



# FAO TRADE POLICY TECHNICAL NOTES

on issues related to the WTO negotiations on agriculture

## No. 10. Special and differential treatment in agriculture

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#### 1 SDT and the WTO negotiations on agriculture<sup>1</sup>

Special and differential treatment (SDT) remains one of the more challenging issues in the ongoing WTO Agricultural Negotiations. Developing countries' dissatisfaction with results of the Uruguay Round led to very strong statements being included in the Doha Ministerial Declaration:

Paragraph 13, specific to Agriculture states 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 Schedule 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".<sup>2</sup>

Paragraph 44, specific to Special and Differential Treatment states that:

"... all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational".<sup>3</sup>

The General Council Decision on 1 August, 2004, reaffirmed these commitments and called

for a report with clear recommendations for a decision by July 2005.

The submissions by WTO member states, the special sessions of the Committee on Trade and Development, and the reports from agencies monitoring the progress on SDT negotiations indicate that three areas of discussion characterize the essence of the SDT debate. These apply as much to the SDT and agriculture debate as they do to the more general context of SDT and is the approach followed in this note. The three areas are:

1. Issues concerning development and differentiation. The issues related to development encompass questions on the breadth of development issues that should be addressed through SDT in the context of WTO deliberations and the extent to which the development principles on which SDT is based should be incorporated into the architecture of the WTO. Issues related to differentiation concern which situations and countries should qualify for SDT.
2. Agreement-specific issues related to the rules and to the flexibility in observing them. These deliberations are very specific to clarification and possible expansion of past negotiated texts and submissions in the ongoing round.<sup>4</sup> These issues are related to the rules and to the commitments to them, reflecting the degree of integration into the multilateral system, and to expected levels of compliance by different WTO members.

<sup>1</sup> This note benefits from a series of informal consultations on WTO negotiations organized by FAO during the period September 2004 to March 2005, including one on Special and Differential Treatment.

<sup>2</sup> WTO Doha Ministerial Declaration, Adopted 14 November, 2001 (WT/MIN(01)/DEC/1), paragraph 13.

<sup>3</sup> Ibid, paragraph 44.

<sup>4</sup> WTO, General Council Chairman's Proposal on an approach for Special and Differential Treatment, JOB(03)/68, April 2003.

3. Implementation and monitoring issues related to ensuring that provisions are effective. The concern here is the operationalization of SDT measures. The challenge is that while the goals and obligations are defined, there is a shortage of means to achieve them (implementation) and an absence of procedures to facilitate assessment of compliance (monitoring).

Following the 1 August 2004 Framework Agreement, the debate on how to proceed in the negotiations on SDT continues to be discussed in the three related contexts mentioned above. There remains a lack of consensus among WTO members with regard to how to proceed on these discussions, including the sequencing of the discussions of the three areas.

This technical note is intended to contribute to the process of clarifying issues and identifying possible options to facilitate agreement on areas of special and differential treatment in the context of the agriculture negotiations. It first addresses what is seen by some members as the most difficult area, the cross cutting issues related to development, focused on the principles behind, and purpose of, SDT. It then examines the agreement-specific proposals under the three pillars of the Agreement on Agriculture (AoA), as raised in the August Framework Agreement. It concludes with a discussion of implementation, an area of particular concern to the developing countries.

## 2 Cross cutting issues and SDT

A number of cross cutting issues characterize the debate related to SDT. The first has to do with differing perspectives of what the principles and objectives of SDT are and the extent to which SDT is a development tool. A second issue concerns the conditions and concessions, focusing on the criteria and measures/levels through which SDT is applied. A third issue relates to which countries SDT should apply to.

- *SDT: trade and development*

It has been recognized that SDT measures under the Uruguay Round were of limited use to most developing countries. As a result, many developing countries are calling for: (a) more equal treatment in the important areas of domestic support and export subsidies where many developed countries need to make adjustments; (b) more special treatment in terms of recognizing that the stage of development of developing countries affects their rate of adjustment; (c) differential treatment recognizing that some types of developing countries require different policies; and (d) commitments that are more precise and enforceable as opposed to "best endeavour" clauses that can be ignored. In this last regard, the lack of action on the *Decision on Measures Concerning the Possible Negative*

*Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries* (also known as the Marrakesh Decision) is one example.

