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Alan Matthews

Department of Economics

Institute for International Integration Studies

Trinity College, Dublin



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# **More Differentiated Special Treatment in the Agriculture Agreement: beyond concept to practice**

Alan Matthews

Department of Economics and Institute for International Integration Studies

Trinity College, Dublin, Ireland

Alan.Matthews@tcd.ie

## **Abstract**

This paper examines how more differentiated special treatment of developing countries might be introduced into the WTO agriculture agreement following the Doha Round negotiations. The purpose of special treatment is to facilitate developing countries to meet their food security, rural development and livelihoods concerns. The paper first reviews previous attempts to classify developing countries into food-insecure and food-secure groups. It argues that such a classification is mainly relevant in the market access pillar of the negotiations, as other criteria for differentiation are implicit in the July 2004 Framework Agreement proposals for the domestic support and export competition pillars. The prospects for an overall agreement are limited unless developed countries feel that they have gained improved access to the markets of the more advanced and competitive agricultural exporters among developing countries. The paper argues that the latter countries might be persuaded to accept shallower SDT if it is the condition for a significant market-opening offer by developed countries. In addition, the developed countries need to build support among low-income developing countries for differentiation by making clear what a more generous SDT offer to food-insecure developing countries not currently classified as LDCs would mean.

**Key words:** WTO agricultural negotiations, special and differential treatment, differentiation

**JEL:** F13, Q17

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## 1. Introduction

Special and differential treatment (SDT) was part of the Uruguay Round Agreement on Agriculture (URAA) in 1994 but the substantive understanding of the term has grown since then. The preamble to that Agreement committed developed country Members, in implementing their commitments on market access, to “*take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops.*” It also noted that commitments under the reform programme should “[have] regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and [take] into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries”. These general precepts give little guidance as to the purpose or objective of SDT in the agricultural sector.

Developing countries have argued that the balance of advantages in the URAA was very tilted towards the developed countries. When new negotiations started, a rebalancing of commitments was one of their main objectives. At the very beginning of the agriculture negotiations mandated by Article 20 of the URAA, in June 2000, a group of developing countries presented a proposal for a Development Box which set out their broad objectives and concerns with respect to the negotiations, including the need to provide adequate flexibility for these countries to adopt measures to enhance domestic food production and protect the livelihoods of the rural poor and small farmers (WTO G/AG/NG/W/13). Underlying these proposals was the belief that indiscriminate trade liberalisation in agriculture negatively affects food security in developing countries and undermines the livelihoods of the rural poor, thus increasing poverty and inequality in the developing world.

These concerns were reflected in Paragraph 13 (Agriculture) of the Doha Ministerial Declaration which stated that “*special and differential treatment for developing countries shall be an integral part of all elements of the negotiations [...] so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development.*” SDT was seen not just as something required to ease the integration of developing countries into the trading system (by providing longer transition periods to cope with weaker adjustment capacities, for example), but in addition as something (possibly more permanent) which should be built into the rules themselves to enable developing countries to achieve their food security and rural development objectives. The General Council Decision on 1 August 2004 (the July Framework Agreement, or FA) was even more explicit that special treatment of developing countries is justified in order to address their food security, rural development, poverty reduction and livelihood concerns (Table 1).

**Table 1. General SDT objectives contained in the July 2004 Framework Agreement**

Paragraph 1	These [specific trade and development related needs and concerns] of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations.
Paragraph 2	...the modalities to be developed will need to incorporate operationally effective and meaningful provisions for special and differential treatment for developing country Members. Agriculture is of critical importance to the economic development of developing country Members and they must be able to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns.

### *The demand for differentiation*

This broadening of the role for SDT in the agriculture agreement was accompanied by a growing demand to differentiate the special treatment accorded to developing countries, especially after the failure of the Cancún Ministerial (Paugam and Novel, 2005). In the Agreement on Agriculture (AoA), commitments are differentiated on the same basis as in other WTO Agreements – between developed, developing and least developed countries. However, the AoA did introduce a further category of Net Food-Importing Developing Countries (NFIDCs).<sup>1</sup> Although this is the only group to be defined on the basis of a specific food availability indicator, being a net food importer is poorly correlated with indicators of food security status (Diaz-Bonillo et al., 2002). The 23 NFIDCs are a diverse group with only three Low-Income countries, eleven Lower-Middle Income countries, 8 Upper-Middle Income countries and 1 High-Income Country as classified by the World Bank (Kasteng et al., 2004). Too much should not be read into the NFIDC grouping as the commitments made in terms of technical and food aid assistance and the treatment of export credits are largely of a best-endeavour variety.

Differentiation for the purposes of special treatment has been raised in general terms in the discussions on SDT in the Committee on Trade and Development.<sup>2</sup> However, the US-EU proposal in August 2003 was the first explicit proposal for differentiation between the developing countries in the agricultural negotiations (EU-USA, 2003). It said that substantial improvements in market access should be given to developing countries “most in need” but made no attempt to define this group. “*Negotiations should therefore provide increased access opportunities for all and in particular for the developing countries most in need and take account of the importance of existing and future preferential access for developing countries*”. It went on to state that “*Having regard to their development and food security needs, developing countries*

<sup>1</sup> It is also worth noting that China was denied the full entitlement to developing country SDT on its accession to the WTO in that its domestic support *de minimis* was limited to 8½ per cent of its value of agricultural output rather than the agreed 10 per cent otherwise available to developing countries.

<sup>2</sup> See, for example, European Communities (2002).

