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Negotiations

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## **Special and Differential Treatment in the WTO Agricultural Negotiations**

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## **Abstract**

This paper examines the case for special and differential (S&D) treatment for developing countries within the WTO Agreement on Agriculture and the particular instruments or exemptions it should cover. The S&D treatment currently allowed to developing countries in the Agreement and the use they have made of it is first described. The range of proposals put forward by developing countries (and by development NGOs in developed countries) is summarised, and the S&D provisions in the August 2004 Framework Agreement for Establishing Modalities in Agriculture are outlined. The reasons why developing countries want special and differential treatment under the AoA are discussed. Some of the main proposals in the Development Box are then reviewed in the light of the justifications presented by its proponents. The paper concludes that the potential exists in the Framework Agreement to take a significant step towards “operationally effective and meaningful provisions” for S&D treatment. While noting this positive outcome, the important objective for developing countries of gaining a reduction in the trade-distorting support and protection by developed countries should not be forgotten.

## 1. Introduction

The Fourth WTO Ministerial Declaration launched the so-called Doha Development Round of multilateral trade negotiations in 2001. It reaffirmed that “special and differential treatment for developing countries shall be an integral part of all elements of the negotiations on agriculture”. Special and differential (S&D) treatment for developing countries has been a principle of the General Agreement on Tariffs and Trade (GATT) since the 1960s and to date has taken two main forms: the granting of preferential access to developed country markets and exemption from disciplines applying to the protection of domestic industries under particular conditions. Preferential market access was justified as a means to encourage export diversification by developing countries in order to escape the ongoing decline in their terms of trade. Exemptions from the disciplines on the use of protective measures were justified by arguments that the trade policies appropriate to developing countries are different to those required in developed countries, that the developed countries themselves used selective protection in earlier periods, and thus that the policy disciplines which apply to the latter should not apply to the former. The meaning of S&D treatment changed during the Uruguay Round. Developing countries (apart from the least developed countries) were expected to assume the general obligations of membership. Instead, the focus shifted to one of responding to the special adjustment difficulties in developing countries which might stem from their implementation of WTO decisions (Whalley, 1999). This included a lower level of obligations and longer implementation periods, as well as technical assistance for capacity building.

When disciplines on trade-distorting agricultural policies were included in the Uruguay Round Agreement on Agriculture (AoA), the principle of S&D treatment also applied to the treatment of developing countries under that Agreement. However, developing countries have argued that the Agreement represents a very unbalanced and skewed set of obligations. They argue that changes to WTO rules are necessary if they are to have the flexibility to implement specific policies to address their food security, rural development and poverty alleviation concerns. The exemptions and rule changes to the AoA sought by a number of developing countries have become known as the Development Box.

This paper examines the case for a Development Box within the AoA and the particular instruments or exemptions it should contain. The paper begins by describing the current S&D treatment allowed to developing countries in the Agreement and the use they have made of it. The range of proposals put forward by developing countries (and by development NGOs in developed countries) is summarised, and the S&D provisions in the August 2004 Framework Agreement for Establishing Modalities in Agriculture (WT/GC/W/535) are outlined. The reasons why developing countries want special and differential treatment under the AoA are discussed. Some of the main proposals in the Development Box are then reviewed in the light of the justifications presented by its proponents. Noting that developing countries’ negotiating capacity is limited and the reality that it is necessary to prioritise policy options, the paper concludes by assessing the adequacy of the S&D provisions in the Framework Agreement in the light of the arguments presented.

## 2. Special and differential treatment provisions in the AoA

Special and differential treatment is provided for developing countries in three main ways under the AoA. First, there are lower reduction percentages and longer implementation periods for the main commitments entered into. Second, there is greater flexibility in the use of certain policy instruments such as investment subsidies and export subsidies. Third, special commitments were entered into for net food-importing developing countries and least developed countries, known as the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing*

*Countries.* However, while this Decision contained many exhortatory and ‘best endeavour’ commitments, no real action has followed from it to date.

Developing countries were asked to take on reduction commitments two-thirds those of developed countries with respect to cuts in tariffs, domestic and export subsidies. In the case of market access, they could opt to use ceiling bindings to establish their initial tariff levels in the case of products where tariff levels were not bound. Few developing countries had bound their agricultural tariffs, and they were allowed to choose whatever initial level of tariffs they wanted from which to make reductions for these products. The tariff reductions for developing countries were 24 per cent over a ten year period beginning in 1995, compared to the 36 per cent average over six years for developed countries beginning in the same year. Least-developed countries were not required to undertake any reduction commitments, though they were expected to bind tariff and domestic support levels. Developing countries could also make use of a time-limited special treatment provision to exempt their staple food crop from the tariffication requirement, provided they provided some minimum level of market access (set at 4 per cent of domestic consumption in the base year by the end of the tenth year of implementation). Continuation of this exemption beyond the tenth year would have to be negotiated and accompanied by additional and acceptable concessions as determined in that negotiation.

With respect to domestic support, developing countries are permitted a number of areas of greater policy flexibility under the Agreement. They are allowed higher *de minimis* percentages for Amber Box support measures of 10 per cent of the value of output (as against 5 per cent for developed countries) for both product-specific and non-product-specific domestic support. This means that even developing countries with a zero Total AMS commitment could, in theory, provide up to 20 per cent of the value of their agricultural output as support to their farmers.<sup>1</sup> The constraint here is available budget resources rather than their WTO commitments (Matthews, 2003). Green Box measures for developing countries (those measures where there are no restrictions on how much countries may spend) are expanded to include government stockholding programmes for food security purposes assuming their operation meets certain criteria, as well as domestic food aid and subsidy programmes. Other measures exempted from reduction commitments under the Agreement include investment subsidies which are generally available to agriculture as well as agricultural input subsidies which are targeted at low-income or resource-poor producers, and support to encourage diversification from the growing of illicit narcotic crops. Certain export subsidies are also excluded from reduction commitments, for example, subsidies to reduce the costs of marketing agricultural exports and those provisions which make internal transport charges on export shipments more favourable than those for domestic shipment. A starting point in considering an expansion of S&D in the Agriculture Agreement is to ask what is the value of the existing provisions and what use has been made of them.