### *A level playing field*

If the goal of the Uruguay Round was less about trade for development but rather about trade for creating a more liberalized and fairer trading system, the goal should have been very much in the interests of developing countries that have a comparative advantage in the production of agricultural products. In other words, it would have corrected a global agricultural trading system where less efficient agricultural producing countries both prohibited imports and used domestic and export subsidies to compete with - and displace - more efficient producers on world markets. Unfortunately, rather than redressing this situation, the AoA gave legal ground to the prevailing inequity towards developing countries. It provided rules that legalized the unfair trade practices, albeit with commitments to reduce them, and allowed only those that were practising them to do so. Under such circumstances, the developing countries suffer not from the WTO's restriction of their rights to provide such subsidies but from its tolerance of the same practices by developed countries. Thus, the goal of SDT under the Doha Round is first ensuring equitable treatment and a level playing field in the trading framework.

Correcting the unequal treatment is not best addressed by giving developing countries the right to use trade distorting domestic and export subsidies, but by effectively preventing this practice by developed countries. Developing countries have generally not used and do not have the capacity to use the domestic and export subsidies that are being used by developed countries and which result in the undermining of gains that might be enjoyed from other changes in the trading framework, most notably market access. Thus, a first step in making trade fairer and contributing to development is ending trade distorting domestic and export subsidies, and the rules that allow developed countries to continue to use them at the expense of developing countries.

The July Framework Agreement is an important concrete step in this direction, committing WTO members to specific limits (paragraph 15, Annex A) and to setting end dates (paragraph 18, Annex A) for eliminating trade distorting domestic support and export subsidies respectively.

### *Special and differential treatment*

The concept of special and differential treatment was developed in order to respond to the concern of many developing countries that the principle of non-discrimination embodied in the most-favoured nation (MFN) treatment principle of the multilateral trading system, when applied to countries at

different levels of development, would only serve to perpetuate the development gap between them rather than to bridge it.

Special and differential treatment was therefore introduced as an exception from the MFN requirement, to allow differential treatment in favour of developing countries so as to reflect the differences in capacity and levels of development of members of the trading system.<sup>5</sup> SDT has evolved, and under the Doha Round it has come to be linked very strongly with trade as a contributor to development objectives of all countries.

The second paragraph of the Doha mandate indicates that:

“... international trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates .... We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration”.<sup>6</sup>

However, special treatment, as it has been implemented, addresses mainly the goal of integration into the WTO trading framework, strengthening the free trade system through which it is assumed all will gain. In the Uruguay Round the special treatment has been characterized by longer periods over which to implement change and lower levels of commitments, but with the same endpoint in mind. Even so, these SDT transition time and/or implementation periods for developing countries in the AoA were defined arbitrarily rather than considering their particular levels of development.

The concessions on commitments, under two of the three pillars of the AoA, had little relevance to the majority of developing countries. Very few countries in Africa, Asia, the Caribbean, the Pacific and Latin America have notified non-exempt trade distorting support to the WTO under the domestic support pillar. Even fewer notified the existence of export subsidies. This approach is again apparent in Annex A of the August 2004 Framework Agreement. Paragraph 6 states that:

“... special and differential treatment remains an integral component of domestic support. Modalities to be developed will include longer implementation periods and lower reduction coefficients for all types of trade-distorting domestic support and continued access to the provisions under Article 6.2.”

There is a sense in which this special treatment for developing countries is virtually meaningless as they do not generally have the capacity to provide trade-distorting support for their agricultural sectors. However, these clauses give the impression of special treatment to developing countries while they facilitate acceptance of distorting practices on a larger scale. Thus, again, developing countries need to better ensure that what is being presented as concessions of special treatment is meaningful and not more beneficial to developed countries than to the intended beneficiaries. The importance of South-South trading opportunities should be better recognized and designing SDT to facilitate this trade should be addressed through facilitating South-South concessional trading agreements.

The WTO recognizes the Least Developed Countries (LDCs), which as a category is faced with few questions as to the validity of its legitimacy to receive SDT. There is greater controversy over what the different characteristics of underdevelopment that should justify a non-LDC developing country receiving SDT are, and the extent to which SDT should be considered development assistance beyond the more generally accepted trade-related technical assistance. This issue is closely linked to the differentiation issue addressed immediately below.

