

Special and Differential Treatment under the WTO Agreement on Agriculture

Ellen Huan-Niemi



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Abstract

Developing countries' fear of being unable to compete and liberalize border measures at the same pace with industrialized countries is behind some of the demands for special and differential treatment in agriculture. There is a widespread consensus within the WTO members to produce results for special and differential treatment in favor of developing countries by the Hong Kong Ministerial Conference in December 2005. In the Doha Ministerial Declaration, WTO members agreed that all special and differential treatment provisions should be reviewed with a view to strengthening them and making them more effective and operational. In order to achieve these objectives, provisions for special and differential treatment must be in a form that is enforceable within the WTO system. The time frame for exemptions must be flexible enough to accommodate the different development needs of developing countries.

Developing countries should be able to depend on the special and differential treatment provisions that declare support for problems arising from the implementation of the commitments under the WTO Agreements. Currently, there is no action that an aggrieved developing country can take to force another WTO member or an organization to act on these undertakings. A considerable element of discontent expressed by developing countries over the failures of the special and differential treatment provisions derives from resentment that they were misled into signing the "single undertaking" in the belief that these sorts of commitments would be concrete. By contrast, the commitments that they have accepted in return were all legally enforceable under the WTO. That's why special and differential treatment should be concrete and enforceable within the legal system of the WTO in order to promote poverty reduction, rural development, food security and to protect livelihoods of the poor in developing countries.

Index words: WTO, Agreement on Agriculture, special and differential treatment, developing countries, trade liberalization

Contents

1	Introduction	6
1.1	Uruguay Round Agreement on Agriculture.....	6
1.2	The history and main problems with the existing provisions of special and differential treatment.....	8
2	The Doha Development Agenda and Agreement on Agriculture.....	9
3	Proposals for amending the prevailing special and differential treatment provisions in the Agreement on Agriculture	10
3.1	Special and differential treatment for domestic support in developing countries	11
3.1.1	Background	11
3.1.2	Case study: West Africa	12
3.1.3	Assessment of the proposal for favouring domestic support in developing countries	13
3.2	Special and differential treatment for developing countries under the Sanitary and Phytosanitary Measures	14
3.2.1	Background	15
3.2.2	Case study: Seychelles	16
3.2.3	Case study: Bangladesh.....	16
3.2.4	Case study: Tanzania.....	17
3.2.5	Case study: Kenya.....	17
3.2.6	Case study: Maximum Residue Levels (MRLs).....	18
3.2.7	Assessment of the proposal to curb the escalation of SPS Measures.....	19
3.3	Binding commitments for special and differential treatment and addressing preference erosion.....	20
3.3.1	Background	20
3.3.2	Case study: India.....	21
3.3.3	Case study: Fiji	22
3.3.4	Assessment of the proposal to bind the commitments for special and differential treatment and address preference erosion.....	23
3.4	Expansion of special and differential treatment	24
3.4.1	Background	24
3.4.2	Case study: West Africa	25
3.4.3	Assessment of the proposal for the expansion of special and differential treatment.....	26

3.5	Special and differential treatment in getting access to food for net food-importing developing countries and least developed countries	26
3.5.1	Background	27
3.5.2	Case study: Indonesia.....	27
3.5.3	Case study: “The tide of free trade will not float all boats”	28
3.5.4	Assessment of the proposal for special and differential treatment in getting access to food for net food-importing developing countries and least developed countries.....	29
4	Progress of the negotiations on the special and differential treatment proposals	29
5	Conclusions	30
	References	31
	Appendices	

1 Introduction

All agreements under the World Trade Organization (WTO) contain provisions which give developing countries special rights. These are called “special and differential treatment” provisions. According to the WTO Secretariat (WTO 2000a), there are 97 special and differential treatment provisions in the Uruguay Round Agreements. Essentially these provisions can be divided into six categories as follows:

- (i) provisions aimed at increasing trade opportunities;
- (ii) provisions that require WTO members to safeguard the interests of developing countries;
- (iii) flexibility of commitments;
- (iv) transitional time periods;
- (v) technical assistance;
- (vi) provisions relating to measures to assist least-developed member countries.

1.1 Uruguay Round Agreement on Agriculture

The Uruguay Round Agreement on Agriculture introduced trade disciplines and imposed commitments for agriculture for the first time under the WTO. The commitments were to reduce domestic support, improve market access and cut export subsidies.

The Agreement on Agriculture allows special and differential treatment for developing countries in the form of permissible domestic support or subsidies and lower reductions commitments for tariffs, export subsidies and domestic support within a longer time frame. Special arrangements are also put in place for net food importing developing and least developed countries (Table 1).

The utilisation of special and differential treatment for agriculture under the Uruguay Round has been assessed by the WTO Secretariat (Appendix 1):

- First by examining the extent to which developing countries have had recourse to specific provisions allowing them greater levels of flexibility in commitments; action or use of policy instruments; longer transition time periods; and formulated requests for technical assistance.
- Secondly by showing the extent to which developed countries have made use of WTO provisions specifying positive actions in favour of developing countries: i.e. provisions seeking to expand the trading opportunities of developing countries; provisions seeking to safeguard the interests of developing countries; and provisions relating to technical assistance.

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Table 1. Special and differential treatment incorporated in the Agreement on Agriculture (WTO 2000b).

Key Elements of the Agreement on Agriculture and Related Commitments			
Policy Area	Instrument	Developed Countries	Developing Countries (SDT)
Market Access	Article 4.2 Article 4.1 and Schedule Article 5 Schedules Schedules	Prohibition on the use of restrictions on imports other than tariffs; All tariffs bound; Special agriculture safeguard mechanism against import volume surges or import price declines below a trigger level (limited to “tariffed” products and not applicable to imports under related tariff quota commitments); Tariffs resulting from conversion of non-tariff border measures under negotiating modalities (“tariffication”) plus pre-existing tariffs on all other agricultural products to be reduced; Implementation of current and minimum access opportunity commitments in respect of tariffed products.	
Market Access	Schedules	Average tariff reductions of 36% (minimum 15%) over 6 years	Average tariff reductions of 24% (minimum 10%) over 10 years; Where “ceiling bindings” commitments undertaken, reductions not required except on an hoc basis; Least developed countries not required to undertake reduction commitments.
Domestic support	Articles 6, 7 and Annex 2 Article 6.5	Policies divided into two groups; (i) permitted policies (Green Box), (ii) other policies included in the Aggregate Measure of Support (AMS) subject to reduction commitments (Amber Box); Decoupled direct payments associated with production limiting programmes (Blue Box) not in Green Box but excluded from AMS.	
Domestic support	Article 6.2 Article 6.4(a) and (b) Schedules Schedules	 <i>De minimis</i> provision allows exclusion of support less than 5% of output value from AMS; Total AMS support to be reduced by 20% over 6 years	Developing countries allowed to use some types of investment and input subsidies under certain conditions; <i>De minimis</i> provision allows exclusion from AMS of product-specific and non-product specific support less than 10% of respective current output value; Total AMS support to be reduced by 13.3% over 10 years; Least developed countries must bind AMS support level if applicable but not required to reduce it.

Policy Area	Instrument	Developed Countries	Developing Countries
Export subsidies	Article 9 Article 10 Article 3.3	Definition of export subsidies subject to reduction; Other export subsidies subject to anti-circumvention provisions which include disciplines relating to food aid; Prohibition on the use of export subsidies on products not subject to reduction commitments.	
Export subsidies	Schedules Article 11 Article 9.4	Distinct reduction commitments on both volume (21%) and budgetary outlays (36%) over six years; For incorporated/processed products budgetary outlays only (36%).	Two-thirds of the reduction commitments on both volume (14%) and budgetary outlays (24%) over ten years; Exception during the implementation period in respect of certain marketing and internal transportation subsidies.
Export prohibitions and restrictions	Article 12	Requirement for advance notice and obligation to consult on request and supply information in case of new export restrictions on foodstuffs.	
	Article 12.2		Exception for developing countries that are net-exporters of the foodstuff concerned.
Other aspects	Article 13 Article 17 Article 16	<ul style="list-style-type: none"> - Peace Clause; - WTO Committee on Agriculture given the task of overseeing the implementation of the Agreement and related commitments; - <i>Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.</i> 	
Sanitary and phytosanitary measures	Article 14	Separate Agreement: Reaffirms right to countries to set their own health and safety standards provided they are justified on scientific grounds and do not result in arbitrary or unjustified barriers to trade; encourages use of international standards; includes certain special and differential treatment provisions.	

1.2 The history and main problems with the existing provisions of special and differential treatment

The history of special and differential treatment has been well documented by Fukasaku (2000), Michalopoulos (2000) and Whalley (1999). The vital points are listed below:

* Special and differential treatment had its origins in a view of trade and development that questioned the desirability of developing countries liberalising border measures at the same pace as industrialized countries;

* The popularity of this approach was temporarily in decline in many developing countries during the Uruguay Round negotiations;

* Consequently, many special and differential treatment provisions on border measures and subsidies envisage that developing countries follow a similar path to that of the industrialized countries, but at a slower pace (the least developed countries are exempted);

* Other special and differential treatment provisions were not agreed in a form that is enforceable within the WTO system, particularly those covering positive support to developing countries via financial and technical assistance or technology transfer. In other words, the “actionable” special and differential treatment provisions in the Uruguay Round Agreement are weaker than in its predecessors because support for the approach to trade and development that underpinned them was relatively weak during the negotiations. There are plenty of “non-actionable” special and differential treatment provisions, but many developing countries and observers are unhappy with their implementation (FAO 2002a).

