A Brief Analysis of the July 2008 Lamy Package

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Some new numbers on agriculture and industrial goods proposed by Pascal Lamy, the Director General of the World Trade Organisation (WTO) on last Friday at the WTO Mini-Ministerial in Geneva provided much needed oxygen to the Doha trade talks when a collapse was looming imminent. Although the numbers proposed by Lamy are nowhere near consensus, at least they would keep the WTO Members engaged for the next few days. Already after the preference of Lamy to hold meetings in a smaller group (the G-7) followed by a larger group of about 30 countries and the use of an open informal Heads of Delegation TNC (Trade Negotiations Committee) meeting only to brief the full WTO Membership of the progress, the rest of the Members were feeling isolated and therefore, contemplating returning back to their respective countries on Saturday, the concluding day of the Mini-Ministerial as per the original schedule. The Mini-Ministerial meeting had been convened by the WTO DG to conclude modalities for commitments in agriculture and NAMA (non-agricultural market access) so that the Doha Development Round, launched in 2001, could be completed by the end of the current year.

Lamy's latest proposal (the Lamy Package), intended towards balancing the interests of developed and developing countries, presents parameters on domestic support and market access in agriculture. To elaborate further it covers compromise parameters on OTDS (overall trade distorting support), sensitive products, special products, and special safeguard mechanism in agriculture. In NAMA, where the differences are too wide the DG's package includes figures on anti-concentration clause, participation in sectorals, and use of coefficients in formula for tariff reduction. So far many Members have given a guarded reaction to Lamy's proposal. Nevertheless, everyone feels that this could be a starting point for further discussions aimed at striking a final Doha deal.

Agriculture

According to the Lamy's proposal, in overall trade distorting support (OTDS) the US is required to prune down its trade distorting domestic spending on agriculture by 70 percent from its current permissible ceiling of US$48.2bn. This comes out to be US$14.8bn, which is very close to the already agreed, though conditionally, position of the US at US$15bn. In a way Lamy has just accepted the current position of the US knowing very well that many had already rejected this offer by the US. India's main contention in rejecting this offer was that it still gives US enough water to further increase such support from the current actual spending of US$7bn. Brazil too was not impressed with this offer. Both India and Brazil have indicated that US must cap its domestic farm spending at US$12bn.

Moreover, the US attaches two conditions with this offer. First, it needs assurances that if their programmes are going to meet these disciplines they are then not going to be subject to legal challenges to reduce them further. In other words they want a "peace clause" on their trade distorting agricultural subsidies similar to the one in the Uruguay Round Agreement on Agriculture. Secondly, the US wants significant market access in NAMA and services, particularly from large developing countries like Brazil and India.

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While under no circumstances developing countries should agree on re-induction of the "peace clause", the situation in Agriculture negotiation is still very fluid. In fact according to latest indications there may be some kind of an agreement reached against legal challenges to the US subsidies in return for the US softening its position on two TRIPS-related (trade-related aspects of intellectual property rights) issues, that is, extension in the GI (geographical indication) protection to products other than wines and spirits, and the disclosure of genetic material and traditional knowledge used in patents.

In case of market access, the Lamy Package has picked up middle numbers proposed in the 10th July 2008 Agriculture Text. For developed countries, if in case their highest farm tariffs falling into the top band of the tiered reduction formula (that is, those tariff lines that are above 75 percent) Lamy has proposed a 70 percent cut as against the two square-bracketed figures of 66 percent and 73 percent in the 10th July revised text. This seems to be a fair proposal and unlikely to attract any strong reaction from developed countries. However, the three main contentious issues in agriculture are sensitive products, special products and special safeguard mechanism.

With regards to sensitive products, the Lamy Package has picked up the lower 4 percent figure (and not 6 percent) for developed countries to designate them as sensitive products. But an extra cushion of 2 percent is there for those developed country members who have more than 30 percent of their tariff lines falling in the top band. This is mainly to take on board the concerns of Norway, Switzerland and Japan, who hold a very extreme protectionist stance on farm trade liberalisation. Many of these countries are net-food importing rich countries. In addition, developed country members will not have any ceiling on tariff rates for sensitive products. However, for non-sensitive products there would be a tariff cap of 100 percent. They may exceed this 100 percent tariff capping for 1 percent of their tariff lines provided it is compensated through further expansion of tariff rate quotas. Again G-10 (Norway, Japan, Switzerland, etc) members have raised objections over tariff capping of non-sensitive products.

As regards special products, which is a special and differential treatment for developing countries and enables them to protect their vulnerable farm products, the Lamy Package designates 12 percent of tariff lines as 'special' based on the three agreed criteria of rural development, food and livelihood security. Besides this, 5 percent of the 'special products' tariff lines will not attract any tariff reduction. This does not satisfy the G-33 Group, which demanded that 20 percent tariff lines to be designated as 'special products' with 8 percent having no tariff reduction commitment. The G-33 is unlikely to accept these new figures. In fact, Lamy has taken into account the lower denomination from what was proposed in the 10th July text. The proposed range in the 10th July text was between 10 and 18 percent with up to 6 percent of tariff lines having no reduction.

A major disappointment is on the proposal on special safeguard mechanism for developing countries. Developing country members would be able to exploit extra remedies under SSM only when import volumes surge by 40 percent or more. The remedy for the above situation is applicable with a ceiling of 15 percent of current bound tariff or by 15 ad valorem points, whichever is higher. The third condition proposed by Lamy is that safeguards could be invoked on a maximum of 2.5 percent of tariff lines per year. The G-33 has rejected this proposal and warned that this could be a 'deal-breaker'. Moreover, the above proposals are not in tune with the provisions mentioned in the 10th July text.

