Special and Differential Treatment in Agricultural Negotiations

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I. Introduction

Over the past four decades or so, the issues that have dominated WTO/ GATT negotiations have generally fallen in the prototype of either a transatlantic or a north-south divide. The latter has centred on efforts for the incorporation and improvement of provisions on special and differential (S&D) treatment of developing countries in the multilateral rules and on their application. In three successive rounds of multilateral trade negotiations between 1964 and 1994, S&D treatment was the main element in the negotiating stand of most developing countries. The Doha Round has proved to be no different. This paper aims to assess the proposals for S&D treatment in the context of the current negotiations on agriculture and recommend the way forward that may be in the best interest of developing countries.

Part II traces the genesis and evolution of S&D treatment in GATT/WTO and Part III analyses the S&D provisions in the Agreement on Agriculture and in the modalities that were the basis of the specific commitments undertaken by members on agricultural support and protection. It also contains an account of the application of these provisions in the process of implementation. Part IV examines the main proposals made in the Doha Round by the developing and developed countries to enhance S&D treatment. Finally, Part V takes up a critical examination of all aspects of S&D treatment in agricultural negotiations and suggests the way forward in the Doha Round.

II. S&D treatment of developing countries: origin and evolution of the concept

The Havana Charter and GATT 1947

From the time initial negotiations were held to develop multilateral rules to govern international trade in the post war world the attempt of the developing countries was to obtain greater flexibility in the use of trade policy measures to enable them to implement their programme of economic development. Their initiatives were founded on the belief that they needed greater space for manoeuvre in shaping their economic policies in order to foster their development. The Havana Charter for an International Trade Organisation, which was signed by 54 countries on 24 March 1948, contained a

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provision titled “Government Assistance to Economic Development and Reconstruction”. It allowed the use of any protective measure, otherwise in conflict with the obligations of the Charter, to promote the establishment, development or reconstruction of particular industries or branches of agriculture, provided prior permission was obtained from the body representing the full membership before applying the measure. This provision, which was carried over *mutatis mutandis* into the General Agreement on Tariffs and Trade in 1948, can be said to contain S&D treatment in its embryonic form.

Revision of GATT 1947

In 1954-55 this provision was thoroughly overhauled and some additional flexibility was given to the developing countries in what became Article XVIII of GATT, titled “Government Assistance to Economic Development”. In regard to the adoption of measures deviating from GATT obligations for the promotion of industry, the requirement of prior sanction by the full membership was relaxed to some extent. Prior consultation with affected governments and adherence to time limits after notifying the intention to introduce the measure was still required. Additionally, the use of quantitative restrictions for balance-of-payments purposes, already allowed for all members, was made easier for developing countries.

The addition of Part IV

The next step was the addition of Part IV to GATT in 1964. The core of this Part was the article on commitments, which sought to impose obligations on developed countries not to raise barriers to trade on products of interest to developing countries and instead to reduce these barriers. However, the language of the commitments of Part IV gave them the nature of guidelines rather than of legally enforceable commitments. It was not cast in the contractual mould, unlike the other Parts of GATT. The situation has not changed with the coming into force of the WTO Agreement, and Part IV has been carried forward into that Agreement in its original form. The only meaningful benefit that was provided to the developing countries in Part IV was the enunciation of the concept of non-reciprocity in trade negotiations between developed and developing countries.. The operative provision on non-reciprocity in Article XXXVI provided that “[t]he developing contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties”. An interpretative note clarified that the phrase “do not expect reciprocity” means that the developing countries should not be expected, in the course of trade negotiations, “to make contributions which are inconsistent with their individual development, financial and trade needs, taking into consideration past trade developments.”

Preferential treatment of developing countries

During the discussions for the addition of Part IV to GATT developing countries made a strong attempt to secure a departure from the MFN principle so as to make it

possible to accord preferential treatment to products originating in developing countries. Despite these attempts, Part IV steered clear of the question of preferences.

The move gathered strength outside the GATT during the deliberations of the United Nations Conference on Trade and Development (UNCTAD). The economic rationale was found by extending the application of the infant industry argument from the domestic to the foreign market (Prebisch 1964). In 1968 the UNCTAD Resolution 21 (II) finally recognised "the unanimous agreement in favour of the early establishment of a mutually acceptable system of generalised, non-reciprocal and non-discriminatory preferences which would be beneficial to the developing countries". This led to steps by the developed countries to establish schemes according preferential treatment to developing country exports under what came to be known as the Generalised System of Preferences (GSP). Conformity with the GATT was obtained through the mechanism of waiver. (GATT, BISD 18/S).

The Enabling Clause

Although preferential schemes became operational in several industrialised countries developing countries were still dissatisfied on account of the requirement of waiver from the obligation of Article I of GATT. Moreover, differential treatment was limited to tariffs only. They sought a fundamental change in the GATT so that not only tariff preferences but also differential treatment in all trade rules became an element of its rights and obligations. Their argument was that equal treatment was inappropriate for dealing with unequal entities. Economic inequality could not be corrected by the application of equal measures, "but rather through the adoption of a treatment which, by favouring some nations, would eventually lead to an effective and certain equalization" (Espiell 1974).

Changes in the GATT framework to accommodate the above demands of the developing countries was at the centre of the north-south debate in the Tokyo Round of multilateral trade negotiations (1973-79). From these debates emerged the Enabling Clause, which was adopted as a Decision by the GATT membership on 28 November 1979. The full title of the Decision was "Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries" (GATT, BISD 26/S). The ideas incorporated in the Decision have over time come to be referred to as special and differential (S&D) treatment rather than differential and more favourable treatment.

The Enabling Clause established a general basis for S&D treatment of developing countries in matters relating to trade in goods. Not only could the developed countries grant preferences to the developing countries, but the developing countries could also enter into regional or global agreements granting tariff and non-tariff preferences to each other. Equally importantly the Decision provided for S&D treatment in multilaterally negotiated agreements on non-tariff measures. The Decision had some other important features. Special treatment was envisaged for the least developed countries (LDCs), "in the context of any general or specific measures in favour of developing countries." The

notion of non-reciprocity in trade negotiations between developed and developing countries as already incorporated in Part IV of GATT was reiterated. The developed countries had sought recognition of the concept of "graduation" of the developing countries as a price for agreeing to S&D treatment. The concept had two facets. The developed countries called for "not only the phasing out of more favourable treatment in the markets of developed countries but also the phasing in the LDC compliance with the generally prevailing rules of the international trading system based on a balance of rights and obligations" (Frank 1979). Their efforts resulted the idea being incorporated to some extent in the Enabling Clause.

Pursuant to the provision in the Enabling Clause regarding differential and more favourable treatment in non-tariff measure agreements, many of the agreements negotiated during the Tokyo Round included extensive provisions granting additional benefits to developing countries, some more significant than others. Further decisions were also taken in respect of the provisions on S&D treatment in Article XVIII of GATT 1967. The Decision on Safeguard Action for Development Purposes, which was one of the decisions of the Tokyo Round, addressed once again the issue of measures deviating from the provisions of GATT, which were needed to promote the establishment of a particular industry and waived the "requirements regarding prior consultation with contracting parties, prior concurrence of the Contracting Parties and adherence to time limits in urgent cases" (Hoda 1987). In the Declaration on Trade Measures taken for Balance-of-Payment Purposes adopted in 1979, the developed countries renounced the use of trade measures (including quantitative restrictions) for safeguarding the balance of payments, while developing countries retained the full right to use such measures.
By the end of the Seventies, S&D treatment of developing countries, which began with the efforts of developing countries to secure some flexibility in the use of trade policy instruments, had become an all-pervading concept, encompassing non-reciprocity, preferences, technical assistance and an overall philosophy that equal treatment of unequal countries was inequitable. Differentiation inter se among developing countries was explicitly recognised only in respect of the least developed countries.