The main problems with the existing provisions for special and differential treatment are listed below:

- Declarations of support under the special and differential treatment provisions are not wholly enforceable. Developing countries and the least developed countries cannot completely depend on the special and differential treatment provisions that declare support for problems arising from the implementation of the commitments under the WTO Agreements (Stevens 2002, IISD 2003, Keck & Low 2004).
- The existing special and differential treatment provisions will eventually expire after a certain period of time, therefore the value of the provisions are declining either directly or indirectly (IISD 2003, Stevens 2002).
- Trade preferences granted under the special and differential treatment provisions will eventually be eroded with further market liberalisation under the WTO (Stevens et al. 2003, Keck & Low 2004).

2 The Doha Development Agenda and Agreement on Agriculture

The Doha work programme is a single undertaking: virtually every item of the negotiation is part of a whole and indivisible package and cannot be agreed separately. Therefore, agriculture is only one item of the Doha work programme and “nothing is agreed until everything is agreed.”

Below are the important issues in the current negotiations for special and differential treatment in the Agreement on Agriculture:

Market Access

1. lower reductions
2. longer periods
3. special products
4. special safeguard mechanisms
5. preferences
6. tropical products

Export Competition

1. longer period for elimination
2. Article 9.4 to continue
3. State trading enterprises (STEs) in developing countries
4. Export credits in developing countries

Domestic Support

1. lower reduction
2. longer period
3. continue Article 6.2
4. de minimis in developing countries

Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries

Ensuring that the disciplines to be agreed on export credits, export credit guarantees or insurance programs will make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

Others

Issues that are linked to other agreements under the WTO (e.g. Agreement on Sanitary and Phytosanitary Measures).

3 Proposals for amending the prevailing special and differential treatment provisions in the Agreement on Agriculture

At the 4th WTO Ministerial Conference in Doha, WTO members mandated the Committee on Trade and Development to examine the special and differential treatment provisions which give developing countries special rights. The Doha Ministerial Declaration endorsed a work programme on special and differential treatment, reaffirming that provisions on special and differential treatment are an integral part of the WTO Agreements and should be reviewed with a view to making them more precise, effective and operational. More specifically, the Declaration (together with the Decision on Implementation-Related Issues and Concerns) mandates the Committee on

Trade and Development to identify which of those special and differential treatment provisions are mandatory, and to consider the implications of making mandatory those which are currently non-binding.

In the period between the Doha Ministerial Conference (November 2001) and Cancun Ministerial Conference (September 2003), developing countries formulated a list of 88 proposals for amending the prevailing special and differential treatment provisions in various WTO Agreements. Agreement-specific special and differential treatment proposals were divided into three categories by the Chairman of the WTO General Council (5 May 2003 Approach Paper):

* Category I (38 proposals) – Proposals contained in Annex III of WTO document (TN/CTD/7), on which WTO members have agreed in principle and proposals on which there appears to be greater likelihood of making recommendations;

* Category II (38 proposals) – Proposals made in areas on which mandated negotiations are ongoing or which are otherwise being considered in the respective WTO bodies;

* Category III (12 proposals) – Proposals on which currently there appears to be wide divergence of views, and on which progress might not be possible without a certain degree of redrafting of the original text presented.

The following sections are specific special and differential treatment proposals concerning agriculture that belong to Category II.

3.1 Special and differential treatment for domestic support in developing countries

Proposal #41 by the African Group (TN/CTD/W/3/Rev.2, paragraph 48) under Article 6.2 of the Agreement on Agriculture:

“It is understood that the permitted subsidies under Article 6.2 shall, be without limitation as to amount, and include any programmes in developing and least-developed country Members for, inter alia, promoting food security and rural development, and assisting resource poor or low-income farmers.”

3.1.1 Background

Domestic support of the agricultural sector has a long history in developed countries, while most developing countries and least developed countries do not rely on direct subsidy policies because of their heavy toll on national/domestic budgets. Table 2 illustrates the discrepancies between payments of domestic support given to farmers in developed, developing countries and least developed countries. According to WTO notifications, developed countries’ domestic support amounted to USD 188 billion on average between 1997 and 2003. In contrast, developing countries’ domestic support amounted to only USD 28 billion and a meagre USD 56 million for the least developed countries. Only 8% of the domestic support payments given to farmers in developing countries were in the “special and differential treatment” category of permitted subsidies. The least developed countries did not utilise any subsidies under the “special and differential treatment” category. However, poor farmers in the least developed countries are in the most urgent need of

domestic support due to lack of resources and unfavourable climatic conditions, especially in Sub-Saharan Africa.

Table 2. Composition of Domestic Support between 1997 and 2003 (Shapouri et al. 2005).

	USD million	Percentage share of domestic support			
		Special & Differential Treatment	Green Box	Blue Box	Amber Box
Developed	187,565	0	45	17	38
Developing	27,789	8	67	0	25
Least Developed	56	0	100	0	0

Agriculture in Africa is mainly a rural undertaking, embracing cultivation of food and cash crops as well as animal farming, fishing and exploitation of forests and natural resources. More than 80 percent of the African population live in rural areas and depend on agriculture for their livelihoods. Small-scale farmers account for more than 50 percent of food and cash crop production and more than 90 percent of livestock production in most of the countries in Sub-Saharan Africa. Threats to small-scale agriculture include land fragmentation and falling soil fertility exacerbated by ever rising cost of farm inputs in the face of falling and unsteady commodity prices in the world market. For the most part of the 1950s, Africa was self-sufficient in staple food requirements. However, during the colonial and post independence era, the agriculture sector suffered many setbacks. With increasing population pressures, shifting cultivation could no longer sustain high crop yields due to land degradation and falling soil fertility. Falling agricultural productivity has exacerbated poverty in the rural areas where more than 50 percent live on less than one dollar a day in most Sub-Saharan African countries (Kurwijila 2005).

3.1.2 Case study: West Africa

The Sahel region forms the southern edge of the Saharan desert, passing at least 4,500 km from Senegal through Mauritania, Mali, Burkina Faso, Niger, and Chad. This region represented "the quintessence of a major environmental emergency" following major episodes of drought and food shortages in the 1970s. The so-called environmental emergency has two components; periods of drought, and localized environmental degradation. The rich culture and history of this African region has, sadly, become linked in public consciousness to stories of food insecurity and social vulnerability (Batterbury & Warren 2001).

In year 2005, almost 8 million people were threatened by severe food shortages in the Western Sahel region of Africa - including Niger, Mali, Mauritania and Burkina Faso. The famine, brought on by two years of low rainfalls and drought in the region, coupled with the worst locust infestation in 20 years, had led to widespread malnutrition. In Niger, the United Nations found that 3.6 million of the country's 12 million people were directly affected by the food crisis. In the Tahoua and Maradi regions, the rate of severe malnutrition was 3 and 7% respectively, and the rate of moderate malnutrition was 30 to 40%. It was not only Niger that was affected. Millions of people in the neighbouring countries of Mali, Burkina Faso and Mauritania were threatened by the food crisis. It was estimated that 800,000 children in Niger alone were hungry (Canadian Red Cross 2005).

The 50 million people of the Sahel region pursue diverse livelihood strategies including agriculture, livestock herding, fishing, short and long-distance trading, and a variety of urban occupations. Farming in this region is almost entirely reliant on three months of summer rainfall, except along the banks of the major rivers, lakes, and other seasonal water courses. Researchers studying the Sahel region today focus on the regions' continued economic fragility, its halting steps towards democratic political regimes, and its continued food security problems. Persistent drought is one of a set of overwhelming problems affecting the Sahel region, which has some of the poorest nations in the world. The period of poor rainfall in the 1970s struck particularly hard for many Sahelian farmers and pastoralists, when there were an estimated 100,000 drought-related deaths. The hazardous conditions of the droughts of the 1970s, and those that followed, have had cumulative impacts, but these impacts form part of complex patterns of social and economic change, and it is almost impossible to separate the effects of the natural hazard (drought) from other factors that made individuals vulnerable. Vulnerability is an everyday situation for some people, but a rare occurrence for others. It is important here to differentiate between meteorological drought - below-average moisture supply - and the effects of changing human land uses and practices. Low rainfall can be coped with, if farmers have a diverse livelihood systems, or sufficient assets. Famine situations have resulted in dryland West Africa where drought conditions have surprised populations that were unprepared for them and the possible range of adjustments have been constrained by warfare, social status, or corruption and mismanagement. In some areas, people starved without drought conditions, because of locust invasions, epidemics, or the seizure of their harvests by warlords or even colonial administrators. Sahelian droughts and their effects have been studied intensively since the 1970s, as part of the international response to the "environmental emergency." It is only in the last ten years, however, that the long-term impacts of the famines of the 1970s have become evident. Those events provoked a re-thinking of the links between population growth, drought, and socio-political change, and also helped to re-focus development policy away from expensive and unsuccessful "interventions" towards more considerate schemes targeted at boosting local capacities. Since the 1970s the Sahelian nations have also witnessed an abrupt economic transformation involving increases in migration, international trade, and links to the international development aid system (Batterbury & Warren 2001).

Subsidies for programmes that ensure positive benefits to rural people and their livelihoods should be encouraged and initiated. It is important that the skills and aspirations of rural dwellers are translated into a language understood by governments of poor developing countries and development projects of developed countries. Development rarely succeeds where it is imposed or where it ignores complex social and ecological realities.

