FAIR TRADE ALLIANCE (FTA)

*FTA Statement on Hong Kong's MC6**

January 2006

WTO Ministerial in Hong Kong:
STILL LIMITED GAINS, STILL HUGE IMBALANCES

The just-concluded 6th Ministerial Conference (MC6) of the World Trade Organization (WTO) re-affirmed what the world already knows – the architecture of global trade is leveled against the Philippines and other developing countries.

The Doha Development Round (DDR), so named to emphasize the WTO's preambular call for trade to be in the service of development, is winding up in 2006 with the rules of the WTO still stacked up in favor of the developed countries. Despite some small positive openings, the MC6 in Hong Kong failed to make a substantial dent on the unequal global trade architecture dominated by the big trading powers.

Glaring also in the recent multilateral negotiation was the Philippines TRPs, coined as 'Tariff Reduction Programs' that the country implemented since the1980's and even before the WTO. It brings back to mind what Justice Florentino Feliciano (former WTO Appellate justice) previously said in an FTA conference, 'we no longer have the marbles to have a better chance in negotiations' and that the 'unilateral tariff reduction program was in essence total disarmament'.

In agriculture, the developing countries, with the Philippines playing a significant crystallizing role, got a vague commitment to self-designate a number of their produce as special products (SPs) protected by special safeguard mechanisms (SSMs). But the details of the SPs and SSMs remain to be fleshed out. Moreover, there are no clear commitments from the developed countries how their trade-distorting subsidies amounting to $1 billion a day shall be phased out.

The only concrete achievement of Hong Kong is the promise of the developed countries to phase out by 2013 the export subsidies, which represent 2.95 per cent of their total agricultural subsidies and which are clearly an aberration in a free trading system.

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* *06 January 2006, FTA Convenors' Meeting, PRRM Headquarters, Mo. Ignacia cor. Dr. Lazcano, Quezon City*

Note: Kindly see attached documents to look into the details of what were agreed upon in the HK WTO Ministerial Conference in terms of AoA, NAMA, and GATS last December 2005.

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These export subsidies should have been phased out in l995, right after the formation of the WTO.

In the meantime, the WTO is bogged down in seemingly intractable technical and complicated agricultural talks on how to treat different boxes (amber, blue, green and de minimis) where the developed countries place their various domestic subsidies. These subsidies, in the aggregate, have ironically expanded to over $300 billion a year during the last 11 years of the WTO. They are the single leading cause of agricultural over-production and dumping in global agricultural trade, which wreaks havoc on the lives of millions of small farmers in many developing countries, the Philippines included.

In industry, the developed countries succeeded in pushing for a uniform and radical tariff-busting Swiss formula under the Non-Agricultural Market Access (NAMA). This Swiss formula is detrimental to the Philippine and many developing countries because it ignores the historical fact that developed countries have reduced their tariffs ***only after*** they have achieved a mature level of industrial development and that these countries wield a formidable array of trade weapons to keep at bay unwanted imports such as a tight hold on technology and the patent system, almost automatic application of safeguards against import surges and strict enforcement of product standards, which keep on multiplying.

The only NAMA concession the developing countries got in Hong Kong are that the coefficient to be used under the Swiss formula shall not be singular (and yet all the coefficient simulations below 100 lead to the same radical tariff-busting outcomes). Additionally, the Member Countries can still discuss elements on the binding rates and mark-ups for products.

But at the rate NAMA is shaping up to be, the Philippines stands to lose so much policy space or flexibility on how to promote certain strategic industries needed for long-term development and how to protect its sensitive fishery sector, which affects the lives of hundreds of thousands of fisherfolk and their families.

In services, the policy space for developing countries keeps shrinking in the talks under the General Agreement on Trade in Services (GATS). While they did not succeed in removing the more flexible request-offer modality of negotiating liberalization in the various service industries, the United States and the European Union managed to still insert in the Hong Kong's Ministerial text liberalization formulas that seriously erode the policy space for developing countries such as the extension of liberalization commitments made under 'plurilateral' (meaning bilateral or regional) agreements 'on an MFN basis' (meaning extending the same commitments to all).

