



International Chamber of Commerce

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Policy Statement

ICC proposals on market access for non-agricultural products

Prepared by the Commission on Trade and Investment Policy

ICC strongly supports the objectives adopted at the 4th WTO Ministerial Conference at Doha (Qatar) in November 2001 regarding market access negotiations for non-agricultural products. The GATT made immense progress in dismantling tariff barriers to international trade, but its work is by no means completed. Remaining tariffs inhibit trade significantly and cause substantial commercial and economic inefficiencies. Their elimination is one of the largest potential sources of economic benefits to all parties in this negotiation. Thus, ICC believes that WTO members should aim at the elimination of all remaining tariffs on non-agricultural products. The following proposals are intended to assist WTO members and the Negotiating Group on Market Access, in particular, in developing a common understanding with a view to reaching an agreement on modalities by 31 May 2003.

ICC considers that the negotiations on market access for non-agricultural products is of central importance to trade liberalization because of the benefits for all WTO members that such liberalization could bring. In particular, it is strongly in the interest of developing and least-developed countries (LDCs) to eliminate tariff barriers, provided that capacity building and sequencing of tariff cuts are appropriate to individual situations. A large part of the expected gains from tariff elimination will result from tariff elimination by low and middle income countries, with many of these gains resulting from increased trade among these countries.

The Doha Development Agenda ("DDA")

ICC notes with satisfaction that paragraph 16 of the DDA sets out four general objectives for negotiations on market access for non-agricultural products:

- a. to reduce or as appropriate eliminate tariffs (including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation) on a comprehensive group of products (without a priori exclusions) and, in particular, on products of export interest to developing countries;
- b. to reduce or as appropriate eliminate non-tariff barriers;
- c. to take fully into account the special needs and interests of developing and least developed countries;
- d. to include in the modalities to be agreed appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

Notably, paragraph 31(iii) provides for negotiations on "the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services." The WTO Committee on Trade and Environment ceded competence over these negotiations to the Negotiating Group on Market Access.

ICC's proposals for modalities

ICC has reviewed the proposals of WTO members regarding modalities for negotiations on market access for non-agricultural products. WTO members have presented a wide range of possible, and often conflicting, modalities intended to satisfy the DDA's objectives. As a result, WTO members will need to engage in more detailed discussions and negotiations on an urgent basis in order to meet the timetable adopted in July 2002.

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To help in facilitating this process, ICC offers the following proposals, including suggested modalities, regarding each of the four general negotiating objectives identified in the DDA. In developing these proposals, ICC has taken into account its overall objective in this area to improve market access and to promote transparency and predictability in a rules-based trading system. ICC believes that these objectives, and the objectives in the DDA, cannot be achieved in a timely way, if at all, without the effective participation of developing countries and LDCs. There should be consideration of the needs and interests of these countries, whose possibilities may be limited by public budgetary considerations.

Reduction/elimination of tariffs

ICC suggests the following modalities for reducing and/or eliminating tariffs on non-agricultural products. These suggestions should be read in conjunction with the comments on the other three DDA objectives. Negotiations should seek elimination of all tariffs on non-agricultural products by dates certain.

a. Reliable data set - WTO members should update as soon as practicable the Integrated Database in order to ensure that negotiations are based on a reliable data set.

b. Starting point - The preferred starting point for negotiations should be the applied tariff rates, with the base rates established using a period as close as possible to the date of the final agreement on modalities. The applied rate should also be the starting point where the particular tariff rate has not been the subject of a prior binding. However, a reasonable attempt will have to be made to accommodate the needs of developing and least developed countries and the need to establish a common set of rules.

c. Tariff reduction - WTO members should develop a formula for the progressive reduction of tariffs over a five-year period from the conclusion of the negotiations. This reduction should lead to a reasonably narrow, fixed band of tariffs for all products. To the extent that such a general formula would not sufficiently address tariff peaks, high tariffs and tariff escalation, WTO members should develop appropriate definitions for these occurrences and establish specialised formulas where appropriate. In addition, but only as a complementary step, WTO members should supplement this formula approach by relying on other modalities, such as zero-for-zero, harmonisation, and request-offer, where they would assist in further liberalisation. In developing and implementing the above approach to tariff reduction, WTO members should give due consideration to the interests of developing and least-developed countries as discussed below.

d. Tariff elimination - Where there is a consensus, industrialized countries as well as WTO country members having well developed industrial sectors should agree to eliminate certain tariffs at the conclusion of the DDA and at the conclusion of a five-year phase-out period. A ten-year phase out period could be considered for high tariffs. Virtually all of these countries are currently parties to free trade agreements involving the elimination of substantially all tariffs. As a result, their domestic industries have already substantially adjusted to the entry of duty-free products. Therefore, the expansion of duty-free status to similar imports from additional countries should not have an adverse or disproportionate impact.

e. Elimination of low tariffs - WTO members should establish a tariff threshold, under which tariffs would be set at zero. This would ensure that tariffs are eliminated where governments concerned consider that the administrative costs outweigh the revenue collected, and where sectors concerned consider that the gains of reciprocal duty-free access would outweigh the limited protection afforded by low tariff rates.

f. Reduction of tariff disparities - Considerable tariff disparities remain between industrialized countries and various developing countries. However, these differences no longer reflect the economic and development needs of most developing countries. Therefore, the narrowing of wide tariff disparities between WTO members should be an important goal in the progression toward the elimination of tariffs on non-agricultural products.

g. Shift to ad valorem rates - WTO members should seek to shift all tariff-related measures, including tariff-rate quotas, to ad valorem tariff rates. In the interim, WTO members should agree on mechanisms to improve transparency in the administration of, in particular, tariff-rate quota systems. Such mechanisms could include more detailed reporting requirements to the WTO and/or more detailed transparency-related obligations on national authorities.

h. Comprehensive binding of tariff headings - At the conclusion of negotiations, WTO members should seek to bind 100 percent of tariff headings at the levels negotiated during the round. Tariff headings not subject to negotiations, whose number should be very limited, should be bound at applied rates. This would substantially improve the transparency and predictability of the system and the relevant obligations.

i. Expand member and product coverage of sectoral agreements - WTO members should promote the expansion of existing zero-for-zero and harmonisation agreements to additional WTO members and additional products, including WTO members with viable industry sectors, and particularly with respect to the Information Technology Agreement, the chemical harmonisation agreement and the Uruguay Round pharmaceutical agreement. WTO members should also seek the widest member and product coverage in any zero-for-zero or harmonisation agreement negotiated in the context of DDA negotiations.