3.1.3 Assessment of the proposal for favouring domestic support in developing countries

There is a need to provide key support services for small-scale farmers. Structural adjustment programmes imposed by international financial institutions have led to the withdrawal of governments in developing countries from ensuring that small-scale farmers have access to high quality seeds, fertilisers, technical advice, credit, marketing services, irrigation and others. The vacuum that has been created in poor African countries has not been filled by the private sector. The governments of developing countries should play a proactive role in creating these key support services for poor and low income farmers in collaboration with farmers' organisations and the private sector. Also, incentives should be provided to kick start markets and attract greater private sector involvement in providing these key support services. Therefore, subsidies for any programmes that assist resource poor or low-income farmers in order to promote food security and rural development in developing countries should be allowed and without any limitation.

In 2004, China entered a new era in its approach to agricultural policy, as it began to subsidize rather than tax agriculture. China introduced direct subsidies to farmers, began to phase out its centuries-old agricultural tax, subsidized seed and machinery purchases, and increased spending on rural infrastructure. The new policies reflect China's new view of agriculture as a sector needing a helping hand. The subsidies are targeted at grain producers, but they do not provide strong incentives to increase grain production (Gale et al. 2005). Therefore, the given domestic support will not be trade distorting under the WTO.

The governments of poor developing countries are not capable of paying a huge sum of domestic support to their farmers even if they are permitted to give unlimited amount of domestic subsidies. At the moment, domestic support payments under the “special and differential treatment” category are not even utilised by the least developed countries. It is extremely positive if poor developing countries are willing to assist resource poor or low-income farmers in order to promote food security, rural development and thus, poverty reduction. Subsequently, there should be no barriers to this effort.

Since the major constraint in utilising this special and differential treatment is the lack of public funds for domestic support, international financial institutions can help the developing countries in this area. A good example is the World Bank effort to lend up to USD 3 billion over three years (2006 to 2008) to support a rural infrastructure program in India called Bharat Nirman ("Building India"), which is a business plan to build basic infrastructure in the rural areas. It is to be implemented over four years at a cost of about USD 40 billion (World Bank 2005). The plan sets high targets to be achieved by 2009 in six areas: irrigation, roads, water supply, housing, rural electrification, and rural telecom connectivity in Indian villages, mostly through state level projects. India needs to invest USD 100 billion in infrastructure over the next seven years. The only way resources of such magnitude can be raised is to involve the private sector. For instance, the World Bank has agreed with the Indian government to explore ways of creating a viability gap financing fund to encourage private participation in removing infrastructure bottlenecks. Private investors in India would have access to this fund on a competitive basis to meet financing needs in infrastructure projects with potentially low revenues (World Bank 2005). Hence, the lack of public funds can be complemented with financing from international financial institutions and the private sector or even direct development aid.

3.2 Special and differential treatment for developing countries under the Sanitary and Phytosanitary Measures

Proposal #42 by the African Group (TN/CTD/W/3/Rev.2, paragraph 49) under Article 14 of the Agreement on Agriculture:

“It is understood that measures covered by the Agreement on the Application of Sanitary and Phytosanitary Measures shall not be used as disguised restrictions against the trade of developing and least-developed country Members. Members shall biannually report to the Committee on Agriculture any measures taken under the Agreement on the Application of Sanitary and Phytosanitary Measures that affect any products from developing and least-developed country Members.”

3.2.1 Background

There is a general tendency to infer that the trade liberalising goals of the Doha Development Agenda would generally enhance market access and increase trade for developing countries. However, non-tariff technical barriers are becoming increasingly visible although tariffs have progressively declined under the WTO.

Technical standards, regulations, rules and procedures for products can facilitate and enhance trade. For food products, consumers can be assured that food purchased will be safe, thus increase confidence in imported products. On the other hand, such standards and regulations can become barriers to trade. For example, these standards and regulations can be costly and burdensome to meet.

The WTO Agreements on Sanitary and Phytosanitary (SPS) Measures and Technical Barriers to Trade (TBT) are mainly to guarantee WTO members have the right to adopt measures that protect human health, animal or plant life, the environment, ensure the quality of imports and prevent deceptive practices. While the implementation of these agreements may increase transparency and reduce trade restriction, it is likely that developing countries and least developed countries in particular may not be able to cope and maintain stringent standards on their exports due to lack of resources. Conformity assessment procedures refer to activities like registration, inspection, laboratory accreditation, independent audit and quality registration schemes.

SPS measures can impede trade through unjustified different requirements in different markets, unnecessary costly or time-consuming tests and duplicative conformity assessment procedures. Meeting the SPS standards and conformity assessment procedures of developed countries are big challenges for developing countries. Part of the problem in many developing countries is that the implementation of the SPS and also the TBT agreement is only poorly monitored, and adaptation to new requirements is very slow. Also the acceptance of key principles like on equivalence and mutual recognition is lacking among WTO member countries. These principles encourage countries to accept each others SPS measures and conformity assessment procedures which differ regionally as equivalent. However, many developed countries are looking for 'sameness' instead of equivalency. For developing countries, this may easily restrict market access for their products (Zarrilli 1999).

The reasons for non-compliance mainly derive from diverse market failures in the agricultural sector. Farmers often lack education and training, access to credit, access to inputs and equipment, and constraints in marketing their products due to poor infrastructure. Also marketing support is only poorly provided, if at all. Intermediate institutions are either non-existent or inefficient. These include for example, standards organizations, testing and certification bodies, and suppliers of inputs and services (Grote 2002).

Many cases are known where producers in developing countries have faced difficulties in adapting to the SPS requirements mainly due to financial or know-how constraints. Several import bans have been imposed temporarily on exports of agricultural products from developing countries based on non-compliance with SPS measures. In all the case studies given below, the imposition of a sudden ban resulted in great losses of export revenues and employment in the sectors involved.

3.2.2 Case study: Seychelles

As of April 1, 2003, the EU has enacted specific legislations concerning the imports of fish products. These legislations are supposedly intended to promote general health conditions of production and the Hazard Analysis Critical Control Point (HACCP) standards. In addition, they stipulate that all imported fish products must come from a preparation, processing, packaging or storage approved by a national competent authority. Through this measure the EU has, in effect, moved from a process of end-product inspection and certification to a preventative assurance approach. The Seychelles fisheries industry was struck with an embargo of swordfish of over 80 kg to the United Kingdom (UK). The embargo was imposed after UK sanitary authorities established that this category of swordfish has a higher risk of contamination with mercury than smaller swordfish. However, as swordfish are migratory, there seems to be little logic in applying this restriction to Seychelles but not to other fishing industries in the region. Moreover, the measure has been applied only by UK, which produces salmon, which is in direct competition with swordfish (COMESA 2003).

3.2.3 Case study: Bangladesh

Shrimp is one of the major export products of Bangladesh. Share of shrimp in Bangladesh's total export averaged more than 6 per cent in the 1990s. In year 2000, shrimp exports amounted to US\$ 322.4 million. Its share was higher than the combined share of Bangladesh's exports of raw jute and jute goods (5.8% of total exports). About one million people are engaged in upstream and downstream activities related to shrimp culture in the country - in harvesting, culture, processing and exporting. A majority of these workers are women. The importance of the EU market for this particular export sector of Bangladesh is very high. Any disruption in this market was bound to have severe and important implications for this export-oriented sector of the country, and negative multiplier impact for the national economy (CUTS International 1).

In July, 1997 the European Commission imposed a ban on imports of shrimp products from Bangladesh into the EU on the ground that exports of this commodity did not meet the stringent provisions of the HACCP regulations. The ban originated from (a) concerns as regards standards in areas related to health safeguards, quality control, infrastructure and hygiene in the processing units, and (b) lack of trust in the efficiency of the controlling measures carried out by designated authorities in Bangladesh. The ban put the shrimp export industry in Bangladesh under severe strain. The ban remained effective for five months, between August and December 1997 and caused serious injury to this export-oriented sector. The revenue losses due to the ban were estimated to amount to US\$ 65 million (CUTS International 1).

Bangladesh had difficulty in meeting with the required safety standards and quality requirements imposed by the EU. Problems with quality compliance arise at the stage of handling of raw shrimp (harvesting, sorting by size and colour, removal of heads and peeling which are often carried out under conditions and facilities that are unsuitable from hygiene perspective) and also at processing stage (absence of high quality water and ice, irregular electricity supply, poor infrastructure and transportation facility), which seriously constrain Bangladeshi firms' ability to pursue modern sanitary practices. As is the case in other LDCs, Bangladeshi plants do not have sufficient funds to invest in expensive mechanical equipment, fishing boats, quality control measures and adequately trained staff. The Bangladeshi government's capacity to design, implement and monitor quality and safety compliance is also very weak. Thus, the EU concern about quality and safety compliance by Bangladeshi plants was reasonably justified and conformed to the SPS provisions of the WTO, but

the country's lack of capacity to conform to the stringent EU regulations must be taken into consideration (CUTS International 1).