The G-33, the African Group, the ACP (Africa, Caribbean and the Pacific) Group, and the Group of Small and Vulnerable Economies (SVEs) have reportedly presented an alternative set of SSM parameters. This proposal would allow larger developing countries to raise tariffs on 7 percent of tariff lines to as high as 30 percent (or by 30 ad valorem points) above the current bound levels. The trigger for the use of the remedies too will start at 10 percent surge of import volumes. For the remaining 93 percent tariff lines, remedies would be added to post-Doha bound rather than applied rates but would not breach pre-Doha tariff ceilings. The SVEs and LDCs (least developed countries) will be allowed still higher remedies and for more tariff lines.

Non-Agricultural Market Access

In NAMA the Lamy Package covers four issues, namely the coefficient for developed countries, the use of coefficients and flexibilities for developing countries, anti-concentration and participation in sectorals. Unlike agriculture, in NAMA Lamy's compromise figures are mainly taken from the Chair's 10th July 2008 NAMA text. The NAMA-11 Group was very critical of the latest Chair's text and his proposal on coefficients. The only new figures in Lamy's proposal are in anti-concentration, where developing countries could apply full tariff cuts to either 20 percent of tariff lines or 9 percent of import value within each HS chapter. Surprisingly, India has reluctantly agreed to negotiate anti-concentration despite opposition by domestic industry lobby. On participation in sectorals, the Lamy package rewards developing countries who undertake sector-specific commitments. This has not gone well with most of the developing countries. While India has agreed to negotiate figures on anti-concentration, overall the NAMA-11 Group did not find Lamy's proposal very exciting to react.

The language on sectorals has generated a lot of criticism from the developing countries. As per the Lamy Package, while sectorals will be 'recognised' as non-mandatory those who wish to participate will be listed in an annex to the modalities text as having committed to participate in at least two sectors. Those developing countries that do not agree to get into this annex now are dangled a carrot – if they participate they will be permitted to increase their coefficient of the tariff cut formula commensurate with the level of their participation. Thus, a developing country compelled to agree to a difficult coefficient when forced to join in the emerging consensus will then be persuaded to use the sectorals route to get a higher coefficient and lose its existing protection on an entire sector in the process.

Services

After being almost pushed to the corner, the Signaling Conference on services has finally taken place though without any substantive outcomes. This meeting could be termed as 'feel good', where the participating members (mainly developed and large developing countries) expressed their positive intentions to go ahead with services trade liberalisation. The Indian Commerce Minister Kamal Nath has sounded very optimistic as both the US and the EU promised to make commitments on temporary movement of workers. The US offer, however, would depend upon approval of the Congress where Democrats are in majority. India has provided positive signals on further relaxing of FDI (foreign direct investment) norms on sectors like distribution, courier, telecom, financial, maritime transport, energy, and environmental services. How far these promises are converted into real commitments will have to wait till 15th October 2008, which is the new deadline for submission of revised offers on services by the WTO Members.

What Next?

The Doha Round of negotiations by the WTO Members has already matched the period that the Uruguay Round took to complete, that is seven years. Lack of progress in these negotiations has been matched by a proliferation of bilateral and regional trade agreements where smaller developing countries are often at greater disadvantages. These developments have been interpreted by the skeptics of multilateralism as a sign of fragility of the WTO and the multilateral trading system represented by the WTO agreements. Many agree that another failure will lead to a deep and long hibernation for the Doha Round and further skepticism about the WTO. Any hopes that the developing countries have for development outcomes of the Doha Round will also be dashed.

A fair and balanced deal is still possible. What is required is a sense of responsibility and leadership by the developed countries. They are the major beneficiaries of the multilateral trading system and a strengthened system with developing and least developed countries as equal partners will ensure a better prosperity of the world. This is the time for them to go beyond narrow and short-sighted commercial interests and take actions that will lead to growth and development of all.

In developed countries agriculture has remained heavily protected and subsidised for too long. This not only punishes the consumers in the developed world and greatly burdens their public exchequer but also penalises the more efficient farmers in developing countries where agriculture is the backbone of their economies and means for livelihood security. In fact, the existing proposals on the table, which are anathema to some developed countries, do not go far enough. What is being asked from the developed countries is only marginal reductions in their domestic subsidies on agriculture and some tariff reductions with provisions to shield their sensitive products. But they want a Uruguay Round type of outcome where their contribution is limited to only commitments on paper.

The same set of developed countries take a very different and aggressive position when it comes to tariff reduction on industrial products by the developing countries. Developing countries have already agreed to apply an aggressive tariff cutting formula that will significantly cut their applied tariffs on industrial products. However, the developed countries want even more. Their proposal on the so-called anti-concentration clause will ensure that flexibilities for developing countries to shield a small portion of their sensitive industrial sub-sectors are further diluted. This may result in de-industrialisation associated with new unemployment and economic and social hardships. Hence a short-term gain for some developed countries will be a long-term loss for all. For developing country ministers gathered in Geneva, it will be a double whammy as they will be asked to return home with a threat to their industries and a denial of the promise of delivering a development round to their eagerly waiting constituents.

One still hopes that better sense will prevail. It is time for the civil society, media and the general public in developed countries to bring home to their ministers in Geneva a strong message: a message to act responsibly, to show leadership and to deliver on the development promise of the Doha Round.