### ***Tariffs***

A major achievement of the AoA was tariff binding. Developed and developing country WTO members bound almost 100% of all agricultural tariff lines. Most developing countries opted to use ceiling bindings rather than tariffication, and bound rates were set at high levels, though not for all countries. Egypt, Sri Lanka and several Latin American countries are countries with relatively low bound rates. Newly-acceding countries to the WTO (which are nearly all developing countries) are also required to offer low bound rates.

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<sup>1</sup> One of the inequities of the Uruguay Round AoA is that developing countries without any history of providing domestic support must cap their trade-distorting support under *de minimis* rules on a product-by-product basis (in the case of product-specific support), whereas developed countries who may have built up significant levels of Amber Box trade-distorting support are not constrained in this way.

**Table 1. Flexibility provisions for developing country Members in the AoA**

Article 6.2	Investment subsidies which are generally available to agriculture, agricultural input subsidies generally available to low-income or resource-poor producers, and support to encourage diversification from growing illicit narcotic crops, are exempt from domestic support reduction commitments.
Article 6.4(b)	Higher <i>de minimis</i> percentage for AMS commitments under this paragraph of 10% (as against 5% for other Members).
Article 9.2(b)	Lower rate of reduction for export subsidy commitments on budgetary expenditure and quantities benefiting from such subsidies.
Article 9.4	Certain export subsidies are excluded from reduction commitments: subsidies to reduce the costs of marketing exports of agricultural products, and providing internal transport charges on export shipments more favourable than those for domestic shipment.
Article 12.2	Exemption for developing country net food importers from the requirement to give due consideration to the effects of export prohibitions and restrictions on other importing Members' food security and to give notice and to consult with other importing Members on such measures.
Article 15.1	General requirement that S&D should be reflected in the commitments undertaken under the AoA. This was implemented with respect to the market access, export subsidy and domestic support commitments by mandating reduction commitments two-thirds of those required of developed country Members. <sup>1</sup>
Article 15.2	Developing countries to have the flexibility to implement reduction commitments over a period of up to 10 years. Least developed countries not required to undertake reduction commitments.
Annex 2	Governmental stockholding programmes for food security purposes whose operation is transparent and in accordance with officially published criteria, as well as domestic food aid and subsidy programmes, are deemed to be Green Box measures.
Annex 5	Exemption from tariffication for predominant staples provided certain minimum access opportunities are provided.

<sup>1</sup> The reduced level of commitments allowed to developing countries and reflected in their Schedules of Commitments are not specifically spelled out in the AoA itself but were reflected in the Modalities document on which commitments were based.

Applied tariffs are much lower than bound rates. For 32 developing countries, a simple average of the applied rates is 20% versus the bound rate of 84% (Sharma, 2002). Matthews (2003) found almost identical numbers for an overlapping sample of 23 developing countries (18% as against 84%). Gibson *et al.* (2001) reach the same conclusion. Examining a sample of 12 Latin American countries with good data availability, they found that the average bound tariff level was 45% while the average applied tariff in 1998 was 13%, or less than one-third the bound level. They noted that applied tariff data were more difficult to source for other developing countries, but for a small sample of seven other developing countries they found applied rates averaged from one-quarter to about three-quarters of the bound rates.

This evidence suggests that developing countries, on average, have not been making use of the flexibility they already have to raise tariffs on imported foods where they think this is appropriate. One reason may be that countries have been forced to lower applied rates as part of structural adjustment programmes. However, case study evidence suggests that low applied

rates often reflect autonomous choices (Matthews, 2003). In many countries, applied rates are low as part of a strategy to keep food prices down for low-income consumers. In other cases, applied rates are low or have been lowered as part of a regional integration strategy with neighbouring countries.

However, flexibility on average does not rule out the possibility that, for particular commodities, bound tariffs may constrain applied tariff levels. If so, this will apply *a fortiori* if bound tariffs are further reduced in the Doha Round. It is therefore probable that a larger number of countries would find that the tariff overhang will be reduced for a larger number of products and even that they may be required to reduce applied rates below those currently in force.

Sharma (2002) argues that the cases where countries have difficulties living within their bound tariffs are often basic foods, where tariffs are often higher than the average rate and in many instances are supplemented by additional measures such as surcharges and variants of price band policies. The case study evidence from 23 developing countries summarised by (2003) suggests that applied rates are often close to bound rates for a wider range of products, including dairy products, poultrymeat and alcoholic beverages. This is an area where quantitative evidence for disaggregated commodities is as yet limited.

### ***Special safeguards***

One reason why a margin between bound and applied tariffs may be important to developing countries is that it gives them flexibility to adjust border protection to stabilise domestic prices in response to low world prices or import surges. Case study evidence has been presented of particular problems with specific commodities in particular countries. Oxfam quotes a number of examples where it claims small farmers have lost their livelihoods as a result of rapid liberalisation and the growth of imports (Oxfam International, 2002). Its examples include cheap maize imports from the US into Mexico as a result of the North American Free Trade Agreement, rapid growth of imports of subsidised rice from the US into Haiti and of subsidised milk powder from the EU into Jamaica. Import surges do not have to be caused by subsidised imports; another Oxfam example is that imports of cheaper Thai rice into Senegal caused severe distress to that country's domestic rice sector. FAO (2000) reports that Jamaica has faced difficulties in coping with import surges of various agricultural goods, including meat products and sugar.

There are general provisions to deal with import surges under the WTO safeguards provisions. However, the existing safeguards provisions are difficult and time consuming to implement. Between 1995-2001, only seven developing countries initiated or implemented emergency safeguards for a total of 16 agricultural products (Sharma, 2002). This is a small number relative to the concern expressed. This might be because of the availability of other measures (particularly the ability to raise applied tariffs within the bound ceiling, although the existence of import surges suggests that governments did not resort to this option), because the import surges did not lead to negative effects (which is one of the conditions to trigger the safeguard), or, most likely, because the complexity of the emergency safeguard process made it too difficult for countries to use.

Article 5 of the AoA allows countries which tariffed their non-tariff barriers in the Uruguay Round to make use of a Special Safeguard (SSG), provided that they reserved this right in their schedules. Only 21 developing countries are eligible for the Special Safeguard (SSG) provisions within the AoA, and then only on a limited range of nominated product lines. The limited evidence suggests that the clause has been rarely invoked (Ruffer and Vergano, 2002).