*shall benefit from special and differential treatment, including lower tariff reductions and longer implementation periods". On the other hand, the EU/US proposal also argued that "as far as S&D treatment for developing countries is concerned, the rules and disciplines will need to be adjusted for **significant net food exporting countries** [emphasis added]."*

This proposal was reiterated in US trade negotiator Robert Zoellick's January 2004 letter to his WTO colleagues after Cancún. This letter argued that "*as we design flexibilities for countries or even types of countries or regions with special problems, we will be stymied if every provision automatically applies to some 100 or more countries -- including some that are highly competitive in a sector*". Specifically with reference to the agriculture negotiations, Zoellick proposed that the use of special products in agriculture should be restricted to "*..**certain** developing countries that are concerned about harming rural development and subsistence farmers*" while calling for "*substantial openings in markets of developed and developing countries, **especially those that are competitive in sectors of agriculture and with stronger economies***" [emphasis added].

The Lamy-Fischler letter to WTO Members in May 2004 setting out the EU's response to the Cancún failure echoed the same theme but in a more generous spirit. While stressing the need for greater commitments by the more competitive developing country exporters, they coupled this with a proposal to extend non-reciprocity beyond the LDCs to the much wider group of the G-90. "*More generally, we have all accepted the principle of 'less than full reciprocity', but it needs to be made more operational. This means that developing countries should undertake commitments in line with their importance in world trade.... Therefore, on agriculture and NAMA, we propose that the least developed countries **and other weak or vulnerable developing countries in a similar situation - essentially the G90** - should not have to open their markets beyond their existing commitments, and should be able to benefit from increased market access offered by both developed and advanced developing countries."*

The new EU Trade Commissioner, Peter Mandelson, reiterated the EU approach to the poorer developing countries in a speech in February 2005. His speech included the further suggestion, already built into the FA, that the more advanced developing countries, in turn, might offer SDT to other developing countries including the LDCs. "*Europe will demand practically nothing from the poorest G90 countries in terms of market access, apart from some binding of tariffs. Last July's Geneva framework is clear with regard to LDCs. By Hong Kong, we need to be clear too on what the developed countries are offering to all weak and vulnerable WTO members, who remain weak because of their dependence on preferences or their national Treasuries' fears of loss of tariff revenue on which they depend. There must be real flexibility about the market opening commitments they are asked to enter into. Some should probably not be required to commit at all.*" He went on to add that "*... it is also an issue of whether advanced developing countries are willing, in turn, to open their markets, not only to us but also to the smaller developing countries, by cutting their high industrial tariffs and removing barriers to services.*"

### ***Greater differentiation in the AoA?***

Paugam and Novel (2005) identify three main arguments for greater differentiation. One is the “one size does not fit all” argument that differentiation would help to improve the efficiency of SDT provisions. In other words, the circumstances where general WTO rules conflict with or place a burden on underlying development objectives will be limited to countries with particular characteristics. The differentiation of rules should thus be limited to the group of countries likely to be adversely affected. Although they do not explicitly state this, the assumption being made is that more far-reaching, deeper, SDT is likely to be agreed where the benefits are more targeted, and thus the direct costs to those agreeing in terms of market access foregone are less. In the case of agriculture, if the purpose of SDT is to improve a country’s ability to meet its food security, rural development and sustainable livelihoods goals, then it should be limited to those countries facing food insecurity and poor agricultural performance.

A second argument is that trade policy may be a second best development instrument for countries with very weak institutions and resource base to tackle their development objectives. The threat of food insecurity to producers in the face of a sudden drop in world prices or an import surge provides a good example. While a first best solution might be to use market-based risk management mechanisms or insurance schemes or social safety nets to offset the income risk, these may simply be out of reach for very poor countries with many resource-poor farmers. The ability to implement safeguard tariffs may then be the only realistic option to provide relief in these circumstances. SDT is thus required to provide sufficient policy space for developing countries in these circumstances.

A third argument is that targeting of SDT will reduce the negative externalities for others and the systemic or indirect costs of agreeing exemptions from general trade rules. Where SDT concessions are restricted to the poorer developing countries, because their share of world trade is low, the trade impacts will also be low.<sup>3</sup> Some observers fear that extensive SDT could prove a particular hindrance to the growth of South-South trade.

Developing countries have to date resisted all efforts, both more generally within the WTO and specifically within the agriculture negotiations, to introduce differentiation. They perceive an interest in being grouped together as a bargaining force in the negotiations and that differentiation would undermine their influence, even though the existence of a variety of developing country groupings indicates that they do not all speak with one voice (FAO, 2005). Also, there is no mention of differentiation in the July Framework although there are references to commitments to address specific problems faced by sub-sets of countries, such as ‘recently acceded members’, ‘economies where cotton has vital importance’, and the trade-related issues identified in Paragraph 35 of the Doha Work Programme for the fuller integration of small, vulnerable economies into the multilateral trading system. However, the Decision explicitly rules out in this latter connection the creation of a new sub-category of members.

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<sup>3</sup> However, even a small overall trade impact may have large consequences for a neighbouring small country as the country where access does not increase could be its major market or because it is excluded from the benefits of enhanced preferential access to higher-income markets where a competitor gains such access.

This does not mean that greater developing country differentiation for the purposes of agricultural disciplines is off the agenda. Greater differentiation is relevant in negotiating any of the individual modalities of the agriculture agreement. This paper explores the status of the individual negotiations to investigate the way in which greater differentiation might be implemented. This immediately raises the issue of what criteria for differentiation to apply. Paugam and Novel (2005) classify eligibility criteria into country-based approaches, agreement-specific or rule-based approaches, and a hybrid negotiated approach to differentiation. Country-based approaches refer to eligibility criteria based on geographic or broad socio-economic criteria. Agreement-specific approaches attempt to classify countries according to the particular SDT objectives in that agreement. In the case of the agriculture agreement, this would relate to indicators of food security or rural development need. Thus, we first survey in Section 2 the literature which has attempted to define groups of developing countries based on these agreement-specific criteria. Section 3 examines where greater differentiation might have a specific function in the individual modalities of the agricultural negotiations, taking into account what the July 2004 FA has to say on SDT. A possible way to break the deadlock on SDT is proposed in the concluding Section 4.