S&D provisions in the WTO Agreement

The S&D provisions in the WTO Agreement are broadly of two types: those that give flexibility to developing countries in undertaking commitments and those that require the developed country trading partners to accord special or preferential treatment to the developing countries to enhance and not limit their trade opportunities. The WTO Secretariat has classified these provisions according to a six-fold typology as indicated below (WTO document WT/COMTD/W/77/REV.1), which show better the full variety of these provisions.

- Provisions aimed at increasing the trade opportunities of developing country members.
- Provisions under which WTO Members should safeguard the interests of developing country members.
- Flexibility of commitments, of action, and use of policy instruments
- Transitional time periods.

- Technical assistance
- Provisions relating to least developing countries.

III. S&D provisions in the Agreement on Agriculture and their implementation

The WTO Agreement on Agriculture contains a number of provisions on S&D treatment of the developing countries. In addition, for undertaking specific commitments the countries participating in the Uruguay Round had before them a document on "modalities" of the negotiations, which was used as a basis of the negotiations, although it was never formally adopted by them. The term "modalities" embraces a number of elements of the process by which the participating governments conduct negotiations for reduction of trade barriers. It includes the product coverage, the negotiating tool (request-offer, formula or any other approach), the extent of reduction, the base level taken into consideration for applying the reduction, the period of implementation of agreed reductions, the manner of application of S&D treatment etc. In the analysis that follows, we describe S&D treatment in the rules of the Agreement on Agriculture as well as in the Uruguay Round modalities for undertaking specific commitments. We also discuss briefly the implementation of these provisions.

The Preamble to the Agreement on Agriculture recognises S&D treatment to be an integral element of the negotiations and mentions the need for the developed country members to provide for a greater improvement of opportunities and terms of access for agricultural products of particular interest to developing country members, including the fullest liberalisation of trade in tropical agricultural products. The principle is reflected in many of the specific provisions of the Agreement and particularly in the rules relating to domestic support and export competition. The paper on modalities (GATT Document MTN.GNG/MA/W/24), which was used as a basis for the negotiation of reduction commitments during the Round, also contained significant provisions for S&D treatment. *Developing countries were required to undertake reduction commitments that were only two-thirds of the general level of reduction. The least-developed countries were exempted altogether from the obligation to make reduction commitments. They were, however, not exempted from the need to bind all their agricultural tariffs.*

We take up below in detail how the broad principles of S&D treatment are reflected in the modalities for specific commitments to be made by the developing countries. But it is pertinent to mention here that the exhortation in the Preamble of the Agreement on Agriculture for the developed countries to provide greater market access to products of interest to the developing countries did produce some results. **As against the simple average reduction of tariff by 36 per cent, the average tariff reduction on tropical agricultural products by the developed countries was 43 per cent (WTO Documents WT/COMTDW/77/REV.1 and G/AG/NG/S/10).**

S&D treatment and rules on market access

Tariffication. The biggest advance made in the WTO Agreement in respect of market access for agricultural products was the prohibition of quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, no-tariff measures maintained through state trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties. All these measures had to be converted to tariffs and then subjected to binding and/or reduction. However, measures maintained under the balance-of-payments provisions of GATT 1994 or other multilateral agreements in the area of trade in goods were not brought within the purview of tariffication requirement. On this aspect no S&D treatment was extended to the developing countries.

Tariff Reductions and Bindings. The modalities required the ordinary customs duties including those resulting from tariffication to be reduced on a simple average basis by 36 per cent, with a minimum reduction of 15 per cent for each tariff line. The reductions were to be carried out in equal instalments over a period of six years. Developing countries were given the flexibility of offering ceiling bindings in respect of products subject to unbound ordinary customs duties. For products, which had already been bound in earlier negotiations, the modalities required reduction of tariffs by 24 percent on a simple average basis subject to a minimum of 10 per cent on each tariff line, to be implemented over 10 years. Since a large majority of developing countries had not bound their agricultural tariffs in earlier negotiations to any substantial extent, if at all, many of them made use of the possibility in the modalities of making ceiling bindings. In fact even the requirement of reduction in respect of tariffs that had been bound earlier was not strictly enforced and some developing countries merely incorporated their earlier commitments in the Uruguay Round schedules.

Minimum and Current access. During the Uruguay Round it was recognised that the tariffication process could result in the tariff levels being prohibitive. The modalities therefore stipulated that where there were no significant imports, minimum access opportunities must be provided. Such access opportunities had to be in the form of a tariff quota, starting with three per cent of the corresponding domestic consumption in the first year of the implementation period and rising to five per cent in the last year. If current access opportunities were already in excess of five per cent they were required to be maintained. There was no provision for S&D treatment, but developing countries that maintained quantitative restrictions for balance-of-payments reasons were exempted from the tariffication requirement and consequently from the need to provide minimum and current access.

Special Agricultural Safeguards. A feature of the Agreement on Agriculture in the special safeguard provision. WTO members that had tariffied non-tariff measures could reserve the right to invoke special safeguards in respect of these products. Where such a right has been reserved, members are entitled to impose additional duty on a product in any year when either the volume of imports exceeds or the price of imports

falls below the designated trigger levels. Unlike in the GATT 1994 provision on emergency safeguard action and the WTO Agreement on Safeguards there is no requirement to prove serious injury to domestic agriculture and additional duties can be imposed once the designated trigger levels are crossed. There is no S&D treatment envisaged in the special safeguard provision.

Exemption to Special Safeguards. The tariffication requirement extends to all agricultural products. A time-limited exception to the tariffication rule was made to enable Japan to take into account the political problem it had in implementing the rule in respect of rice. The relevant provision allowed exception to be made in respect of a primary product where imports comprised less than three per cent of the domestic consumption, no export subsidies were granted and effective production-restricting measures were applied. However a condition was imposed that enhanced minimum access opportunities would be provided, beginning with four per cent of the base period domestic consumption each year, until the end of the implementation period of six years. The exception was extended to developing countries with additional flexibility. *The only pre-condition for them was that the product must be the predominant staple in the traditional diet of the population. Further a lower minimum access requirement was applied, of one per cent of the domestic consumption in the first year rising to two per cent in the fifth and further to four per cent in the tenth year***.** Korea and the Philippines have taken recourse to the special provision for developing countries for time-limited exemption from the tariffication rule (WTO Document WT/COMTD/W/77/Rev.1).

S&D treatment and rules on domestic support

Amber, Blue and Green Boxes. The Agreement on Agriculture targeted practices that cause the most distortion to trade and production, capped them and sought to bring about a substantial reduction in the use of these practices. These practices constitute what has come to be known as Amber Box. It identified the practices that were considered to have no, or at most minimal, distorting effects on trade and production and exempted them from reduction commitments. These practices have come to be known as Green Box measures and are enumerated in an annex to the Agreement. Separately it also exempted direct payments under production limiting programmes, which has come to be known as the Blue Box. The measures were considered to be less distorting than measures that did not envisage any limitation on production. S&D treatment was provided in the disciplines on Green Box and Amber Box measures, but not for Blue Box measures.

S&D treatment in Green Box. The listed Green Box measures include general services (e.g. research, extension, capital works for infrastructure services), buffer stocks for food security purposes, domestic food aid, direct payments to producers, decoupled income support, government participation in income insurance and income safety net programmes, payment for relief from natural disasters, structural adjustment assistance, and payment under environmental and regional assistance programmes. In order to benefit from the exemption the listed measures had to conform to certain general and

specific criteria that were designed to ensure that the exempted measures caused no more than minimum economic distortions.