The problems arising from an import surge can be serious for vulnerable agriculture. Developing countries and poor farmers have a limited capacity to adjust to a sudden upsurge



in agricultural or food imports. The problem may become more acute if margins between applied and bound tariffs shrink as part of the overall liberalisation of a new Round. The issue is therefore whether developing countries should be given access to a new safeguard instrument designed to allow them to protect themselves against import surges or periods of unduly low world prices.

### ***Minimum access commitments***

Those countries that undertook tariffication were required to offer minimum access commitments in the AoA. Only 14 developing countries made these commitments. They include Brazil, Costa Rica, Columbia, Guatemala, Indonesia, Korea, Malaysia, Mexico, Morocco, Panama, the Philippines, Thailand, Tunisia and Venezuela.<sup>2</sup> Minimum access commitments do not appear to have caused problems for domestic market management in developing countries to date. Tariff rate quotas (TRQs) were generally established for two categories of agricultural commodities: non-tradables and politically sensitive staples. TRQs are frequently reported for meat, dairy products, sugar, cereals and oilseeds. In the case of cereals and oilseeds, TRQs may have substituted for state-trading enterprises as a way of controlling imports. TRQ in-quota rates are only specified for two countries, but this is consistent with other evidence from the remaining countries that TRQs as originally envisaged are rarely being implemented. In over half the cases in which TRQs are reportedly being used, applied tariffs are being utilised. Applied tariffs are often low, and in many cases below the commitments for in-quota tariffs. Fill rates are low, but this does not seem to be due to institutional or licensing arrangements that might maintain protection. In many of the cases where low fill rates are observed, imports are on or above trend after 1994.

### ***Export subsidies***

Very few developing countries provide direct or indirect subsidies on agricultural exports so there is limited implementation experience on which to draw. There is some reported use by developing countries of the S&D treatment in Article 9.4, especially for high-value, low-weight products like cut flowers, fresh fruit and vegetables (Matthews, 2003).

### ***Domestic subsidies***

Commitments on domestic support (Total Aggregate Measurement of Support or Total AMS) in the AoA were made overwhelmingly by developed countries. 96 of the 118 developing countries did not report AMS subsidies in their schedules and thus have no reduction commitments (their support measures fall, by default, under one or more of the exempted categories (Green Box, Article 6.2 or *de minimis* AMS). There are just 13 developing countries with Total AMS reduction commitments.

*Product-specific support (PS-AMS).* Product-specific support in developing countries generally reflects market price support (as direct payments coupled to production are rarely used while input subsidies are rarely product-specific and thus fall under the NPS-AMS). Sharma (2002) notes the trend away from price support policies in developing countries, so that product specific AMS is becoming relevant for fewer commodities now than in 1986-88 or even 1995. These policy changes are not due to the AoA but reflect the trend in policy reforms in most developing countries since the mid-1990s.

For those countries with reduction commitments, the experience is mixed as regards whether their commitments were binding or not. There are some countries where actual support levels are high relative to committed levels, *e.g.* Thailand PS-AMS is now close to 100%, but for most countries with commitments AMS levels average around 25-30% of the ceiling limits.

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<sup>2</sup> The information in this paragraph is based on Abbott and Morse, 1999.

For countries without reduction commitments, the limit is the *de minimis* level (for developing countries, 10% of the value of production of the commodity). There are also several countries in this group where the PS-AMS levels are close to the 10% limit, but on the whole levels are relatively low. As Sharma (2002) remarks: “In general terms, 10% of the value of production (not value-added) is a large amount for most major commodities to constrain product-specific subsidies”.

*Non-product-specific support (NPS-AMS).* Sharma (2002) notes that, of the 22 developing countries with AMS information, only 11 have data on NPS-AMS. There are only two cases (India and Peru) where the ratio of NPS-AMS to the value of total agricultural production is high (7.5% and 6.2% respectively). The (unweighted) average for the other 11 countries was 1.9%. The high percentages for India and Peru are partly because neither country made use of the Article 6.2 provisions designed to cover certain types of developing country expenditures.

*Article 6.2 measures.* Article 6.2 provides scope to subsidise particular development measures in agriculture including investment subsidies generally available to agriculture, agricultural input subsidies generally available to low-income or resource-poor (LI/RP) farmers, as well as to encourage diversification from growing illicit narcotic crops. Twenty-three developing WTO members have made use of this provision in one or more years since 1995. Only three countries (Malaysia, Morocco and Turkey) have outlays exceeding 2% of the value of total agricultural production, five countries are between 1-2% and the other 15 countries less than 1% (Sharma, 2002).

We conclude that the existing commitments on domestic subsidies have not been a constraint on developing country policies until now. Developing countries generally do not have the budgetary means to provide significant support to their farmers.

Yet despite these existing provisions, many developing countries argue that there is a need for greater flexibility and additional exemptions. In a June 2000 submission to the WTO Committee on Agriculture, eleven countries – Cuba, the Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nicaragua, Pakistan, Sri Lanka, Uganda, and Zimbabwe – suggested creating a Development Box to allow developing countries the flexibility to tackle food security (G/AG/NG/W/13). This was elaborated in a non-paper on special and differential treatment submitted by broadly the same group of countries in July 2001<sup>3</sup> and in a subsequent non-paper on the Development Box by some members of the group in February 2002.<sup>4</sup> A further paper by the same group put forward specific proposals on modalities for special and differential treatment provisions.<sup>5</sup> India also submitted a proposal for a Food Security Box in January 2001 covering much of the same ground (G/AG/NG/W/102). At the WTO Ministerial Council meeting in Doha in November 2001, a loose alignment of countries calling themselves the ‘*Friends of the Development Box*’ was formed to promote acceptance of these ideas.<sup>6</sup> Development NGOs were also active in making the case for a Development Box (Green and Priyadarshi, 2001; Oxfam International, 2002; Solagral, 2001). A summary of the main ideas proposed for the Development Box is shown in Box 1.

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<sup>3</sup> WTO, Non-Paper on Special and Differential Treatment in Agriculture - Establishing the Objectives, submitted by Cuba, Dominican Republic, El Salvador, Honduras, Indonesia, Kenya, Nicaragua, Nigeria, Pakistan, Philippines, Sri Lanka, Tanzania, Venezuela and Zimbabwe, Special Session of the Committee on Agriculture, July 2001.

<sup>4</sup> WTO, Non-Paper on ‘The Development Box’, Special Session of the Committee on Agriculture, 4-8 February 2002 ([www.tradeobservatory.org](http://www.tradeobservatory.org)).