Before beginning, it is necessary to confront one argument which bedevils discussion of SDT in agriculture. SDT measures cover preferential access to developed country markets, longer transitional periods to implementing commitments, permanent exemptions from agreed commitments in the spirit of non-reciprocity to provide greater policy space for developing countries, and promises of development assistance. There is strong disagreement over whether greater flexibility in WTO rules (to allow greater policy autonomy or policy space in the formulation of agricultural trade and support policies) would actually contribute to the desired goals of increased food security and rural development.<sup>4</sup> We do not attempt to answer this question in this paper, concentrating instead on the realpolitik of responding to developing country demands for more operationally effective SDT measures if they are to be persuaded to sign up to a new Agreement.<sup>5</sup>

## **2. Designing criteria for SDT eligibility**

In this section, we look briefly at ways in which greater differentiation might be introduced into the commitments undertaken in the agriculture agreement. We survey a number of suggested approaches in the literature, ranging from the use of simple per capita income measures to more complex statistical techniques. Using the suggested classification outcome from one comprehensive study conducted by the Swedish Board of Agriculture (Kasteng et al, 2004), we explore the political economy barriers to going further down this road in a new agreement.

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<sup>4</sup> Reflecting this sceptical view, the European Communities (2002) notes that “All SDT proposals should be evaluated against the following basic criterion : will this aid the economic development of developing countries and their fuller integration of developing countries into the trading system, as opposed to creating what has been described as permanent exclusion or second tier Membership of the system?”

<sup>5</sup> The arguments are reviewed in Matthews, 2005.



Using per capita income to rank countries is an obvious way to differentiate countries according to their ability to take on additional commitments. One approach has been suggested by the International Food & Agricultural Trade Policy Council which has proposed a three-fold distinction based in a modified way on the distinctions drawn by the World Bank and the IMF based on per capita income (IPC, 2004). But while the World Bank distinguishes between low income, lower middle income and upper middle income developing countries, the IPC proposes to distinguish between least developed countries, lower middle income and upper middle income countries. The LDC grouping would be based on the UN definition (which includes institutional constraints as well as per capita income) but, in addition, would include all countries with a per capita income less than \$900 (the World Bank uses a threshold of \$765 per capita to distinguish between low income and lower middle income countries). It also suggests a flexible mechanism whereby countries facing particular constraints, such as small island states, land-locked countries or vulnerable economies, could apply for classification into the next lower category if their per capita income does not take into account unique vulnerabilities. It then argues that the degree of SDT treatment should be differentiated over these three groups, rather than two as at present. For example, with respect to market access, it suggests that upper middle income countries should accept the same tariff reductions as developed countries but with a longer implementation period, the lower middle income countries might be offered both lower reduction commitments and a longer implementation period, while LDCs would not be required to make reduction commitments.

Alternative approaches focus more directly on the food security objectives of SDT in the agriculture agreement and seek to explicitly distinguish between food insecure, food neutral and food secure countries. Food security is here being defined at the national level, but there is no consensus on how to do this. Ruffer *et al.* (2002) examine the classification of countries on the basis of seven plausible criteria to define a food insecure country. These criteria include GDP per capita; the contribution of agriculture to GDP; calories or protein per capita; the FAO classification of Low-Income Food-Deficit Countries which takes into account a combination of GNP per capita and the net food trade position of a country (based on calories traded, not value); and the ratio of total exports (including merchandise and services) to food imports. For the continuous variables, each indicator is associated with a threshold to determine a country's food security status. They find that only seven countries (of which only four are WTO members) meet all criteria for food insecure countries where data exists! This indicates that the classification question is not an innocent technical question but is likely to prove highly controversial.

Also starting from the concept of national food insecurity, Stevens and Kennan (2003) (building on earlier papers by Stevens 2002a, 2002b) link calorie supply, agricultural dependence, export market share and vulnerability to identify countries with the greatest potential need to support their domestic agricultural sector (and, hence, not to be restricted in the use of subsidies) and those most vulnerable to world market changes that would follow significant OECD liberalisation (and hence in need of adjustment support).

Diaz-Bonilla *et al.* (2000) use various methods of cluster analysis for 167 countries to identify groups of countries categorised according to five measures of food security: food production per capita, the ratio of total exports to food imports, calories per

capita, protein per capita, and the share of the non-agricultural population.<sup>6</sup> Their results identify 12 clusters of countries according to their similarities in their food security profiles. On the basis of the identified clusters, countries are placed in one of the following three categories: (1) food secure; (2) food neutral, and (3) food secure. Their classification of food insecure countries covers almost all LDCs, with the exceptions of Cape Verde, Maldives and Myanmar. However, their system of differentiation also includes in the food insecure group many countries not covered by the Marrakesh Decision which distinguishes LDCs and the NFIDCs.