For the Philippines and many developing countries, the issues under GATS are how to insure that the principle of universal service (meaning providing service for the weak and underdeveloped segments of the economy and society) remains sacrosanct, how to provide effective competition against big foreign and domestic monopoly service providers (thus avoiding what happened to the domestic oil distribution industry), and how to preserve public control over strategic sectors of the economy such as the land market, environmental

services, water and energy distribution, operation of public utilities and so on (which, ironically, the unelected Constitutional Commission is now trying to open up).

If there is any ***major achievement by developing countries*** in Hong Kong, it is their demonstration of their collective capacity to unite in exposing the huge imbalances in the global trading system and the weaknesses of the narrow liberalization agenda being foisted by the developed countries on practically all sectors of the global economy. Thus, in agriculture, it is exciting to see, even for a historic fleeting moment, how the G-20 and G-33 (which became in reality G-44) coalesced into a bigger G-110 (with the participation of the G-90 of the African, Caribbean and Pacific countries) to support the reform agenda for agriculture calling for subsidy reduction and more flexibility for all through the SP-SSM measures.

Such higher awareness and unity are badly needed in the coming months as the leadership of the WTO tries to put a closure to a trade development round that is constantly in danger of formally becoming an anti-development round.

ANALYSIS OF THE HK MINISTERIAL DECLARATION: ON AGRICULTURE[1]

1. **Bear in mind** that Annex A of the HK Ministerial Declaration is not yet an **Agreement** on Agriculture simply because it is not in any sense an agreed text of all Members. It is **plainly** a Report of the Chairman of the Special Session of the Committee on Agriculture to the Trade Negotiating Committee (TNC) and therefore non-binding to Members.

2. What was agreed on (not included in Annex A) is the elimination of all forms of export subsidies by the year 2013. However, there was consensus among those in the Finio meeting that the 2013 target date for elimination of export subsidies is too long (FYI: 2013 was tabled by EU while the US and Brazil want 2010). Brazil, in the last minute of December 18 objected to the date but, with a stroke of luck for the HK Ministerial, finally agreed. However one thing is worrisome: **that the elimination of this form of subsidy is conditional pending the completion of the modalities in agriculture** [as stated in paragraph 6 of the HK Declaration]**.** Meaning, we have to wait until April 2006 [the date for establishing modalities on agriculture] if in fact the elimination of all forms of export subsidies will become a reality.

3. On **domestic support**, there is **no explicit statement** in the HK Ministerial Declaration for its elimination or even substantial reduction even though the July Framework had already set the parameters for its elimination or substantial reduction. What is in the HK Declaration is a plain reiteration and reaffirmation to cut trade-distorting support [likewise stated in the July Framework] but stop short in making clear timeline for elimination. And though there is already a "working hypothesis" of three bands (actually an improvement from the July Framework) for overall cuts by developed countries (with cuts ranging from 31-80 percent), it is still far far short of developed countries' commitment under the Doha Development Round. Simply put, all discussions on the overall cut on all forms of domestic support are still conditional as of the signing of final ministerial declaration (modalities for cuts will be further discussed and must be completed by April of 2006), as written in the new text:

    a. On ***de minimis***, there is **only a zone of engagement for cuts** between 50-80% for developed countries and those developing countries that allocate all their de minimis to subsistence farmers and resource-poor farmers will be exempt from reduction. Again, there is no explicit and strong statement for its reduction. (Definition of de minimis: allowable form of support, 5 percent for developed and 10 percent for developing out of the total value of agricultural production for the year. In the case of the Philippines, we can only allocate around 3 percent of that because government really has no money. All of Philippines' *de minimis* go to rice and rice production).

[1] *Based from the discussion of the FTA delegation to the MC6 in HK at Finio Restaurant, December 20, including Manuel Quiambao and Errol Ramos' analysis of the Ministerial Declaration.*

b. On **blue box**, there is only a proposal to shrink the current 5% blue box support to 2.5 percent (Blue box support definition: these are direct and indirect payments to either limit production or not produce a specific product at all). Meaning, Members which have blue box support can now only allocate up to 2.5 percent of their average total value of agricultural production during a historical period as their blue box support. But again, **this is only a proposal, with no clear convergence on how it will be disciplined and with no clear parameters yet on how it will be operationalized**. As a matter of fact, the historical period being referred here has not been agreed upon which is in fact, a first and most important step to make a real progress in the reduction and disciplining of blue box.