<sup>5</sup> WTO, Proposals on modalities for further commitments in the area of market access, Special Session of the Committee on Agriculture, 2-3 September 2002 ([www.tradeobservatory.org](http://www.tradeobservatory.org)).

<sup>6</sup> Cuba; Dominican Republic; El Salvador; Haiti; Honduras; Kenya; Nicaragua; Nigeria; Pakistan; Peru; Senegal; Sri Lanka; Uganda; Zimbabwe.

## **Box 1. Potential provisions in a Development Box**

### **General**

Exempt certain products from AoA commitments, using either a negative or positive list approach. Under the positive list approach, all products would be exempt except those listed by developing country members. This approach is used in negotiations on industrial tariffs and services. Countries volunteer to include only those products in the Agreement they feel ready for. Under the negative list approach, products would have to be nominated by developing country members to be exempt from AoA commitments (it is envisaged that these would be products important from a food security perspective). In other words, all products are included unless a country explicitly decides to exclude one or more.

### **Market access**

Tariff reductions should be linked to reductions in trade-distorting support to agriculture in developed countries.

Basic food security crops should be exempt from tariff reductions or other commitments.

There should be a right to renegotiate (upward) the low tariff bindings that apply to food security crops where those bindings are low.

Special safeguards providing automatic increases in tariffs, with a provision to impose quantitative restrictions under specified circumstances in the event of a rapid increase in imports or decline in prices, should be allowed.

Developing countries should be exempt from any obligation to provide any minimum market access.

### **Domestic support**

*De minimis* support ceilings for product-specific and non-product-specific support in developing countries should be doubled to 20 per cent of the value of output.

Domestic support exemptions should be expanded, for example, by allowing subsidised credit and other capacity building measures as exemptions when provided to low income or resource poor farmers.

Developing countries should be allowed to offset negative product-specific support (i.e. where farmers are taxed) against positive non-product-specific support (i.e. where farmers are supported).

Developing countries should be permitted to use measures to increase domestic production of staple crops for domestic consumption.

### **Export measures**

Flexibilities for developing countries to provide export subsidies in certain circumstances, including those that reduce the costs of marketing and those that reduce charges for export shipments, should be continued.

Source: Drawn from Roberts et al., 2002; Ruffer et al., 2002.

The extent to which these countries have succeeded in having their concerns recognised can be evaluated by examining the scope of S&D treatment proposed in the August 2004 Framework Agreement. The principle of S&D treatment is accepted in Para. 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.”

**Market access.** The Framework envisages a tiered formula under a single approach under which deeper cuts will be made in higher tariffs, but with flexibilities for sensitive products. There will be no general increase in tariff rate quotas, but the reduction or possible elimination of in-quota tariffs and improved quota administration have been agreed as ways to increase the fill rates of existing tariff quotas. Increased TRQ access will also form part of the balanced package to ensure a substantial improvement in market access for sensitive products where the tariff reductions will be lower than what would otherwise apply. The formula approach envisaged for tariff reduction has a number of characteristics which remain to be negotiated, including the number of bands, the thresholds for defining the bands, the type of tariff reduction in each band and the number and treatment of sensitive products. S&D treatment will be an integral part of all these elements of the negotiations. The Framework also envisages 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 which will be eligible for more flexible treatment. The criteria and treatment of these Special Products are to be further elaborated during the negotiation phase. Finally, the Framework envisages the creation of a Special Safeguard Mechanism for use by developing country Members.

**Domestic support.** The Framework states that S&D treatment remains an integral component of domestic support. It is agreed that the modalities to be developed will include longer implementation periods and lower reduction coefficients for developing countries for all types of trade-distorting domestic support. Continued access to the provisions under Article 6.2 will be allowed. Reductions in *de minimis* are foreseen, but developing countries that allocate nearly all of their *de minimis* programmes to subsistence and resource-poor farmers will be exempt.

**Export subsidies.** Developing country Members will benefit from longer implementation periods for the phasing out of all forms of export subsidies. Following the deadline for the phasing out of export subsidies in general, a time limit, to be agreed, will be placed on their continued access to the provisions of Article 9.4 permitting developing countries to provide limited types of export subsidies even where no such subsidies had been provided before.

Whether these provisions provide an adequate response to the concerns expressed by developing countries, and how to spell them out in ways which will make them operationally effective, are the questions addressed in the remainder of the paper.

### **3. The justification for special and differential treatment**

The original concept for S&D treatment for developing countries was developed in the context of disciplines on manufactured products. Exemption from the disciplines applying to developed country Members was justified as a variant of the infant industry argument, that the domestic industries of developing country Members needed more time and support in order to become sufficiently competitive to be able to stand on their own feet in competition with firms from other countries. This fear of the basic uncompetitiveness of much developing country agriculture in the face of the perceived competitive strengths of developed country agro-food complexes can be found behind some of the demands for S&D treatment in agriculture. But there are also a number of more specific arguments which are used to justify flexibilities with respect to WTO disciplines on agricultural protection and support in developing countries.

Global models generally find that the bulk of the gains to developing countries from agricultural trade liberalisation come from their own policy reform, rather than from policy

reform undertaken by OECD countries. Typical orders of magnitude are found in the study by Anderson (2002), which suggests optimistically that developing countries might gain \$11.7 billion from full agricultural trade liberalisation by OECD countries, but stand to gain \$31.2 billion by liberalising their own agricultural policies.<sup>7</sup> Given this presumption that developing countries have much to gain from fully participating in liberalisation efforts, why then are they apparently so keen to seek exemptions and exceptions which would allow them to opt out from, or certainly delay, liberalisation in the case of agricultural trade?

***The trade liberalisation damages food security argument.*** One line of argument, now more widely voiced by development NGOs in the North than by developing countries themselves, is that openness to trade is fundamentally damaging to food security in developing countries (see, for example, Madeley, 2000). Critics allege that the market-based model that advocates the liberalisation of international trade is not appropriate to developing countries. They argue that further liberalisation of trade and agricultural policies (by developing countries) will not help, and more likely will hinder them, in achieving their food security goals. They claim that the liberalisation of agriculture has mainly benefited larger, more export-oriented farmers and has led to the concentration of land ownership, thus marginalising smaller farmers and exacerbating unemployment and poverty levels. This argument echoes the distrust of the pro-trade argument more generally. Proponents of this argument reject the fundamental tenet of the WTO that allowing countries to take advantage of trade is a good thing. S&D then becomes a rationale to enable developing countries to avoid making any commitments. For such critics, the Development Box concept is simply a way of reversing the integration of developing countries into global markets in general and global food markets in particular. The evidence does not support this extreme position (for example, the countries with the largest growth rates of cash crop production also had the fastest growth in food crop production, see World Bank, 2003) but this does not mean either that agricultural trade liberalisation may not give rise to specific problems where intervention might be justified (for a more nuanced view, see FAO, 2003).