In a study for the Swedish Board of Agriculture, Kasteng et al. (2004) take this classification as their starting point to develop a typology of developing countries which separates out two further groups of developing countries. The first is a group of high income advanced developing countries, generally with low dependence on agriculture, which in their view “*might be given the same conditions as the developed countries in the field of agriculture*”. The second is a group of significant net food exporting countries, as suggested in the EU/US proposal presented before the Cancún Ministerial. Using a classification developed by the WTO Committee on Agriculture of significant exporters which are countries representing more than five per cent of the total global export of a certain product or product group, they identify nine developing countries which fall into this category. However, as four of these countries fall into the food insecure group as defined by Diaz-Bonilla et al, and a fifth is Hong Kong which overall is a significant net food importer (it is included in this group because its share of world exports of poultrymeat exceeds the five per cent threshold), this leaves just four countries which they classify as net agricultural exporters: Argentina, Brazil, China and Thailand. The overall system of differentiation proposed by the Kasteng et al. study is shown in Table 2.

The table illustrates the nature of the deal which has to be made if greater differentiation is to become a reality in the agriculture agreement. Essentially a group of advanced developing countries and a smaller group of significant net agricultural exporting developing countries would be asked to forgo taking advantage of SDT measures to which they might otherwise be entitled under the July 2004 Framework Agreement. Two elements are necessary to persuade them to do this. For the significant net agricultural exporting developing countries, they may be prepared to accept this condition if it unlocks a significant market-opening offer by the developed countries from which they will benefit. To persuade the other advanced developing countries, the developed countries would have to make clear that this would lead to deeper SDT measures being offered to a wider group of low- and middle-income developing countries than just the LDCs that are defined to suffer from food insecurity.

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<sup>6</sup> The threshold values are used in the Díaz-Bonilla *et al* (2000) study: **(1) food insecure:** food production/capita: US\$ 81.8; food import capacity: 20.4%; calories/capita/day: 1982.9; protein/capita/day (in grams): 48.6; non-agricultural population: 23%; **(2) food neutral:** food production/capita: US\$ 210.4; food import capacity: 8.8% calories/capita/day: 2602.3; protein/capita/day (in grams): 66.5; non-agricultural population: 75%; **(3) food secure:** food production/capita: US\$ 254.2; food import capacity: 5.4% calories/capita/day: 3231.3; protein/capita/day(in grams): 100.1; non-agricultural population: 8.8%.

**Table 2. Differentiation between developing countries : Swedish Board of Agriculture proposals**

	<b>Low income Countries</b>	<b>Middle-Income Countries</b>	<b>High-Income Countries</b>
<b>Food insecure countries, including LDCs</b>	<b>Angola, Azerbaijan, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Kinshasa), Cote d'Ivoire, Equatorial Guinea, Ethiopia, Gambia, Georgia, Ghana, Guinea, Guinea Bissau, Haiti, India, Kenya, Laos, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mongolia, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Pakistan, Papua New Guinea, Rwanda, Samoa, Sao Tome &amp; Principe, Senegal, Sierra Leone, Solomon Islands, Sudan, Tajikistan, Tanzania, Togo, Uganda, Vietnam, Yemen, Zambia, Zimbabwe</b>	Albania, Armenia, Bolivia, Botswana, <b>Cape Verde</b> , Cuba, <b>Djibouti</b> , Dominican Republic, El Salvador, Grenada, Guatemala, Honduras, Iraq, <b>Maldives</b> , Namibia, Peru, Philippines, Seychelles, Sri Lanka, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, <b>Vanuatu</b>	
<b>Developing countries with special need for rural development</b>	Indonesia, Kyrgyzstan, Moldavia, Nigeria, Uzbekistan	Algeria, Belize, Bosnia & Herzegovina, Chile, Colombia, Costa Rica, Dominica, Ecuador, Egypt, Fiji, Gabon, Guyana, Jamaica, Jordan, Kazakhstan, Lebanon, Macedonia (FYR), Malaysia, Morocco, Mauritius, Mexico, Panama, Paraguay, Qatar, Romania, Saudi Arabia, Serbia & Montenegro, Suriname, Swaziland, Tonga, Trinidad & Tobago, Tunisia, Turkey, Uruguay, Venezuela	
<b>Significant net-agricultural exporting countries</b>		Argentina, Brazil, China, Thailand	
<b>Advanced developing Countries</b>			Antigua & Barbuda, Bahamas, Bahrain, Barbados, Brunei, Hong Kong, Israel, Kuwait, Macao, Oman, Singapore, South Korea, Taiwan, United Arab Emirates
<b>Developed countries, including observer countries</b>		Belarus, <u>Bulgaria</u> , <u>Croatia</u> , <u>Czech Republic</u> , <u>Estonia</u> , <u>Hungary</u> , <u>Latvia</u> , <u>Lithuania</u> , <u>Poland</u> , <u>Russia</u> , <u>Slovak Republic</u> , <u>South Africa</u> , <u>Ukraine</u>	<u>Andorra</u> , <u>Australia</u> , <u>Austria</u> , <u>Belgium</u> , <u>Canada</u> , <u>Cyprus</u> , <u>Denmark</u> , <u>Finland</u> , <u>France</u> , <u>Germany</u> , <u>Greece</u> , <u>Iceland</u> , <u>Ireland</u> , <u>Italy</u> , <u>Japan</u> , <u>Liechtenstein</u> , <u>Luxembourg</u> , <u>Malta</u> , <u>Netherlands</u> , <u>New Zealand</u> , <u>Norway</u> , <u>Portugal</u> , <u>Slovenia</u> , <u>Spain</u> , <u>Sweden</u> , <u>Switzerland</u> , <u>United Kingdom</u> , <u>USA</u> .

Explanations to the table: Countries in bold: LDC category. Countries underlined: WTO developed countries category. WTO members not included due to lack of data: Bahrain, Cyprus, Liechtenstein, Macao, Oman, Qatar, Singapore, Taiwan. WTO observers not included due to lack of data: Andorra, Bahamas, **Bhutan**, Bosnia & Herzegovina, **Equatorial Guinea**, Holy See (Vatican), Iraq, **Samoa**, **Sao Tome and Principe**, Serbia & Montenegro, Tonga.  
Source: Kasteng et al., 2004.