c. On **AMS** (Aggregate Measure of Support), there is only a working hypothesis of three bands for developed countries, with cuts ranging from 37-83 percent but Members still have no agreement on the thresholds. Further, for product-specific caps, what is at the HK Declaration is only a proposal again, no mention on how to discipline and stop the transferring of support from one box to the other. This again runs-counter with the development objectives of the Doha Development Round, to make tighter disciplines on transferring support from one box to the other.

d. On **green box**, there was no convergence on how it will be further disciplined. The review and clarification commitment stated in paragraph 16 of Annex A of the July Framework has not been done or followed to ensure that green box support has no, or at least with minimal trade-distorting effects or effects on production.[Green box definition: permitted support under the WTO, these are direct income support to farmers unrelated to production. Also includes environmental protection]. Further disciplining here means no price support involved in the payments nor government financial support for income insurance.

4. To summarize the issue of subsidy, yes it is good that the developed countries agreed to eliminate export subsidies but the caveat under paragraph 6 of the Ministerial Declaration is also worrisome, that it is conditional – it will only take effect only after the completion of the modalities in the agriculture negotiations. Meaning, the elimination of export subsidies can happen **only** after the modalities in agriculture negotiations are set. Further, export subsidies only account for US$ 6.35 billion[2], a pittance (3 percent) compared to the domestic support enjoyed by developed countries amounting to US$ 360 billion. That is why it is easy for the developed countries to give

[2] *Only includes the total subsidies of EU, US, Japan, South Korea, Switzerland, Norway and Canada as of latest notification totaling US$ 216 billion. But if we include all subsidies from other developed countries, it will more or less be US$ 360 billion.*

this 'favor' but the issue on other support like the blue box, Final Bound Total AMS and Green Box has not been touched on how it will be disciplined on the first place.[3]

Also of all total subsidies from the EU, US, Japan, South Korea, Switzerland, Norway and Canada as of latest notification (see also Annex 1):

Amber Box (most trade distorting)	= 35.5%
De minimis	= 04.26%
Blue box (trade distorting)	= 9.92 %
Green box (less trade distorting)	= 47.37%
Export Subsidies	**= 02.95%**

5. On **food aid**, there is a consensus among Members that the WTO shall not stand in the way of the provision of genuine food aid. But there is no consensus on how the food aid should be disciplined in a way that is not trade-distorting. For some, like in the Philippines, food aid is translated into dumped goods that directly depress the prices of locally produced goods. There must have a mechanism (like effective transparency perhaps of the food aid or food grant) under the WTO to check on the real effect (like real commercial displacement of locally produced goods) of food aid.

6. On market access, **unless** the specific and compound duties are finally converted into its ad valorem equivalents, and the domestic support subsidies are totally eliminated or substantially (Brazil used the word drastically) reduced and accompanied by tight disciplines and schedules **for real and not nominal reduction and elimination** then the issue of market access is still far from being a reality. In fact, it seems from the ministerial declaration that the market access issue involving the tariff reduction formulas is progressing in the negotiations while the issue of trade-distorting domestic support elimination is not progressing as proportionately as the former. But on the other hand, there is a progress by having a dual approach for tariff cut structure: one for developing and another for developed as compared to the July Framework which only sets a single approach for tariff cut structure for both developing and developed. The ministerial declaration classifies this dual approach as a special and differential treatment clause under market access.

7. On the other hand, there is progress on the issue of SP/SSM. This is a welcome development. In fact, under the HK Ministerial Declaration paragraph 7, developing countries will have the flexibility to **self-designate** an appropriate number of tariff lines as Special Products guided by the principle of food security, livelihood security and rural development. Developing countries also will have the recourse to a Special Safeguard Mechanism based on volume and price triggers. However, the operationalization of SP and SSM will have to be further defined and discussed (that is why the end date for the framework of establishing modalities in agriculture which is on April 2006 is very critical). But the good thing is, the SP and SSM issues shall now be an integral part of the modalities and the outcome of negotiations in agriculture.

[3] *See Annex 1*

Meaning, there will be no Agreement on Agriculture until and unless there are clear modalities and operationalization for SP and SSM. Thus, the implication for the Philippines is to start working now on the products that will be included in the SP list.

8. Still on market access, there is still **no material convergence on the issue of tariff escalation and tariff peaks** and having no consensus on this market access issue means no real market access for developing countries' export interests. In effect, only raw materials can 'hopefully' gain market access and therefore there is no reason for developing and least-developed countries to industrialize or invest on processing industries because final goods will be taxed higher than raw materials.