- *SDT: differentiation, criteria and measures*

Current WTO procedures allow countries to indicate at the time of accession whether they will make commitments corresponding to a developed or a developing country (then to be decided by the other WTO countries). This process has resulted in a very heterogeneous grouping of developing countries and made the SDT issue related to addressing differences between developing countries one of the most difficult areas in the debate. Yet, it is central to making progress in the SDT arena.

On the one hand, many developed countries are concerned with issues of eligibility, including deeper SDT for those countries more in need and the future graduation of countries/situations out of the flexibility granted within SDT, once it is no longer required. These countries feel that resolving this issue is part of the broader principles that should be discussed before specific SDT measures can be agreed on. The issue requires agreement on mechanisms for determining which countries/situations receive what flexibilities and that not all flexibilities should be open to all developing countries.

On the other hand, there is a reluctance to go beyond the categories of developing countries and the sub-set of LDCs due to the threat to the objective of common and transparent rules and

<sup>5</sup> See Part IV of the General Agreement on Tariffs and Trade (GATT).

<sup>6</sup> WTO, Doha Ministerial Declaration, November 2001(WT/MIN(01)/DEC/1.

achieving a more unified trading system.<sup>7</sup> Yet one can argue that through “best endeavour” clauses there is another approved sub-category of developing countries in the AoA - the Net Food-Importing Developing Countries (NFIDCs) under the Marrakesh Decision. However, developing countries themselves perceive an interest in being grouped together as a bargaining force in the negotiations and further differentiation would undermine this interest.<sup>8</sup>

The WTO therefore faces a major dilemma - how to officially recognize the heterogeneity of developing countries (as characterized by their very different economic and social conditions, their different resource bases, poverty, food insecurity, proportion of rural population and income levels, that result in countries at very different levels of development with very different needs) yet still agree on and implement principles and policies with developing countries only differentiated by their LDC status. This dilemma is sharply demonstrated by commitments in the July Framework Agreement to address specific problems that are defined by sub-sets of countries, examples being:

- concerns of “recently acceded members” (paragraph 47, Annex A);
- “economies where cotton has vital importance” (1b);
- as “developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers” (paragraph 11, Annex A);
- the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system (1d).

There have been proposals to group countries by income status and differentiate treatment on this basis.<sup>9</sup> However, this would create new country categories - a result which as suggested above, and specifically appears in the July Framework Agreement (1d), WTO members have indicated should not happen.

A more generally accepted approach is therefore to identify situations within countries that might need trade related assistance and to provide countries that identify with these situations

the flexibility to apply policies that might otherwise be restricted by WTO rules.<sup>10</sup>

The recognition of the important role of the agricultural sector is critical to facilitating movement on the issue of differentiation and should be the first step in separating out the allocation of flexibilities within WTO rules. The August 2004 Framework Agreement states that:

“... 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.”

Recognizing the differing structural, economic and social conditions across countries and their different needs is another important step in designing SDT measures. In addressing the different needs it is recognized that more than one situation or purpose in any country can qualify for SDT.

On the basis of the literature on SDT, the submissions by member states and what are considered as possible acceptable situations for further differentiation, three situations are described below. The descriptions are indicative and not intended to be comprehensive.

Within the developing countries it is recognised that LDCs have special situations in comparison to non LDCs. In addition, situations such as those described below would bring additional SDT measures to address particular needs and allow some degree of further differentiation between developing country situations.

#### *Subsistence and resource poor farmers*

In the Framework Agreement there is already a reference to increased flexibility whereby “developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers will be exempt”. The key to further progress would be in forging an agreement around how “subsistence and resource poor farmers” are defined, and what flexibility in other aspects of the agreements is allowed to developing countries on this basis.

National and multilateral programmes specifically targeted at the situation described would receive additional SDT beyond that prescribed for all developing countries, and such programmes specifically targeted at the livelihood systems of these groups within countries would be exempt from violating agreed rules. Such SDT is most likely to be required for the support and protection of food crop production, typically import substitutes. The commercialization of local food production in many developing countries is critical

<sup>7</sup> The United Nations LDC category used by the WTO has graduation criteria even though the process is cumbersome and prolonged.

<sup>8</sup> Yet, developing countries do not speak with one voice as evidenced by the existence of the G20, G33 and G90 groupings.