If this political deal was made, a number of technical issues would still need to be clarified to make it operational in a new agreement. More simple and transparent objective criteria to distinguish between the food insecure countries, including LDCs, and developing countries with a special need for rural development, would need to be

developed which nonetheless produced more or less the same ranking of countries. This would also facilitate the development of graduation criteria which are a necessary accompaniment to any move to greater differentiation. In the following section, we turn to examine where such a more differentiated classification of developing countries might be applied in the negotiations on a new agriculture agreement.

### 3. Applying greater differentiation in the agriculture agreement

#### *Market access*

By common consent, the market access pillar is proving the most difficult to negotiate. The FA set out a number of agreed principles to guide the negotiations. These were: a high level of ambition in the overall outcome; that highest tariffs would be reduced the most; that a tiered approach would be used; that special treatment would apply to sensitive products; and that SDT would apply to developing countries. However, no numbers were provided to show how these principles would be made operational. The SDT provisions under this pillar are summarised in Table 3.

**Table 3. SDT provisions relating to market access in the July Framework**

Paragraphs 27 and 29	Members also agreed that special and differential treatment for developing Members would be an integral part of all elements in the [market access] negotiations.... Each Member (other than LDCs) will make a contribution. Operationally effective special and differential provisions for developing country Members will be an integral part of all elements.
Paragraph 39	Having regard to their rural development, food security and/or livelihood security needs, special and differential treatment for developing countries will be an integral part of all elements of the negotiation, including the tariff reduction formula, the number and treatment of sensitive products, expansion of tariff rate quotas, and implementation period.
Paragraph 40	Proportionality will be achieved by requiring lesser tariff reduction commitments or tariff quota expansion commitments from developing country Members.
Paragraph 41	Developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment. The criteria and treatment of these products will be further specified during the negotiation phase and will recognize the fundamental importance of Special Products to developing countries.
Paragraph 42	A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.
Paragraph 43	Full implementation of the long-standing commitment to achieve the fullest liberalisation of trade in tropical agricultural products and for products of particular importance to the diversification of production from the growing of illicit narcotic crops is overdue and will be addressed effectively in the market access negotiations.

Since then, a number of proposals have been made regarding the structure of an appropriate formula, including submissions by the G20, Canada, Australia, the US and the EU. In the absence of numbers, the likely outcomes from these proposals cannot be compared. The G20 proposal can be seen as forging a middle ground

between the radical liberalisers (such as the US and the Cairns Group, which advocated the use of the Swiss formula with a low tariff cap) and the reluctant liberalisers (such as the G10 and the EU who favoured the Uruguay Round approach). The outcomes are further complicated by the provision in the FA concerning sensitive products. The debate on sensitive products is linked to the degree of flexibility included in the tariff reduction formula. To ensure a significant degree of market opening, it is accepted that tariff rate quotas (TRQs) would have to be increased to compensate for a lower tariff reduction. However, there is disagreement about whether the tariff reduction/TRQ expansion combination should be related to the main formula for tariff reduction or not.

### ***Tariff reduction formulae and policy space***

As noted, many developing countries want to retain the maximum amount of policy space to pursue domestic food and agricultural policy objectives. Leaving aside the LDCs where there is already agreement that they will not be asked to make tariff reduction commitments, an important issue for other developing countries is how to reconcile a harmonising formula approach to tariff reductions with special and differential treatment. SDT in the Uruguay Round (UR) meant that commitments by developing countries averaged two-thirds of those undertaken by developed countries. If this is to be repeated in the Doha Round, the question is whether this commitment is built into the formula to be used or into the objective to be achieved. There is great variation in initial tariff structures across countries, with many developing countries which opted for ceiling bindings having much higher bound rates than developed countries. Application of a differentiated formula could even lead to the perverse outcome whereby poorer developing countries are asked to make proportionately greater reductions given the initial structure of their tariffs.<sup>7</sup>

Interpreting the actual outcome of any formula for an individual developing country is complicated, as for developed countries, by the number and treatment of sensitive products which will be allowed. According to the FA (paragraph 39), developing countries will benefit from special and differential treatment (SDT) in the designation and treatment of sensitive products. This would imply that these countries may designate more sensitive products and undertake lesser commitments with respect to tariff reductions and tariff rate quota expansion than may otherwise be required.

Because of the rather arbitrary way in which the average cuts required of developing countries will be distributed under any of the formulae publicly proposed to date, the scope for applying greater rule-based differentiation is not clear. One way to get around this conundrum would be for each country to place its tariff into three (or more) tiers, where the reduction coefficient is decided for each tier but the thresholds are flexible and determined in such a way that the overall reduction (including taking sensitive products into account) meets the average target established for the country group with which a country is associated. This would allow the average target to be differentiated according to a country's food security status if appropriate eligibility criteria were agreed.

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<sup>7</sup> See Matthews, forthcoming, for further discussion. Examples of differing tariff structures for individual countries are given in Jales *et al.*, 2005.

### ***Special Products***

In addition to being able to designate sensitive products, the FA foresees (paragraph 41) that “*Developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment.*” This guarantees that developing countries will have access to this flexibility in a revised agreement on agriculture and it clarifies that the basic criteria that should guide the designation of SPs will be food and livelihood security, and rural development needs. On the other hand, the text establishes limits to the possible scope of SPs, for instance, by requiring that only an appropriate number of products can be so designated. How this number should be determined is left to further negotiation, as is the treatment of SPs.

