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Note

Enhancing Agriculture Market Access for Developing and Least Developed Countries

A Case for Tariff Simplification

Summary

Contrasting with the simplicity of ad valorem tariffs usually applied to industrial goods, agricultural products are often subject to more opaque non-ad valorem duties (NAVs) which have generated unpredictability for developing country agricultural exporters. Although efforts at the WTO to simplify NAVs have long been challenging, a new proposal has emerged in the run-up to this year's ministerial conference. This note provides a historical recollection of NAV tariffication efforts, before analysing the proposal currently on the table.

Introduction

The World Trade Organisation (WTO) Agreement on Agriculture (AOA) does not strictly provide for how Members should express their import tariffs. Among the different formats used, the simplest and most transparent one is the ad valorem format, which is based on a fixed percentage of the value of the commodity imported. In case of non-agricultural products, WTO Members including developed countries like the EU, Canada and the USA have expressed the majority of their tariff lines in ad valorem duties, thereby making access to their markets less burdensome for developing country exporters of non-agricultural products.[1]

On the other hand, in the agricultural sector where the competitiveness of developing countries, especially the small and least developed countries (LDCs), lies, exporting primary and processed agricultural products is faced with opaque, inconsistent and volatile non-ad valorem duties (NAVs). These NAVs are mainly used by developed countries, which charge tariffs on imported agricultural products on the basis of quantity, volume or content measurements. Among the NAVs, it is possible to distinguish between four groups:[2]

1) Specific duties, which are based on fixed amount per quantity

2) Mixed duties, which are a combination of ad valorem tariff and non-ad valorem tariff with one applying below a limit and the other applying above a limit[3]

3) Compound duties, which are a combination of an ad valorem duty and a specific duty, added together or one subtracted from the other

4) Other duty types, which are based on technical considerations, i.e. the sugar/ethanol/fat content in food products and beverages

In combination with the steadily growing importance of non-tariff measures (NTMs), which are epitomized by standard requirements such as Sanitary and Phytosanitary Measures (SPS) and Technical Trade Barriers (TBT), these NAVs create a great unpredictability for agricultural exporters from developing countries and LDCs with regard to the criteria their products must meet and the custom duties to be expected when entering markets where such NAVs are imposed.

Agriculture Market Access

Market Access in agriculture has proven challenging throughout the different negotiation rounds under the GATT and later in the current multilateral trading system under the WTO.[4]

While the ad valorem tariffs for non-agricultural products were steadily reduced under the GATT regime, following the Most favoured Nation (MFN) principle and based on the simple average of ad valorem values, this approach was not appropriate in case of the tariffs on primary and processed agricultural products, given that the developed

[1] Kallummal, Imbalance in Doha Round Market Access Outcomes in Trade in Agricultural and Allied Sectors, p. 23.
[2] For specific expressions of the respective duty, see: Kallummal, North-South Imbalances in the Doha Round, p. 89.
[3] https://www.wto.org/english/tratop_e/dda_e/status_e/jargon_e.htm
[4] Duggan, WTO Doha Round Agricultural Negotiations and Market Access, p. 223.

countries expressed a large share of their duties on these products in NAV format. The rationale, it is argued, was that given the importance attached to availability and quality of food, WTO Members, especially the developed countries, were reluctant to expose their domestic food agriculture market to international competition and did not include the sector in the multilateral negotiations on tariff reductions until 1995[5], with tariffs being their most important instrument of protection.[6] Over the years, the application of NAV tariffs on agricultural products by developed countries has led to insurmountable differences of opinion between the EU, the G10 countries and the US on the one side and the Cairns group[7], as well as the G-20 on the other side.[8]

With the launch of the Doha Round in 2001, developing countries hoped for a positive stimulus in the continuous reform process in agriculture[9], which is structured around the three pillars of: market access, domestic support and export subsidies.[10] However, although the Doha Round pursued the objective to reduce tariff escalation, high tariffs and non-tariff barriers on products of export which are paramount to the economic development of developing countries[11], the issue of non-ad valorem tariffs on agricultural products had earlier been excluded from the negotiations.

