



**THE CONFEDERATION OF NORWEGIAN ENTERPRISE'S POSITION
PAPER ON THE WTO**

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TIME TO CONCLUDE THE WTO NEGOTIATIONS

The current negotiation deadlock must end.

The current WTO negotiations which began in November 2001 were meant to conclude in 2005. The so-called Doha Round has turned into the longest round of negotiations on trade liberalization ever. Even though much headway has been made in the negotiations on a number of issues, it still seems like the parties are a long way away from a breakthrough. Governments in all WTO Member states should now intensify their efforts to achieve an agreement in 2010.

The Confederation of Norwegian Enterprise (NHO) has always supported the WTO and the global trade regulations which serve to provide the private sector with internationally agreed rules of play and predictability. Norway is a small country with an open economy that is totally dependent on international trade. It is vital to the international community as a whole to have a well-functioning international system of trade which serve to ensure open borders and includes schemes that are well equipped to handle possible trade conflicts in an orderly, rule-based fashion.

In the opinion of the NHO, the negotiations are currently in a serious crisis. Neither does it seem like there will be any vital serious movements during the course of this autumn. The up-coming WTO Ministerial Conference at the turn of November/December this year was not designed for negotiations like the previous WTO Ministerial Conferences have been, however, one cannot rule out that the attending ministers of trade won't take the opportunity to enter into informal discussions in relation to the state of the negotiations.

The main impression is that no Member State demonstrates the necessary will or leadership needed. "Everybody" waits for everybody else, and especially for the US that after the inauguration of their new president have failed to give any new signals with regard to the negotiations.

PROTECTIONISTIC MEASURES MUST BE AVOIDED

The global financial crisis and its resulting severe economic setback has led to that several countries have introduced protectionist measures contrary to the intentions of the decision adopted by the G-20 countries last year not to implement such measures. These measures include increased tariffs on certain products, increased use of technical trade barriers, increased use of anti-dumping and other trade-related protection measures, a reintroduction of export subsidies in relation to agricultural products, discrimination related to investment and public procurement, such as the "Buy American Act" and the "Buy Chinese Act " among others.

The G-20 countries themselves are among the worst when it comes to pursuing a different policy than the one they preach. According to a report by the independent research network Global Trade Alert (www.globaltradealert.org.) published prior to the G-20 Summit in September, they have already broken their own appeal for non-protectionism every third day since the first G-20 Crisis Summit was held in Washington DC in December of last year. The joint report prepared by the OECD, the WTO and UNCTAD for the G-20 Summit does show that the Member states have introduced some protectionist measures, even if the report fails to prove that these measures are a sign of a more extensive use of trade and investment restrictions.

The crisis in the world economy has resulted in a severe reduction in world trade of more than 10 percent for 2010 according to the WTO – the largest reduction in world trade since World War 2.

There has also been an even stronger setback with regard to direct foreign investments according to UNCTAD, estimating a decrease of between 30-40 percent for 2009. In addition, there is the dilemma of how to acquire the financial means needed to finance this trade – a problem which has hit a number of developing countries hard. In Norway the export of traditional goods is expected to decrease by 11% in 2009 while imports are expected to fall by 7% according to the 2010 State Budget.

INTENSIFIED EFFORTS TOWARDS A NEW WTO AGREEMENT IN 2010

These extremely serious developmental trends should demonstrate to the Governments of the WTO Member states, including Norway, that there is a need for strongly intensified efforts towards achieving a new WTO Agreement in 2010.