3.2.4 Case study: Tanzania

Tanzania is well endowed with water resources, sharing three of the largest inland lakes in Africa, a diverse river system, and an ocean coastline. In 1999, it is estimated that export of fish and fishery products earned the country US\$ 61.2 million and US\$ 72.5 million in 1998. For the past years, Tanzania has witnessed two bans of its fish from Lake Victoria into the EU market. The first ban was imposed in 1998 on fresh fish exports to the EU because of a cholera epidemic. The second was in 1999 with allegation of fish poisoning. Lake Victoria accounted for 60 percent of the total Tanzanian fish exports to the EU. Temporary fish export bans have a major adverse impact on the industry, in terms of foreign exchange earnings, income and employment generation. Following the ban, about 4,000 people (let alone small-scale fishermen who could not find a market for their catch) were suspended from work (CUTS International 2).

The major cause for the fish bans is the non-compliance to the fish legislation and regulations in Tanzania partly due to inadequate and inefficient enforcing mechanism. The Sanitary and Phytosanitary Measures in Tanzania are not very strict. The regulations are either out-dated or ineffective. With respect to export, the country still faces a lot of problems in complying with international sanitary and phytosanitary standards due to poor or obsolete technology used in processing food; inadequate skills in processing and manufacturing; insufficient instruments used to inspect the products; and ignorance of farmers and manufacturers to the existing laws and standards to be adhered. Tanzania lacks the ability to comply with the SPS/TBT agreements because of insufficient technical know-how, competent human and financial resources and facilities. As a prerequisite, capability in both fish production and quality management need to be put in place. Technical assistance is very important for Tanzania and other developing countries in order to be able to comply with these agreements (CUTS International 2).

3.2.5 Case study: Kenya

Fish exports

Until 1996, Kenya relied heavily on the EU market for fish exports (70%) with Spain importing the bulk of the commodity (70%). On 27th November 1996 Spain and Italy imposed a ban on Kenyan fish claiming the presence of salmonella in Kenyan fish. No other EU member state was influenced by the ban and continued importing fish from Kenya. The ban caused a reduction in foreign exchange earnings by 13.1% in value, with total exports to Spain decreasing by 86% (CUTS International 3).

On 23rd December 1997, a ban was imposed by the EU on fresh fish from East Africa because of a cholera outbreak in those countries. For Kenya, the ban was unfortunate since it had already put in place curative and preventive measures well before the imposition of the ban. Cholera is only indicative of the poor hygiene standards of a community, the disease cannot be transmitted to humans through fish, which has undergone hygienic processing. The World Health Organisation intervened and the ban lifted on 30th June, 1998 the only requirement being, that the Health Certificates indicated that 'any person handling fishery products had undergone medical supervision.' The significant drop in production and export of fish negatively affected the fishing communities and the country. This ban had a catastrophic impact on Nile perch exports to the EU

causing a drop of 66% in total fish exports from Kenya with a corresponding 32% decrease in value (CUTS International 3).

On 26th March 1999, another ban was imposed by the EU on fish from Lake Victoria due to suspicions that fishermen were using chemicals to harvest the fish. The Government of Kenya imposed a two week ban on fishing in the lake to stamp out the illegal practice, if it existed at all. However, despite the results of monthly sampling and analysis procedures by the Kenyan authorities where pesticide residues were not detected in the fish, the ban continued for 20 months before it was lifted. A scare story in an adverse report about illegal fishing with the use of chemicals at Lake Victoria had culminated a ban that was lifted only 20 months later after certification that there were no pesticide residues in the fish (CUTS International 3).

Cut flower exports

All plant products entering the EU are subject to SPS inspections at the port of entry into the EU on April 1, 2003. This requirement will result in serious handling and logistical problems at ports of entry including added costs for inspections. The resulting delays in delivery of the products to intended markets would reduce the competitiveness of perishables, such as cut flower, by adversely affecting the quality of the product. The EU has required Kenyan flower exports to be inspected at the point of entry into the EU and not at the point of auction. This has introduced considerable costs to the Kenyan exports, charged at the rate of 14 Euro cents for every 10,000 stems. The charge doubles when the inspection is carried out during weekends or when exporters want the inspection to be carried out within six hours. Kenyan cut flowers exporters complain that although the inspection is based on a 20% sample, the charge is levied on the whole consignment. This procedure has not only introduced additional costs, but also increased the time it takes for Kenyan flowers to get to auction. This delay will eventually reduce the value of the flowers at the point of sale. To reduce costs and income losses, Kenyan exporters would like to see inspection facilities established at the point of export in Kenya rather than the point of entry to the EU (Otieno-Odek 2003).

Kenya is the leading supplier of cut flowers to the EU market ahead of Israel and Columbia, but its growers may be forced to drift to new markets in the Middle East, America, Japan and South Africa, as the stringent environmental standards in the EU are expected to be a major hindrance. To access this lucrative market, though, non-compliant small-scale producers may subcontract their output with the large producers who are easily accredited in the EU market. Industry analysts say these environmental standards will lock out farms that cannot afford the certificate and wither an industry that employs 1.5 million people, 70,000 of them directly. The horticulture sub-sector is the fastest growing sector in Kenya and ranked second after tea in foreign exchange earnings. Export production grew by 19.6 per cent in 2004 to 130,546 tonnes from 109,148 tonnes in 2003. Most of the expansion occurred in the production of cut flowers and vegetables (The Standard 2005).

3.2.6 Case study: Maximum Residue Levels (MRLs)

Another way in which the EU keeps out horticulture produce is by applying overly restrictive rules on Maximum Residue Levels (MRLs) of contaminants that are permissible in food. These rules are often the main stumbling block for potential African exporters. The Joint Expert Committee on Food Additives (JECFA), an organ of the United Nations, analyses evidence and makes recommendations to a body called the Codex Alimentarius Commission. Codex then sets MRLs that are held as being the universal standard. The EU, however, frequently chooses to ignore Codex recommendations and is often much stricter, only permitting very low levels of residues to be left

on produce. Many producers and activists in Southern Africa feel this legislation is a form of back door trade protectionism (ACTSA 2002).

One type of food residue that has been monitored by JECFA is aflatoxins. Aflatoxins occur naturally in or on certain foods including processed nuts and dried fruit. Aflatoxins are toxic and their occurrence in food has been linked to the incidence of certain cancers. JECFA analysed the potential human health impact of aflatoxins and concluded that even if they insisted on halving the level of residue allowed on food this would only lead to approximately two fewer deaths per billion people per year in the EU. Despite this, the EU has chosen to demand that food entering the EU meets stricter standards than JECFA recommends and allows even less aflatoxins residue. World Bank research has shown that adhering to higher standards rather than sticking to Codex MRLs for aflatoxins could cost Africa \$220 million a year, equating to a massive 47% of the trade of dried fruit and nuts alone (ACTSA 2002).

Whilst reducing agrochemical use and protecting workers and consumers from exposure to dangerous toxins is very important, the sanitary legislation of the EU is out of touch with realities on the ground in Africa. Particularly small, independent farmers find it impossible to comply with over-stringent EU legislation and as a result are effectively excluded from the horticultural supply chain. If the EU genuinely intends to improve quality of life by its food standards regulations, instead of simply setting rigid limits, it needs to make an effort to help poor-country farmers comply with them. Instead of the 'stick' approach, a British-based group, the Pesticide Action Network suggests that the EU needs to invest in training. Poor-country farmers should learn about the use of chemicals, chemical-free Integrated Pest Management, marketing, and not least, current EU legislation on pesticides. Aid could also be targeted to improving infrastructure and reliability of supply chains. Otherwise, small-scale growers will suffer most, being the least able to keep up with standards and legislation (ACTSA 2002).

3.2.7 Assessment of the proposal to curb the escalation of SPS Measures

The SPS Measures are turning into the new frontier of protectionism in developed countries with falling border protection in the form of tariffs. In anticipation of the liberalisation under the Doha Round, developed countries are already raising non-tariff barriers in the form of SPS Measures. The poorest countries will be at a great disadvantage in satisfying the higher SPS standards even though tariffs will go down in the Doha Round. Measures should be taken in the WTO together with other institutions (Codex Alimentarius Commission, OIE - Office International des Epizooties, IPPC - International Plant Protection Convention) to facilitate trade for developing countries by standardising the diverse requirements in different markets and simplifying the conformity assessment procedures. The supply side constraints can be addressed in the WTO jointly with the international financial institutions (World Bank, IMF – International Monetary Fund) through reducing the costly or time-consuming tests by investing in the compulsory technology and providing the essential technical assistance for compliance to the SPS Measures. From this moment, development aid from developed countries in the form of technical assistance and technology transfer is vital to help developing countries to meet the requirements for food safety, animal and plant health in developed countries' markets. This procedure should be done bilaterally between the importing developed countries and exporting developing countries because of the diverse requirements in different countries and trade regions. Developing countries should be given more time to adjust to new requirements under the SPS Measures by taking into account the time needed to acquire the financial support for new investments and technology transfer.

3.3 Binding commitments for special and differential treatment and addressing preference erosion

Proposal #43 by the African Group (TN/CTD/W/3/Rev.2, paragraph 50) under Article 15.1 of the Agreement on Agriculture:

“It is understood that where developed country Members are to take measures of a special and differential treatment nature, they shall embody in their schedules of commitments or concessions specific special and differential treatment commitments in favour of developing and least-developed country Members, which shall be binding commitments. It is further understood that this Decision shall be without prejudice to the acquis under any preferential regime governing the exports of developing and least-developed country Members by developed country Members.”

3.3.1 Background

Provisions for special and differential treatment for developing and least developed countries are incorporated in both the Doha Ministerial Declaration and Doha work programme (July 2004 package). Special and differential treatment especially for agriculture is provided in the framework for establishing modalities in agriculture under Annex A of the Doha work programme (Appendix 2).