<sup>9</sup> International Food and Agricultural Trade Policy Council (IPC). A new approach to Special and Differential Treatment, Position Paper No. 13, September 2004.

<sup>10</sup> See, for example, FAO 2002a.

to achieving the agricultural productivity growth rates that will generate wider rural and economic development. This transition is, however, often constrained by widespread market failures that contribute to the high levels of transaction costs and risk that are preventing increased investment in agriculture production. Policies that ameliorate such constraints would be exempt.

The definitions of the terms “subsistence” and “resource poor” are problematic, both conceptually and in terms of data availability. An indicator of subsistence farmers could be derived on the basis of the percentage of own production consumed. In Ghana for example, 36 percent of farmers sell less than 20 percent of their output, and 25 percent sell between 20 and 50 percent of their output. In Nigeria an average of 21 percent of food output was consumed on-farm in 1996. In Malawi, 63.7 percent and 59.1 percent of income for the rural poor and non-poor respectively were from subsistence agriculture in the form of own production consumption in 2000.

Proxy indicators may provide an alternative mechanism for the development of eligibility criteria. For example, there is a strong correlation between the extent of a nation’s dependence on agriculture and the incidence of agricultural producers who do not engage fully in commercial activity, primarily because of the under-development of agricultural input and output markets. One basic criteria could be an agreed percentage (say greater than 50 percent) of the rural population being economically dependent on agriculture, and with a certain proportion of the population with income below a given level (perhaps US\$1 per day). Examples of communities that might meet this situation possibly exist in Nepal with 93 percent dependent on agriculture and 38 percent on less than US\$1 per day, India (53 percent and 35 percent), Tanzania (77 percent and 20 percent) and Viet Nam (67 percent and 18 percent).<sup>11</sup>

#### *Economic vulnerability*

Agricultural growth in some countries is constrained by structural economic rigidities and production characteristics that prevent diversification within, and the reallocation of resources from, specific types of agricultural production. Typically, such situations are characterized by production of export commodities, notably cotton, sugar, bananas and tropical beverages.

In these situations, additional SDT beyond that available to all developing countries may be required to facilitate the generation of greater returns to the production of these export crops in the short to medium term, by for example

enhancing productivity levels, facilitating the adoption of higher standards, and gaining greater market penetration, and to facilitate a transition out of their production in the longer term. Particular attention should be paid to increasing developing country exports of processed commodities and simultaneously addressing tariff escalation in developed country markets. SDT here could include a higher *de minimis* level to allow greater expenditure on coupled domestic support policies aimed at stimulating higher levels of agricultural production and processing, or concessions in the area of export competition that allow an active role for State Trading Enterprises.

One indicator that could characterize a situation of economic vulnerability may be single crop dependence. This situation could be defined by an agreed percentage of agricultural exports being derived from a single crop. It may also be appropriate for a threshold percentage of the global trade in the product to be agreed on. Consideration could also be given to including in the characterization of this situation that a high percentage of the crop is grown on small private farms. Examples of countries with high single export crop dependence are Mauritius (sugar at 86 percent of total agricultural exports), Ghana (cocoa beans 73 percent), Malawi (tobacco 72 percent), Mali (cotton 67 percent) and Saint Lucia (bananas 55 percent).

#### *Physical vulnerability*

This situation would be defined by agricultural livelihood systems that are vulnerable, mainly but not limited to those based in areas susceptible to natural disasters, as measured by the proportion of the low income producers affected by the impact of such events as estimated over a relatively long period of time.

Such situations may require SDT in the period following an event that severely disrupts their agriculture based livelihood - for example, domestic support policies directed at annual crop prices and production while perennial crop systems damaged by a disaster are re-established. Such measures would be considered transitory, and countries would not be permitted to provide the affected communities with SDT additional to that received by the group of developing countries, following the re-establishment of the livelihood system. Although crises can affect any country, it may be considered appropriate to restrict this form of SDT to those countries that are vulnerable by virtue of their increased susceptibility and limited capacity to resist and respond to such crises and that have relatively low per capita income. Thus, the occurrence of an emergency alone would not be enough to qualify for this SDT. Generally, livelihood systems qualifying would be in countries classified towards the top of vulnerability index

<sup>11</sup> Source data: FAOSTAT; World Development Indicators CD-Rom 2004, World Bank.

rankings such as the Commonwealth Secretariat's Composite Vulnerability Index (CVI).