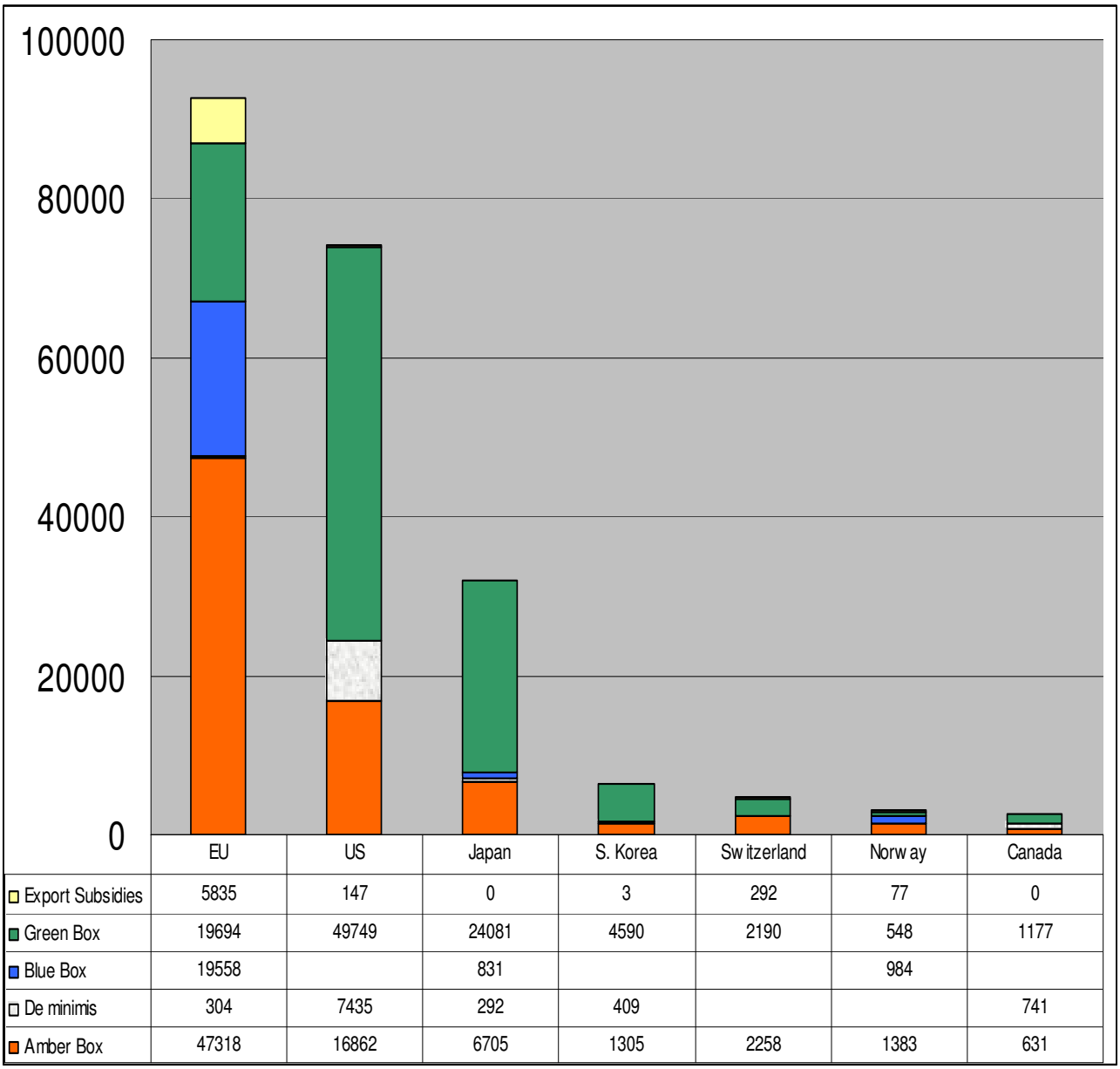
9. While Special Products category is exclusively available only for developing countries [as an SDT principle], the **sensitive products category** is both available for developed and developing countries. This means that while developing countries can avail of the special products flexibility, the **developed countries can also avail a flexibility through the sensitive products category**. Though there are still no clear modalities for the sensitive products, it must be tightly watched because this might be another loophole in the agreement where the developed countries can impose quota restrictions for developing countries' offensive interests (exports).