It was later in 2006 when the Committee on Agriculture Special Session (COA-SS) submitted the "draft possible modalities on agriculture"[12] under the Doha Work program that official mandate to launch the "tariffication process" commenced, trying to convert all NAVs into simple "ad valorem equivalents" (AVEs). Beside the mandate to engage in this process, the draft provided members with a methodology, which should be applied when converting the final bound NAVs into AVEs. The overall objective of the COA-SS's draft mandate was to agree on simple MFN average tariffs as part of a binding agreement on tariff simplification for agricultural products.[13]

Finding an agreement on the technical approach to the conversion of NAVs to AVEs has proven to be challenging among Members since then. While some Members want to base the calculation of the AVEs on the import values that Members notify to the WTO (IDB database), agriculture exporting Members opt for basing the conversion on the international prices for goods which are noted in the UN database (COMtrade). The latter approach is motivated by the fact that the import prices noted in the UN database are lower than those noted in the IDB database. It follows that using the COMtrade database for converting NAVs into AVEs would result in higher AVEs.[14]

Following up the draft possible modalities on agriculture in 2006, the COA-SS reiterated the mandate to convert NAVs into AVEs within their fourth revision of the draft modalities for agriculture (December 2008)[15], however formulating softer objectives for the members to be achieved within the tariffication process. The fourth revision of the draft modalities on agriculture has been the overall guide

[5] Kallummal, North-South Imbalances in the Doha Round, p. 87-90.
[6] Tarr, On the Design of Tariff Policy, p. 2.
[7] An interest group of 20 agricultural exporting countries, including, inter alia, Australia, New Zealand, Canada, Argentina, Brazil, Indonesia and South Africa.
[8] Babili, Ad Valorem Equivalent in the WTO, p. 3.
[9] Mandated by Article 20 of the Agreement on Agriculture (AOA)
[10] Blandford et al., How Effective Are WTO Disciplines on Domestic Support and Market Access for Agriculture?, p. 1471.
[11] Kallummal, Imbalance in Doha Round Market Access Outcomes in Trade in Agricultural and Allied Sectors, p. v.
[12] TN/AG/W/3
[13] Kallummal, North-South Imbalances in the Doha Round, p. 91.
[14] Babili, Ad Valorem Equivalent in the WTO, p. 3.
[15] TN/AG/W/4/Rev.4

for tariff simplification of agricultural products since then[16], although it was emphasised by the Chairperson of the committee the fourth revision of the draft modalities for agriculture was not a formal agreement on tariff simplification yet.[17]

The fourth revision of the draft modalities for agriculture (December 2008) required all developed members to express at least 90 per cent of their tariffs on agricultural products in AVEs. Special allowance was given to the EU, which at the time used NAVs to a larger extent than any other country. This was expressed in the TN/AG/W/4/Rev.4 footnote 2 which gave the EU allowance to express only up to 85 per cent of their tariffs on agriculture as AVEs, despite being a developed country member.[18]

The fourth revision of the draft modalities for agriculture (December 2008) did not particularly set a deadline within which Members were required to implement if, moreover it was also formally agreed. While the first revision of the draft modalities for agriculture[19] (February 2008) contained an obligation to convert the required share of NAVs duties into AVE tariffs within the first year of implementation (with some WTO Members granted a two-year implementation period), the fourth revision of the draft modalities for agriculture (December 2008) does not mention any requirement on that.[20]

So far, there has been no formal agreement by Members to agree on the technical approach for the tariffication process after the publication of the fourth revision of the draft modalities for agriculture in December 2008, the issue of tariff simplification remains pending.

Impacts of NAVs on agricultural market

Tariffication of NAVs would no doubt ensure transparency, predictability and to some extent address tariff escalation in the agricultural market access, which is of paramount importance to small developing countries and LDCs, given that it is in agriculture that their comparative advantage lies. Along these lines, the issue of tariff simplification has been labelled "a basic element of an outcome on agricultural market access"[21], as well as "one of the fundamental pillars of the WTO"[22], as it ensures that the WTO system is transparent, rules-based, consistent and fair.