In the Doha Ministerial Declaration, WTO members agreed that all special and differential treatment provisions should be reviewed with a view to strengthening them and making them more effective and operational.

The following issues are important to support the Doha work programme for special and differential treatment:

- 1) WTO is a rules based system: provisions for special and differential treatment must be in a form that is enforceable within the WTO system;
- 2) Time frame for exemptions must be flexible enough to accommodate the different development needs of developing countries;
- 3) Measures for special and differential treatment should be designed to fulfil the development goals and needs of developing and least developed countries in the areas of poverty reduction, rural development, food security and livelihoods.

The current international trading context for agriculture affects rural development in developing countries in various ways, in particular through market distortions arising most often from subsidized competition from developed countries and from market access barriers to the agricultural exports of the developing countries. In addition, attempts to reform international trade in agriculture by disciplining national policies may also constrain governments of developing countries in their efforts to promote agricultural growth, since they limit the types of support policies that may be implemented. The WTO negotiations on agriculture, therefore, are of crucial importance to developing countries in their pursuit of sustainable rural development. Poverty is largely a rural problem. More than 75 percent of the world’s poor live in rural areas and a majority of the poor will continue to live in rural areas well into the 21st century. Although internationally comparable statistics on rural poverty are limited, it is clear that in virtually all developing countries, the rural poor out-number the urban poor, often by a factor of two or more. The rural poor suffer deeper

levels of poverty than their urban counterparts and have much more limited access to basic social services such as sanitation, safe water, health services and primary education; thus they suffer disproportionately from hunger, ill health and illiteracy. In many countries, furthermore, the income gap between urban and rural areas is widening. Clearly, the rural poor face overwhelming obstacles in breaking the cycle of poverty. Agriculture is the key to alleviating rural poverty. Agriculture employs more than half of the total labour force in developing countries and almost three quarters in lower-income developing countries. Most of the world's extreme poor depend on agriculture for their livelihoods. Agriculture has strong backward and forward linkages to the rural non-farm sector, purchasing inputs such as seeds and implements, supplying raw materials for agro-based industries and generating demand for local goods and services such as housing, furniture and clothing. Hence, agricultural growth can increase the income of the rural poor both directly, through increased production and additional demand for farm labour, and indirectly, through linkages with non-farm productive activities in the rural areas. An extensive body of research on economic growth and poverty alleviation in developing countries confirms that agricultural growth has stronger effects on poverty alleviation than growth in other sectors and that rural growth reduces both urban and rural poverty (FAO 2002b).

3.3.2 Case study: India

There are still people who live permanently hungry, infected by diseases, with no access to clean water and fuel due to poverty. People who are living in rural areas are more inclined to face abject poverty. A vivid example of rural poverty is markedly illustrated in the guest column written by Basu (2002) in a newspaper published in India:

“Kusumatand is a village in the Palamau district of Jharkhand. It is a hamlet of unbelievable wretchedness and poverty. Its inhabitants suffer endemic hunger, drink polluted water and are deprived of basic amenities such as primary education and rudimentary health care. One of its inhabitants, Basanti Devi, was a widow who lived with three children, and survived by doing whatever seasonal work she happened to find. Recently, she felt she was beginning to lose the battle against poverty and to help keep her wards alive she started selling off whatever meagre possessions she had, such as the door of her house and the bucket with which she used to draw water. But the spiral was unstoppable. The prolonged state of semi-starvation caused her to collapse one day with fever and vomiting. The next day she was dead. With no adult to take care of them, two of the three children died within days. The third child, around six years old, now lives with Basanti's in-laws in Hazaribagh.”

“This and three other hunger deaths in Kusumatand became known thanks to a report in *Prabhat Khabar* on May 23 [2002]. Though the facts were challenged by some [Indian] government officials, there is now very little room for doubt because of a fact-finding mission from the Delhi School of Economics, the Right to Food Campaign and Gram Swaraj Abhiyan, that visited the village from June 24-26 [2002] and conducted a house-to-house survey. Of the 21 households surveyed, 19 reported that they had to skip meals regularly, only seven own a blanket or a quilt and 20 said that their average household expenditure on “non-food” items was zero. They bought clothes at most once a year and used sand or ashes for washing; so whatever money they spent was virtually all on food.”

The picture of poverty and hunger is usually associated with rural areas. It is common that the ratio of rural poverty is higher than urban poverty. In addition, the number of poor is usually concentrated in rural areas. According to the Ministry of Finance in India (2003), the ratio of rural poverty was 27.1% in 1999-2000 compared to 23.6% for urban poverty. In contrast, the number of

rural poor in India was 193.2 million compared to 67.1 million of urban poor. The difference between the poverty ratio for rural and urban poor was merely 3.5%, but the difference between the number of poor in rural and urban areas was massively 126.1 million people. The number of rural poor was nearly 3 times the number of urban poor. Consequently, rural poverty may be central to the attempt of eliminating poverty and hunger (Huan-Niemi 2004).

3.3.3 Case study: Fiji

Trade preferences in agriculture have been a major force in providing employment for rural farmers and workers. The EU Sugar Protocol has been providing employment for the African, Caribbean, and Pacific (ACP) countries for decades in the sugar sector. The ACP countries are not affected by the long term declining price trend for agricultural commodities and are insulated from price volatility that is common for commodities. The ACP countries may face the risk of sharing the same fate with the coffee exporting countries if trade preferences for sugar are eliminated. The highly protected EU sugar sector with its high internal price for sugar has provided a lucrative market for countries that have preferential market access. This lucrative EU market is under threat in the view of further market liberalisation under the WTO. According to Wainio and Gibson (2003), the negative effects from the erosion of preferences will overwhelm the positive effect of MFN tariff liberalisation for developing countries that are highly dependent on preferential market access for their exports.

A fall in price for sugar exports to preferential market¹ will affect the growth and development of Fiji and its agrarian population. Small farmers will suffer enormous losses and thus will move further into the poverty trap. The loss of preferential market access and remunerative price (which is significantly higher than the world market price) for sugar may increase the rural poverty rate from 21% to a staggering 80% for the sugar cane growing households in Fiji (Reddy & Yanagida 1998).

Fiji is ranked as a lower middle income developing country with a high level of social development (World Bank 2002). For most of the period since its independence in 1970, Fiji has pursued an employment oriented development strategy focused on the continued exploitation of its natural resources. As a consequence, agriculture has been and continues to be a major area of economic activity. Prasad and Akram-Lodhi (1998) argued that trade is a more effective form of development co-operation compared to direct aid. In the specific case of Fiji's sugar sector, Prasad and Akram-Lodhi made a case that the social efficiency gains fostered by trade can be used to sustain a case for preferential market access. It is pointed out that the key beneficiaries of preferential prices in Fiji have been smallholders. The remunerative price provided by the EU Sugar Protocol has maintained social efficiency by promoting production and employment amongst numerous smallholder farmers who would otherwise most probably have been unable to sustain the livelihood security of their households. Therefore, it is possible that the EU Sugar Protocol has acted as an employment generating safety net for the rural households in Fiji. The long term resource flows from the preferential market have facilitated the provision of education, health and housing needs. In addition, the most impoverished groups in Fiji are also benefiting from employment as seasonal sugar cane harvesters (landless migrant workers). The ability of this group to sell their main productive asset – capacity to work – depends upon the EU Sugar Protocol. Also, the sugar factory and field employees have benefited from both the high preferential price and sales security guaranteed by the preferential market. Thus, income derived from the sugar exports to preferential market has been distributed across the sugar regions of the Fijian economy.

¹ The European Union (EU) has pledged to import from Fiji at guaranteed prices on a duty-free basis 165,348 tonnes of raw sugar under the EU Sugar Protocol (Cotonou Agreement) and 21,060 tonnes in year 2002/2003 under the Agreement on Special Preferential Sugar (Huan-Niemi & Niemi 2003).

The overall growth and development of the Fijian economy can be directly linked to the performance of its two most important industries – sugar and tourism. The sugar industry has continued to be the country's top earner with tourism being second (Reddy 1998). Sugar alone constitutes 23% of the total merchandise exports of Fiji (FAO 2002c). Hence, as a small island state, Fiji is dependent on sugar exports. At the moment, Fiji is under the threat of substantial erosion in its sugar trade preference due to the up-coming multilateral agreement to reduce tariffs, export subsidies and domestic support under the WTO. The new WTO round on agriculture may force the EU to drastically reform its sugar sector. As a result, if the EU sugar regime is fully liberalised, Fiji may no longer benefit from a high price² for its sugar exports. In year 2002/2003, income from preferential sugar exports to the EU was approximately EUR 97.5 million. Fiji may only receive one third of the amount if the sugar is exported at world market price. Fiji may lose EUR 65 million of income without the high preferential price from the EU sugar market. The loss of such a huge income for a small island state may be disastrous. Those who are currently living below the poverty line will be pushed into abject poverty; meanwhile 80% of the sugar cane growing households in Fiji will fall below the poverty line. The hardest hit will be the landless migrant workers who may not be able to find employment elsewhere.

Fiji will be at the losing end without its trade preferences for sugar. The question is how Fiji, as a small island state, can compete with the massive sugar industry of Brazil under non-preferential treatment. Furthermore, Fiji has to accept a much lower price for its sugar exports without preferential treatment, and thus significantly reduced income will harm sustainable development in rural areas. Unfortunately, Fiji does not have the resources like the rich countries for substantial adjustment and retraining programme for its rural poor, if there is a phase-out of trade preferences for sugar (Huan-Niemi 2004).