The specific criteria have been relaxed somewhat for the developing countries in respect of two of the Green Box measures viz., public stockholding for food security purposes and domestic food aid. Food purchases either for buffer stocks or for domestic food aid purposes have to be made by the governments at current market prices, and sales of buffer stocks have to be at no less than the current domestic market price. These conditions do not apply to the developing countries, although it is provided that in the case of purchases for buffer stocks the difference between the acquisition price and the external reference price must be accounted for in the measurement of Amber Box measures. Notifications made to the WTO show that in the period 1995-98, 11 developing country members (Brazil, Costa Rica, Cyprus, India, Indonesia, Israel, Kenya, Korea, Pakistan, Philippines and Sri Lanka) had buffer-stocking programmes in position and 10 (Brazil, Cuba, Guyana, Indonesia, Korea, Morocco, Paraguay, Sri Lanka, Thailand and Venezuela) were operating domestic food aid programmes (Source: WTO Document S/AG/NG/S/2). The notifications do not provide enough information for determining how many of them needed the additional flexibility extended to the developing countries by way of S&D treatment.

S& D treatment through exemption of subsidy practices. The most significant element of S&D treatment in the Agreement on Agriculture is the exemption from reduction commitments of the following measures required to encourage agricultural and rural development:

(i) investment subsidies, which are generally available to agriculture;
(ii) agricultural input subsidies generally available to low-income and resource-poor farmers; and
(iii) support to producers to encourage diversification from growing illicit narcotics crops.

These exemptions are not included in the annex listing the Green Box measures but are separately provided for in the text of the Agreement. The relevant provision stipulates some conditions that govern the exemption. In respect of investment subsidies and agricultural input subsidies a prerequisite is that the subsidy must be generally available and not targeted at particular products. **During the period 1995-98, 25 developing countries (Bahrain, Brazil, Chile, Colombia, Costa Rica, Cyprus, Egypt, Fiji, Honduras, India, Korea, Malaysia, Maldives, Mexico, Morocco, Namibia, Pakistan Paraguay, Philippines, Sri Lanka, Thailand, Tunisia, Turkey, Uruguay and Venezuela) notified to the WTO that they had schemes in operation that qualified for this exemption (Source: WTO Documents G/AG/NG/S/2 and G/AG/NG/S/12/Rev.1). Annex Table I gives the monetary value of the measures benefiting from this provision as notified by these countries during the period 1995-98.**

S&D treatment in reductions commitment including de minimis. The measures not included in the Green and Blue Boxes were subject to reduction commitments. The modalities required governments first to compute, in accordance with a methodology that was prescribed, the Aggregate Measurement of Support (AMS). The AMS was the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of the agricultural producers in general. The calculation of product-specific AMS had to be made separately for each product benefiting from market price support, non-exempt direct payments and any other non-exempt policies. Support that was non-product specific was required to be aggregated into one non-product-specific AMS.

There was no requirement to undertake reduction commitments if the product-specific AMS expressed as a percentage of the value of the production of the relevant product and non-product-specific AMS expressed as a percentage of the value of the entire agricultural production came to less than the de minimis value of five per cent. *The de minimis level for developing countries was set at 10 per cent.*

Reduction commitments had to be undertaken on the basis of the Total AMS, which was the sum of the product-specific AMS, non-product-specific AMS and the Equivalent Measurement of Support calculated for products benefiting from measures for which it was not practicable to make calculations in accordance with the AMS methodology. The base level AMS was to be calculated on the basis of support provided in the years 1986-88. The modalities required Members to reduce the base level AMS by 20 per cent over a period of six years. *For developing countries the reduction commitment was lower (13.33 per cent) and the implementation period was longer (10 years). Least-developed country members were exempted from the requirement to undertake reduction commitments on domestic support*. **Only 15 developing countries (Argentina, Brazil, Colombia, Costa Rica, Cyprus, Israel, Jordan, Korea, Mexico, Morocco, Papua New Guinea, South Africa, Thailand, Tunisia and Venezuela) undertook reduction commitments in the Uruguay Round or in the course of their subsequent accession (Source: WTO Document G/AG/NG/S/2). Thirteen of these Members have notified the Current AMS during the period 1995-98 and the values are reflected in Annex Table 2. Not all these notifications furnish the total value of agricultural production of the notifying member, which would have enable an estimation of the magnitude of the Current AMS relative to the value of agricultural production. However, some of them do provide the details. On the basis of these notifications the percentages in 2000 were 5.12 for Korea (G/AG/N/KOR/31), .0.9 for South Africa (G/AG/N/ZAF/44) and 9.6 for Israel (G/AG/N/ISR/26).**[2]

Out of the 54 developing country members that made notifications on domestic support for the years 1995-98, only 12 (Brazil, Chile, Cyprus, India, Israel, Korea, Pakistan, Philippines, South Africa, Tunisia, Turkey and Uruguay) were

[2] In two cases the Current AMS as a percentage of total value of agricultural production shows a clear downward trend. In South Africa, the percentage has come down from 5.26 in 1995 to 0.90 in 2000 and in Israel from 13.28 to 9.63.

benefiting from the de minimis provision. (Source: WTO Document G/AG/NG/S/2). Annex Table 3 shows the value of the de minimis subsidies notified by these Members during the years 1995-98. Only in the case of two countries, India and Korea, the subsidies falling under this exemption were substantial. But even in these countries these subsidy were low in relation to the total value of agricultural production, at 1.18 percent in 1997 in India (G/AG/N/IND/2) and 1.59 percent in 2000 for Korea (A/AG/N/KOR/31).

S&D treatment and rules on export subsidies

The Agreement mandated members to undertake reduction commitments in respect of six main types of export subsidy practices that were prevalent at that time and incorporate them in their schedules of specific commitments. These were direct subsidies on exports, sale for export by government of non-commercial stocks at a lower price than for buyers in the domestic market, payments on export financed by virtue of governmental action such as levy, subsidies for reducing the cost of marketing exports, including the costs of international transport and freight, concessional internal transport and freight charges on export shipments and subsidies on agricultural products contingent on their incorporation in exported products. Members were required to undertake commitments for reduction of the level of subsidies prevailing in the 1986-90 both on budgetary outlay and export quantity. The budgetary outlay and export quantities were to be reduced by 36 per cent and 21 per cent respectively over the implementation period of six years.

As a measure of S&D treatment the developing countries were required to undertake lower reduction commitments i.e. 24 per cent for budgetary outlays and 14 per cent for exported quantities, and implement them over a longer period of 10 years. More importantly these countries were exempted from the requirement to undertake reduction commitments in respect of two of the listed practices, viz., subsidies for reducing the cost of marketing exports and concessional internal transport and freight charges on export shipments. **All 12 developing country members (Brazil, Colombia, Costa Rica, Cyprus, Indonesia, Israel, Mexico, Romania, South Africa, Turkey, Uruguay and Venezuela) that have made export subsidy reduction commitments have availed of the flexibility to apply a lower rate of reduction. Annex Table 4 gives the value of export subsidies actually employed by these members during the years 1995-98. Only five members (Korea, Morocco, Pakistan, Thailand and Tunisia) have made notifications to the WTO, showing the use of export subsidies during the years 1995-98 in the two categories in respect of which developing countries were exempted from undertaking reduction commitments (Source: WTO Document G/AG/NG/S/5/Rev.1).**

S &D and the rules on export restrictions

The Agreement on Agriculture also contains disciplines on export prohibitions and restrictions. Before a member institutes an export prohibition or restriction it must

notify the measure and discuss with any other member having an interest as an importer any matter related to the measure. *Developing countries are not covered by the obligation unless they are net exporters of the product in question.*

Ministerial Decision on measures concerning the possible negative effects of the reform programme on least-developed countries (LDCs) and net-food importing countries (NFIDCs).