***The different role of agriculture argument.*** The agricultural sector in developing countries has particular characteristics which may justify exemptions from general WTO disciplines. This includes its importance as a source of employment, contribution to GDP and foreign exchange. In itself, the relative size of a sector is not a persuasive argument to exclude it from WTO disciplines. More persuasive is the idea that there may be important spillovers or externalities from growth of agricultural output in developing countries. Agriculture-led growth strategies appear to have larger dynamic multipliers for the rest of the economy than other alternatives in poor developing countries (Delgado *et al.* 1998). Agricultural growth also tends to have greater impacts on the reduction of poverty (Lipton and Ravallion, 1995 and other references in Diaz-Bonilla *et al.*, 2003). Mellor (2000) argues that there has been a tendency to generalise that economic growth reduces poverty, when in fact it is the direct and indirect effects of agricultural growth that account for virtually all of the poverty decline. Agriculture may have a particular role to play as a safety-net in developing countries for people who are unable to find alternative employment opportunities. Hence the importance of maintaining the viability of the sector, given the difficulties developing countries would face in providing alternative sources of employment for the rural poor if the size of their domestic agricultural sector were to shrink (Green and Priyadarshi, 2001).

***The weakness of agriculture argument.*** Here the emphasis is put on the weak market orientation, the lack of infrastructure and thus the difficulties developing country agriculture has in competing, and the consequent need to modernise the sector. For some commentators, the implication is that agricultural production needs significant support through a combination

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<sup>7</sup> This comparison exaggerates the gains to developing countries from OECD country agricultural trade liberalisation because it uses a database which does not take full account of the existence of preferential market access arrangements.

of price support, input subsidies and border protection in order to provide the production incentives required (Pearce and Morrison, 2001). Other commentators draw a different conclusion from the same diagnosis of weak agricultural structures. They argue that the underlying causes of these shortcomings need to be addressed if the potential benefits of trade liberalisation are to be realised. The role of S&D treatment is to give developing countries some breathing space to address the inadequacies in their domestic economies, which is an argument for longer transition periods, not for exemptions (Roberts *et al.*, 2002).

***The food security argument.*** The need to take account of the development needs of developing countries, including food security and rural development, was reaffirmed in the Doha Declaration (para. 13). Many developing countries believe that a high level of food self-sufficiency is a necessary condition of food security, and fear that agricultural trade liberalisation will increase their dependence on imported foodstuffs. Providing protection for the domestic production of food staples is thus seen as an important route to food security. But proponents of trade reform point out that national food self-sufficiency in itself is no guarantee of household food security where problems of access and utilisation persist (Gulati, 2000). There is also potentially a very high cost in pursuing a food self-sufficiency strategy to food security if resources are attracted into relatively unproductive sectors at the expense of foregoing more remunerative opportunities elsewhere.

***The protection of the weak argument.*** While acknowledging that opening developing economies to international trade along comparative advantage lines can potentially make a bigger contribution to food security, critics point out that the impacts can vary greatly across different categories of farmers and also within households depending on the role of women in food production. In many countries, the poorer and more food-insecure farmers may not be in a position to take advantage of trade and may even find their livelihoods undermined (FAO, 2003). However, trade policy is a very blunt instrument to address problems where rural communities and small farmers may be excluded from or damaged by open markets. More targeted investment policies and social safety nets are likely to be much more effective instruments to address these problems rather than border protection.

***The vulnerability argument.*** Developing countries, and especially low-income farmers in these countries, are more vulnerable to the adjustment pressures caused by open trade policies. Given that the biggest source of price variability arises from domestic causes, the availability of trade plays an important role in price stabilisation. However, this does not diminish the argument that the world market can itself be a source of instability. Such pressures are of two kinds: (a) the transmission of the low points of fluctuations in world market prices into domestic markets, putting additional pressure on low-income farmers, and (b) the possibility of import surges. Add to this the more limited capacity of both private farmers and public institutions in developing countries to adapt to and mitigate the consequences of such instability. Both arguments may justify the maintenance of border protection measures to limit the transmission of world market variability into the markets of developing but not developed countries.

***The asymmetry of support argument.*** Finally, for many developing countries, Development Box measures are justified by the context that developed countries have the right to continue to provide significant subsidies and support to their farmers, while the rights of developing countries under the same Agreement are much more limited. Here the question to be asked is whether developing countries would not be more successful in tackling the root causes of these inequities directly through seeking more effective market access conditions and greater disciplines on developed countries' use of trade-distorting support, rather than seeking to avoid the adverse effects of these policies by reinforcing their own protectionist policies in return.

In summary, the purported objective of the Development Box proposal is to reduce rural poverty and food insecurity and to promote, or at least not constrain, the policy autonomy of developing countries in pursuit of these goals. As in the general debate on S&D treatment, there is a tension between those who argue for increased flexibility for developing countries on one or more of the above grounds, and those who argue that the danger to development is not the WTO disciplines but the flexibility to avoid them. Sharma (2002) points out: “Especially in the circle of trade negotiators and policy makers, there is a tendency to associate *less* binding commitments with *positive* experience, in which case a *negative* experience would be where the rules and commitments restricted actions” (italics in original). For other observers, the great benefit of the AoA is indeed that it locks in policy reform. Preserving resources and employment in traditional structures of farming can slow the process of adjustment to more productive activities and reduce economic growth.

There may be good reasons why developing countries may want to adopt policies that support or protect poor farmers in ways that are not always economically optimal. The most common explanation is that alternative forms of support (direct income support, safety nets) are often not practical in reality due to fiscal or administrative constraints (Ruffer *et al.*, 2002). Governments may therefore choose to pursue second best solutions to problems of rural poverty and food security even at the cost of economic distortions. One criterion to judge Development Box proposals is whether they address a real problem which cannot be resolved in some other way.