One important point is that preferential market access for sugar in the developed countries creates the incentive for foreign direct investment into agriculture and immediately opens the export market for sugar. According to Adams et al. (2003), even minor trade concessions can have a significant impact on investment flows in an increasingly integrated world economy. Preferential market access concessions from developed countries may create a policy induced 'comparative advantage' for the exports of developing countries receiving the preferential treatment (Shapouri & Trueblood 2003). Under the stipulations of 'rules of origins,' the sugar industry has to use local material (sugar cane), local labour and bring in new technology to built new factories for refining sugar. Enormous employment opportunities are created by this kind of foreign direct investment. As a result, foreign direct investment in agriculture will bring benefits to the poor in developing countries (Huan-Niemi 2004).

3.3.4 Assessment of the proposal to bind the commitments for special and differential treatment and address preference erosion

The current multilateral negotiations must try to fulfil the mission explicitly stated in the Doha Development Agenda: the next WTO round must promote the development of developing countries and play a major role in the alleviation of poverty. Provisions for special and differential treatment in the Agreement on Agriculture are vital to the development goals and needs of developing countries in the areas of poverty reduction, rural development, food security and livelihoods. Commitments or concessions in favour of developing and least-developed countries should be

² The guaranteed price for sugar under preferential market access was more than four times the world market price in the beginning of year 2004. The EU's minimum purchase price for raw sugar from Fiji is EUR 523 per ton under the EU Sugar Protocol. The world market price for raw sugar (New York No. 11) has been between the ranges of EUR 110 to 200 per ton.

binding commitments in order to turn "words into actions." Though, this is a difficult commitment for developed countries because binding commitments will be enforced under the WTO. If the provisions are not met by the developed countries, these countries will face sanctions for not fulfilling the special commitments or concessions given to the developing and least developed countries. This is the main reason that developed countries may not be able to accept this proposal.

With further multilateral trade liberalisation under the WTO, preference erosion is unavoidable. Developing countries have proposed that countries that will be facing preference erosion can demand compensation from the preference granting developed countries. Developing countries insist that it should be mandatory for developed countries to provide financial and technical assistance for the structural adjustment process. While most developed countries accept the importance of providing financial and technical assistance to the preference losing countries, developed countries do not agree that this should be mandatory. Therefore, this issue may be difficult to solve in the negotiations.

3.4 Expansion of special and differential treatment

Proposal #44 by the African Group (TN/CTD/W/3/Rev.2, paragraph 51) under Article 15.2 of the Agreement on Agriculture:

"It is understood that:

- (a) transition periods under the Agreement shall be extended for developing and country Members that face adjustment difficulties; and*
- (b) developing and least-developed country Members shall have the right to modify their commitments if this is found necessary to protect the public interest in ensuring food security and alleviating rural poverty."*

3.4.1 Background

The original concept for special and differential treatment for developing countries was developed in the context of disciplines on manufactured products. Exemption from the disciplines applying to developed countries was justified as a variant of the infant industry argument, that the domestic industries of developing countries needed more time and support in order to become sufficiently competitive to be able to stand on their own feet in competition with firms from other countries. Developing countries' fear of being unable to compete with the developed countries in the agricultural sector is behind some of the demands for special and differential treatment in agriculture. Special and differential treatment is provided for developing countries in three main ways under the Agreement on Agriculture. First, there are lower reduction percentages and longer implementation periods for the main commitments agreed under the Agreement on Agriculture. Second, there is greater flexibility in the use of certain policy instruments such as investment subsidies and export subsidies. Third, special commitments were agreed for net food-importing developing countries and least developed countries, but the commitments are not binding (Matthews 2005).

In the Doha Round, developing countries want flexibilities in

tariff reductions: While the intention is that developed countries will be required to make bigger cuts in their tariffs than developing countries (and least developed countries will not be required to make any cuts), the way in which the tiered formula agreed in the July 2004 Framework Agreement is implemented will be very important in establishing the extent of special and differential treatment. Important issues here are the number and position of the tariff bands and the size of the reduction coefficients. Both developed and developing countries will be able to designate a certain number of products as sensitive products, with the possibility of implementing lower tariff reductions on these products than the tiered formula would require.

special products: In addition, developing countries will be able to designate an appropriate number of products as Special Products, based on the criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment, with their criteria for selection and treatment to be specified in the negotiations.

special safeguard mechanism: Producers in developing countries are vulnerable to import surges and imported price volatility, in the absence of alternative risk management and safety net instruments. It is accepted that a special safeguard mechanism will be established for use by WTO developing country members, but key criteria such as the country coverage, product coverage, trigger levels and preconditions, type of remedy and duration remain to be decided.

domestic subsidy commitments: Developing countries have proposed some broadening of exempt Amber Box policies as well as other rule changes to increase their flexibility to be able to provide budgetary support to their producers.

The agricultural sector in developing countries has particular characteristics that would justify exemptions from the general WTO disciplines. The agricultural sector is an important source of employment in developing countries. Agriculture may have a particular role to play as a safety-net in developing countries for people who are unable to find alternative employment opportunities. Consequently, developing countries would face enormous difficulties in providing alternative sources of employment for the rural poor if the size of their domestic agricultural sector were to shrink. In most of the developing countries, this sector contributes substantially to the gross domestic product (GDP) and generates foreign exchange for essential imports like food products. There may be important spillovers from the growth of agricultural output in developing countries. Agriculture-led growth strategies appear to have larger dynamic multipliers for the rest of the economy than other alternatives in poor developing countries. Agricultural growth also tends to have greater impacts on poverty reduction. It has been argued that economic growth reduces poverty, but in fact it is the direct and indirect effects of agricultural growth that account for most of the poverty decline in developing countries (Matthews 2005).

3.4.2 Case study: West Africa

There is a general perception among West African countries that regional supply opportunities are often disrupted in coastal markets due to low-priced imports of livestock products (meat and dairy), mainly from the EU. West African countries fear that further trade liberalisation could strengthen the penetration of subsidised EU's food exports into this region. This is perceived as a potential risk for the region, particularly most of the developed countries continue to protect and support their agricultural sector at very high levels (Nouve & Staatz 2003).

Rising food prices due to trade liberalisation may be harmful to West Africa because most of the countries in this region are net food-importing countries. If price increases coincide with increased erosion of trade preferences, the West African countries' ability to export will be drastically weakened. West African countries direct most of their exports towards the EU markets under preferential trading agreements. Trade liberalisation will increase competition from other developing countries that are strong in agricultural exports, and this would further weaken the West African terms of trade with the EU (Nouve & Staatz 2003).

3.4.3 Assessment of the proposal for the expansion of special and differential treatment

There is a high probability that existing barriers to agricultural trade and domestic support for agriculture would remain in developed countries for some time. The agricultural sector of developing countries may be exposed to "dumping" of agricultural products that may threaten food security in developing countries with further trade liberalisation in the agricultural sector. Small farmers in developing countries need a support package to maintain their livelihoods, but budgetary constraints may limit poor developing countries in providing the much needed support. Subsequently, there is a need to expand the existing special and differential treatment in the effort to give governments of poor developing countries the rights to support their farmers with measures that will not be a burden to the budget. Nevertheless, the developed countries do not agree that all developing countries are eligible for this expanded special and differential treatment.

In the WTO, special and differential treatment is available to all developing countries. But qualifying as a developing country is simply a matter of self-declaration. Hence, the developing country category covers countries as diverse in their competitive capacity and economic potential as Brazil and Singapore, on the one hand, and Sudan and Swaziland on the other. Developed countries argue that greater differentiation among developing countries is required if they are to make more generous special and differential treatment offers, and there should be a graduation process in the special and differential treatment for developing countries. On the contrary, developing countries have rejected any suggestion that there should be greater differentiation among developing countries due to widespread poverty in most of the developing countries under the WTO.

3.5 Special and differential treatment in getting access to food for net food-importing developing countries and least developed countries

Proposal #76 by the African Group (TN/CTD/W/3/Rev.2, paragraph 52) under Article 16 of the Agreement on Agriculture and "Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries":

"It is understood, in the context of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries and of the Ministerial Decision on Implementation Issues and Related Concerns, that developed country Members shall embody in their schedules of commitments undertakings on, contributions to a revolving fund for normal levels of food imports, providing food aid in fully grant form, and maintaining food aid levels consistently with recommendations and rules under the Food Aid Convention."

3.5.1 Background

As of April 2005, the WTO had 148 members. Out of the WTO members, 35 countries are classified as developed countries and 113 are classified as developing countries. Out of the developing countries members, 50 are classified as least developed countries and 24 are classified as net food-importing developing countries.³

Developing countries are gradually increasing their dependence on food imports, while domestic production is still their most important source of food. Trade liberalization by removing of farmer subsidies in developed countries can be expected to raise world food prices, because removal of subsidies induces farmers to reduce their output. Similarly, removing export subsidies raises the prices to food-importing countries. In both cases, rising food prices would hurt consumers in developing countries. For the most vulnerable low-income countries, such as Rwanda and Haiti, however, food aid represents a large share of those imports. Changes in global trade policies have direct implications for the food security of developing countries. Food-insecure countries are concerned with projected increases in world food prices (resulting from global trade liberalization), which could jeopardize their ability to import food as well as force them to draw down their financial reserves. Developing countries with adequate resources and sound economies may be able to increase their own exports in response to rising prices, but others may be harmed by price increases (Trueblood & Shapouri 2001).