### 3 Agreement-specific issues related to SDT and the Doha Work Programme (DWP)

In the negotiations, SDT Agreement-specific proposals generally focus on 88 specific proposals submitted by members. These have been categorized into three groups, category 1 being proposals where there is a greater likelihood of reaching agreement (around 35 proposals), category 2 which comprises proposals that are more directly related to the issues under negotiation and will most likely be resolved as a part of the current negotiations (around 40 proposals) and category 3 where there are wide divergences of views among WTO members (around 15 proposals).<sup>12</sup>

Of the 88 proposals, very few speak directly to the AoA. One proposal (No 11) called for confirmation that LDC Members would remain exempt from reduction commitments. The August 2004 Framework Agreement specifically guarantees this in paragraph 45. Another proposal (No 41–TN/CTD/W/3/Rev.2) calls for permitted subsidies under Article 6.2 to be “without limitation as to amount and include any programmes in developing or least-developed country members for, inter alia, promoting food security and rural development, and assisting resource poor or low-income farmers”. This proposal extends coverage to food security and rural development. The Framework Agreement allows continued access to Article 6.2 but does not expand it as proposed.

There are also several relevant submissions (Nos 32, 33, 34) in the context of the Decision on Measures in Favour of Least-Developed Countries, calling for entitlement to extensions for their transition periods as they may require (TN/CTD/W/3/Rev.2) and for increased market access through improvement of preference schemes by expanding the product coverage, lowering of barriers and strengthening the predictability and security of the access conditions (TN/CTD/W/4). This latter proposal is very comprehensive in its suggestions for SDT, beyond the expanding and binding of market access, it calls for assurances that SDT market access provisions would not be nullified by non-tariff measures. Further, it calls for technical and financial assistance to meet the cost of the compliance with SPS measures and technical standards.

The August 2004 Framework Agreement remains vague in addressing the issues raised in the previous paragraph, making very general statements limited to recognizing the importance

of SDT concerns and indicating that it will be addressed. In the context of the agricultural sector, the Framework Agreement maintains the Uruguay Round approach in that reforms will take place under the three pillars which form an interconnected whole and must be approached in a balanced and equitable manner. Under each pillar, SDT remains an integral component. Least-developed countries will have full access to all the SDT provisions and are not required to undertake reduction commitments. SDT under each of these pillars is addressed below.

#### • SDT under the market access pillar

Market access is perhaps the most difficult of the three pillars from an SDT standpoint. It is the main pillar through which developing countries are able to protect their agricultural sectors. The Framework Agreement calls for substantial improvements in market access based around principles that include progressivity and flexibility. SDT provisions related to market access in the Framework Agreement are envisaged through:

- (i) Lower tariff reductions and less tariff-rate quota (TRQ) expansion;
- (ii) Longer implementation periods;
- (iii) Flexibility to designate an appropriate number of products as Special Products (all terms to be defined);
- (iv) Establishment of a “special safeguard mechanism” for the developing countries;
- (v) Accelerated market access for tropical products and alternatives to narcotic products;
- (vi) The issue of preference erosion to be addressed;
- (vii) Developed country Members and developing country Members to provide duty-free and quota-free market access for products originating from least-developed countries.

The critical points related to the above market access provisions and their SDT implications are addressed below:

#### *Tariff formulae, tariff peaks and tariff escalation*

While the use of a tiered formula approach has been agreed to, the tariff reduction formulae to be applied, the reduction coefficients within different tiers, and the number and threshold levels of tiers are yet to be agreed. SDT requires changes in the situations where high tariff levels, especially tariff peaks, maintained by developed countries reduce opportunities for developing countries. Any formula and its application should reduce significant tariff escalation in products of export interest to developing countries, namely processed products. However, paragraph 36 of the Framework Agreement addresses tariff

<sup>12</sup> WTO, General Council Chairman's Proposal on an approach for Special and Differential Treatment, JOB(03)/68, April 2003.

escalation in a very unspecific way that does not inspire much hope for progress.