From the point of view of greater differentiation, the key issue is whether all developing countries should have the same potential access to SPs, regardless of how defined or how treated. Two criteria to limit the number have been proposed: a certain number of tariff lines, or imports accounting for a certain proportion of the value of imports. The latter would allow a country to choose between a small number of products accounting for a sizeable share of imports, or a larger number of less significant products in import value terms. Ruffer (2003) suggests varying these numbers by the level of per capita income. Alternatively, the criteria for choosing special products could be made more generous for more food insecure countries. Note that even holding the same threshold for all countries would imply some differentiation in practice. Small countries with undiversified production may only need a small number of SPs to provide significant protection to their domestic agriculture; a larger country with a more diversified agriculture may need a larger number of SPs. To the extent that smaller countries are more likely to be food insecure, some desirable differentiation would occur in practice even if the same thresholds were applied to all developing countries.

### ***Special Safeguard Mechanism***

Developing countries have worried that trade liberalisation could leave them vulnerable to import surges or a price collapse on world markets, in a situation where they have very limited ability to protect producers through purely internal measures. Paragraph 42 of the FA states that “*a special safeguard mechanism (SSM) will be established for use by developing country Members.*” While this represents substantial progress by developing countries in the negotiations to date, no guidance is given as to the design of this mechanism.

The G33, an alliance of developing countries formed to promote the need for an SSM and SPs, has argued that an SSM should have the following features: the safeguard measure should be automatically triggered; it should be available to all agricultural products; both price and volume-triggered safeguards should be considered; both additional duties and quantitative restrictions should be available as remedies; and the mechanism should be simple, effective and easy to implement. On the other hand, developed countries (and some developing countries) have argued for restricted product coverage and more limited triggers and remedies.

The disagreements in relation to product eligibility revolve around a number of issues: whether to limit SSM use to a specific number of tariff lines or allow access by all tariff lines; whether to use multilaterally agreed, development-related criteria or to allow self-designation; and whether access to the SSM should be related either to the depth of the tariff cuts and/or the final level of the bound tariff. Developed countries suggest that the SSM should apply only to staple food products or products necessary for food security that are produced in the developing country concerned, and to products that already have low tariffs, in order to facilitate the overall liberalisation process.<sup>8</sup>

Greater differentiation could apply to various elements of the SSM. Food-insecure countries could be allowed to designate a greater number of eligible products, or could be allowed easier triggers, or could be allowed to apply stronger remedies, or for a longer duration. The most likely element for differentiation concerns the number of eligible products. All products might be deemed eligible for food-insecure countries, while more advanced developing countries might be restricted to a limited number. The general discussion on the criteria for differentiation in the previous section remains relevant here.

### ***Domestic support***

Few developing countries have entitlements to provide trade-distorting domestic support beyond *de minimis* levels. The FA (paragraph 6) recognises that “*Special and differential treatment remains an integral component of domestic support. Modalities to be developed will include longer implementation periods and lower reduction coefficients for all types of trade-distorting domestic support and continued access to the provisions under Article 6.2.*” It also states (Paragraph 11) that “*Reductions in de minimis will be negotiated taking into account the principle of special and differential treatment. Developing countries that allocate almost all de minimis programmes for subsistence and resource-poor farmers will be exempt*”. Crucially, this goes beyond the exemptions in Article 6.2 in allowing coupled direct payment programmes if a country has the budget resources and sees a need for these.

It is unlikely that further differentiation beyond that implied by this exemption for targeted domestic support will be sought or required, as the current *de minimis* provisions for developing countries are quite generous.<sup>9</sup> The FA, in fact, makes it possible for DCs to agree to a reduction in *de minimis* levels, knowing that for the majority such a reduction would have no impact in practice. This is because the bulk of their *de minimis* support is allocated to subsistence and resource-poor farmers. FAO (2005) acknowledges that defining these terms is problematic, both conceptually and in terms of data availability. It suggest that countries with more than a specified proportion of their population (say 50%) working in agriculture and with a certain

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<sup>8</sup> The 2003 US-EU joint proposal stated that a special agricultural safeguard (SSM) shall be established for use by developing countries as regards import-sensitive tariff lines.

<sup>9</sup> FAO (2005) interprets this provision to mean that national and multilateral programmes specifically targeted at subsistence and resource-poor farmers would receive additional SDT beyond that prescribed for all developing countries. But a plain reading of the text suggests that developing countries where these farmers are the main focus of domestic support avoid reductions in *de minimis* levels, but do not get to increase them beyond these levels.

proportion of the population with income below a certain level would automatically qualify for exemption under this heading. Whatever the criteria, the point is that a workable means of differentiation has been established in the domestic support pillar, if countries are prepared to use it.

### ***Export competition***

Because few developing countries are entitled to use export subsidies, they have few defensive interests in this pillar (see Table 3 for a list of relevant SDT provisions in the Framework Agreement). However, developing countries are likely to continue to want to make use of price intervention schemes as part of their agricultural policy. Experience in Europe shows how difficult it can be to keep support prices in line with market trends. Where countries build up stocks as a result of price stabilisation or price guarantee policies, the issue of how to dispose of surpluses will arise. The FA allows developing countries to continue to provide (for a period to be negotiated) export subsidies for transport and marketing as allowed under Article 9.4 of the existing Agreement on Agriculture. Some developing countries have proposed expanding the types of export subsidies they are allowed to use under Article 9.4. They want to see exemptions along the lines of Article 27 and Annex 7 of the Subsidies Agreement (which allow developing countries with a per capita GNP less than \$1,000 to provide export subsidies, as well as longer phase-out periods for other developing countries). Differentiation for any such extension would be meaningless as it is only the more advanced developing countries that are in a position to contemplate subsidising their exports in the first place.