In the opinion of the NHO, a new WTO Agreement is important for the Norwegian private sector. It is vital that we achieve an Agreement which serves to:

- Lock in the elements of trade liberalisation that have already been put on the table in the negotiations
- Ensure continued trust in the global trade regulations and the WTO
- Prevent the introduction of more and new protectionist measures by individual Member States to avoid the danger of a spreading effect associated with such measures which can be difficult to reverse
- Provide a positive stimulus to the world economy signalling that the Member states jointly agree that the way out of the crisis also can be found through continuous dismantling of trade barriers and by keeping borders open
- Ensure a more balanced (“just”) trade regime, especially in the agriculture area
- Provide improved market access for Norwegian enterprises to global markets for fish, industrial products and services producers
- Ensure better regulations within the areas of antidumping and subsidies which serves to provide better discipline with regard to the use of such measures
- The introduction of an agreement on trade facilitation which results in a more efficient, simpler and time-saving frontier crossing procedures for goods

Following a lack of progress since the failed attempt at a political breakthrough last summer, on a positive note, the NHO has registered that heads of state and governments during the G-20 Summits both in Washington DC last year, in London in April and at the Pittsburgh Summit in September have expressed a will to achieve an ambitious and balanced conclusion to the WTO Round in 2010 based on the progress that have already been achieved in the negotiations and the guidelines and principles already on the table so far. They have asked their responsible ministers to access the state of the negotiations early in 2010 at the latest in light of the technical negotiations currently in progress in Geneva.

The NHO has also noted that a number of summits have given similar signals as the ones coming from the G-20 Summit, such as the G-8 Summit this summer and the final statement from the Asia Pacific Economic Cooperation (APEC) Summit in July 2009.

The NHO also notes that the world’s least developed countries, the so-called LDC countries are very interested in achieving a new WTO Agreement which can serve to ensure the LDC countries extended duty-free market access to other Member states and removal of trade-distorting subsidies imposed by the industrialised countries.

In the opinion of the NHO, a new WTO Agreement will provide gains for both developing countries as well as industrialised ones. The American Peterson Institute for International Economics has recently (August 2009) estimated the gains of the Doha Round to somewhere between USD 180 billion to USD 520 billion per year in increased exports. The potential for an increased GDP is considerable, estimated to between USD 300 billion to USD 700 billion annually. The estimates are based on what is currently on the table with regard to the industrial goods negotiations (NAMA), including possible sectoral agreements, agriculture, trade in services and an agreement relating to trade facilitation.

A new WTO Agreement would provide a longed-for boost to the world economy and serve to strengthen the legitimacy of the WTO.

MORE ON THE NHO'S POSITION IN RELATION TO THE VARIOUS AREAS OF NEGOTIATION

NAMA – Industrial products and fish

The NHO holds the opinion that the negotiations aimed at improving the market access for Norwegian industry and fish products through a severe reduction or abolishment of tariff rates are of utmost importance, and should be given high priority by Norway.

- The NHO supports the suggestion of implementing these reductions on the basis of a so-called "Swiss formula" whereby the largest cuts are being applied to the highest tariff rates and that the cuts are being applied to all sectors without exception for the industrialised countries. The NHO accepts that the Swiss draft formula for the industrialised countries with coefficient 8 seems to be the most realistic ambition level that can be realised.
- The NHO regards it as reasonable that the same formula, albeit with a lower ambition level be applied to the cuts implemented by the developing countries (suggested coefficients of 20, 22 and 25). With three different formulas for the developing countries with their inherent flexibility, this will yield marginal gains in the form of increased real market access in light of the fact that the actual tariff rates that these developing countries currently have, are significantly lower. For the NHO it is vital that the tariff reductions in the major developing countries such as China, India and Brazil are substantial and provide actual improved market access for the Norwegian private sector.
- The NHO has no objections to letting the least developed countries (LDCs) be exempt from undertaking any obligations relating to tariff reductions and that special tariff reduction provisions shall make allowances for so-called small and vulnerable countries of minor importance to the world economy. The NHO can also accept that 12 other developing countries, mainly in Africa are made exempt from formula cuts in exchange for substantially increasing their binding coverage in order to increase the predictability for the private sector. The NHO expects all developing countries to increase the binding coverage of their national tariffs.
- The NHO would like an automatic abolishment of especially low tariff rates, for instance tariff rates below 2%.
- The NHO supports the establishment of a mechanism for addressing Non-Tariff Barriers (NTBs) in a simpler and more rapid manner than the WTO dispute settlement mechanism. The NHO is also in strong favour of other measures aimed at addressing the problems linked

to NTBs which are becoming increasingly important barriers to trade as the tariff rates are reduced.