10. All in all, the negotiation in agriculture is better than NAMA and GATS, but it does not mean also that we got a good deal. In fact, it is still a raw deal – there is **no real development now** and no clear benefit had been gained out of the HK Ministerial. Unless of course something good will happen between now and April, all is still up in the air. Did Philippine agriculture gain in the HK ministerial? Can we say it's a victory for agriculture? Not yet now. What we can say is that it could be forthcoming but it really depends now on how our negotiators can sustain their negotiating positions in the run-up to the April 2006 final negotiations for agriculture and also how farmers, other agricultural producers and civil society organizations can exert the same pressure that it gave to the Philippine negotiators in HK. But we must also give credit where credit is due. For example, the G20 and G33, which the Philippines is a member of both, must be commended for standing their ground in making meaningful negotiating positions that advance the interests of the developing countries during the HK Ministerial. These alliances have provided the venue for progressive positions to be at least included in the HK Declaration.

Therefore, we must make sure in the run-up to the April 2006 negotiations in agriculture where modalities will be established, that the **issue of market access is tightly linked to the issue of subsidies**. We must be clear to the other side of the world that real market access and the reduction of poverty can only be achieved through disciplining, elimination and drastic reduction of all forms of trade-distorting support and the elimination of tariff peaks and tariff escalation. Most especially, the special and differential treatment clauses and principles should be pursued, made inherent and strongly imbedded in the final outcome of the agriculture negotiations and not less than that. If not, then in the words of Brazil Minister of Commerce, **this is an SDT in reverse**. Then we cannot say that real and genuine reform actually happened during the course of this Round.

ANNEX 1

Major Providers of Trade Distorting Support
And Export Subsidies as of latest notifications (million US$ equivalents)



	EU	US	Japan	S. Korea	Switzerland	Norway	Canada
Export Subsidies	5835	147	0	3	292	77	0
Green Box	19694	49749	24081	4590	2190	548	1177
Blue Box	19558		831			984	
De minimis	304	7435	292	409			741
Amber Box	47318	16862	6705	1305	2258	1383	631

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ISSUES ON NAMA: SIGNED AGREEMENT LIKELY TO LOCK-IN LOW RP TARIFFS

1. FORMULA

a. Type: Swiss or Swiss-type

i. The agreement finalized the Swiss Formula. RP endorsed the Swiss Formula (in Favila's expanded ministerial statement) despite being the most aggressive formula for tariff cuts. At the maximum coefficient of 30 reported by the NAMA Committee chairman, RP bound tariffs will be drastically reduced from 23% to 13%, thus reducing policy space from 19% to 9%. The adoption of the simple Swiss formula is not congruent to the policy thinking and negotiating stand of "no or minimal reduction" which was communicated to the delegation members during the early days of the conference. **There is urgent need to clarify the justifications behind the eventual deviation from pronounced policy.**

ii. Swiss-type (e.g., Girard) was the subject of a consultation hearing by the Tariff Commission on July 13, 2004. No hearings by the TC were held on the simple Swiss formula. In fact, the presentations by the TC in various NAMA workshops in Manila, Cebu and Davao in the last quarter of 2005 included several other Swiss-type formulae being considered. In a workshop conducted by the BOI in November, several industry positions called for the rejection of the Swiss formula.

iii. The impact of a simple Swiss formula was simulated by the TC using the Pakistan proposal of 30 as coefficient during the latter half of 2005. This simulation showed drastic cuts in bound rates for all items and even would affect existing applied rates for several tariff lines. If an updated simulation is made taking into account the intended rates for adjustment by the Comprehensive MFN Review, a more drastic effect is expected to be observed for the items of defensive interest.

iv. Studies made on the simple Swiss formula point to one conclusion – significant even fatal constriction of existing policy space, which is contrary to the announced position/objective of preserving or maximizing policy space. Unless higher coefficients in levels above 100 are negotiated in Geneva, the choice of the Swiss formula locks-in the rates set under the unilateral tariff reduction programs for the Philippines over the past decade.

b. Coefficient

i. With a simple Swiss formula, the coefficient remains the only element open for the Philippines to preserve policy space in negotiations in Geneva. Please see Graphs 1 and 2 below to see the effects of different levels of coefficients to the magnitude of reduction and to the resulting new bound rate. However, the convergence towards the Pakistan proposal of 30 for developing countries indicates that RP will be left with a grossly inadequate policy space. For the Philippines to prevent the erosion of policy space, it should fight tooth and nail

to get a coefficient higher than 90. At 90, the average bound rate will be reduced from 23 to 18 (representing a 20% reduction.). The nagging question for industry is: does RP have the political will, the industrial vision and the negotiating strategy to fight for the proper level of coefficient?

ii. Mention of "not less than 30" being acceptable for the Philippines as was reported in an RP delegation briefing is a serious error and locks-in RP industrial tariffs including fisheries to a low-tariff regime.