**Table 3. SDT provisions relating to export competition in the July Framework**

<b>Export competition</b>	
Paragraph 22	Developing country Members will benefit from longer implementation periods for the phasing out of all forms of export subsidies.
Paragraph 23	Developing countries will continue to benefit from special and differential treatment under the provisions of Article 9.4 of the Agreement on Agriculture for a reasonable period, to be negotiated, after the phasing out of all forms of export subsidies and implementation of all disciplines identified above are completed.
Paragraph 24	Members will ensure that the disciplines on export credits, export credit guarantees or insurance programs to be agreed will make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least- Developed and Net Food-Importing Developing Countries.
Paragraph 25	STEs in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will receive special consideration for maintaining monopoly status.
Paragraph 26	In exceptional circumstances, which cannot be adequately covered by food aid, commercial export credits or preferential international financing facilities, ad hoc temporary financing arrangements relating to exports to developing countries may be agreed by Members.

Other developing countries are concerned that the disciplines on export competition measures, including export credits and food aid, could have negative implications for



meeting humanitarian and development needs. The FA states that such disciplines will provide for differential treatment in favour of the least developed **and net food importing countries**, without compromising the objective of eliminating their trade-distorting effects. It refers to the Marrakesh *Decision* in favour of these countries to maintain food aid levels, but without acknowledging the structural flaws in the *Decision* that have prevented its implementation.

Some developing countries also have interests in the State Trading Enterprises (STE) debate. Although state marketing boards are now much less prevalent in developing countries than used to be the case, disciplines on the financing of STEs, and on the use of monopoly export powers, will affect some countries. Kenya has proposed that developing country STEs be exempt from disciplines because of the role they play in development. The FA proposes that “STEs in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will receive special consideration for maintaining monopoly status”. Given this qualification on the bodies eligible for special treatment, differentiation does not appear to be an issue in this area either.

### ***Least developed countries and other poor developing countries***

The FA recognises more differentiated special treatment for LDCs in two ways (Paragraph 45). First, LDCs are not required to undertake reduction commitments. Second, there is an exhortation that developed Members, and developing country Members in a position to do so, should extend duty-free and quota-free access to LDCs.

Implicit in this latter exhortation is some form of differentiation on a voluntary basis, although the best-endeavour language means that it is a very soft commitment. Nonetheless, it could be built upon in various ways. For example, the EU has proposed that the exemption from undertaking reduction commitments should be extended to other low-income developing countries, generally interpreted to be the G-90. It has also gone further than the FA text and proposed that duty-free and quota-free access be offered to all low income countries, and not just the LDCs. Very little attention or analysis has been given to this potentially radical proposal, giving the impression that the EU does not take it very seriously. Yet it does suggest a way forward from the current impasse, as discussed in the concluding section. In either case, a clear legal definition of the G90-similar countries based on objective criteria of their food-insecure status as discussed above will be required.

## **4. Conclusion**

Special and differential treatment has the potential to emerge as a major stumbling block to the successful conclusion of the Doha Round agricultural negotiations. On the one hand, without further differentiation of the beneficiaries of special treatment, developed countries are unlikely to offer much beyond rather shallow SDT and will also be reluctant to make a significant market-opening offer. On the other hand, low-income developing countries may veto an agreement if they feel that it does not provide them with the policy space they believe to be necessary to pursue their food security, rural development and poverty alleviation objectives.

This paper explores how greater differentiation of special treatment for developing countries might be applied within the agreement on agriculture under negotiation in the Doha Round. Although greater differentiation has been proposed primarily by the developed countries as a way of limiting the cost to them of extending SDT, it would be a desirable outcome if it encouraged the offer to low-income developing countries of more operationally effective SDT by the developed (and possibly, more advanced developing) countries, and because it would limit the collateral damage of deeper SDT if fewer countries were able to avail of it.

SDT in the agriculture agreement is increasingly justified in the context of its contribution to promoting food security, poverty alleviation and rural development. This suggests that any attempt to differentiate further between developing countries should seek to do so on the basis of food security and agricultural performance data. One immediate issue is that indicators of food security are not necessarily relevant to judging rural development needs. Even focusing on a single criterion, such as food security, does not make the selection of countries easier, as studies have shown that a country's food security standing is greatly influenced by the particular indicator used to measure this status. Naturally, WTO member countries armed with the information on how well they will do from the negotiations beforehand will have every incentive to select an index which shows their case in a favourable light. Differentiation also has the potential to create a moral hazard problem if it encouraged developing countries to neglect food security and agricultural development policies so as to avoid the requirement to take on more onerous WTO disciplines.

One way to reduce the impact of index sensitivity is to have a larger number of eligible tiers but with stepped percentages for the reduction commitments or exemptions from rules which are ultimately agreed. This would minimise the adverse effects of falling outside a favoured group, and thus minimise the extent of lobbying in the event of an unfavourable outcome. It would also minimise the moral hazard problem, but at a much heavier transactions cost for the negotiations.

Our review of the state of the negotiations has shown that the FA already includes a mechanism for greater differentiation in the domestic support pillar if the political will was there to use it. A mechanism for differentiation in the export competition pillar has also been agreed in the few areas where it might be relevant (retaining the monopoly status of export STEs and protecting vulnerable countries from any prohibition on export credits). It is in the market access area (either defensively, in terms of maximising the policy space available to a developing country, or offensively, in terms of granting more favourable preferential access) where the means for greater differentiation remains unclear. In effect, the controversial areas are the size of the overall tariff reduction commitments, the number of special products and access to the special safeguard mechanism.

