



The NAMA Drama

Improved market access at the cost of the environment: the environmental risks of the NAMA negotiations

A Greenpeace briefing for the WTO Ministerial Conference at Hong Kong, 13th-18th December 2005

Why is NAMA a danger for development and the environment?

The liberalization of markets driven by the World Trade Organization (WTO) makes it difficult at both the national and international levels to implement new measures to protect the environment or economic, social and cultural rights. Already today, existing national environmental laws and multilateral environmental agreements have the Damoclean sword of the WTO's Dispute Settlement Understanding (DSU) hanging over them. If a WTO member believes its trade interests to be adversely affected by an environmental measure of another member, he can call on the WTO. WTO rules supersede both national and international environmental law, making the WTO an effective threat against progressive social and environmental laws.

Up to now, agricultural goods and services have dominated the WTO agenda. However, as part of the current negotiations launched on Doha in 2001 (the "Doha round") further sectors are to be given the 'WTO treatment'. "Non-agricultural market access" (NAMA) is the magic phrase. Behind the innocuous name stands the attempt to place all traded goods under the boot of market liberalization. Many non-governmental organizations (NGOs) and anti-poverty advocates reject the current NAMA negotiations¹ (which are often referred to as "industrial goods" negotiations). They fear that a NAMA agreement will increase poverty and underemployment in developing countries and set back the development of vulnerable developing economies. The current NAMA negotiations mainly serve the desire of corporations in developed countries to open up additional markets for their products. Greenpeace shares these concerns². We, too, demand an immediate halt to the NAMA negotiations. At the WTO Ministerial in Hong Kong (13th-18th December 2005) governments should agree a comprehensive social and environmental review of the consequences of further liberalization under NAMA.

The grave *environmental* threats the NAMA negotiations pose have so far been little recognized by policy makers or the public. This paper thus focuses on (some of) these consequences. Greenpeace calls on governments to no longer close their eyes to these impacts.

"Without a priori exclusions"

The mandate for the NAMA negotiations is defined in Article 16 of the Doha Ministers' declaration from 2001. It specifically emphasizes that no industrial sector is excluded from the negotiations, as the scope is all-inclusive and without exceptions from the outset: "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

¹ War on Want (2005) and ActionAid (2005)

² TWN Info Service, NGOs and Trade Unions criticize NAMA framework during WTO Symposium, <http://www.twinside.org.sg/title2/twninfo212.htm>

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."³

Sectoral negotiations: informal, non-transparent, secretive

Despite the fact that NAMA negotiations are to be carried out comprehensively and without exclusion, time and again some sectors are pushed to the forefront by interested countries. In the first half of 2005, for example, the following nine sectors were talked about in informal sessions outside the actual NAMA negotiation group:

1. Electronic goods
2. Bicycles and gymnastic equipment
3. Chemicals
4. Fishery products
5. Shoes
6. Forest products
7. Pharmaceutical products
8. Raw materials
9. Precious stones

Only some 45 countries, among them 20 developing nations, participated in these sectoral negotiations. More than two-thirds of the 148 WTO members were therefore left out of these talks. However, the majority of developing countries is opposed to a sectoral approach to the NAMA negotiations. They want to develop a comprehensive model, ensuring development objectives across all sectors.

It is not surprising that individual sectors are pushed forward by countries with strong economic interests in these areas. New Zealand, for example, regularly hosts informal negotiations on forestry and seafood products. This poses the danger that the countries with the strongest "offensive" interests hammer out a deal first and then try and force that deal onto the rest of the membership.

At the same time, "the discussion regarding sectoral negotiations shifted the accent more to a voluntary participation in possible plurilateral sectoral agreements", comments the German Federal Ministry of Economics and Labour (BMWA)⁴. In other words, it is possible that alongside a multilateral NAMA framework agreement, additional sectoral agreements will be concluded plurilaterally, i.e. with the involvement of only a limited number of "willing" countries. The informal sectoral discussions are not linked to one another, so they lend themselves to a unified approach to development. Furthermore, they take place behind closed doors. As the Institute for Agriculture and Trade Policy (IATP) put it succinctly: the negotiations are "informal, non-transparent, secretive".⁵ They do not show a path to development, even less to sustainable development.