2. PARAGRAPH 8 – FLEXIBILITIES

a. Numbers in brackets are considered as minimum by developing countries but as maximum by developed countries. Developing countries need to push for higher figures instead of merely articulating that the bracketed figures are minimum values.

b. It was strongly communicated during the briefings that RP should push for a higher number with several constituents pushing for 10/20 from the bracketed 5/10. It was mentioned during the briefings that FTA's position for the exemptions percentage is to push for increasing the 5% to 20%, while FPI and APMP were pushing for an increase to 10%.

c. The need for a higher number is urgent because the exemption percentage will have to accommodate not only sensitive industrial goods but also fisheries.

3. UNBOUND TARIFFS

a. The mark-up approach seems ok but extreme care should be taken on what the proper level is for RP.

b. RP indication (internal per restricted manual) of more than 5-10% is grossly anemic.

c. Even Pakistan proposal for a mark-up of 30 is grossly inadequate

d. For RP to have the same binding average as was committed in the Uruguay Round (23.4%), the mark-up should be around 88%!

e. If the mark-up of 30 is finalized in Geneva, and considering that the highest applied NAMA tariff for RP is about 30, we face the dire prospect that presently unbound tariffs of sensitive industrial products will have a binding rate of only 20%. Considering that our unbound tariffs can legally be at the level of 100% duty rate, we are looking at a policy space reduction of 80%!

4. CREDIT FOR AUTONOMOUS LIBERALIZATION

a. This only covers items that were bound in the Uruguay Round. Therefore presently unbound items, even when already low in applied tariffs, will not be given credit.

b. There is urgent need to significantly increase presently unbound items which are locally produced and with local substitutes/equivalent to levels that will offset a

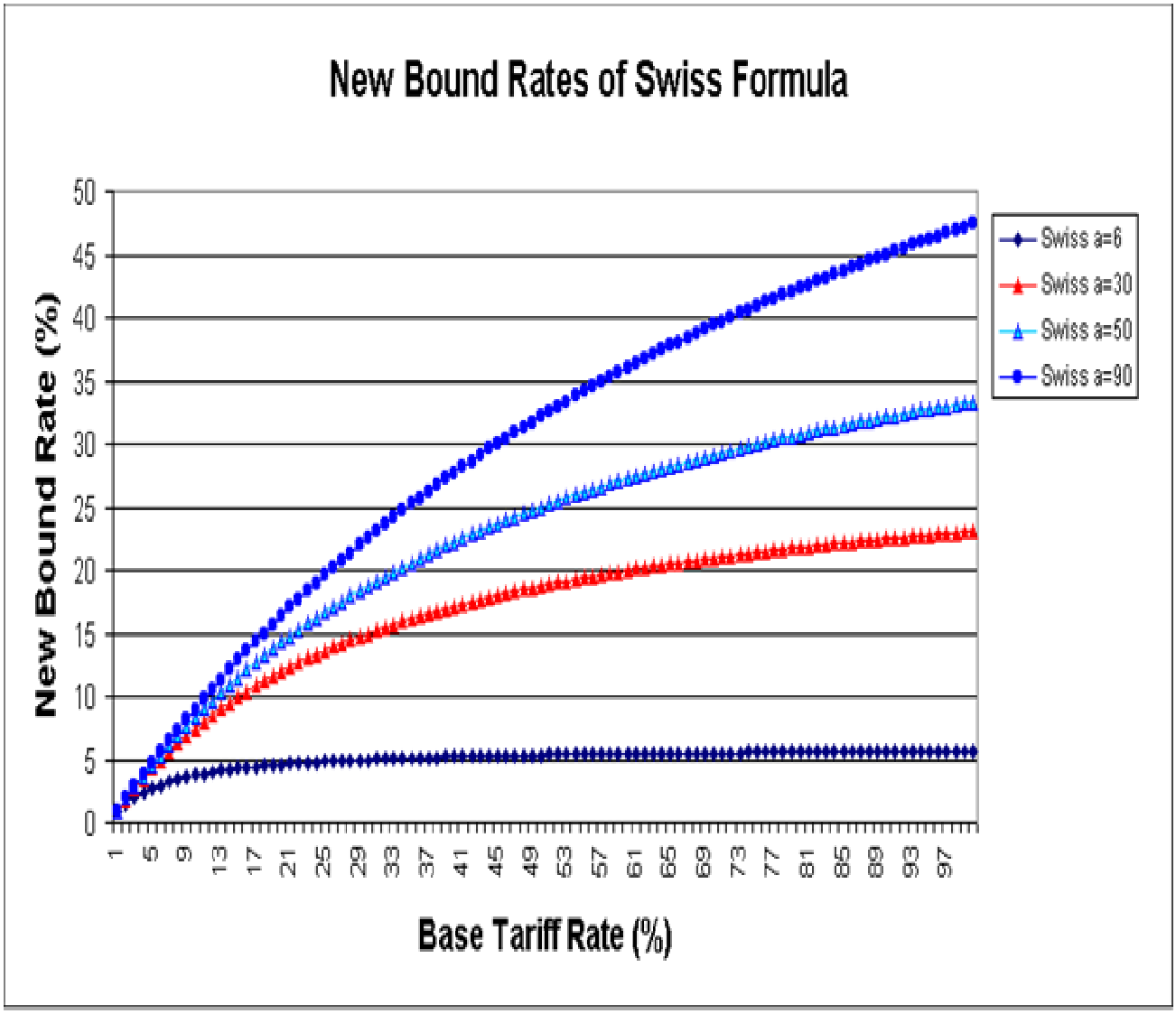
possible adoption of a low mark-up so that these higher unilateral rates can be preserved until full implementation of tariff cuts.

