phases i.e. first eight years (equal installments) and 40 percent of 85.2 in the last phase i.e. after the completion of the tenth year (See Table 8).

Such an implementation period will give enough policy flexibility to developing countries to pursue their social and development needs and at the same time, also realistically fulfill their international obligations. Table 9 clearly shows how this implementation period will give adequate flexibility and time to countries such as India and Pakistan to bring down their tariff levels in a consistent manner. No drastic reduction in tariff rates will take place and hence the adjustment costs would be bearable. For developed countries the tariff elimination should take place in two phases. In the first phase 75 percent of tariff reduction should take place and in the second phase remaining 25 percent of tariff should be eliminated.

In this regard, it is important that if developed countries agree to completely eliminate their tariff rates after the first implementation phase i.e. after the first two years, developing countries might consider bringing down their tariff levels to the final tariff rate in four implementation phases – in first eight years rather than in ten years. In such a scenario, developing countries may also consider reducing their tariff rates in four equal installments over a period of four phases (eight years).

7. Tariff Binding

Tariff binding comprises of two sets of issues. First is the issue of tariff binding coverage implying the number of tariff lines to be bound. The second issue relates to the rate at which the unbound tariff lines should be bound.

Table 9: The hypothetical application of the implementation period proposal under the sectoral initiative for two non-agricultural products of India and Pakistan by MTN category.[32]

in percentage

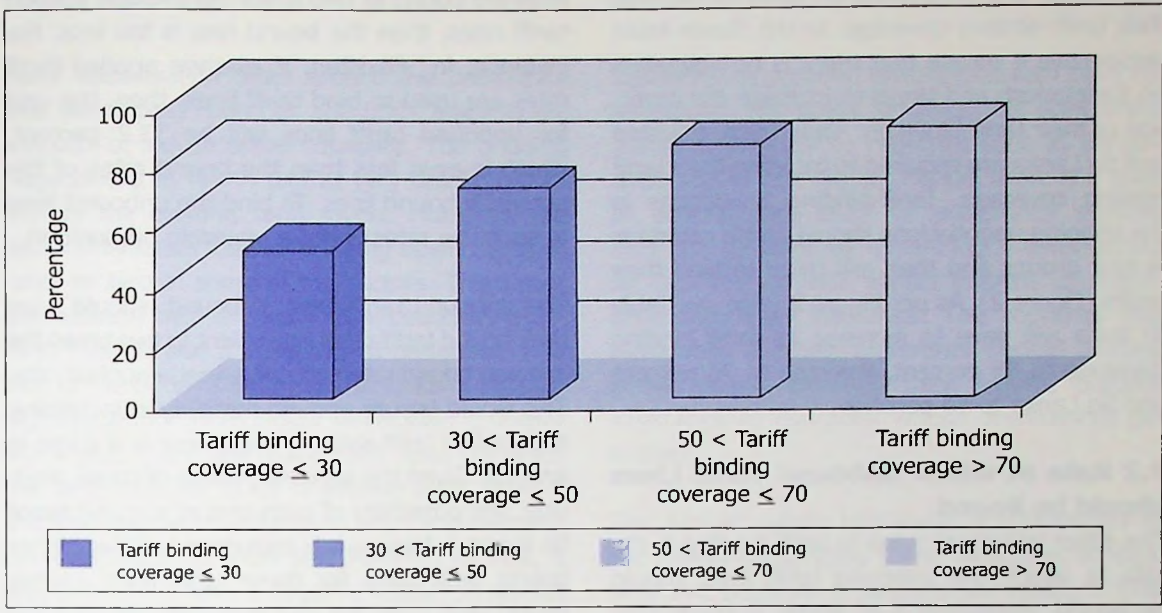
Import market	Product	Initial tariff rate (T1)	Final tariff rate[33] (T2)	Tariff after phase 1	Tariff after phase 2	Tariff after phase 3	Tariff after phase 4	Tariff after phase 5
India	Textiles and clothing	26.6	14.9	24.845	23.09	21.335	19.58	14.9
	Fish and fish products	100.7	14.6	87.785	74.87	61.955	49.04	14.6
Pakistan	Textiles and clothing	21.9	13.5	20.64	19.38	18.12	16.86	13.5
	Fish and fish products	100.0	14.8	87.22	74.44	61.66	48.88	14.8

Source: Author's calculation from the data given in Tables 4 and 5.

[32] The calculations in this table have been made by using the methodology described in Table 8.

[33] The final tariff rate has been calculated by using the Girard formula, where B = 1 for Textiles and Clothing both for India and Pakistan, and B = 0.5 for Fish and fish products both for India and Pakistan.