Reduction/elimination of non-tariff barriers

ICC strongly supports technical work aimed at defining the universe of non-tariff barriers in order to establish the basis for negotiations on their reduction and elimination. Importantly, ICC urges WTO members to agree that no subset of non-tariff barriers will be excluded from the DDA negotiations by virtue of their arbitrary classification or categorisation on an issue-specific or sector-specific basis. With this general understanding, WTO members can more freely assess the most appropriate DDA negotiating groups to address certain barriers. For example, issues relating to rules and customs procedures could be more effectively addressed in other negotiating groups on, for example, anti-dumping and trade facilitation. Upon establishing the universe of non-tariff barriers appropriately within the scope of the Negotiating Group's competence, WTO members should develop modalities for negotiating the reduction and elimination of such barriers.

As part of the negotiations, WTO members should develop more objective and predictable rules for assessing whether WTO members' measures are striking a reasonable balance between those that are or are not achieving legitimate objectives using the least trade restrictive means. The development of such rules could, where appropriate, build upon the interpretations of the necessity test by dispute settlement panels and the Appellate Body. In the context of assessing rules applicable to non-tariff barriers, WTO members should also explore mechanisms for increasing the involvement of developing countries in setting global technical standards.

Finally, ICC supports the inclusion of export duties, restrictions and export bans within the scope of the negotiations. These measures cause distortions in trade of downstream products within national markets due to the supply chain advantages such measures often afford to domestic producers. At a minimum, WTO members should re-examine Article XI of GATT 1994 with the aim of clarifying its principles and improving its effectiveness.

n Consideration of the interests of developing and least-developed countries
ICC encourages WTO members to agree to the following considerations for developing and least-developed countries:

a. Credit for autonomous liberalization - Appropriate means should be developed for recognising autonomous liberalization, but only where such liberalization is bound.

b. Elimination of tariffs on products from LDCs - Industrialized countries should agree to eliminate tariffs on products from LDCs.

c. Less than full reciprocity - WTO members should consider the principle of "less than full reciprocity" set forth in the DDA in developing the formula and other modalities for tariff reductions, in particular by ensuring that the formula results in reductions that are consistent with requisite levels of development. The application of the "less than full reciprocity" principle should mainly consist of longer phase-in periods. Any special and differential treatment regarding tariff liberalization should have sunset provisions.

d. Credit for binding - WTO members should accord credit to LDCs for binding current applied rates.

Appropriate studies and capacity-building measures

ICC notes with concern the limited coverage of this key element in WTO members' proposals. The only clear statement seemed to relate to a request that LDCs define for themselves the type of studies and capacity-building measures that would facilitate their greater participation in the DDA negotiations. ICC agrees that a demand-driven process would be optimal. However, in many cases, ICC considers that reliance on such a demand-driven approach may be premature, given that many LDCs have too many priority areas that need attention and are not in a position to select only those that would be the most effective at improving their capacity. In most cases, other WTO members and consultants are also unable to identify the optimal priorities for particular countries, because the necessary comprehensive studies have not been conducted.

ICC understands that a substantial amount of technical assistance funds are being made available to assist LDCs but that these funds may be spread too thin to generate optimal results or may be used in other less-than-optimal ways. ICC strongly supports the greater targeting of technical assistance funding in order to establish precedents for how such assistance can benefit LDCs in raising capacity, whether to achieve the benefits of these negotiations more effectively or whether to achieve the benefits in other mutually advantageous areas, such as trade facilitation. Special efforts must be made to improve access to data for all WTO members, particularly developing countries and LDCs.

Such targeted technical assistance could be in the form of individual test countries in three or four regions around the world. The selection criteria for such countries should be strict, perhaps based on agreements to implement non-trade obligations in the area of infrastructure administration or bribery and corruption, which often undermine progress in achieving the benefits of trade liberalisation. For each of the test countries, WTO members could target technical assistance funding at higher, more effective levels in order to increase the likelihood of achieving meaningful results. Such results could then be the basis for developing more effective technical assistance for other countries and for highlighting the benefits of trade liberalisation measures to LDCs and developing countries. This approach could be combined with similar efforts in other areas, most importantly trade facilitation, where targeted and effective technical assistance with demonstrable results could assist in supporting a mandate for negotiations.

Environmental goods

ICC also urges WTO members to take all necessary steps to ensure that the letter and the spirit of the DDA regarding the reduction and/or elimination of tariffs on environmental goods is satisfied. WTO members should identify a list of commonly agreed objective criteria for the identification of environmental goods, in conjunction with work undertaken in APEC and the OECD. Production and/or process methods (PPMs), as well as the end-use of a product, should be excluded as criteria. WTO members should allow the necessary flexibility for these criteria to cover new or improved environmental goods. This will ensure that the benefits of this initiative, in terms of trade, development and the environment, can be maintained and expanded in the face of new technology and new environmental risks, without the need to wait for another multilateral round of negotiations.

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