At the time of adoption of the Marrakesh Agreement in April 1994 there was recognition that the reform programme on agriculture undertaken in the WTO Agreement could result in higher prices of essential foodstuffs and cause difficulties for the least developed and net food-importing countries. To alleviate the situation Ministers agreed on an action programme as indicated below:

(i) to review the level of food aid and initiate negotiations to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries and to adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided in fully grant form and/or on appropriate concessional terms in line with Article IV of the Food Aid Convention 1986;
(ii) to give full consideration in the context of aid programmes to requests for technical and financial assistance to least-developed and net food importing countries to improve their agricultural productivity and infrastructure; and
(iii) to ensure that any agreement on agricultural export credit makes appropriate provision for differential treatment for these countries.

In addition to the above Ministers recognised that certain developing countries would experience short-term difficulties in financing normal levels of commercial imports and in order to address these they would be eligible for drawing on the resources of international financial institutions under existing or new facilities.

In not embodying firm legal commitments the language of the Decision is strongly reminiscent of Part IV of GATT, which we have examined earlier. As a result of this it is difficult to pinpoint the extent of compliance with the terms of the decision. The Food Aid Convention 1995 was renegotiated and the new Convention entered into force in July 1999 for an initial duration of three years. The new Convention did not show any increase in the commitments on food aid and in fact there was a decrease. At the same time the level of food aid actually released has had a tendency to vary inversely with international prices of basic foodstuffs. As for the guidelines on the quality of food aid the information furnished by the donors (WTO Document G/AG/NG/S/4) shows that most of them are indeed giving food aid in fully grant form. Only the United States has a substantial programme of food aid that is not in fully grant form, but is otherwise in conformity with the Food Aid Convention. The donor countries have also notified details of the multilateral and bilateral aid programmes showing the extent to which they have been responding to requests for technical and financial assistance to improve the agricultural productivity and infrastructure in LDCs and NFIDCs (WTO Document G/AG/NG/S/4). The negotiations on agricultural export credit which had been going on

in the OECD remained inconclusive, but recently the Chairman of the Negotiating Group on Agriculture has included provisions on differential treatment of LDCs and NFIDCs in his suggestions on export credit in the paper on proposed modalities for the negotiations on agriculture (WTO Document TN/AG/W/1/Rev.1). There was no commitment in the Ministerial decision for establishing a new facilities in international financial institutions to enable financing of commercial imports of foodstuffs in developing countries, although such a facility had been mentioned. However, the Decision seems to have created an expectation among the net food importing developing countries that a new facility would be established and some of them have been raising the issue in WTO bodies. The World Bank has taken the view that since the impact of the Uruguay Round on food prices was small, it did not consider it necessary to set up a new facility. (WT/COMTD/W/77/Rev. 1)

IV. Doha Round proposals for S&D treatment in the negotiations on agriculture

From the commencement of negotiations on agriculture in the spring of 2000 to the summer break in 2001 a large number of formal proposals were submitted by WTO Members for further liberalisation, and several of them made suggestions on S&D treatment. A summary of these proposals is given at Annex A.

The Doha Ministerial Declaration (WT/MIN (01)/DEC/1) that launched the new round of multilateral trade negotiations in the WTO contained a renewed mandate on the negotiations on agriculture. The mandate stresses the S&D aspect in the following terms:

"We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, 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."

After the Doha Ministerial Meeting in November 2001, negotiations have continued on an informal basis, but the specific proposals submitted by members have not been made public. However, these have been reflected in the overview paper circulated by the Chairman in December 2002 (TN/AG/6 and taken into account by the Chairman of the Special Session of the Committee of Agriculture in the first draft on modalities (TN/AG/1) submitted on 17 February 2003, and the revised text (TN/AG/1/Rev.1) made available on 18 March 2003. The key proposals made by members are outlined below:

Summary of specific proposals made by WTO members on Special and Differential treatment after Doha Ministerial Meeting

Market Access:

- Developed country members to grant immediately duty-free and quota free access to tropical products
- A preferential tariff quota to be reserved to least-developed countries, net food-importing developing countries or developing countries with a per capita income of less than US $1000
- Longer phase-out period to be allowed for the elimination of preferential country-specific quota allocation in favour of least-developed and other developing country suppliers
- Preference-giving members to maintain the preferential margins in nominal terms
- Agricultural producers in developing countries to be adequately compensated for the continued erosion of preference margins
- Members to improve the transparency, stability and predictability of existing preferential trade arrangements and make them binding in the framework of the Agreement on Agriculture
- Developed and advanced developing countries to enhance the market access opportunities in favour of least-developed, net food-importing, landlocked, small island developing countries
- Members to promote access by developing countries to knowledge and technical infrastructures needed to ensure compliance with food safety standards in developed country markets
- Developing countries to be allowed to exclude from market access commitments products that constitute the predominant staple in their traditional diet
- Developing countries to be allowed to renegotiate the tariff bindings that they consider to be low
- Developing countries to have the flexibility to select the most appropriate formula, with lower simple average cuts and lower minimum average cut
- Developing countries to be allowed longer time frame (10 years) for implementation of tariff cuts
- Developing countries maintaining tariff quotas shall not be required to undertake further commitments
- Developing countries to have access to a new mechanism to protect their domestic markets against import surges
- Developing countries to be entitled to apply countervailing duties on developed countries' exports on the basis of schedules and notifications of those countries without being required to prove injury
- Importing state trading enterprises that fulfill rural development and food security objectives to continue to play a positive role in developing countries

Domestic Support:

- Developing countries to have flexibility to maintain AMS commitments at the aggregate level, to implement reductions over a ten year period commencing in 2008, and to apply lower reduction commitments (no more than half of the commitments of developed countries)

- The de minimis level for developing countries below which they should not be required to reduce to be raised to 15 per cent or at least maintained at the existing level of 10 per cent
- The existing developing country exemptions to be maintained and expanded to include inter alia investment and input subsidies whether or not targeted, support to encourage diversification from crops considered harmful to human health such as tobacco, subsidies for marketing costs e.g. internal transport, agricultural cooperatives, product quality improvements, agricultural credit
- Criteria for exemption under the Green Box to be relaxed for developing countries in respect of relief from natural disasters and regional assistance programmes
- Criteria for measures relating to public stockholding for food stocking purposes and to domestic food aid to qualify for Green Box exemption to be relaxed further for developing countries

Export Competition:

- Existing exemptions for developing countries to be continued and extended to other subsidy practices listed in the Agreement on Agriculture
- Until a developing country reaches a certain stage of export competitiveness (3.25% of world trade of the products concerned) the support provided to subsistence products and certain other crops not to be subject to commitments
- Any new reduction commitment on export subsidies to be no more than half of the commitments by developed countries, with longer time frame for implementation.
- S&D treatment to be extended to least-developed and net food-importing developing countries in any arrangement on export credit
- An international food stockholding system to be put in place to deal with serious temporary crises in developing countries
- State Trading Enterprises in developing countries exporting any product constituting less than a certain percentage (5 per cent) of world trade to be exempt from disciplines
- Developing countries to be allowed to use export restrictions and taxes to address food security concerns or other commercial and marketing policy objectives

Chairman's draft on modalities for further commitments in agriculture

The Chairman's draft on the modalities makes extensive proposals on S&D treatment of developing countries. We analyse below the more significant S&D proposals made in the revised Chairman's paper (TN/AG/W/1/Rev.1).