Based on these considerations, a set of criteria are proposed for use in evaluating Development Box proposals.

- First, would the measures proposed really help to improve food security, alleviate poverty and promote sustainable agricultural growth in developing countries?
- Second, would the additional policy flexibility actually be of value to developing countries? Would they use it?
- Third, what ‘price’ might have to be paid to gain acceptance for these concessions? This will depend on the willingness of developed countries to countenance concessions which, in turn, will depend on how trade-distorting (and thus damaging to their own producers) they expect them to be, and whether they perceive the measures to be an opt-out from liberalisation or motivated by a desire to address a specific policy problem.
- Fourth, would protective measures undertaken under the cover of the Development Box adversely affect other developing countries? Developing countries are an increasingly important export market for other developing countries. Although Development Box measures are often seen as protecting developing countries against competition from developed countries, their use in practice may be more damaging to developing country suppliers.

#### **4. Development Box proposals**

##### ***Tariff exemptions***

The right to exempt particular food security products from further tariff reductions or indeed from tariff disciplines altogether, under either a positive or negative list approach, is the key component of the Development Box. Raising tariffs is attractive to a food-importing country because it can raise producer prices at low fiscal cost. However, many developing countries do not make full use of their existing tariff flexibility, suggesting that looking for additional flexibility would be a relatively poor deal in negotiating terms. On the other hand, if further tariff reductions are agreed under the Doha Round, tariff bindings could become more restrictive, and additional flexibility would become more valuable.

Those who advocate that developing countries should be exempted from further tariff reductions or alternatively should be allowed greater flexibility to set tariffs at whatever levels they deem appropriate, at least for food security products, justify their case using four key arguments.

- The case for *development tariffs*, i.e. high tariffs are necessary to provide adequate incentives for producers in developing countries in order to encourage agricultural growth with its accompanying poverty alleviation and multiplier effects;
- The case for *food security tariffs*, i.e. levels of food self-sufficiency at world market prices or with low tariff bindings are insufficient to provide the level of national food security that developing countries desire;
- The case for *stabilisation tariffs*, i.e. tariff bindings should be sufficiently high to give developing countries the ability to vary applied tariffs in order to offset most or all of the price volatility arising from world market prices;
- The case for *compensatory tariffs*, i.e. high tariffs in developing countries are justified as a countervailing measure as long as developed countries continue to provide significantly larger amounts of trade-distorting support.

These arguments can be criticised on a number of grounds. For instance, given that poor households may spend as much as half of their income on food, raising tariff levels could have a negative impact on the living standards and food security of an increasing number of poor urban households and landless rural workers, as well as those poor small farmers who tend to be net buyers of food. Thus higher tariffs will impact differently on food security depending on whether the food-insecure are predominantly food producers or food consumers.

Even if the poor are predominantly food producers, attempting to improve their situation by raising food prices will be relatively ineffective. This is because it is the larger farmers, who have most to sell, who will disproportionately gain from higher food prices. Therefore, there will be a significant leakage of benefits away from the poor under this policy. On the other hand, direct targeting of resources to directly benefit poor farmers may be administratively very difficult in the circumstances of certain developing and least developed countries.

An important criterion in evaluating the case for treating developing country tariff policies differently is whether there are alternative WTO-compatible policies available to developing countries which could achieve the intended objectives. In many cases, other alternatives do exist (Diaz-Bonillo et al., 2003). Most evidently, domestic policies which ignore or even discriminate against domestic agriculture must be avoided. Farmers are still penalised in many developing countries as a result of persistent exchange rate over-valuation or neglect in public investment allocation. In such contexts, tariffs are often advocated as a second-best policy to address some of the fallout from faulty macroeconomic policies. Developing countries have the right under existing WTO rules to invest in a range of growth-enhancing policies, such as research, extension, irrigation, infrastructure, land tenure and organisational reforms, to address supply bottlenecks in their agricultural sectors. These measures are all Green Box-compatible and not prohibited under the AoA. Ensuring that developed countries reduce and eliminate their trade-distorting support to their farmers would also help to increase incentives to developing country agriculture.

Developing country governments argue that they cannot afford to finance these growth-enhancing policies. In this constrained environment, raising tariffs appears as an attractive way of raising farm prices (in food-importing countries) at low fiscal cost. But low fiscal cost should not be confused with low economic cost. There are real costs to a developing country economy which sets out to maintain a high level of uncompetitive food production as a long-term policy. Such transfers must ultimately be paid by someone, and if consumers are asked



to pay through higher food prices, this will be reflected in higher wage demands and poorer prospects for the development of the non-agricultural sector in these economies.

Taking account of all the arguments put forward, there is a case to allow more gradual tariff reduction commitments for food security products, but not to exempt these products entirely from further tariff reductions. Where existing tariff bindings are low, however, exempting particular food security products from further tariff reductions would be justified on second-best grounds. As long as developed countries retain the right to impose high tariffs on imports of developing country exports, it seems indefensible to argue that developing countries with low tariffs on food security crops would be required to reduce them further. The negotiating issue would then revolve around the appropriate minimum threshold for exemption.

Whether countries whose tariff bindings on food security products are already below the minimum threshold should be allowed to increase them up to the threshold is more contentious. This step introduces a qualitatively different dimension, in that it seeks to withdraw market access commitments which developing countries entered into, and which other countries would feel they paid for with concessions of their own. Developing countries can argue, with some justice, that the concessions made by developed countries were, in practice, very limited. Nonetheless, it does not make sense to use negotiating capital to push this issue aggressively, given that the countries concerned have the right under existing WTO rules to raise these tariffs anyway, provided compensation is paid.<sup>8</sup> Many countries may be able to find other products where lower tariff bindings could be offered in exchange, or where minimum access commitments could be opened for those principal suppliers adversely affected. A clause stating that developed countries would exercise restraint in seeking compensation for loss of market access where tariffs on food security crops were raised would also be worth pursuing in the negotiations.

### ***The need for stabilisation - safeguards***

One of the arguments for exempting developing countries from the requirement to lower tariffs is that they are the only instrument open to countries to stabilise domestic markets in reaction to changes in world market conditions. As noted earlier, in many developing countries applied rates are often below bound rates. Developing countries with high bound tariffs can make use of this differential to raise applied tariffs in response to particularly low world market prices, as long as the applied tariff remains below or at the bound level. The stabilisation argument for the renegotiation or retraction of tariff bindings is to also permit this option for those countries with low bound tariffs on food security products.