Two paths, same effect: threat to the environment

The WTO recognizes two paths to improving market access: the reduction of tariffs (including their complete elimination); and the dismantling of other measures that can adversely affect trade. These measures are called "non-tariff" measures. They include,

³ Excerpt from Article 16 the Ministerial Declaration from the fourth WTO Ministerial Conference, adopted on November 14, 2001 in Doha, Qatar. Official text.

⁴ BMWA: Status of the World Trade Round (Doha Development Agenda - DDA), July 2005.

⁵ Carin Smaller, Meeting on Market Access and the Environment, Geneva, 28 July 2005.

among others, policies such as import bans, subsidies or the labeling of products.

Tariff reductions: a simple equation with negative consequences

The logic of the NAMA negotiations is simple. Improved market access for non-agricultural goods should make them cheaper and thus increase demand. Increasing production and promoting trade are equated with development. However, production methods of goods are today often highly unsustainable. Falling prices, increasing demand and higher production therefore all too often lead to a greater destruction of the environment! Worse still: even though the NAMA negotiations are referred to as the "industrial goods" negotiations, they do in fact affect many more sectors. According to the WTO classification of goods, environmentally sensitive products from forests and oceans are "industrial goods". The NAMA negotiations therefore threaten to accelerate the destruction of forests and the plundering of marine resources.

World trade versus ancient forest protection

Current WTO rules already threaten efforts to protect forests and promote their fair and sustainable use. Countries, which seek to prohibit the export of illegally harvested timber, can potentially be taken to the WTO's Dispute Settlement Body. Furthermore, the WTO tribunal can be used as a threat if trade is used to encourage sustainable forestry, for example through the labeling of products with the Forest Stewardship Council (FSC) seal. This label ensures that wood comes from sustainable production.⁶ The WTO threat thus poses obstacles to the introduction of more effective measures against the trade in illegally harvested wood, but it does not prevent action!⁷

Since world trade has enormous impacts on how forests are treated, their sustainable use depends heavily on sustainable trade in forest products. There is an urgent need for solutions if we are to prevent the last virgin forests on the Earth from being sacrificed to free trade.

But instead of addressing these problems, the planned for tariff reductions will lead to a further lowering of prices and thus increase the demand for unsustainably sourced wood. Sadly, however, this is not the greatest threat to forests by the WTO. In addition to tariffs, non-tariff measures (NTM) affecting trade are to be limited. These include a wide variety of measures, such as subsidies, labels, export prohibitions for unprocessed wood and import prohibitions for wood carrying harmful organisms. In the last case, there are concerns that the WTO will contribute to the introduction of undesired harmful organisms. The import of wood causes living organisms in it to be introduced to unfamiliar ecosystems. In this new environment they often have no natural enemies, allowing them to multiply unnaturally fast and adversely affect the biodiversity of their new "home". Import prohibitions or restrictions affecting the import of unprocessed wood could be declared as a "non-tariff" Measure by the WTO and be ruled invalid as part of negotiated NTM eliminations. This can effectively undermine the protection measures against pests, for example.

If, as part of the NAMA negotiations, tariffs for forestry products are to be reduced and the so-called non-tariff trade barriers to be eliminated, this would lead to further deforestation. Governments must as a first step urgently specify that ecological labeling is a legitimate form of consumer information and consequently cannot be considered an unjustified barrier to trade.

⁶ See <http://www.fsc.org>

⁷ See Greenpeace International (2005a).

NTMs and NAMA: environmental protection on the hit list?

As a part of the NAMA negotiations, all countries were required to name the non-tariff trade barriers, which they would like to see eliminated as part of the market liberalization drive. The result is a collection of at times absurd and bureaucratic, but also of some socially and ecologically crucial NTMs, which various countries see as a nuisance. From an ecological perspective, it is particularly worrying, that some certification systems (like the FSC) are called into question, as well as energy efficiency labeling and statutes or the preferential treatment of environmentally friendlier cars.⁸ However, the current list is not final. It is merely the wish list of all those countries, who have made the effort to identifying the NTMs that they do not like. Some countries, such as the USA and Japan, have explicitly reserved a right to specify additional NTMs in the course of the negotiations. At the same time, it is clear that there will be no negotiation at all with regard to many of the NTMs listed. That is positive for NTMs that protect the environment and people. Not all ecological labels and laws on the NAMA hit list will in fact be sacrificed to WTO horse trading – at least not in this round of negotiations! Nonetheless notifications from the NAMA negotiations also serve to as weapons to threaten environmental and social standards. NTM notification in the NAMA negotiations is yet another tool, governments use to put other governments under pressure to change or do away with progressive laws, including as part of bilateral agreements. Thus NAMA negotiations on NTMs are a good example for of the “chilling effect” the WTO has on progressive social and ecological laws and regulations.