#### *Bound tariffs*

While the gap between bound and applied tariffs is wide in the case of many developing countries there is the view that significant reductions of bound tariffs would have few benefits and more risks. This is so mainly because of the relative vulnerability of their agriculture and small farmers, and limited institutional and financial capability to resort to general WTO safeguards<sup>13</sup> and to apply domestic policy instruments to offset the effects of external shocks. Thus, while the agreement is to cut bound tariffs, SDT for developing countries that rely on border measures for protection to promote food security and rural development requires that cuts are made in such a manner as to maintain some distance between bound and applied tariffs. It should also be recognized that developing country policies, including the use of tariffs for agricultural protection, are also constrained by agreements that developing countries have with multilateral institutions.

#### *Special Products*

The definition and criteria for determining Special Products (SP) could potentially be one of the most difficult areas on which to find agreement in the negotiations. The Framework Agreement calls for Special Products to be “based on criteria of food security, livelihood security and rural development needs”. However, these concepts are, thus far, not explicitly defined in the WTO agreements and require further analysis and discussion in order to be beneficial to developing countries.

On one hand, the G33 has called for SPs to be self designated by countries in order to meet their developmental concerns on food security and rural development. On the other hand, the Cairns Group called for multilaterally agreed criteria. There is a view that several kinds of indicators should be used for several kinds of situations and these indicators should reflect needs more at the local than the national level. Yet some members feel that before special products are identified there should be greater clarity on the rules and commitments that will govern their existence. Further, there is the issue of product substitutes and the question as to whether products as opposed to sectors should be selected. Among the criteria for SPs which have support of different groups are the following :

- The share of consumption of the product in total apparent agricultural consumption should be high, reflecting its importance to food security.

- The share of production of the product in total agricultural production should be high reflecting its importance to rural development.
- The country should be a net importer of the products designated as SPs.
- The country concerned does not hold a large share of the world market for a particular product.
- The list of declared products can be revised given future food security and rural development needs.

The number of SPs to be allowed and how substitutes would be handled is a particular challenge. Proposals related to limiting the number of SPs include :

- their value should total no more than a certain percentage of total agricultural imports;
- a fixed percentage of tariff lines;
- a percentage of domestically-produced agricultural products.

Consideration also needs to be given to the extension of SP status to products that are not imported by the country, but which compete with imported goods which can substitute for locally produced products. It may be necessary to protect domestically produced import competing products for similar reasons to those discussed above, by restricting the import of substitute products.

The SDT treatment of SPs also needs to be decided. Will these products face tariff reduction commitments, will they have access to the special safeguard mechanism, and will they have flexibility related to tariff-rate quotas?

#### *Sensitive Products*

The Framework Agreement (paragraph 39) states that SDT will apply to developing countries in terms of the number and treatment of sensitive products. Developing countries should use this option similarly to special products and given that developed countries can also designate sensitive products there may be the possibility of investigating agreements between developed and developing country partners, where they have common interests and commitments, to use this window to achieve some of the goals of their partnership agreements.

#### *Special Safeguard Mechanism (SSM)*

The current safeguard measures in place are generally either not available to developing countries or are considered too time consuming, costly and not effective. A Special Safeguard Mechanism (SSM) that would only be available to developing countries and would be simpler to operate has been proposed. The safeguard could be established for a specified time limit and without requirements for proof of injury or compensation. Further, the use of the safeguard

<sup>13</sup> See FAO Trade Policy Technical Note No. 9 on Special Safeguard Mechanisms for a review of these issues.

would not be only limited to import surges as flexibility may still be needed to address different kinds of impacts and policy choices, even after export subsidies and other distortions are removed<sup>14</sup>

### Preferences

Preferential access has been eroding for a variety of reasons, including those related to increased liberalization in the multilateral trading framework.<sup>15</sup> Developing countries differ in their perspective on preferences. Some countries would argue for all trade on an MFN basis, with a focus of negotiations on reducing the MFN rates. From the point of view of preference receiving countries the losses from preference erosion are likely to be greater than their gains from other changes within the WTO framework. While the debate over the value and benefits of preferences continues, the evidence suggests that preference impact has been positive for preference receiving countries and very important to development in specific countries. The concentration in the use and benefits of preferences, by country and product, suggests that the cost of providing assistance to allow them to adjust may also be relatively small. Although preference receiving countries continue to make the case for the maintenance of preferences, the discussion on adjustment away from dependence on preferences within the SDT framework is increasing. At the same time, the importance of the linkages between agreements is increasing, for instance, the impact of what is happening in the WTO as it affects commodities that are critical in the EU and ACP Economic Partnership negotiations. These latter negotiations are where the most controversial preference schemes in the WTO exist. Thus, several difficult issues related to preferences remain to be resolved, among them being: how far should preference access loss be linked to provision of adjustment assistance and in what form, and from what source should adjustment assistance be provided?