An alternative approach is to give developing countries access to a safeguard instrument which could, in practice, have the same effect. Safeguards are designed to protect against the adverse consequences of domestic market disruption caused either by unduly low-priced imports or import surges. The need to protect particularly vulnerable producers who have no safety-net options against price volatility transmitted from the world market is persuasive. There is a convincing case for making a special agricultural safeguard measure available to developing countries in the case of food security products, both for its substantive effect in protecting vulnerable producers against the worst effects of volatility in world market prices, and because it would make it easier for developing countries with high bound tariffs on these products to agree to significant tariff reduction commitments more generally. Such a special safeguard should be available on a permanent basis. However, it may be difficult to get agreement on such an instrument for all developing countries, especially if the safeguard mechanism is to be a truly effective one. An effective safeguard exacerbates the adjustments

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<sup>8</sup> Compensation in this sense is not financial compensation, but means a reduction in tariffs or the opening of tariff rate quotas in other products to provide additional market access of equal value to the market access withdrawn in the case of the commodity whose bound tariff level has been increased.

which must be undertaken by other countries to the underlying supply and demand conditions which gave rise to the price change in the first instance. Technical discussions will be needed on the design of this mechanism with respect to trigger levels, duration and the level of additional duties which would be permitted.

### *Domestic subsidy commitments*

The objective behind Development Box proposals in this area is that developing countries should not be prevented by AoA rules from pursuing policy interventions designed to encourage agricultural growth. As discussed earlier, whether current rules do constrain, or are likely to constrain, countries in the future is a moot point. The objective could be achieved either by raising the permitted ceiling for trade-distorting (Amber Box) AMS support expenditures in developing countries or by widening the exemptions granted in Article 6.2. As in the case of the interdependence between safeguards and bound tariff reductions, there is an inter-relationship between providing greater room to use trade-distorting subsidies and re-classifying measures so that they are not deemed to be trade-distorting. To the extent that developing countries are given greater scope to exempt development supports from AMS disciplines, there is less need to raise the *de minimis* thresholds to accommodate these expenditures. Of the two options, the use of the Article 6.2 exemptions is to be preferred.

The reason is that these policies are more likely to be targeted on improving agricultural productivity and growth potential. The only danger is that the most useful and effective agricultural policy interventions are already placed in the Green Box and are thus exempt from reduction commitments. Any extension of the list might include policies of dubious effectiveness, which developing countries might be best discouraged from pursuing in their own better interests. However, some broadening of the exemptions covered by this Article could be considered (for example, extensions to cover concessional credit, transportation subsidies or assistance to producer groups or agricultural cooperatives could be made).

An issue for consideration is whether there should be any requirement that any new extensions, or the current investment subsidies, should be targeted on low income and resource poor farmers as is currently the case if input subsidies are to be exempt under this Article. There is currently no definition in the AoA of this category. If food insecure countries were defined according to objective criteria (see later), it could be agreed that any developmental measures instituted by these countries would, by definition, be presumed to be in compliance with the Article 6.2 criterion for low income and resource poor producers. For other developing countries (presumably the more advanced) a definition (for example, based on landholding or a national poverty threshold) might be considered.

As very few developing countries have AMS commitments greater than zero, the easiest way to raise the ceiling on permitted levels of trade-distorting support would be to raise the *de minimis* ceiling. While the current (higher) *de minimis* percentages should be maintained, there is little justification for seeking to increase them. The justification for maintaining the higher percentages is in recognition of the much higher levels of trade-distorting support permitted to developed countries under the current rules. But seeking an increase in these percentages is not likely to result in a commercially valuable concession, given the fiscal circumstances of most developing countries. Provided that any really useful promotional measures are exempted from reduction commitments through mention in Article 6.2, it is likely over time that the *de minimis* exemption would mainly shield price support policies. But as tariff levels fall, bound tariffs will place a ceiling on the extent to which domestic price support can be provided, further underlining the lack of utility in seeking to raise the *de minimis* ceiling. For those few developing countries with non-zero AMS entitlements, Article 18.4, which acknowledges that excessive rates of inflation could adversely affect the ability of a country to abide by its domestic support commitments, should be strengthened to make sure that the real value of these entitlements is not eroded. It should also be made clear that the use

by developing countries of Green Box, *de minimis* and Article 6.2 subsidies would not be actionable under the WTO Subsidies Agreement.

*De minimis* thresholds apply separately to product-specific support (which is directed to individual commodities, such as an administrative support price for wheat) and non-product-specific support (which is available to all commodities such as general input subsidies). Some countries, such as India, tend to *tax* farmers through product-specific support (by paying below world market prices) but compensate them through generous levels of non-product-specific support. A specific demand is that developing countries should be allowed to credit any negative product-specific support against the non-product-specific *de minimis* support. It can be argued, with some justification, that the combination of taxing producer prices and compensating for this through subsidies on inputs is not an efficient agricultural policy and thus should not be encouraged through WTO exemptions. The counter-argument is that the WTO should refrain from dictating the domestic policy choices of Members where the impact of their agricultural policies on international markets is minimal as it would be in this instance where the trade effects of the two policies offset each other. On this argument, the measure should be included in a new Agreement.

### ***Differentiation***

If the purpose of the Development Box is to promote food security initiatives in food-insecure countries, then such countries need to be appropriately identified. The WTO has established a list of net food-importing developing countries and least developed countries for the purposes of the Marrakesh Decision. This list currently comprises all least developed countries as defined by the United Nations as well as 19 other developing country members. However, there is widespread agreement that this list does not adequately capture all those countries which could be viewed as food-insecure (Stevens, 2002; Diaz-Bonilla et al., 2000).

Diaz-Bonilla et al. (2000) examine indicators for 167 countries to identify groups of countries which can be categorised as food-insecure 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. Their study identifies 12 clusters of countries according to similarities in their food security profiles. They define those four clusters with the lowest scores as 'food insecure'. While the net food-importing category is poorly correlated with indicators of food insecurity, the least developed countries do correspond broadly with those countries deemed to be suffering from food insecurity under this measure.