Market access: tariffs. As was done during the Uruguay Round the Chairman's proposes reduction by a simple average reduction subject to a minimum reduction per tariff line. The simple average reduction would be by 60-40 per cent and the minimum reduction by 45-25 per cent, depending upon the level of the base rate. The period of implementation has been set at five years. For the developing countries, the simple

average reduction suggested is by 40-25 per cent and the minimum reduction by 30-15 per cent. But a unique feature of the proposal is that developing countries would have the possibility to declare a number of agricultural products as special products with respect to food security, rural development and/or livelihood security concerns. For these products the simple average reduction would be by 10 per cent and the minimum for each line five per cent.

In place of five years proposed for developed countries for implementing the reduction commitments, the suggested period of implementation for developing countries is 10 years.

Market access: preferential schemes. The Chairman's proposal shows some response to the demand for preserving the nominal margins of tariff preferences. A best endeavours clause ("to the maximum extent feasible") is suggested for maintaining such margins. More meaningfully it is proposed that tariff reductions affecting long-standing preferences in respect of products which are of vital export importance for developing country beneficiaries may be implemented in eight years instead of five.

Market access: tariff quotas. The tariff quota volumes or values are to be expanded to 10 per cent of the current domestic consumption. In respect of one-quarter of the total number of quotas the expanded quota may be only eight per cent but these would have to be compensated by a corresponding number of quotas being raised to 12 per cent. Developing countries are not required to expand the tariff quotas in respect of special products. For other products the expanded quota has to be 6.6 per cent of the domestic consumption. They too get the flexibility to limit the expansion of the quota in respect of one quarter of the tariff quotas only up to 5 per cent provided that there is expansion of a corresponding number of quotas to eight per cent of the domestic consumption.

In-quota tariffs are not to be reduced but for tropical and certain other products they are reduced to zero. In respect of tariff quotas where fill rates have been less than 65 per cent there is the requirement to reduce the in quota tariffs. Developing countries are not expected to reduce tariff quotas other than those where the fill rate is below the stipulated level.

Market access: special safeguard provisions. The Chairman has proposed the termination of the provision on special agricultural safeguards in Article 5 of the Agreement on Agriculture, but has suggested the establishment of a new agricultural safeguard mechanism to enable developing countries to effectively take account of their development needs, including food security, rural development and livelihood security concerns.

Market access: state trading importing enterprises. The text on state trading import enterprises reiterates the existing provisions of GATT 1994. What is new is that it stipulates that " [t]he disciplines regarding governmental import enterprises shall not unduly impede developing countries in the pursuit of their legitimate food and livelihood security and rural development objectives."

Domestic support: exemptions under the Green Box and developing country provisions. The proposals are generally aimed at tightening the policy-specific criteria and conditions governing the measures listed for exemptions under the Green Box. However, as S&D treatment the conditions in respect of some of the Green Box measures (e.g., public stockholding for food security purposes, government financial participation in income insurance and income safety-net programmes, payments for relief from natural disasters, structural adjustment assistance provided through resource retirement programmes and payments under regional assistance programmes) are proposed to be relaxed for developing countries. In addition two new entries are proposed in the Green Box to enable developing countries to make payments to maintain domestic production capacity of staple crops for food security purposes as well as payments to small-scale producers/family farms for the purpose of maintaining rural viability and cultural heritage. The Chairman has also proposed the addition of a number of programmes to the list of items in Article 6.2 of the Agreement on Agriculture, which are excluded from reduction commitments for developing countries. The additions that are significant are concessional loans through established credit institutions, transportation subsidies for agricultural products and farm inputs and marketing support programmes and programmes aimed at compliance with quality and sanitary and phytosanitary measures.

Domestic support: Amber Box and de minimis. It is proposed as a general rule that the Total AMS in a Member's Schedule shall be reduced by 60 per cent over five years. Developing countries will have to reduce by only 40 per cent over 10 years. The general requirement in regard to de minimis is to reduce the level by 0.5 percentage points every year for five years, but the developing countries will be entitled to retain it at 10 per cent. In other words they would not be required to undertake reduction commitments if neither the product-specific support nor the product-non-specific support exceeds 10 per cents. Developing countries have also been given the flexibility to set off negative product-specific support against non-product specific support up to 10 per cent of the value of production of the basic agricultural product concerned.

Export competition: reduction of budgetary outlays on export subsidies and quantities of subsidised exports. The Chairman envisages the elimination of budgetary outlays on export subsidies and subsidised quantities over a period of five years for agricultural products representing at least 50 per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments. For the remaining products the elimination is to be completed over nine instead of five years. For developing countries the corresponding periods of implementation are 10 and 12 years. For this period the developing countries shall continue to be entitled to the benefit of exemption given in Article 9.4 for certain transport and marketing cost subsidies set out in Articles 9.1(d) and (e) of the Agreement on Agriculture.

Export competition: export credit. The Chairman has proposed a draft agreement on rules and disciplines governing export credit, export credit insurance, reinsurance and export credit guarantees. These rules cover inter alia maximum repayment term, schedule for payment of interest and minimum interest rate for export credit. For developing

country importing agricultural products longer maximum repayment term and lower frequency for payment of interest are proposed to be allowed.

Export competition: export restrictions. The Chairman has proposed a bar on new measures imposing export prohibitions, restrictions or taxes on foodstuffs except as provided in Articles XI, XX and XXI of GATT 1994. The new discipline will not apply to developing countries.

V. S&D treatment in Doha Round negotiations on agriculture—the way forward

Before we consider the way forward we must evaluate the benefits that developing countries have derived from the application of the concept of S&D in past negotiations.

Increasing trade opportunity for developing countries: experience in past negotiations

Non-reciprocity in trade negotiations was the most concrete result of the addition of Part IV in GATT 1947 in 1964. While acceptance of the concept undoubtedly lightened the burden of undertaking tariff commitments on the developing countries there was a corresponding price to be paid in terms of additional market access opportunities in the developed countries. In the Tokyo Round the average tariff reduction in the developed countries on industrial products exported by the developing countries was less than the overall reduction, about one-quarter compared with one-third (Hoda, 2001). In the Uruguay Round the tariff cuts in the developed countries on non-agricultural products imported from the developing and the least developed countries were again lower as compared to the cuts on imports from all sources. The following calculations were made at the conclusion of those negotiations (GATT Secretariat, 1994):

Imports from	Pre-Uruguay Round weighted tariff average	Post-Uruguay Round weighted tariff average	Percentage Reduction
All sources	6.3	3.8	40
Developing countries other than LDCs	6.8	4.3	37
LDCs	6.8	5.1	25

In both the Tokyo and Uruguay Rounds the main reason for lower reduction in tariffs facing imports from the developing countries was that the principal industrial products exported by the developing countries (textiles and clothing, footwear travel goods and fish and fish products) were sensitive for the developed countries. Reducing tariffs on these would have required that the reciprocal concessions made by the developing countries were sufficient to enable them to overcome the protectionist

pressures emanating from domestic industries. Despite the acceptance in GATT/WTO of the concept of non-reciprocity, the ground reality is that obtaining reciprocal concessions by trading partner is politically imperative in all democracies before any trade liberalisation effort is undertaken affecting sensitive sectors of the economy. Domestic constituencies supporting liberalisation have to be created in order to help the government to create a countervailing force against protectionist interests. When reciprocal concessions are not made by developing countries their developed partners follow the line of least resistance and make only small reductions in tariffs in sensitive sectors. The concept of non-reciprocity may help developing countries to fend off pressures to make concessions themselves but it is a poor tool as far as extracting concessions from the developed countries in sensitive products is concerned.