3.5.2 Case study: Indonesia

Indonesia is an example of a country which had become highly dependent on imports of its staple food - rice. At the time of the economic crisis which hit it hard in October 1997, Indonesia found that the financial and industrial sector it had been depending on melted away as quickly and easily as its currency had plunged. Its agricultural sector was in disarray due to years of governmental neglect, the encroachment of industries, as well as poor weather conditions. The Indonesians found themselves with insufficient locally produced food to meet their needs, and only a valueless currency (Rupiah) to purchase imported food. According to a report released by the United Nations (UNDP/ILO 1998), it was estimated that the combination of stagnant wages and incomes and high inflation would result in around 100 million people (48 percent of the population), falling below the poverty line by the end of 1998. This would represent a three to four fold increase in the extent of poverty in Indonesia. One journalist commented that it was a human catastrophe that equals, in magnitude, the great famine that drove millions of Irish and Scots from their homelands to America in the last century. There were numerous social unrests with ethnic and politically-motivated violence as hunger pangs plague millions. During the first early months of the crisis, some 48 churches and mosques were torched or damaged. During this period, large numbers of people in Southeast Asia returned to farming and there was a general reawakening of the importance of food self-sufficiency (Kwa 1999).

The situation of developing countries like Indonesia under the global agricultural trading regime was problematic because the financial crisis in 1997 crippled its ability to earn crucial foreign exchange to import essential food products and the lack of capacity to produce in its agricultural sector. The issue of food security for LDCs and net food-importing developing countries is

³ The following is the WTO list of net food-importing developing countries: Barbados, Botswana, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, Egypt, Honduras, Jamaica, Jordan, Kenya, Mauritius, Morocco, Namibia, Pakistan, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia and Venezuela.

explicitly recognized in the Agreement on Agriculture and the “Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries.” However, Indonesia does not belong to the WTO list of net food-importing developing countries nor least developed countries. Therefore, Indonesia did not qualify to receive food aid and technical assistance to improve productivity and infrastructure in the agricultural sector from developed countries or the international financial institutions.

3.5.3 Case study: “The tide of free trade will not float all boats”

The rich country subsidies and protection seriously distort the global trading system and must therefore be eliminated. But it is also true that, barring a few exceptional cases such as cotton, the least developed countries will actually be hurt by this liberalisation. The biggest beneficiaries of the rich country cuts in farm subsidies will be the rich countries themselves, which bear the bulk of the cost of the associated distortions, followed by the Group of 20 middle-income or larger developing countries led by Brazil, which will emerge as the main exporters of the liberalised products. Current production and export subsidies flood world markets with the subsidised products and drive their prices down. The removal of these measures will raise the prices of the products in question. This will benefit the exporters and hurt the importers of these products. Food products happen to be among the most heavily subsidised items and as many as 45 of the world's least developed countries are net food importers (Panagariya 2004).

A counter-argument may be that, once the subsidies are eliminated and world prices increase, the least developed countries will become net exporters of the products. But this is doubtful for two reasons: such a change can turn at most only a handful of these countries into net exporters and the switch from net importer to net exporter status by itself is not enough to bring an overall benefit. As food prices rise, so will losses on food imports. Only if a country becomes a sufficiently large exporter will it be able to offset these losses. Some may argue that, even if the least developed countries as a whole lose, their farmers will still benefit from the price increases. And in so far as the farmers are poor, the change will be for the better. But this is a treacherous argument: if the objective is to prevent farmers being undercut by cheaper imports, a countervailing duty against the subsidised imports, which is entirely legal under WTO rules, is a better instrument since it also generates revenues. But the decision by the countries not to impose this duty suggests that they prefer the lower prices for their consumers (Panagariya 2004).

What about the net agricultural exporters? Surely they would benefit from liberalisation? Even here the story is more complicated. Protection keeps agricultural prices inside the EU high. The Everything But Arms (EBA) initiative currently gives the least developed countries duty- and quota-free access to the EU market. Poor country exporters can therefore benefit from the higher prices prevailing in the EU. Opening up the EU markets will, however, lower the EU internal prices and hurt the least developed country farmers as well as the EU farmers. Another reason why exporters in the least developed countries may lose out from liberalisation is that less transparent regulatory policies, ostensibly for food hygiene and safety, may eventually replace more conventional barriers such as tariffs and quotas. The failure to recognise the adverse effects of trade liberalisation on poor countries poses the danger of failing to design the compensation and adjustment programmes that such countries will need to adapt to liberalisation (Panagariya 2004).

3.5.4 Assessment of the proposal for special and differential treatment in getting access to food for net food-importing developing countries and least developed countries

At present, this “decision” is not legally binding and no action has been taken under this “decision.” It is worth referring to the difficulties the net food-importing developing countries had encountered in the WTO Committee on Agriculture. Egypt and a number of other net food importing countries have been trying to render this “decision” operational. The status of Net Food-Importing Developing Countries would be on a self-election basis while identifying some basic criteria supportive to their nomination. The bulk of the negotiations on this “decision,” however, will be bilateral negotiations between the developing countries and the donors from developed countries together with the international financial institutions like the International Monetary Fund (IMF). The net food importing countries are facing a major dilemma to induce WTO members to reach a common ground between the two extreme assessments provided by the international financial institutions and the Food and Agriculture Organisation (FAO). There is a need to establish whether the increase in the world prices of agricultural products is due to solely the policies under the Uruguay Round on Agriculture or other reasons such as the weather, drought or bad harvest in countries like Brazil, Russia and etc. Also, attention should be given to the decreasing amount of food aid donated by the developed countries. As food aid has been historically linked to surpluses of major developed countries, mainly the US and the EU, such surpluses are unlikely to be there in the future due to the structural changes on the supply side and budgetary constraints in these countries. Now, a greater volume of cereals is imported under commercial terms by the net food-importing developing countries. Thus, it is very likely that food aid will be at much lower levels in the near future compared to previously. The effort to make this “decision” binding is strongly opposed by the US and the EU. It will be difficult to reach an agreement on this issue unless there is a change in the stance of the major donor countries like the US and EU.

4 Progress of the negotiations on the special and differential treatment proposals

After the Doha Ministerial Conference in November 2001, the Decision on Implementation-Related Issues and Concerns instructed the WTO Committee on Trade and Development to make recommendations for special and differential treatment proposals to the WTO General Council by July 2002. Subsequently in May 2003, agreement-specific special and differential treatment proposals were tabled and divided into three groups (Category I, II and III) by the Chairman of the WTO General Council. Towards the Ministerial Conference in Cancun (September 2003), the work on special and differential treatment proposals was very much focussed on the Category I proposals and a package of 28 agreement-specific measures was prepared for possible adoption in Cancun. Due to the failure of the conference however, these measures were never formally adopted.

Several WTO members also tabled proposals on “cross-cutting” issues. These included issues like principles and objectives of special and differential treatment, coherence, bench marks, the role of technical assistance, and transition periods. These proposals were listed in the July 2002 report to WTO General Council. The same text recommended establishing a monitoring mechanism for special and differential treatment. Also, proposals were submitted on criteria for technical and financial assistance to be included in any future agreements for technical assistance plans. Though, work on these issues has not progressed due to the focus on the agreement-specific issues and the reluctance of some WTO members to address these broader “cross-cutting” issues.

There was an agreement in the Special Session of the WTO Committee on Trade and Development that a new approach was needed in order for the work on special and differential treatment to proceed. The Chair of the Special Session presented in November 2004 a proposal for the new approach based on “situational flexibility.” This approach was based on a number of elements that had emerged during the negotiations: (i) flexibility in WTO rules should facilitate development; (ii) these flexibilities should be made available on a situational basis, whilst ensuring that there is no a priori exclusion of any developing country from such a situational flexibility; (iii) there should be a multilateral monitoring of the use of these flexibilities; (iv) enhanced capacity-building programmes should be developed to assist countries to implement WTO rules and address supply side constraints; and (v) these flexibilities must be consistent with a multilateral rules-based system. The approach also envisaged a possible redrafting or merger of the remaining agreement-specific proposals by identifying the underlying development issues raised in the negotiations. This approach was discussed at the Special Session in December 2004 and February 2005. However, there was no agreement by the WTO members that this approach will be adopted in the on-going negotiations, but there was a widespread consensus to produce results by the Hong Kong Ministerial Conference in December 2005. Although there was no agreement on the new approach, the WTO members agreed to address the Least Developed Countries’ (LDCs) proposals first and later the proposals by the African Group. Also, the “cross-cutting” issues and monitoring mechanism would be addressed. The first deadline for recommendations from all the WTO bodies to the General Council was July 2005.

In the on-going negotiations, the various aspects of special and differential treatment have been the subject of considerable debate. On the other hand, the negotiations are focused on developing the rules and formulae for the Hong Kong Ministerial Conference. The question of longer implementation periods and lower reductions available to developing countries will be the subject of negotiations in the WTO Committee on Trade and Development and relevant WTO bodies once the basic structure of commitments in each of the three pillars (export competition, market access and domestic support) has been clarified.