World trade versus protection of the seas

Our oceans have been overfished almost to the point of exhaustion. There is a lack of protected areas to ensure the recovery of fish stocks. Measures to regulate the utilization of the seas are urgently needed.⁹ Instead, the planned elimination of tariffs and non-tariff trade barriers under NAMA will only further accelerate the exploitation of the oceans. Further liberalization steps threaten to undermine the ability of countries to take regulatory measures against unsustainable practices in our oceans. The same logic as with forest products applies: Tariff reductions lead to cheaper products, which increases the demand for them. As long as this demand is met by unsustainable and often illegal fishing activities, stocks will continue to be decimated.

Up to now, the tariff rates for fish have varied widely. In some countries they are very high; Thailand, for example, imposes 60 percent duties on living fish (see Table 1). The example of fish exports from Brazil to the European Union shows how reduced tariffs lead to higher exports and a larger catch. Although Brazil's export volume for fish and fish products to the EU is still fairly small at 170 million euros (2003), trade between Brazil and the EU has increased significantly from 1988 to 2003. Between 1999 and 2003 the export volume grew by an annual average of 60 percent. A key factor in this significant rise is the export of frozen shrimp and prawns, which represented almost 80 percent of exports. The increases in shrimp exports are a direct consequence of tariffs being lowered from a rate of 12% (Most Favoured Nation declaration) to 4.3%, since Brazil was able to benefit from the significantly lower tariff rate of the Generalized System of Preferences.¹⁰

8 See Friends of the Earth International (2005).

9 See Greenpeace International (2005).

10 European Commission (2004).

Table 1: Toll rates for living fish

EU	6.8
Japan	2.3
USA and Canada	0.0
China	11.7
Korea	10.0
Thailand	60.0
Brazil	6.9

Source: Bacchetta & Bora (2003), p. 23

How good is the "good" in environmental goods?

Improved market access is also demanded for environmental goods and services in the current trade round. The market volume for environmental goods and services is estimated at 550 billion US dollars and is expected to increase to 600 billion dollars by the year 2010.¹¹ Negotiations on environmental goods are carried out in the NAMA negotiation group as well as the negotiation group for the General Agreement on Services (GATS). These negotiations feature ruthless economic interests cloaked in a mantle of greenery. Developing countries and emerging economies are expected to contribute to this growth, as they already exhibit higher rates of growth. However - as Table 2 shows - these countries have comparatively high tariff rates. Their average applied rate is two to five times higher than in the industrial nations with an interest in liberalization.

Table 2: Average customs duties applied to environmental goods

EU, USA, Canada, Japan	2.1
Korea, Mexico, Turkey	8.2
Four central and eastern European countries	7.4
Fast-growing developing countries in South America:	11.2
Fast-growing developing countries in Asia	9.7
Emerging countries in eastern Europe	5.1

Note on classifications:

Central and eastern European countries: Czech Republic, Hungary, Poland, Slovakia

Fast-growing developing countries in South America: Argentina, Brazil, Chile, Venezuela

Fast-growing developing countries in Asia: China, Hong Kong, India, Indonesia, Malaysia, Pakistan, Philippines, Singapore, Taiwan, Thailand, Vietnam

Emerging countries in eastern Europe: Estonia, Latvia, Lithuania, Romania, Russia, Slovenia, Ukraine

Source: OECD 2002

At first glance, improving market access for environmental goods and services would appear to be an area of liberalization to be welcomed from an environmental perspective. After all, environmentalists want to see such things as windmills for energy production spread across the globe as fast and easily as possible. But a closer look at the WTO negotiations in this area quickly reveals problems. These negotiations feature ruthless economic interests cloaked in a mantle of greenery. Not only because economic growth is the focus of the negotiations rather than environmental goals. It also remains unclear exactly what constitutes *environmental goods*.¹²

¹¹ This brings the market for environmental goods and services to a level similar to the global market for pharmaceutical and IT products. See Vikhlyayev (2003).

¹² The situation is simpler for environmental services, because a classification is available from the negotiations for the GATS services agreement.