- *SDT under the domestic support pillar*

SDT in the area of domestic support is reflected in the Framework Agreement through the following:

- (i) longer implementation periods and lower reduction coefficients for all types of trade-distorting support and continued access to the provisions under Article 6.2;
- (ii) reductions in *de minimis* taking into account the principle of SDT;

- (iii) developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers to be exempt.

SDT in each pillar is at least as much about an offensive position ensuring that developed country changes do not promote continued trade distortions as it is about a defensive position ensuring flexibility that allows the use of policies that promote growth and development in developing countries. Given the high allowance levels set for aggregate measure of support (AMS) in the Uruguay Round, the utilization level for most developed countries has been below 80 percent of the bound level. The negotiation of measures to ensure a reduction of these distorting practices should not cost developing countries flexibility in other areas of domestic support. Developing countries could be allowed the flexibility, including use of coupled policies, to stimulate their agricultural sectors given their stage of development and the important role of the agricultural sector in economic transformation. Recognizing the constraints developing countries face with regard to domestic support measures, in addition to the policy space, reliable complementary funding to promote rural and agricultural development in developing countries could be available.

The Framework Agreement indicates that “reductions in *de minimis* will be negotiated taking into account the principle of SDT”. This consideration should ensure that *de minimis* for developing countries is not below the limit of 10 percent now admissible. Further, Article 6.2 should perhaps be revised to include more measures and to let these measures apply more widely, expanding the situations within developing countries allowed SDT. It is the view of some developing countries that instead of reducing subsidies they should be increasing them, thus there should be a permanent exemption from cuts until their agricultural transformation is achieved.

It is increasingly being realized that subsidies classified in the Green Box can also distort trade by boosting farm revenues and assisting farms that would otherwise not be in business to remain in business.<sup>16</sup> Considering this and the fact that developed countries have been increasing support under this component, the review and classification of the Green Box criteria, as mentioned in the Framework Agreement, should lead to concrete action to discipline abuse of this box by developed countries and target SDT in this context to ensure the flexibility in developing countries that need it.

<sup>14</sup> See FAO Trade Policy Technical Note No. 9 on Special Safeguard Mechanisms for a detailed discussion of the technical issues involved in the development of a SSM.

<sup>15</sup> See FAO Trade Policy Technical Note No. 7 on Preferences for a detailed discussion of these issues.

<sup>16</sup> See FAO Trade Policy Technical Note No. 5 on Domestic Support for a review of evidence on the trade distortiveness of decoupled support.



- *SDT under export competition*

SDT on export competition is to be provided in the Framework Agreement through commitments to :

- (i) maintaining the Uruguay Round AoA Article 9.4 for a reasonable period;
- (ii) appropriate provisions for LDCs and net-food importing developing countries;
- (iii) special consideration for state trading enterprises in developing countries aiming to preserve domestic consumer price stability and ensuring food security;
- (iv) longer implementation periods.

Elimination of export subsidies should reduce the impact of some of the most trade-distorting practices of the developed countries which have reduced market opportunities for developing countries' farm products. Given that the Framework Agreement has not fixed an end date or a road-map for this elimination, developing countries have an interest in ensuring this takes place. However, provisions under Article 9.4 have been used in the past by developing countries and hence these need to be maintained and perhaps extended to provide some offsetting of the continued use of distorting domestic support in developed countries.

Given the level of development of many poorer developing countries, state enterprises play a dual commercial and development role. This should be recognized in setting disciplines for them, on the one hand ensuring that the privileges they enjoy in developed countries do not allow them to compete unfairly on the export market and on the other hand providing sufficient SDT for developing country state enterprises that enable them to contribute to developing country transformation as they did in the past in countries that are now "developed". The challenge here is also one of differentiation, and the issue of which developing countries are being used as a benchmark is important. In some developing countries, private enterprises exist that have considerable capacity to respond to increased market opportunities, accessing their own credit and establishing their own warehousing for bulking supplies. In poorer developing countries a state trading enterprise is still often needed to provide these services. Trade-offs related to provision of food aid should be similarly considered.<sup>17</sup>

#### 4 SDT implementation issues

One of the main issues faced by developing countries with regard to the SDT provisions in the current WTO agreements pertains to the specificity of SDT measures, and their monitoring,

review and enforceability, especially those associated with "best endeavour" clauses. Since these provisions are often not legally enforceable by the WTO Members, they are rendered ineffective.