- The NHO supports Norway's participation in as many sectoral initiatives as possible aimed at abolishing or reducing tariffs more than the cuts that follow from the formula reductions. Norway should not oppose any sectoral initiatives.
- The NHO supports the effort to remove or reduce tariffs imposed on so-called environmental products. The NHO bases its opinion on that such environmental products should be products used for renewable energy purposes and products which can contribute to reducing pollution and climate emissions. A liberalisation of such products would contribute to the spreading of green technology in a more rapid and more efficient manner.
- The NHO hereby requests that Norway makes every effort to include as many products as possible on this list of core environmental goods. The more limited the list is, the less value and effect it will have. The Copenhagen Climate Conference should be used as an avenue for achieving a political breakthrough for such a list of environmental goods. The NHO strongly opposes the idea of letting production methods form the basis for deciding whether or not to include a product on this list as this would be contrary to the WTO principle of non-discrimination between like products.

THE AGRICULTURE NEGOTIATIONS

In accordance with the Doha mandate the WTO Member states are obligated to implement an extensive reform of the trading system for agricultural products. The NHO welcomes this restructuring into, a more balanced, just and market oriented trading system for agricultural products. The July 2004 framework represented a breakthrough in the negotiations in that it served to stipulate important guidelines and principles for an agricultural reform based on an elimination of domestic, trade-distorting subsidies and a substantial cut in tariff protection.

According to the proposal that is currently on the table, Norway will have to make significant reductions in subsidies and tariff protection. According to the proposal, the overall support must be reduced by 55% while the so-called amber support must be cut by 52.5 %. A reduction of 52.5 % is also required for the blue box. However, the blue box reductions are lower than what follows from the normal rule laid down in the Agreement. Norway has gained acceptance for increased use of sensitive products, i.e. 6 % of the tariff lines instead of 4% like other industrialised countries. The tariff cuts shall follow 4 different bands in accordance with the principle of the higher the tariff rate the steeper the cut. Overall, the average tariff reductions shall be at least 54 %. Import quotas shall be increased and provide new market access and the tariff rates for the quotas shall be reduced.

The negotiations are of vital importance to Norwegian agriculture and the Norwegian food industry. Increased trade in food products is one of the greatest challenges for the Norwegian agricultural sector and food industry. The NHO notes that Norway will have to implement considerable reforms in their agricultural policy as a result of a new agreement, while taking note of the fact that Norway has managed to gain acceptance for their view on several important issues. This has been necessary in light of Norway's special agricultural policy. However, there should still be a firm foundation for maintaining and further-developing a comprehensive Norwegian food industry also in the future. But a reform of the Norwegian agricultural policy is required as an adjustment to altered international

framework conditions. The Norwegian agricultural policy must serve to ensure an agricultural sector which is capable of supplying raw materials to the industry in adequate, stable volumes, of sufficient quality and at competitive terms.

- The NHO would like to make reference to the fact that Norway is under obligation to contribute towards fulfilling the obligations linked to substantial reductions both with regard to support level and import protection as a consequence of Doha. The NHO is of the opinion that the draft of modalities outlines the most realistic landing zone and that the draft is in line with the intentions of the Doha mandate.
- A negotiation solution for agriculture is a prerequisite for bringing the entire Doha Round to a close. Norway should therefore demonstrate the required flexibility during the concluding negotiations in the WTO. At the same time it is a fact that Norway among the member states that has made the most concessions during the course of the Doha negotiations.
- A Doha agreement will have consequences for Norwegian agriculture the Norwegian food industry and Norwegian food policy. Experience shows that those who have succeeded the best in relation to restructuring have started early. The Norwegian Government should therefore initiate preparations for an agriculture policy reform in light of the modalities that are on the table.

THE SERVICES NEGOTIATIONS

The services negotiations are very important to Norway. The trade in services is currently expanding more rapidly than the trade in commodities and is also of vital importance to other sectors in society and the goods-producing segment of the private sector. Norwegian enterprises abroad are dependent on well-functioning services within the area of financing, insurance, communications, energy and -business-related services. A strong and binding regulatory framework relating to the services trade which serves to ensure increased predictability and stability for the steadily increasing cross-border trade in services is of great interest to Norway.