The empirical work shows that differentiation criteria can be devised, if there is evidence of political will to continue down this road. The difficulty is that it is not obvious why the more advanced developing countries should accept differentiation. They are likely to be offered only shallow SDT in any case. In the mercantilist world of WTO trade negotiations, the more advanced developing countries would immediately face what would be perceived as greater costs of membership with nothing to show in return. Paugam and Novel (2005) suggest that the way to break

this deadlock is to refer negotiators to one unique compass: the consideration of the potentially positive development impact of greater differentiation.

Presumably the main incentive for the more competitive agricultural exporters among the developing countries (the four countries Argentina, Brazil, China and Thailand identified by Kasteng et al., 2004) is significantly enhanced market access to developed country markets. If this offer of significantly enhanced market access is dependent on these countries also making significant commitments, these countries may be prepared to accept this trade-off. Most of the other more advanced developing countries are not agricultural exporters and would not benefit from a significant market-opening offer in agriculture. It needs to be brought home to these countries that their insistence on availing of extensive SDT puts in jeopardy a more generous SDT offer for low-income countries.

One way to do this is for the developed countries to outline the more ambitious SDT offers they are prepared to make to recognise developing countries' concerns on food security and rural development; in return, the more advanced developing countries could make clear that they would not seek to make use of these greater flexibilities. A more ambitious SDT offer should recognise that many low-income countries (and not just LDCs) are food-insecure (perhaps embracing the EU offer to give the G-90 countries the round 'for free'), and accept that even food-neutral developing countries will have rural development goals which could justify rule exemptions. Such an offer could help encourage the more vulnerable developing countries to break ranks and to put pressure on the more advanced developing countries to reach a deal. Without the framework for a more generous SDT package on the table, it is hard to see what incentive there is for the more advanced developing countries to forego the benefits of SDT to which they are entitled under the FA.

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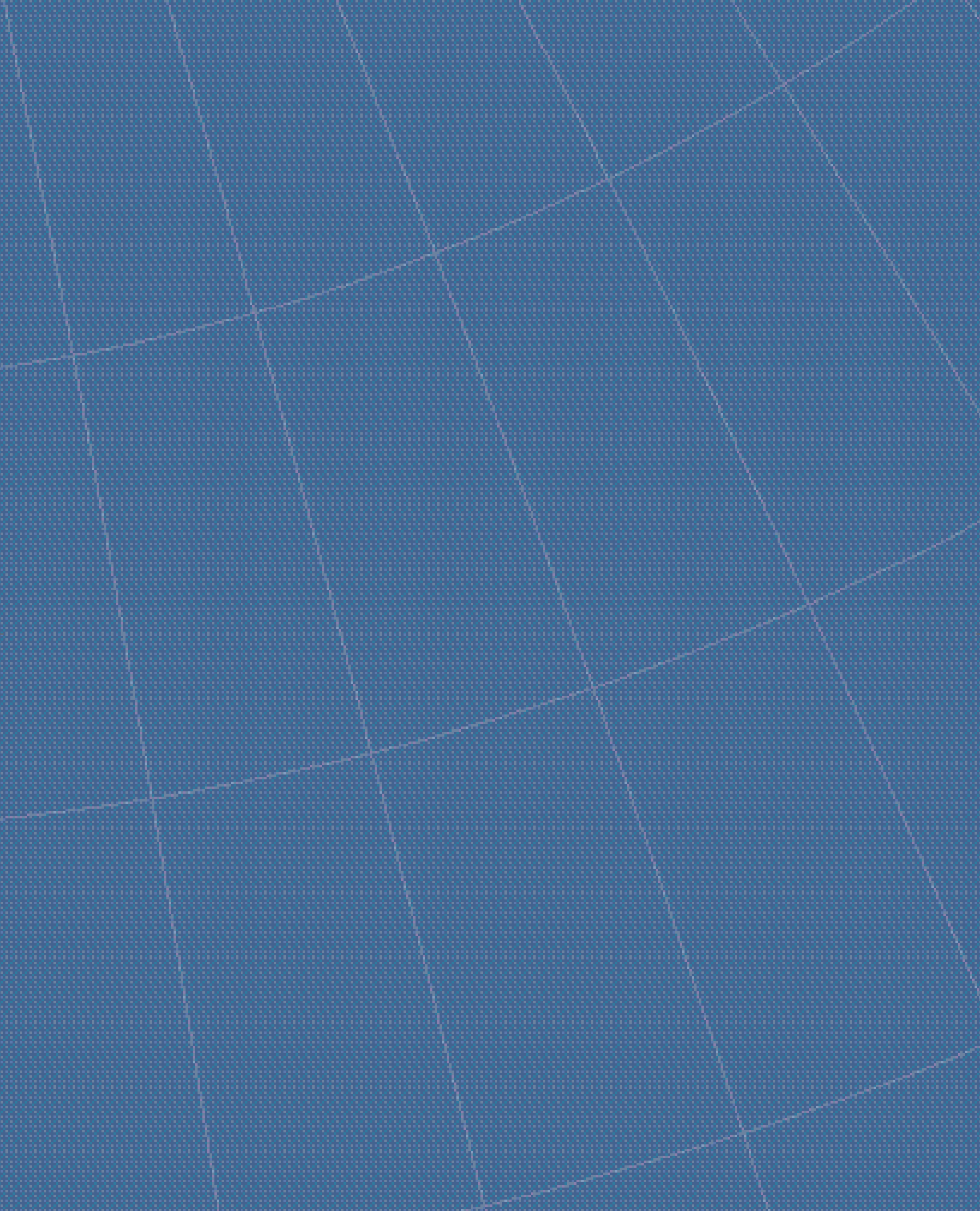
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**Institute for International Integration Studies**

The Sutherland Centre, Trinity College Dublin, Dublin 2, Ireland