Both the AOA and the Doha Ministerial Decision pledge an ongoing reform process of the multilateral rules which govern the global agricultural trade. However, in relation to the objective to establish a fair and market oriented trading system in agriculture, the progress over the last 20 years has been limited, which is why a significant share of the import tariffs in developed countries for primary and processed agricultural products is still subject to complex and opaque NAVs. As a consequence, the agricultural market access is skewed at the disadvantage of small developing countries and LDCs who lack the capability to both understand and comply with the agricultural NAVs. Lack of disciplines to ensure predictability also expose the system to the possibility of introducing other such NAV. Moreover, there is broad consensus among

[16] Kallummal, North-South Imbalances in the Doha Round, p. 90.
[17] TN/AG/W/4/Rev.4, p. 1.
[18] Brink, Commitments Under the WTO Agreement on Agriculture and the Doha Draft Modalities, p. 11.
[19] TN/AG/W/4/Rev.1
[20] Das/Sharma, Evolution of WTO Agriculture Modalities, p. 40.
[21] JOB/AG/119.
[22] Ibd.

experts that small developing countries and LDC agricultural exporters would be more competitive if tariffs on agricultural products were presented in a transparent and simple form.

According to information for the period 2001-2011, the European Union (EU) and the USA had a considerable share of tariffs on agricultural products expressed in NAVs. In case of the EU, the trade statistics between 2001 and 2011 show that the food market in the EU became even more opaque for developing countries and LDC agricultural exporters in this time, with the total number of NAVs on agricultural products remaining at a high level or even increasing. Across all tariff lines in the agricultural sector in 2011, 94.7 per cent were expressed in NAV format, which was a 0.6 per cent increase in comparison to 2001. In particular, within the agricultural sector, the overwhelming majority of tariff lines on animal products and processed foodstuffs (including beverages) was subject to NAVs.

Until 2016, both the tariffication process, as well as the reduction of agricultural tariffs have made some progress, with average applied rates for agricultural products having declined in the medium term.[23] Overall, 11 per cent of the tariff lines in the EU were expressed in complex NAV format in 2016 (like in 2011[24]), however, with the simple average applied MFN tariff being higher on agricultural products (14.1 per cent) than on non-agricultural products (4.3 percent).[25]

Across all agricultural tariff lines, 46.4 per cent were expressed in NAV format[26], with the share of NAVs varying strongly among the different agricultural products.[27] The list of agricultural products that were subject to NAVs was headed by dairy products (100 per cent expressed in NAV format), sugar products (88.6 percent in NAV format), cereals and preparations (80 percent in NAV format), animal products (68.7 percent in NAV format) and beverages, spirits and tobacco (55.4 percent in NAV format).[28]

Altogether, these numbers indicate that the EU is still far away from meeting any of the (non-binding) requirements under the COA-SS mandate on tariff simplification mentioned above, even if many LDCs and developing countries can export their agricultural products at zero or reduced tariffs.[29]

With regard to import tariffs on agricultural products in the recent years in the USA, the observed trends are quite similar compared to the EU: between 2001 and 2011, the total number of agricultural tariff lines increased from 1785 to 1838, making the access to the agricultural market more burdensome for small developing country and LDC agricultural exporters. Especially in the sectors of animal and vegetable products, as well as processed food, the number of tariff lines rose in this time. Overall, NAVs accounted for 9.7 percent of all tariff lines in 2011; in the agricultural sector, the share of NAVs increased from 61.6 per cent in 2001 to 63.5 per cent in 2011.[30]

While most of the MFN simple averages have remained stable in the recent decade, the share of NAVs across all import tariffs lines has slightly increased from 10.7 perc cent in 2007 to 10.9 per

[23] WTO Secretariat, Trade Policy Review (The European Union), p. 49.
[24] Kallummal, Imbalance in Doha Round Market Access Outcomes in Trade in Agricultural and Allied Sectors, p. 9.
[25] WTO Secretariat, Trade Policy Review (The European Union), p. 9.
[26] Ibd., p. 49.
[27] Ibd., p. 151.
[28] Ibd., p. 49.
[29] WTO, Minutes of the Meeting (The European Union), p. 383.
[30] Kallummal, Imbalance in Doha Round Market Access Outcomes in Trade in Agricultural and Allied Sectors, p. 15.

cent in 2016. These NAVs are concentrated in the agricultural, fuels, textiles and footwear sectors.[31] It is important to mention that those tariffs which are above 25 per cent ad valorem are concentrated in agriculture, namely on dairy and vegetable products, as well as tobacco, with a duty of 22 tariff lines on agricultural products carry import denoting above 100 per cent.[32]

Summing up the development of the tariff lines on agricultural products in the EU and the USA, as well as the share of these tariffs expressed in NAV format, two main aspects stand out: firstly, the number of total tariff lines on agricultural products has remained stable or even increased. Secondly, NAVs still account for an important share of total tariff lines on agricultural products. In combination, both findings indicate that the issue of tariff simplification is still pressing and hence distorts trade in agriculture by reducing the competitiveness of small developing countries and LDC agricultural exporters.