The NHO would like to point out that Norway has fewer barriers to trade within the services area than most countries, and for this reason it would be desirable for other countries to open up their markets to the Norwegian private sector in a corresponding manner as Norway has done.

The NHO is not satisfied with the progress of the services negotiations and we would like more ambitious proposals with regard to the number of sectors and the scope of the obligations that are being proposed. There seems to have been little progress on the services area since the so-called Signalling Conference on services at the Mini-Ministerial Conference in the summer of 2008, where member states once again discussed offers and demands for the services sector. The NHO welcomes new initiatives for negotiations within the services area and an increased intensified effort for these negotiations.

- The NHO is in agreement with regard to the main Norwegian priority areas for maritime services, energy services, telecommunications and financial services (maritime insurance).
- The NHO would like an outcome which serves to provide better market access and increased business opportunities in as many areas as possible.

- The new GATS Agreement must yield improvements with regard to all four modes of supply for services, i.e. cross border trade, consumption abroad, commercial presence and the presence of natural persons. Commercial presence and cross border trade represents important service types which have the potential to give significant economic gain.
- There is a need to undertake some commitment with regard to foreign nationals who supply services on a temporary basis abroad as there is an increasing need to move persons employed by enterprises taking part in the global economy, especially for experts and key personnel.
- It is important to ensure that the national legal framework in WTO member states is based on full transparency and that it is in line with the general WTO principles to ensure non-discrimination.
- The public procurement markets should be opened up to international competition.

NEGOTIATIONS ON RULES

Antidumping

It is unfortunate that the current framework on antidumping serve to create an imbalance in the effectiveness of its instruments and protection against abuse and protectionism. The Antidumping agreement is very technical and elaborate. To a large extent, the US national antidumping regulations serve as a guideline which in some cases may result in that goods are being banned from the market solely on the basis of suspected dumping put forward by the industry. The NHO regards the negotiations relating to improvements and clarifications of the antidumping regulations of utmost importance, but that it has been difficult to achieve any progress because of the opposition from the US.

It is a major challenge that the antidumping instrument is being used for protectionist purposes – something which the large number of conflicts within the antidumping area in recent years between WTO member states may serve to indicate.

- The NHO would like a higher degree of harmonisation and discipline relating to the use of antidumping measures such as these measures is being practised in the various member states.
- The NHO wants stricter rules for the initiation of antidumping proceedings.
- The NHO would like stricter evidence requirements with regard to the correlation between alleged dumping import and presumed injury to domestic industry in the member state which initiate antidumping measures.
- Strengthened rules for transparency in relating to methods used to stipulate the dumping margin good procedural rules and greater emphasis on consumer interests would be desirable.

- It must be easier to lift punitive tariffs following the expiry of the dumping period, including clear provisions for the discontinuation of antidumping tariffs following a fixed period (sunset).

Subsidies and countervailing measures

The current subsidy scheme for the fishery sector results in strong overcapacity in the fishing fleet in many Member states and an over-taxation of important fishing resources. Government financing of fishery research as well as coverage of management, monitoring and administrative costs for the fishery sector are considered to be legal subsidies. The debate concerns subsidies that have a trade-distorting effect or that result in an over-taxation of the fishing resources. Although fishery subsidies are also being discussed in a number of other international forums, it is only the WTO that has a binding multilateral regulatory framework that serves to regulate the use of subsidies. Therefore the NHO is positive towards the fact that the WTO as a part of the current negotiations is working towards reducing the extent of subsidies and we would like to point out the positive environmental potential that such regulatory changes could bring about.

- The NHO strongly supports the Norwegian efforts to reduce the use of subsidies in the fishery sector through the WTO.

Regional and Bilateral Free Trade Agreements - RTAs¹

The number of bilateral and regional free trade agreements is increasing enormously, among other things because of the fact that WTO negotiations have yet to be completed, and as a result thereof, there is a stronger focus on regional free trade agreements as an alternative means used to gain access to the markets of important trading partners. Today, regional free trade agreements constitute an important tool in order to ensure better agreement-related security also for the Norwegian private sector.