The above having been said it must also be recognised that in past negotiations there has been substantial and virtually unilateral liberalisation by the major developed countries in the area of tropical agricultural products. The liberalisation has been accomplished in respect of tropical products that do not compete directly with sensitive temperate-zone products, such as tropical beverages, tropical nuts and fruits and spices. Since in the Uruguay Round reduction of tariff was made on a simple average basis, some developed countries compensated the lower than average reduction on sensitive products by making a higher than average reduction in non-competing tropical agricultural products. According to estimates made immediately after the conclusion of the Uruguay Round (GATT Secretariat, 1994) the developed countries reduced their tariffs on agricultural products by an overall average amount of 37 per cent, ranging from 26 per cent for dairy products to 48 per cent for cut flowers. The reduction on dutiable tropical products as a whole was 43 per cent, ranging from 37 per cent for tropical nuts and fruits to 52 per cent for spices, flowers and plants.

Flexibility in trade policy measures

It cannot be denied that the S&D provisions in the Agreement on Agriculture and the modalities that were followed by the Members in undertaking specific commitments were some of the most significant in the WTO Agreement. The foregoing analysis also shows that developing country members have used these provisions in greater or smaller measure during the implementation period. Full data is not available to enable a complete assessment of the extent of use of the S&D flexibility by developing countries. But where it is available, it is apparent that the utilisation is very small. One other significant point needs to be made here. In agriculture the main source of economic distortions are the developed and not the developing countries. In the Uruguay Round many developing countries were so preoccupied with S&D treatment that the developed countries got away with the minimum degree of liberalisation, although one good result was that a framework was created for future liberalisation. An assessment of the importance of S&D treatment accomplished during the Uruguay Round negotiations on agriculture must be made in the context of the overall results of these negotiations.

In market access the base rates resulting from the tariffication exercise were inordinately high in the OECD countries. Further the requirement to reduce tariffs by 36 per cent on a simple average basis, with a minimum reduction of only 15 per cent,

allowed these countries to limit the reduction in sensitive products. Many of the rates are in expressed in non ad valorem terms but calculations of the ad valorem equivalents show that the percentages were in the range of 0-495 for wheat, 80-404 for sugar, 35-578 for cheese, 82-674 for butter, 161-346 for skimmed milk powder, 31-405 for beef, 5-538 for pig meat, 14-500 for poultry meat and 40-505 for sheep meat (OECD 2001). In many cases the tariffs resulting from tariffication were overstated and one author has come to the conclusion that "[t]he EU declared base tariffs which were higher than the level in 1986-88 for eight of the nine products, and for all but two, the final bound tariffs are above the levels in the period 1986-88 which already was a period with very high levels of protection"(Hathaway and Ingco 1997). In the USA high base rates (in the range of 100-200 per cent) were established on traditionally protected products viz., cheese, butter, skimmed milk powder, groundnut and sugar and these were all subjected to the minimum cut (15 per cent) permitted by the modalities (Gulati and Hoda 2003). The estimation of ad valorem equivalent of final bound tariffs of the major industrialized countries on the basis of the average world unit price in 1995-97 brings out the continued existence of very high tariffs. In the US there were 24 tariff lines above 100 percent, with the highest rate at 350 percent, in the EEC there were 141 tariffs lines with a high rate of over 500 percent and in Japan 142 tariff lines with the highest rate of above 2000 percent (Gibson et al 2001). In addition the developed countries were allowed to use special agricultural safeguards for tariffied products, with the help of which they were able to raise tariffs further. The significance of the S&D treatment of developing countries in the modalities for undertaking tariff commitments (reduce tariffs by a simple average of 24 per cent over 10 years; on unbound tariffs bind at ceiling levels) must be assessed in the context of the exceedingly high levels of tariffs on many key products, that continue to prevail in the developed countries after the Uruguay Round cuts. Though many developing countries also bound their tariffs at high levels, the applied levels in them are much lower.

In domestic support the position is not very different. Developed countries had to reduce their Total AMS by 20 per cent over six years while developing countries had to do so by 13.33 per cent over 10 years. The Total AMS did not capture all the practices resulting in economic distortions as direct payments under production limiting programmes (Blue Box) were exempted from reduction commitments. A study (Gulati and Hoda 2003) has thrown light on the magnitude of domestic support in the EEC and the USA. If the Blue Box payments were taken into account along with the Current Total AMS the level of domestic support in the EEC would come to about 30 per cent of the value of agricultural production in the years 1999-2000. The requirement to make a reduction on the basis of Total AMS gave to the EEC the flexibility to retain or even increase the level of AMS for specific products. The average product-specific AMS percentage for rice, white sugar, skimmed milk powder, butter and beef was in the range of 50-75 per cent in 1995-2000. For cereals the Current Total AMS was about 25 per cent of the value of production during the years 1995-2000, but if Blue Box payments were also taken into account the corresponding percentage would be in the range of 80. In the USA, the Total AMS is relatively lower but the product-specific support as a percentage of the value of production was high in the period 1995-98 for the traditionally protected products viz., dairy (21), peanuts (33) and sugar (49).

As we have seen above, only 15 developing countries had undertaken reduction commitments on the Total AMS. Where figure are available the Current AMS as a percentage of the total value of agricultural production is in the range of 1-5 or at the most 10. For other countries the requirement in the Agreement on Agriculture is that neither the product-specific support as a percentage of the value of production of the relevant basic product nor the product-non-specific support as a percentage of the total agricultural production must exceed 10 per cent. Thus the large majority of developing countries that did not have product-specific or non-product-specific support exceeding 10 per cent of the relevant domestic production have been placed under very rigorous discipline. They cannot increase the level of support for individual products beyond 10 per cent while those countries, particularly the developed countries, have considerable flexibility to increase product-specific support. It is another matter that only two countries have substantial subsidies under the de minimis provision and these are in the range of 1-2 percent of the total value of agricultural production.

Let us consider export competition, export subsidies in particular. Here developing countries were given S&D treatment by way of lower reduction percentages (24 and 14 per cent) as compared to the reduction requirement percentages for others (36 and 21) of budgetary support and exported quantities respectively. In addition they were exempted from reduction commitments in respect of subsidies on costs of marketing exports and internal transport charges on export shipments. We have seen from Annex Table 4 that the level of subsidisation by countries that have undertaken reduction commitments is very small and diminishing for the most part. As regards the two categories of exempted export subsidy practices only five developing had notified their use. On the other hand a study (OECD 2001) has brought out the very high levels of per unit export subsidisation by the EEC which is the main WTO member which uses budgetary support for export subsidisation. According to this study the rate of subsidisation (per unit subsidy/world fob prices multiplied by hundred) by the EEC during the years 1995-97 was in the range of 130-191 for rice, 146-164 for sugar, 102-112 for butter oil and 135-378 for pig meat.

Much is made of the fact that there has been a fall in the utilisation of export subsidies by the EEC in recent years and its annual commitment levels have remained unutilised. However, an ABARE study (Podbury et al. 2001) has pointed out that a substantial part of the reduction in export subsidisation was illusory. Although reduction of intervention prices led to the reduction in explicit export subsidisation, simultaneously additional domestic subsidy was made available in the form of direct payments under production-limiting programmes. This subsidy fulfilled the same purpose as direct export subsidies as it helped the exporters to reduce their prices in order to compete with efficient suppliers. It was not called export subsidy, as it was available for domestic sales as well.

The way forward

The foregoing analysis sets out the reality of S&D treatment accorded to the developing countries in the Uruguay Round negotiations. The Agreement on Agriculture was so designed that it was the principal developed countries that retained for themselves a more beneficial treatment in many ways, while a lower order of flexibility was given to the developing countries. In the current round the objective of developing countries must be first to get equal treatment before they strive for special and differential treatment.
The bold proposals made by the Chairman of the Special Session of the Committee on Agriculture in the WTO negotiations do not yet result in equal treatment to the developed and developing countries, even though there are extensive proposals for S&D treatment of developing countries.