5. DURATION FOR IMPLEMENTATION OF TARIFF REDUCTION

a. No discussion or indication was received as to the period for reduction to the new bound rates.

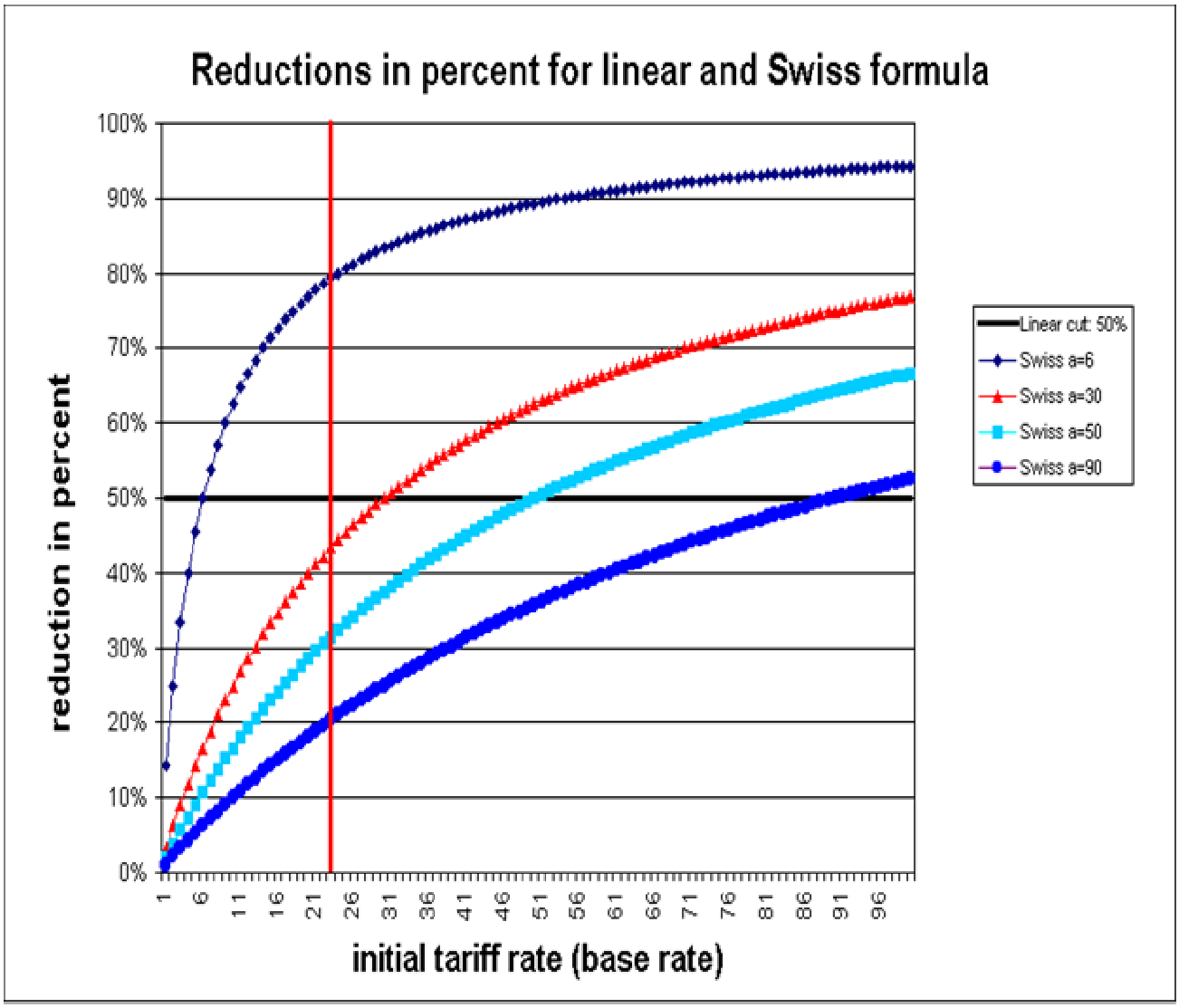
b. Given the state of play in NAMA, RP should push for at least 15 years. If the final period is less, then flexibilities should be invoked to lengthen the period for developing countries which underwent autonomous liberalization. Other modalities should be opened to enable RP to navigate through the already agreed modalities so that the locking in to low tariffs can be avoided. If this is not attained, RP will again be ahead of other countries in complying with the desire of developed countries for a maximum tariff of 15%.