This is because the WTO members did not specify what was to be considered an “environmental good” when they started these negotiations. Are “environmental goods” part of our environment (forests, sea, air)? Are they goods taken from the environment (wood, ore, fish)? Or should they be environmentally (more) friendly goods (such as recycled paper or energy-efficient refrigerators)? Or perhaps it should be products used to limit the damage to the environment (filter systems, catalytic converters, or even double-hulled oil tankers)?

Since 2001, various WTO-Members have introduced widely differing proposals for how environmental goods are to be classified and defined.¹³ Many countries have presented lists of what *they* deem to be environmental goods. However, there is little agreement between these lists – and in some of them, technologies of significant ecological concern, such as waste incinerators, are suggested to be “environmental goods”. India has made its own proposal. As an alternative to the list approach, India suggests an overall project approach: “The proposals for a final list continue to diverge considerably. This is a cause for concern. In fact it is the case that the lists submitted up to now place an emphasis on those goods for which the industrialized nations in all probability shall enjoy a competitive advantage. We ... therefore propose an alternative “environmental project approach”... In this approach, projects that meet certain criteria will be reviewed by a national agency to be declared responsible. If they are accepted, the projects would receive preferential treatment for a period to be defined”¹⁴.

The devil is in the details

So far, India’s proposal has received little support by other WTO members. Should governments therefore agree to take the list approach further, there will be difficulties when it comes to specifying the details of the lists. These include:

- Flexibility in the definition
Each list or classification poses the risk of including unwanted goods and excluding desired goods. Furthermore, any definition of environmentally compatible goods depends on the current state of technology. A good definition must be flexible enough to deal with future technological developments.
- Multiple use
Centrifuges can be used to separate waste (and thus benefit the environment), but they can also be used for a wide variety of other tasks. Because the final use of a product is not visible at the border, the definition of environmental goods as products used for purposes of environmental protection can be too vague to be helpful
- Preventing emissions instead of end-of-pipe solutions!
State-of-the-art environmental technology eliminates problems already during the production process. It is used to prevent harmful substances from developing in the first place. However, many of the goods proposed for designation as environmental goods by the OECD, for example, are products that are “end of pipe” technologies and are used merely to limit harmful effects on the environment. The reduction in trade restrictions for such end-of-the-line products could actually slow the development of modern, process-oriented clean production technologies. Instead, it could provide market advantages for obsolete end-of-pipe solutions.
- Differentiation of similar products
The WTO forbids the different treatment of “equivalent” products. Because

¹³ An overview of the WTO Submissions on Trade and Environment for the negotiations on Paragraph 31(iii) Environmental goods and services can be found at <http://www.trade-environment.org/page/theme/tewto/para31iii.htm> .

¹⁴ WTO (2005b).

interchangeability and the same type of usage are specified as criteria for equivalency, it will be difficult to explain why, for example, an energy-efficient refrigerator should be given precedence over others at the border. To the WTO, a fridge will still just be a fridge!

- Production methods

The same applies to products, which are outwardly equivalent but produced by different means (e.g. wood obtained through illegal logging or over-exploitation rather than wood from sustainable forestry). To a large extent, the environmental effects of a product depend on its production method. But WTO rules do not say anything about production methods, and legislation and court rulings are ambiguous in this regard. Developing countries fear even tighter trade restrictions on their goods, if the differentiation according to production methods is permitted by the WTO. On the other hand, prohibition of such differentiation makes a definition of environmentally compatible goods based on their *actual effects* on the environment impossible.

- Labels and seals for environmental purposes

It would be easiest to label environmental goods. But Labels and seals are generally regarded by the WTO as obstacles to trade, so this solution seems unacceptable within the WTO system.

The following example illustrates the difficulties involved in defining “environmentally compatible goods” and indicates the threats posed to the environment and health if products, which are environmentally problematic, are exported as purportedly environmentally compatible goods.

Electronic waste: an environmentally compatible product?

As long as no clear definitions for “environmental goods” exist, the following proposal made by a delegate from an industrial country at an informal OECD meeting in 2005 could become reality: Why not declare electronic waste to be an environmentally compatible good? After all, this would create a classic win-win situation: the industrial countries could rid themselves of their growing mountains of electronic waste, and the developing countries could – with the waste - receive valuable raw materials and products they can exploit. How realistic is such a proposal? Several proposed lists of environmentally compatible goods already include materials for the treatment of solid wastes. The fact that old computers and monitors, motherboards, mobile phones, etc. are currently not explicitly included in these lists may be because they are concealed behind their usable contents. Thus, for instance, Canada's proposal includes resources found in old machines, such as polyethylene and PVC residues, copper and aluminum.¹⁵ Such resources are also found in electronic goods!