In market access the Chairman's proposals envisage drastic reduction of tariffs, but the application of the suggested formula will still leave the tariff levels in the developed countries on many products higher than those prevailing in developing countries. What is needed is an additional element in the modalities for reduction of tariffs that would impose a cap on the tariff level at say 60 per cent ad valorem. Can the developing countries accept the maximum to be at this level? Most developing countries have a large number of consumers with relatively modest income, and they can ill afford to protect the producers to such an extent that domestic prices are on the average more than 60 per cent above international prices. Economic access to food is after all one of the main elements of food security.

What about the need to protect domestic agriculture against price volatility, which is a characteristic feature of international commodity markets, and against the domestic and export subsidy practices of the developed countries? The need for protection against steep falls in international prices or against unfair trade practices is undeniable but for this we do not need to keep the tariff levels high at all times. A special safeguard mechanism needs to be provided open to developing and developed countries alike.

As for high levels of subsidisation, while it would be necessary to set up defensive mechanisms to neutralise the subsidies, it would be imperative to do more. What is needed is to go to the root and bring down drastically the level of subsidisation. The Chairman has proposed the elimination of export subsidies already, while setting an adequate timeframe for it. However, the proposed reduction of Total AMS and the Blue Box payments would still leave intact the considerable disparity that exists in the levels of subsidisation in the developing and developed countries. What is needed is bringing down domestic support causing economic distortions to a uniform level of say, five per cent of the total value of agricultural production for developing and developed countries alike. Most developing countries cannot afford the luxury of subsidising their farmers. For individual products also a ceiling, say 15 per cent, must be stipulated as a percentage of the value of production of the relevant product.

It should not be concluded from the suggestions that we have made that the concept of S&D needs to be eliminated from the WTO Agreement. Our recommendation is only that in agriculture there is so much disparity in the use of trade distorting measures by the developing and developed countries that over-emphasis on S&D treatment queers the pitch somewhat. There are certainly some elements in the Agreement on Agriculture and in the Chairman's proposals that must be retained, such as exemption from reduction commitments for generally available input support and investment subsidies. However, S&D treatment does not need to be built into the basic design of the modalities.

Annex A: Summary Of Proposals On S&D Treatment Submitted In 2000 And 2001

Facilitating access in developed country markets

In the negotiations so far, developing countries have shown greater concern for flexibility in their own domestic and external economic policies in relation to agriculture than for being facilitated access in the markets of the developed country partners. Even so some of them have made proposals in this regard and the developed countries have shown some responsiveness to the proposals. *Some proposals speak of providing market access to products of export interest to the developing countries, while others refer to granting of access on preferential terms.*

Several proposals address the issue of existing schemes for preferential market access to developing countries. A paper (G/AG/NG/W/36 Rev.1) sponsored by a number of developing countries in Africa and the Caribbean as well as by the EC, Japan, Norway, Switzerland and East European countries supports the continuance of existing preferential market access schemes. Swaziland also emphasises that the current market access arrangements enjoyed by small developing countries should be protected during the current negotiations. A number of small and island developing states (SIDS) (G/AG/NG/W/97) want security of access for them in respect of one or two commodities that they produce. The CARICOM countries (G/AG/NG/W/100) have sought binding of existing preferential schemes, both reciprocal and non-reciprocal, in order to make them stable, transparent and predictable. The ASEAN countries (G/AG/NG/W/55) have targeted the policies of developed countries for graduating out the more advanced developing countries from beneficiary status in the schemes under the General System of Preferences (GSP) or for stipulating criteria such as those relating to worker's rights for eligibility for the preferences. They want reaffirmation of the principles of non-reciprocity and non-discrimination established in the Enabling Clause for such preferential schemes.

The EC (G/AG/NG/W/90) strongly advocates continuation of trade preferences, by proposing that in addition to multilateral liberalisation, developed countries and the wealthiest developing countries must provide significant trade preferences to the developing countries, and in particular to the least developed. It proposes further that an examination must be made of ways to ensure that trade preferences are rendered stable and predictable, in order to create conditions for further investment in, and development of, agricultural and agri-food sectors in developing countries. Switzerland (G/AG/NG/W/94) wants the introduction of an instrument that would enable developing countries to protect themselves against the erosion of preferential margins by non-discriminatory liberalisation. Norway (G/AG/NG/W/101) calls for market access for products originating from the least developed countries to be improved in terms of predictability and product coverage. It recommends that developed countries and the more developed of the developing countries should as a first step grant duty-free and quota-free market access on a preferential basis for all products from LDCs. Norway proposes also the preferential allocation of tariff quotas, inter alia through preferential in-quota tariff rates.

The approach of USA (G/AG/NG/W/15) focuses on tariff reduction on products of interest to developing countries and in particular to the LDCs. The Cairns Group (G/AG/NG/W/54) also proposes faster and deeper cuts in, or elimination of tariffs on all agricultural products, including value added products, produced in and exported by developing countries. The ASEAN countries (G/AG/NG/W/55) stress the proposal made in earlier rounds and reiterated in the Preamble of the Agreement on Agriculture for the fullest liberalisation of tropical products.

Flexibility in the policies of the developing countries: general

Specific proposals for S&D treatment generally fall under the three pillars of the Agreement on Agriculture viz., market access, domestic support and export competition, but there are some suggestions that transcend these aspects. Cuba and 10 other countries (G/AG/NG/W/13) have proposed the establishment of a Development Box, giving flexibility to developing countries on import controls, tariffs and domestic support in respect of products "which are already produced in sufficient quantities or which countries would like produced in sufficient quantities locally". Kenya (G/AG/NG/W/136) also proposes a Development Box, for "consolidating, strengthening and operationalizing the special and differential treatment for developing countries". ASEAN countries (G/AG/NG/W/55) want developing countries to be given "an effective and meaningful degree of autonomy on policy instruments to address food security concerns". They suggest that developing countries must be allowed to adopt reforms in a differential and gradual manner. Senegal (G/AG/NG/W/137) proposes that developing countries with low agricultural production must be given the flexibility in all instruments relating to agricultural production, to enable them to undertake reforms necessary for maintaining their level of food production in the short term and significantly improving agricultural productivity in the long term.

Flexibility in the policies of developing countries: market access

On market access, several proposals address the issue of according overall greater flexibility for the developing countries in regard to border protection. At one extreme are Members who suggest that they must be allowed to raise tariffs above the current bound levels. Cuba and 10 other countries (G/AG/NG/W/13) want developing countries to be able to re-evaluate and adjust their tariff levels. India (G/AG/NG/W/102) proposes that low tariff bindings should be allowed to be raised to the ceiling bindings for similar categories of products, committed during the Uruguay Round. Egypt (G/AG/NG/W/107) proposes also that developing countries should be afforded greater flexibility to re-evaluate and adjust their tariff schedules, with a view to overcoming the negative effects of cheap subsidised agricultural imports. The SIDS (G/AG/NG/W/97) also want to have the ability to re-negotiate the market access commitments which had been made in the Uruguay Round during the Structural Adjustment Programmes undertaken in the context of short term financial difficulties. Other proposals aim at developing countries being allowed to retain high tariffs in future negotiations. India (G/AG/NG/W/102) proposes that developing countries must retain appropriate levels of tariff as special and