Related to this issue is the lack of a clear-cut definition for some SDT measures. While this is not uncomplicated it is necessary to define terms such as "low-income or resource-poor farmer" (and any other terms that extend SDT coverage to other situations) in order to achieve meaningful and enforceable SDT mechanisms. Further, these measures should be associated with facilitating mechanisms that are detailed in terms of timelines and with measurable signposts. There have been several submissions by WTO members calling for these types of changes to make SDT more meaningful (WT/GC/W/528).

In addition to ensuring effective implementation procedures, it is important to ensure periodic monitoring and review of the same. Enhanced monitoring mechanisms will facilitate an evaluation in terms of the effectiveness of the provisions. A periodic evaluation of the SDT proposals would also receive active support from the developed countries, which have been particularly concerned about the indiscriminate provision of SDT measures for all developing countries as a group. In order to facilitate this review process there need to be more timely and comprehensive notifications. Another consideration for improving implementation would be to institutionalize the review of SDT measures through the establishment of a monitoring mechanism (as proposed by the African Group (TN/CTD/W/23)), that would evaluate the utilization and the effectiveness of the provisions. A working group with clear-cut responsibilities for monitoring specific provisions could be set up within each WTO Committee. Further, a notification procedure could be developed whereby Members could inform the group about their fulfilment of the SDT rules.

#### 5 Challenges in the ongoing negotiations

To achieve a successful Doha Round, the issues related to SDT for the agriculture sector must be adequately resolved. On the one hand, there needs to be progress in the general area of development as a goal of the WTO and the use of SDT measures as a vehicle in its achievement. The agricultural sector is most important to a majority of developing countries, and for this reason, SDT related to agricultural development is of paramount importance.

At the same time, the more accepted goal within the WTO framework, that of establishing an increasingly liberalized trading system, will most likely only be achieved if there are sufficient agreement-specific SDT measures that recognize the differences between developing countries and

<sup>17</sup> See FAO Trade Policy Technical Notes No. 4 on Export Competition and No. 8 on Food Aid for further discussion of these trade-offs.

permit corresponding measures that are required in these situations. Four critical factors characterize the challenge: the need for increased flexibility, equity, timelines and coherence.

Greater flexibility is required in the rule making that recognizes the heterogeneity of developing countries, especially their very different economic and social conditions. Their resource bases, poverty, food insecurity, proportion of rural population and income levels result in countries at very different levels of development having very different needs. Thus, effective SDT should recognize different situations and ensure flexibility in rule-making that provides options whereby the different situations are not necessarily offered the same treatment.

Increased equity is needed in the expectation of commitments and in the allocation of support to achieve the commitments made. It is necessary that a level playing field be created through which developing countries have a better chance of achieving the social and economic benefits promised by a more liberalized global trading environment. The Uruguay Round results have not been very satisfactory to developing countries. They argue that despite the disciplines, developed countries continue to provide high levels of support and maintain high levels of tariffs which have reduced the trading opportunities. Thus, developing countries expect developed countries to make the substantial cuts needed in their trade-

distorting domestic support, tariffs and export subsidies in order to establish a more level playing field in world agricultural trade.

Adequate timelines consistent with the stages of development of countries and with their capacity to accommodate changes in the global trading environment are needed. Some member countries may need to introduce change more slowly than others, either because their goals or their capacities are different. Others remain unsure with regard to the outcomes resulting from increased trade liberalization and insist on longer timelines before exposing their domestic agriculture to global competition. This latter consideration is not unique to developing countries.

Coherent policy and development assistance approaches at the multilateral, bilateral, regional and national levels are needed to realize the goals of both increased liberalization and development. WTO policies do not exist in a vacuum and linkages to the parallel and complementary economic development frameworks to ensure consistency and coherency are essential.

Agreeing on modalities in the Doha Round will involve difficult trade-offs. The above four factors must be applied in the context of the legitimate needs of different member countries and compromises that sufficiently address these needs will have to be forged. Achieving such SDT is essential to a successful outcome.

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