Figure 2: Proposed tariff binding coverage[34]



7.1 Tariff Binding Coverage

Developed countries have been constantly asking developing countries and LDCs to increase the coverage of tariff binding to 100 percent or near 100 percent. Increasing the tariff binding coverage implies binding more tariff lines and thus giving up the flexibility of increasing the tariff rates on a particular product beyond a certain point. The other important consequence of increasing the binding coverage is to follow it by subjecting it to tariff reduction commitments.

Hence, the issue of tariff bindings is very important for developing countries and LDCs. The demand of developed countries to extend the coverage of tariff bindings to 100 percent or near 100 percent is not justified. There is nothing in the July framework that asks developing countries or LDCs to increase their tariff bindings to such high levels. It has been argued that high level of tariff binding coverage in developing countries and in LDCs would affect industrialisation.[35] Domestic industry may get discouraged from a low level of bound tariff rate for a particular product[36] because of the fear of surge in imports.

Hence, developing countries and LDCs, if they agree to increase their binding coverage, should ensure that they get adequate gains in return. It is important to understand that developing countries need not increase their tariff binding coverage if the reciprocal gains are not forthcoming. This is an important negotiating chip with developing countries and LDCs. It is important that this bargaining chip is judiciously used in the trade negotiations.

In the ongoing negotiations only developing countries have to increase their tariff binding coverage. Paragraph 6 of Annex B states that LDCs are expected to substantially increase

[34] Developing countries should undertake these commitments only if reciprocal gains are promised and forthcoming.

[35] B L Das, 'NAMA negotiations in the WTO: Binding of Tariff and Tariff Reduction Process', http://www.twnside.org.sg/title2/twninfo187.htm, (visited on 2 April 2005).

[36] Ibid.

their level of binding commitments. This does not impose any obligations on LDCs to increase their tariff binding coverage. In the South Asian perspective it means that there is no obligation on Bangladesh and Nepal to increase the coverage of their tariff bindings. Only India, Pakistan and Sri Lanka are required to increase their tariff binding coverage. Tariff-binding obligations in the ongoing negotiations should divide countries in four groups and then ask them to bind their tariffs (Figure 2). As per Figure 2 (also see Table 3) India will have to increase its tariff binding coverage to 85 percent, Pakistan to 70 percent and Sri Lanka to 50 percent.

7.2 Rate at which Unbound Tariff Lines should be Bound

The other important issue in tariff binding is the rate at which the unbound tariff lines should be bound. Paragraph 5 of Annex B states that for unbound tariff lines the basis for commencing the tariff reductions shall be twice the MFN applied rate in the base year. The base year for MFN applied rates shall be 2001. The proposal to bind unbound tariff lines at twice the average applied rate is detrimental for developing countries. This will result in very low bound tariff rates of the unbound tariff lines.

From Table 10 it is clear that if unbound tariff lines are bound at two times the average applied tariff rates, then the bound rate is too less. For instance, in Pakistan, if average applied tariff rates are used to bind tariff lines, then, the rate for unbound tariff lines will be 33.2 percent, which is even less than the bound rates of the presently bound lines. To bind the unbound lines at such low rates is not a plausible proposition.

The unbound tariff lines, if bound, should have their bound tariff rates equivalent to two times the average bound rate and not average applied rate. This would ensure enough flexibility in increasing the applied tariff rates in case there is a surge in imports. Given the sensitive nature of these products, the possibility of such import surges cannot be ignored. Hence, it is important to have higher bound tariff rates for these tariff lines. Higher bound tariff rates are also important because the next stage after binding the tariffs is to undertake tariff reduction. If developing countries have smaller bound rates, tariff reduction would reduce them further. Moreover, it is important to note that South Asian countries maintain lower applied rates. High bound rates are needed to have the desired flexibility of increasing the applied tariff rates if the need be.

Table 10: Depicting application of binding unbound tariff lines at two times the average ATR and BTR for India and Pakistan.[37]

in percentage

Country	Average ATR	Proposed bound rate of unbound lines (two times the average ATR)	Average BTR	Proposed bound rate of unbound tariff lines (two times the average BTR)
India	27.7	55.4	34.3	68.6
Pakistan	16.6	33.2	35.3	70.6

Source: Author's computation on the basis of the average ATR and BTR for India and Pakistan from the World Trade Report, 2004

[37] This table does not show the base year average applied and bound tariff rates of India and Pakistan. The table only intends to show the difference in the final bound tariff rates of unbound tariff lines when average applied and bound tariff rates are used.