differential treatment, “keeping in mind their developmental needs and high distortions prevalent in the international markets so as to protect the livelihood of their very large percentage of population dependent on agriculture”. Namibia (G/AG/NG/W/143) proposes that countries with low bound tariff rates must be exempted from making further reductions until such a time as other countries catch up with them. The CARICOM countries (G/AG/NG/W/100) propose the adoption of a different modality for small developing countries, including the possibility of exemption from further tariff reductions, particularly in circumstances where substantial liberalisation has already taken place. Korea (G/AG/NG/W/98) proposes that special consideration must be shown for key staple crops in reducing border protection measures. Swaziland (G/AG/NG/W/95) proposes that small developing countries must be allowed to protect their local agricultural production from imports that threaten the existence of local industry. Japan (G/AG/NG/W/91) suggests that developing countries must have a wide range of flexibility with regard to border measures, in order to ensure food security. A number of African, Caribbean and Pacific countries, with the support of some developed countries (G/AG/NG/36/Rev.1) propose that LDCs and net food importing countries must be given the right to have recourse to the existing provisions on special agricultural safeguards. The SIDS Group (G/AG/NG/W/97) wants eligibility for recourse to the special agricultural safeguard provisions to be extended to them. Norway (G/AG/NG/W/101) proposes that the right to have recourse to the existing special safeguard provision must be extended to all developing countries that do not have the right. On the other hand India (G/AG/NG/W/102) proposes that a separate safeguard mechanism must be available to developing countries on the lines of the current provisions. The provision must also allow the imposition of quantitative restrictions under specified circumstances, and it should be available to developing countries in the event of a surge in imports or decline in prices, in order to ensure food and livelihood security of the people.

Flexibility in the policies of developing countries: domestic support

Several proposals address the issue of domestic support measures exempted from reduction commitments. ASEAN (G/AG/NG/W/55) countries propose that measures to promote agricultural diversification must be exempt from reduction commitments. Mauritius (G/AG/NG/W/96) suggests similar exemption of measures aimed at poverty alleviation. India (G/AG/NG/W/102) proposes in addition the criteria of rural development and rural employment for exempting measures from reduction commitments. Jordan (G/AG/NG/W/140) adds to this list measures for desert reclamation. The Cairns Group (G/AG/NG/W/35), ASEAN countries (G/AG/NG/W/55), Turkey (G/AG/NG/W/106), India (G/AG/NG/W/102) and the African Group (G/AG/NG/W/142) support the continuance of exemptions in respect of generally available input subsidies to low-income and resource poor farmers and generally available investment subsidies in Article 6.2 of the Agreement on Agriculture. In fact India seeks the extension of the exemption to cover product-specific input subsidies to low-income and resource-poor farmers. The Cairns Group (G/AG/NG/W/35) supports also enhanced green box provisions for developing countries to address the specific concerns relating to food security, rural development and poverty eradication.

There is support from the developed countries as well for expanding the domestic support measures in the developing countries eligible for exemption. The USA (G/AG/NG/W/15 and 16) supports the exemption of additional criteria-based support measures deemed essential to the development objectives of developing and least developed countries. The EEC (G/AG/NG/W/90) wants domestic support measures that promote the sustainable vitality of rural areas and the food security concerns of developing countries as a means of poverty alleviation to be exempted from reduction commitments. Korea (G/AG/NG/W/98) also proposes flexibility to be provided in the Green Box for measures to improve food security and rural employment even if they have an impact on trade. Norway (G/AG/NG/W/101) proposes that domestic support provisions adapted to the specific situation of developing countries should be expanded as a supplement to the existing Green Box measures.

A large number of countries, both developing and developed, support the continuance of the existing level of de minimis subsidies (10 per cent) that is exempt from reduction commitments. However, Cuba and 10 other developing countries (G/AG/NG/W/13) want an additional 10 per cent to be exempted and a number of African, Caribbean and Pacific countries, with the support of several developed countries (G/AG/NG/W/36) also want the de minimis level to be raised. Turkey (G/AG/NG/W/106) proposes that the de minimis limits must be applied to developing countries on an aggregate basis rather than for individual products. Generally developing countries have not proposed that they be allowed to make smaller reductions in the AMS, but the Cairns Group proposal does mention a differentiated AMS formula and commitments for developing countries.

Flexibility in the policies of the developing countries: export competition

There are only a few proposals that seek S&D provisions in relation to the obligations and commitments on export subsidies and export restrictions. The Cairns Group (G/AG/NG/W/11) propose a longer time frame for developing countries for elimination of export subsidies. In addition they suggest that the exemption for developing countries from reduction commitments of the costs of marketing exports and of more favourable terms for internal transport and freight charges in respect of export shipments envisaged in Article 9.4 of the Agreement on Agriculture must be continued until the elimination of export subsidies has been completed by all and the prohibition is fully in force. The ASEAN countries (G/AG/NG/W/55) suggest that the disciplines on export credit, export credit guarantee or insurance programmes should provide adequate flexibility for developing countries. Japan (G/AG/NG/W/91) proposes that when strengthening the rules and disciplines on exports and state trading, measures to exempt or ease obligations should be taken so as not to cause an excessive burden on developing countries. Korea (G/AG/NG/W/98) suggest the expansion of export subsidies exempt from reduction commitments, alleviation of the export subsidy reduction commitments and the establishment of rules and disciplines on export-related measures in order to help developing countries to compete in the international markets.

Annex Table 1: Use of S&D provision on domestic support (US $ million)

Country	1995	1996	1997	1998
Bahrain	-	3	-	-
Brazil	359	269	281	373
Chile	4	5	3	3
Colombia	132	141	76	45
Costa Rica	133	15	7	1
Cyprus	3	3	4	8
Egypt	7	2	2	2
Fiji	NA	0	2	-
Honduras	2	7	3	-
India	254	-	-	-
Korea	26	38	40	30
Malaysia	47	36	41	35
Maldives	2	2	2	2
Mexico	644	226	199	128
Morocco	148	145	155	150
Namibia	3	2	4	3
Pakistan	1	0	0	-
Paraguay	9	0	0	0
Philippines	10	35	26	28
Sri Lanka	27	35	26	-
Thailand	213	479	170	124
Tunisia	31	32	30	46
Turkey	0	679	0	0
Uruguay	5	14	7	8
Venezuela	178	38	63	-

(Source: G/AG/NG/12/Rev.1)

Annex Table 2: Current AMS (US$ Million)

Country	1995	1996	1997	1998
Argentina	123	84	-	-
Brazil	0	0	0	83
Colombia	58	4	14	10
Costa Rica	0	0	0	0
Cyprus	81	76	50	42
Israel	461	501	524	411
Korea	2691	2446	2036	1115
Mexico	452	303	1058	1259
Morocco	11	29	10	13
South Africa	452	451	477	148
Thailand	627	507	412	397
Tunisia	62	52	48	54
Venezuela	541	331	457	-

(Source: G/AG/NG/S/12/Rev.1)

Annex Table 3: De Minimis (US$ Million)

Country	1995	1996	1997	1998
Brazil	295	363	307	409
Chile	0	0	15	17
Cyprus	0	8	4	6
India	5956	930	1003	-
Israel	214	179	135	86
Korea	366	427	689	559
Pakistan	11	16	23	
Philippines	10	35	26	28
South Africa	165	203	65	7
Tunisia	0	0	7	6
Turkey	42	294	470	594
Uruguay	5	7	10	6

Source: G/AG/NG/S/12/Rev.1 and G/AG/N/IND/2

Annex Table 4: Export Subsidies (US$ Million)

Country	1995	1996	1997	1998
Brazil	0	0	0	0
Colombia	18	22	25	23
Costa Rica	0	0	105	123
Cyprus	3	3	4	8
Indonesia	0	0	0	0
Israel	19	13	6	1
Mexico	0	0	36	5
Romania	0	0	0	3
South Africa	40	42	18	3
Turkey	30	17	39	29
Uruguay	0	0	0	0
Venezuela	3	20	4	-

Source: G/AG/NG/S/12/Rev.1

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