GRAPH 1
New Bound Rates with Various Coefficients



GRAPH 2

Percent (%) Reduction from Base Rates



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DECONSTRUCTING GATS: THE HONG KONG TEXT

1. WTO came to Hong Kong prepared to make a deal. The key word is "WTO came prepared." WTO had worked out the texts, the alliances, the floor tactics even the names of those who would get to the Green Room meetings. The Hong Kong experience will make Seattle and Cancun a thing of the past.

2. The best deal was in GATS; or conversely, the bad deal was in GATS. GATS could have derailed the negotiations but in the end, GATS was the train that lead the whole pack to a safe and secure destination: a deal in Hong Kong.

3. GATS was probably the easiest issue to negotiate and the one that came up with a substantial agreement. The GATS text in the Hong Kong Ministerial Declaration consisted of three paragraphs; the AoA had nine and NAMA, eleven. The GATS text seems to reflect a high level of convergence or consensus, ambition and details compared to that of the AoA and NAMA.

4. The GATS Hong Kong Text consists of two documents: the 3-pararaphs included in the Ministerial Declaration and "Annex C", consisting of eleven long paragraphs in four pages. "Annex C" is the only document that has reached a level of ministerial concurrence. Annex "A" and Annex "B" are in the nature of a "report" adopted simply as a guide to future negotiations in AoA and NAMA.

5. The Hong Kong Text on GATS (Ministerial Declaration and Annex C) was a virtual resurrection of the old and controversial Geneva text reminiscent of the Derbez Text in Agriculture that was repudiated in Cancun but was resurrected in the July Package. In essence therefore, the GATS Hong Kong Text is but a Chairman's Report like that of Annex A of AoA and Annex B of NAMA.

6. The following "contentious issues" have found their way, albeit creatively, in the GATS Hong Kong Text:

    - qualitative benchmarks
    - numerical targets
    - plurilateral approach
    - sectoral and modal classifications
    - framework rules on government procurement

7. GATS Hong Kong virtually "locks in" old, new and improved commitments and erodes flexibilities.

8. GATS Hong Kong has virtually introduced new mandates and modalities beyond the framework of the Uruguay Round.

9. Other Issues/Missing Links: SDTs; policy coherence; credit for autonomous liberalization, etc.