World Wide Waste: the scandal of electronic waste exports

The list of hazardous wastes that the industrialized world disposes of by exporting it to developing countries is long and still not fully known. But it includes among other things chemical wastes and residues, pesticide wastes, used batteries, hospital wastes, retired ships, which release hazardous materials such as asbestos and dioxins during “ship-breaking” (the attempt to recycle their steel). The latest example for such dumping of toxic wastes on developing countries by developed countries is the “dirty secret of the high-tech revolution”. It gives “www” a whole new meaning. WWW today it also stands for “world wide waste” -the export of old computers, printers, monitors, circuit boards, CD-ROM drives, etc.

15 WTO (2005a).

The production of electrical and electronic devices is one of the fastest growing areas of industrial goods manufacture in industrialized countries. Technical innovations, monopolies and market expansion have made the replacement of old devices with new ones an all too familiar routine. As a result, the heaps of electrical and electronic scrap are growing three times faster than the mountains of household waste.

At Hong Kong, a number of governments are pushing for the complete elimination of tariffs on electronic goods as part of the NAMA negotiations. 29 WTO member countries have already agreed to tariff reductions under the Information Technology Agreement (ITA) in 1996. This has resulted in an increase in the trade in electronic goods. The same result is likely, if tariff elimination for electronic goods is agreed under NAMA. This will increase consumption – and therefore also the e-waste mountain that is being dumped on the developing world.

In the USA proper disposal of a computer costs 20 dollars per hour. In India, workers receive a dollar a day for this work and extract reusable metals and plastic components from obsolete equipment using archaic methods at great risk to their health and the environment. There are up to 3,500 different materials in a PC and monitor, including more than 40 different synthetic materials alone. Copper, aluminum and gold are the primary materials to be recovered, but electronic wastes also include lead, cadmium, arsenic, bromine and mercury as well as a great number of other toxic chemicals as part of the package.

It is estimated, that 50 to 80 percent of electronic devices in industrial nations are exported. The primary recipients of our scrap are China, Pakistan and India. Whereas in the EU two new directives, WEEE (for waste from electrical and electronic equipment) and RoHS (restrictions on the use of hazardous substances in electrical and electronic equipment), have been introduced in an attempt to master the problem, the recipient countries often lack the legal and regulatory guidelines for importing and handling such wastes. The consequences of the lack of statutory or voluntary measures in India was described by journalist Frank Hartmann as follows: "Flattered by the made-up story that a German entrepreneur was eager to learn something from their recycling methods, two plant managers opened their gates. One of them had molten aluminum cast in open furnaces in the ground and female workers sifting through the ash residues, which might still contain small bits of metal. The other plant manager was concerned with copper. Women hammer on chilled chunks of slag to get out the last bits of usable material. Questions about face masks, protective clothing and filters in the smokestacks are greeted with a bemused 'no' from the plant managers."¹⁶.

Environmental regulations, not free trade at all costs

Governments at Hong Kong face a choice. They can either push forward with further trade liberalization ignoring the negative social and environmental impacts, or they can initiate a proper social and environmental assessment of the global trade system.

Further liberalization under NAMA will be bad for the environment, quite apart from the negative developmental impacts. The liberalization measures being pushed forward increase the destruction of crucial environmental sectors such as forests and marine environments. Diversity is destroyed, ecosystems are thrown out of balance and the foundations for food sovereignty risk being lost. Even the negotiations on environmental goods are fraught with snares. Fewer trade barriers for "environmental goods" does not automatically mean more protection for the environment. Much depends on the definition.

¹⁶ Hartmann (2005).

And if even wastes can be declared "environmental goods", more toxic waste will be dumped on developing countries in the name of free trade.

Greenpeace calls for the NAMA negotiations to be halted at Hong Kong. Plans for liberalization in ecologically sensitive areas like forestry products and fisheries must be abandoned. Governments must instead agree a complete social and environmental review of the global trade system. On such a review, a new trade system must be built. One that has equity and sustainability as its core values.

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Further information:

<http://www.namawatch.org/>
<http://www.trade-environment.org/page/theme/goods.htm>

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