On the other hand, as they point out, limiting eligibility for the Development Box just to the least developed countries would be a substantial retreat from the principle of special and differential treatment. It is a reasonable assumption that there are some non-least developed countries which are food insecure – but how are these countries to be defined in a way which commands agreement?<sup>9</sup>

Ruffer et al. (2002) have also examined the classification of countries on the basis of five plausible criteria in order to define a food insecure country. They found that only seven countries (of which only 4 were WTO members on 1 January 2002) met all their criteria for food insecure countries where data existed! Their findings indicate that the classification question is not an innocent technical matter but is likely to prove to be highly controversial. Furthermore, the current category of net food importing developing countries, which was a

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<sup>9</sup> See Stevens (2002) for an attempt to define a list of countries that combine low real GDP per capita, high vulnerability and dependence on imported food. Diaz-Bonilla et al. (2000) also produce a list based on their methodology. The Ruffer et al. (2002) comparison shows countries that would qualify as food-insecure under alternative classification criteria, but the authors do not propose their own list.

classification negotiated during the Uruguay Round, has acquired rights under the Marakkesh Decision which would continue even if a further category of food-insecure countries to receive Development Box treatment were to be defined.

Recently, the International Food & Agricultural Trade Policy Council proposed a possible set of classification criteria (IPC, 2004). It acknowledged that the inability to differentiate between developing countries made S&D treatment less effective, because developed countries were less willing to provide concessions to developing countries if the beneficiaries included some of the more competitive middle-income exporters. It proposes 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. 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). The IPC is opposed to granting special status to particular sub-categories like small island states, land-locked countries or vulnerable economies. However, it proposes that countries should be able to 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 S&D 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. It would be encouraging if developing countries, and particularly the upper middle income developing countries, were to react positively to such a proposal in the ongoing negotiations.

## **5. Assessment of S&D treatment proposals**

The Agreement on Agriculture negotiated in the Uruguay Round does allow developing countries considerable flexibility to address issues of food security, rural development and poverty alleviation. Developing countries were able to opt for ceiling tariff bindings from which to implement their tariff reduction commitments for products subject to unbound tariffs. Reduction commitments were set at two-thirds those of developed countries and least developed countries were exempted from reduction commitments altogether. With respect to domestic support, specific measures to promote agricultural production in developing countries are exempt from reduction commitments and they have higher *de minimis* thresholds for trade-distorting support.

Nevertheless, experience to date with the implementation of the AoA has revealed a number of major shortcomings. The huge imbalance in the amount of Green Box and trade-distorting support provided to developed country farmers compared to that available to developing country farmers, despite and indeed because of provisions within the AoA, leaves many developing countries fearful that further liberalisation of their agricultural policies will leave their farmers exposed to unfair competition. There is a general concern across many developing countries that poor farmers in these countries are much less capable of dealing with the consequences of world market price volatility and deserve some special protection against this volatility. Some countries which believe that food self-sufficiency is an important element in their food security strategy and those which have bound their tariffs on food staples at relatively low levels are concerned at the possible consequences for food security of further tariff reductions. Other countries are concerned that their ability to pursue growth-promoting agricultural policies may be limited because they will come up against the low ceiling limits for domestic support.

This paper has highlighted where changes in the treatment of developing countries in the AoA would be desirable in the areas of tariffs, safeguards and domestic supports. In the case of tariffs, a lower rate of tariff reduction for a limited number of food security products, with a minimum threshold below which countries would not be required to go, at least until there had been a much more significant dismantling of agricultural protection in developed countries, would be justified. Countries whose bound tariffs were already below this minimum threshold have the right under existing WTO rules to raise these tariffs, although with the payment of compensation in terms of additional market access elsewhere to those import suppliers adversely affected. Developed countries might agree to exercise restraint in seeking compensation in the case of food security crops.

A special agricultural safeguard measure on a permanent basis for developing countries is justified, particularly in the case of food security products. Technical discussions will be needed on the design of this mechanism with respect to trigger levels, duration and the level of additional duties which would be permitted.

On domestic support, the exemptions under Article 6.2 should be maintained and, if necessary, broadened. With a sufficiently generous interpretation of permitted support measures, then the current *de minimis* percentages for developing countries should be maintained, but not increased. The justification for maintaining the higher percentages is in recognition of the much higher levels of trade-distorting support permitted to developed countries under the current rules. But seeking an increase in these percentages is not likely to result in a commercially valuable concession, given the difficult budgetary situation in most developing countries.

Finally, there is the question of which countries would be eligible for S&D treatment. Here, the approach proposed by the IPC to adapt a per capita income based distinction but to allow countries which feel they have particular vulnerabilities (for example, a high proportion of people undernourished or a great dependence on a single or narrow range of commodity exports) to petition for more favourable treatment, is a promising one to pursue.

Comparing these recommendations with the text agreed in the Framework for the modalities shows a high degree of overlap. The Framework recognises a category of Special Products based on criteria of food security, livelihood security and rural development needs which will be eligible for more flexible treatment. The concept of a minimum threshold below which further tariff reductions would not be required does not appear explicitly, but could be incorporated into the treatment agreed for SPs. The Framework text also commits to the establishment of a Special Safeguard Mechanism for use by developing countries, but is silent on the scope and mechanics of such a mechanism.

On domestic support, the August 2004 Framework calls for reductions in *de minimis* taking into account the principle of S&D treatment. This is interpreted in the next sentence as meaning that developing countries that allocate almost all *de minimis* programmes for subsistence and resource-poor farmers will be exempt [from these reduction commitments]. It proposes to maintain access to Article 6.2 provisions but not to extend them. It also proposes to allow access to the S&D treatment provisions for export subsidies for a time-limited period after all other export subsidies have been phased out.

Thus, the potential exists in the Framework Agreement to take a significant step towards “operationally effective and meaningful provisions” for S&D treatment. While noting this positive outcome, the important objective for developing countries of gaining a reduction in the trade-distorting support and protection by developed countries should not be forgotten. The danger for developing countries is that if too much of their negotiating effort is put into gaining special and differential treatment, less attention will be paid to gaining significant

reductions in market access barriers and tighter controls on domestic support policies in developed country markets. This is a particularly important issue for those middle-income developing countries who may be asked to forego some of the benefits of the new S&D regime as the price of reaching an agreement. If the market opening commitments are sufficiently attractive, it would be important not to lose the opportunity of taking advantage of these simply to make a point about S&D treatment.

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