8. Preference Erosion

Tariff liberalisation often erodes the preference that developing countries and LDCs enjoy in the markets of industrialised countries. The ongoing negotiations in NAMA aim at very drastic reduction in the existing tariff levels. Moreover, the sectoral initiative talks of bringing down the tariff rates to zero in some of the sectors. This would undoubtedly help all South Asian countries. However, there is also a possibility of preference erosion of the LDCs of South Asia in wake of increasing competition from bigger developing countries like India. There are many tariff lines on which the tariff rate for LDCs is already zero. Now, if the tariff rate were reduced to zero for developing countries such as India and Pakistan as well, it would certainly have a negative impact on market access opportunities of Bangladesh and Nepal.

The LDCs from South Asia benefit from the "Everything But Arms (EBA) Initiative", which grants duty free and quota free access to EC, except to arms and ammunitions. This initiative is provided under the Generalised System of Preferences (GSP). Bangladesh is the most prominent exporter to the EC amongst all the LDCs. Exports from Bangladesh constitutes about 20 percent of the total exports from all LDCs to the EC. LDCs like Bangladesh have gained immensely from this preferential access to the European markets.

The growing apprehension is that with tariff liberalisation, the terms at which this preferential access is available to countries such as Bangladesh, would get diluted. Hence, there is a need to address this issue of preference erosion. This can be done by expanding market access for products of vital export interest to preference dependent countries. The countries that have been granting preference should develop a mechanism whereby they provide bilateral assistance to countries whose preferences get eroded.

The African group has made a submission to the NGMA suggesting some measures to deal with the problem of preference erosion. This group has asked for suitable treatment of products from African countries currently enjoying non-reciprocal preferential access. The African group has also proposed a correction coefficient to improve the preference margins of the products that are enjoying preferential access.[38] Similarly, Mauritius has suggested the formation of a 'Competitiveness Fund' for the countries whose preferences are being eroded. The contribution to this fund would be on the basis of contribution from the international financial institutions. This fund would enable countries whose preferences are eroded to undertake competitive adjustment.[39]

[38] Market Access for Non-agricultural products, Treatment of non-reciprocal preferences for Africa, TN/MA/W/49, 21 February 2005.

[39] Mustafizur Rahman, 'Market Access Issues in the Context of the Doha Development Round: Bangladesh's Interests and Concerns', 32 CPD Occasional Paper Series, 2003.

9. Conclusion

Tariff negotiations under NAMA, just like other trade negotiations, have to be guided by a degree of circumspection and pragmatism. Circumspection implies resisting all claims of indiscriminate and hasty liberalisation. Pragmatism implies shedding over-protectionist attitude and making full use of available opportunities. Hence, it is important that developing countries in general and South Asian countries in particular negotiate in a realistic manner that optimises their interest. If higher commitments are made then it should be ensured that reciprocal benefits from developed countries are forthcoming. It is important that the negotiations on NAMA do not loose sight of the development imperatives of the multilateral trading regime embodied in the WTO. Hence, it is important that negotiations take due account of the existing realities of not just South Asian countries but also of other developing countries.

It is also important for South Asian countries to forge alliance with other countries. India has already submitted a joint communiqué with Brazil and Argentina to the NGMA on tariff reduction formula. The G20 alliance could be used to forge common positions on NAMA as well. If this happens it would be important for India and Pakistan as both are members of the G20.

Ongoing negotiations on NAMA could follow the following structure:

- India and Pakistan should negotiate for a Girard formula with a higher coefficient of 'B' for tariff reduction (B = 2).
- Developed countries should be pursued to undertake tariff reduction using the Girard formula but with a lower coefficient of 'B' (B<1).
- The implementation period for India and Pakistan to implement tariff reductions should be 10 years whereas for developed countries it should be 4 years.
- Developed countries should eliminate tariffs in sectors that are of export interest to developing countries and to South Asia within four years with substantial reduction taking place in the first two years.
- India and Pakistan might consider bringing their tariff rates down in the sectors identified in the sectoral initiative by using the Girard formula with 'B' = 1 or 0.5, if and only if, developed countries agree to eliminate their tariffs.
- In the sectoral initiative a zero for zero approach should be resisted at all cost.
- For South Asia and other developing countries tariff reduction in the sectoral initiative should be implemented in a period of 10 years and should be backloaded.
- South Asian countries and other developing countries should not be asked to increase their tariff bindings to 100 percent. Increase in tariff binding should take into account the existing binding levels. Developed countries should duly compensate further increase in tariff binding.
- Developed countries should duly compensate the LDCs of South Asia, whose preference margins get eroded due to tariff liberalisation.

Centre for Trade and Development (Centad) was established by Oxfam GB in 2004, as a not-for-profit organisation, to carry out policy research and advocacy on issues around trade and development, with a principal focus on South Asia.

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