Way Forward

In the drive to the next Ministerial Conference to be held in December 2017, Tunisia has submitted a proposal for consideration. Bearing in mind that the issue of tariff simplification has receded in the negotiation process throughout the recent years, the Tunisian proposal brings to the forefront the need to conclude the tariffication process, which remains relevant and important to the Members and the work of WTO itself. The proposal reaffirms the nature of NAVs and their negative effects on agriculture market access, which include the fact that: (i) they are more burdensome on low-value exports that generally come from developing countries; (ii) are non-transparent and ambiguous; their AVEs rise as prices decline, thereby by doubly affecting developing countries; and (iii) that they lead to higher protection, while creating uncertainty for exporters to the market.[33]

The Tunisian proposal also makes concrete suggestions, including a draft decision on the final determination of the agriculture market access tariffication issue.

With regards to the proposed Ministerial decision on tariff simplification, the Tunisian proposal requires all developed country members to notify their bound tariffs on agricultural products within one year after the date of the proposed decision, using the methodology presented by the COA-SS in its draft possible modalities on agriculture (2006). Most importantly, all the tariffs shall be expressed in simple ad valorem format and be accompanied by supporting data, indicating that simple ad valorem duties are not more stringent than previously used NAVs.

With regard to conversion of NAVs into ad valorem duties, the Tunisian proposal exempts developing countries and LDCs from the strict rules set for developed countries. While LDCs are not required to apply any of the changes mentioned above, the proposal states that developing countries must express at least X% of their bound tariffs in simple ad valorem tariffs. Moreover, the proposal suggests developing countries are granted an additional X years to convert their non-ad valorem duties into ad valorem tariffs. Developing countries that struggle to manage the tariffication process shall be granted advice and technical assistance by the WTO

[31] WTO, Minutes of the Meeting (United States of America), p. 235.

[32] WTO Secretariat, Trade Policy Review (United States of America), p. 44.

[33] JOB/AG/119.

Secretariat.

Finally, the Tunisian proposal also suggests that like in case of the developed countries, developing countries are required to apply the methodological approach in the 2006 Draft Modalities on agriculture to calculate the ad valorem tariffs and shall provide supporting data to proof that their new simplified bound tariff is related to the old, non-ad valorem tariff, not exceeding it.

Conclusion

NAVs still account for a large share of total tariff lines on agricultural products in developed countries, thereby having a negative impact on the competitiveness of small developing countries and LDC agricultural exporters who struggle to understand and comply with the complex tariff format. Over the last 20 years, despite the mandate given by the COA-SS draft possible modalities on agriculture (2006), limited progress has taken place towards a conversion of the NAVs into ad valorem duties.

Given the significant importance of agriculture for economic development in small developing countries and LDCs, an agreement on tariff simplification is highly relevant to make markets more transparent, predictable and to increase these players' competitiveness on the international markets. More transparent markets make it easier for agricultural exporters from small developing countries and LDCs to comply with the required standards.

Making markets more transparent is the first step towards further negotiations on the central issues of tariffs and market access in the agricultural sector. Converting NAVs into AVEs would no doubt provide a basis for negotiations towards reducing the ad valorem tariffs. This would also be expedient towards the overall objective of the WTO, namely to create a fair, liberalised and balanced international trade system.

Despite a number of countries having advanced in their effort to convert NAVs into AVEs, there is still clearly a need for definite disciplines in this regard, which would reaffirm transparency, predictability and more importantly a basis for further negotiations towards addressing agriculture market access, which is of paramount importance to small developing countries and LDCs, majority of which have a comparative advantage within this sector. The WTO objectives of promoting fair and equitable trade, as well as ensuring inclusiveness would be greatly enhanced by binding resolutions to the tariff simplification question.

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