The huge increase in the number of free trade agreements can however result in new trade barriers. The WTO trade regulations are based on non-discrimination, while regional and bilateral free trade agreements are based on the opposite, namely discrimination. This is why the WTO regulations stipulate a certain set of conditions that must be met in order for regional and bilateral free trade agreements to be granted an exception from the general rules of the WTO and thus be approved. Negotiations relating to an improvement and a clarification of the current WTO regulations concerning regional free trade agreements are currently in progress.

The WTO's General Council has adopted a mechanism for increased transparency in relation to regional trade agreements (RTAs) which serves as an obligation to WTO member states to provide broad information about ongoing negotiations and agreements that have already been entered into. The WTO Secretariat will report on adopted agreements. An updated database on RTAs has also been established. Discussions about whether or not to make this transparency mechanism a permanent one are currently underway.

- The NHO supports Norway's endeavour in the on-going negotiations relating to provisions concerning RTAs to ensure that the spreading of regional and bilateral trade agreements do not undermine the WTO rules.

¹ The mandate refers explicitly to regional free trade agreements. However the provisions will also apply to bilateral free trade agreements.

- The NHO is in favour of the establishment of a permanent mechanism designed to ensure greater transparency under the auspices of the WTO, providing member states a opportunity to improve insight into the conditions of trade that have been negotiated by means of regional and bilateral trade agreements.

TRADE FACILITATION

The NHO considers trade facilitation to be an extremely important part of the current round of negotiations. The international flow of goods is at the mercy of the import and export regulations imposed by the authorities, and it can be difficult for corporate actors to stay updated on rapidly changing customs procedures and formal routines governing frontier crossing for goods. Concrete results within the area of trade facilitation would therefore create a win-win situation for the WTO member states.

The OECD has estimated that transaction costs linked to trade may constitute up to 15% of the value of a commodity, and according to a recent report published by the Peterson Institute for International Economics; trade facilitation is estimated to yield a global gain of 385 billion USD annually. Simplification and facilitation of the international trade in goods can thus provide great socio-economic gain.

- The NHO is of the opinion that a WTO trade facilitation agreement can provide a more efficient cross-border flow of goods that all member states will benefit from especially member states that currently have complicated, costly and bureaucratic frontier formalities, provided that adequate technical and expert competence is provided. It is vital that a WTO agreement achieves a reduced custom clearance waiting period.
- It is of vital importance to clarify and improve Article V (on transit of goods), Article VIII (on the simplification and reduction of costs relating to customs clearance) as well as Article X (on transparency in customs administration) in the GATT Agreement.
- Trade facilitation measures has also become more important in a period where increased security measures against terror which may serve to delay the cross border flow of goods as well as making it more expensive, are on the increase. Security considerations must not undermine trade facilitation measures. The goal must be to achieve mutually supportive procedures and measures.
- Tariff duties must be proportionate to the cost involved in the services being rendered and not be imposed as an additional tariff or fiscal duty. Such duties should be fixed and not be applied based on the value of goods.
- The NHO supports the development of International standards for documentation relating to customs clearance. This is particularly important for small and medium-sized enterprises. Information technology should be applied to customs clearance procedures.
- The NHO supports the introduction of authorised traders to ensure a prompt and efficient customs clearance which the EU has already introduced and that Norway is planning to introduce. This will make it easier for customs administrations and other national authorities to concentrate their efforts on controlling illegal trade and trade which requires special attention due to risk factors.

- Every effort must be made in the negotiations to ensure complete transparency with regard to national provisions related to the frameworks and changes related to these provisions. The administration of the legal framework must be based on transparent procedures and not be administered in an arbitrary and discretionary fashion which may open up for unequal treatment, corruption and bribery. It is important that the customs clearance procedures be administered uniformly throughout the entire customs territory.
- Enterprises must be ensured proper complaint and appeal opportunities in relation to decisions in tariff cases.