In July 2005, the Chairman of the Special Session of the Committee on Agriculture reported the proposals for special and differential treatment in agriculture to the WTO General Council (TN/AG/18, 21 July 2005). The special and differential treatment provisions under consideration by the WTO General Council for the Agreement on Agriculture are under Article 6.2, Article 14, Article 15.1 and Article 15.2. In addition, the Committee on Agriculture reported to the WTO General Council (G/AG/20, 15 July 2005) its consideration of a proposal by the African Group in the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. This proposal is also within the framework of the Agreement on Agriculture under Article 16. All these proposals have been discussed and covered in Section 3.

5 Conclusions

Developing countries should be able to depend on the special and differential treatment provisions that declare support for problems arising from the implementation of the commitments under the WTO Agreements. Currently, there is no action that an aggrieved developing country can take to force another WTO member or an organization to act on these undertakings. A considerable element of discontent expressed by developing countries over the failures of the special and differential treatment provisions derives from resentment that they were misled into signing the “single undertaking” in the belief that these sorts of commitments would be concrete. By contrast,

the commitments that they have accepted in return were all legally enforceable under the WTO. That's why special and differential treatment should be concrete and enforceable within the legal system of the WTO in order to promote poverty reduction, rural development, food security and to protect livelihoods of the poor in developing countries.

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Appendix 1 (1/7).

Utilisation of the Provisions for Special and Differential Treatment (SDT) in the *Agreement on Agriculture* and *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries*

Agreement on Agriculture:

Provision	Utilisation
Provisions aimed at increasing trade opportunities	
<p><i>Preamble</i> <i>Having agreed that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops;</i></p>	<p>Schedules of developed country Members show greater-than-average reductions in tariffs on a range of products of particular interest to developing countries (e.g. average tariff reduction of 43 per cent for tropical agricultural products) and often their accelerated implementation. Document G/AG/NG/S/10 dated 10 June 2000 gives an overview of tariff information on a range of agricultural products that were identified by developing countries as being of particular interest to them.</p>
Transition time periods	
<p><i>Article 15.2</i> <i>Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments.</i></p>	<p>Used by all developing and least-developed countries in the establishment of Schedules.</p>
Flexibility	
<p><i>Article 6.2</i> <i>(Domestic Support Commitments). In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support</i></p>	<p>Developing countries took account of the provision in the establishment of their Schedules. Documents G/AG/NG/S/1 and Corr. 1 (dated 13 and 25 April 2000), G/AG/NG/S/2 (dated 19 April 2000) and G/AG/NG/S/12/Rev.1 (March 2001) show the extent to which Members have actually taken recourse to this exemption from domestic support reduction commitments. In 1998, 16 developing countries notified subsidies benefiting from this exemption, totalling 1 billion US Dollars. This represented, on average, 7 per cent of their total notified domestic support.</p>

Appendix 1 (2/7).

Provision	Utilisation
<p><i>reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.</i></p>	
<p><i>Article 6.4 (b) (Domestic Support Commitments-calculation of current total AMS) For developing country Members, the de minimis percentage under this paragraph shall be 10 per cent</i></p>	<p>Developing countries took account of the provision in the establishment of their Schedules. Actual use of this provision is reflected in documents G/AG/NG/S/2 and G/AG/NG/S/12/Rev1.</p> <p>In 1998, total notified support benefiting from the <i>de minimis</i> exemption amounted to 3.3 billion US Dollars, or 24 per cent of the total notified domestic support by the 12 developing countries in question.</p>
<p><i>Article 9.2(b)(iv) (Budgetary outlays for export subsidies) The Member's budgetary outlays for export subsidies and the quantities benefiting from such subsidies, at the conclusion of the implementation period, are no greater than 64 per cent and 79 per cent of the 1986-1990 base period levels, respectively. For developing country Members these percentages shall be 76 and 86 per cent, respectively.</i></p>	<p>Developing countries took account of the provision in the establishment of their Schedules. All 10 developing country Members which have export subsidy reduction commitments (Brazil, Colombia, Cyprus, Indonesia, Israel, Mexico, Romania, Turkey, Uruguay and Venezuela) have used the flexibility to apply a lower rate of reduction.</p>
<p><i>Article 9.4 During the implementation period, developing country Members shall not be required to undertake commitments in respect of the export subsidies listed below, provided that these are not applied in a manner that would circumvent reduction commitments:</i></p> <p><i>subsidies to reduce the costs of marketing exports of agricultural products, including handling, upgrading and other processing costs, and the costs of international transport and freight; and providing internal transport charges on export shipments terms more favourable than those for domestic shipment.</i></p>	<p>Developing countries took account of the provision in the establishment of their Schedules.</p> <p>In 1998, four developing countries (Korea, Morocco, Pakistan and Tunisia) notified the use of export subsidies under this provision, totalling 12 million US Dollars. (See document G/AG/S/5/Rev.1 of 19 July 2001)</p>

Appendix 1 (3/7).

Provision	Utilisation
<p><i>Article 12.2</i> (Diversification of export prohibitions and restrictions) <i>The provisions of [Article 12.1] shall not apply to any developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.</i></p>	<p>No developing country has notified the introduction of such a measure.</p>
<p><i>Article 15.1</i> <i>In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.</i></p>	<p>The Schedules of developing countries and least-developed countries reflect the flexibility on ceiling bindings, longer implementation period and lower reduction commitments in tariffs, domestic support and export subsidies.</p>
<p><i>Annex 2, para. 3, footnote 5</i> (Public stockholding for food security purposes) <i>For the purposes of paragraph 3 of Annex 2, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS.</i></p>	<p>Developing countries took account of the provision in the establishment of the Schedules. Document G/AG/NG/S/2 shows that this particular category of government assistance has been implemented by several developing countries.</p>
<p><i>Annex 2, para. 4, footnotes 5 & 6</i> (Domestic food aid) <i>For the purposes of paragraphs 3 and 4 of Annex 2, the provision of foodstuffs at subsidized prices with the objective of meeting food requirement of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.</i></p>	<p>Developing countries took account of this provision in the establishment of the Schedules. Document G/AG/NG/S/2 shows how this particular category of government assistance has been implemented by several developing countries.</p>

Appendix 1 (4/7).

Provision	Utilisation
<p><i>Annex 5, Section B</i></p> <p><i>The provisions of Article 4.2 shall also not apply with effect from the entry into force of the WTO Agreement to a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and in respect of which the following conditions, in addition to those specified in paragraph 1(a) through 1(d), as they apply to the products concerned, are complied with: (a) minimum access opportunities in respect of the products concerned, as specified in Section I-B of Part I of the Schedule of the developing country Member concerned, correspond to 1 per cent of base period domestic consumption of the products concerned from the beginning of the first year of the implementation period and are increased in equal annual instalments to 2 per cent of corresponding domestic consumption in the base period at the beginning of the fifth year of the implementation period. From the beginning of the sixth year of the implementation period, minimum access opportunities in respect of the products concerned correspond to 2 per cent of corresponding domestic consumption in the base period and are increased in equal annual instalments to 4 per cent of corresponding domestic consumption in the base period until the beginning of the 10th year. Thereafter, the level of minimum access opportunities resulting from this formula in the 10th year shall be maintained in the Schedule of the developing country Member concerned; (b) appropriate market access opportunities have been provided for in other products under this Agreement. In the event that special treatment under paragraph 7 is not to be continued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment hereto, which shall be bound in the Schedule of the Member concerned. In other respects, the provisions of paragraph 6</i></p>	<p>The Schedules of Korea and the Philippines reflect recourse to this provision.</p>

Appendix 1 (5/7).

Provision	Utilisation
<i>shall apply as modified by the relevant special and differential treatment accorded to developing country Members under this Agreement.</i>	
Provisions relating to least-developed country Members	
<i>Article 16.1 Developed country Members shall take such action as is provided for within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.</i>	Information on action undertaken within the framework of the Marrakesh Ministerial Decision is to be found in the following section.

Source: WTO 2002

Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries:

Provision	Utilisation
Provisions under which WTO Members should safeguard the interests of developing country Members	
<i>Paragraph 3(i) To review the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention 1986 and to initiate negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme.</i>	Preliminary data for 2000/2001, the second year of the Food Aid Convention (FAC) 1999, indicated that FAC donors collectively supplied close to 10 million tonnes (wheat equivalent) to eligible recipients, exceeding significantly the FAC members' combined commitments made under the new convention. (See document G/AG/W/42/Rev.4)
<i>Paragraph 3(ii) To adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the Food Aid Convention 1986.</i>	The Singapore Ministerial Conference agreed that the recommendations referred to above should include guidelines to ensure that an increasing proportion of food aid is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the current FAC, as well as means to improve the effectiveness and positive impact of food aid. Table 6 of document G/AG/W/42/Rev.4 shows that this recommendation is followed by all FAC donors (Argentina, Australia, Canada, EC, Japan, Norway, Switzerland, and the United States).

Appendix 1 (6/7).

Provision	Utilisation
<p><i>Paragraph 4</i> <i>Ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries.</i></p>	<p>Negotiations on a proposed Sector Understanding on Export Credits for Agricultural Products amongst WTO Members which are participants to the OECD Export Credit Arrangement have been ongoing for a number of years. Members involved in these negotiations have informed the Committee that this work has reached an advanced stage, in the form of a proposed text which is acceptable to most, but not all of the participants concerned. This text makes provision for differential treatment in favour of least-developed and net food-importing developing countries.</p> <p>At the same time, work within the WTO on the issue of agricultural export credits, has been progressing in both the regular meetings of the Committee on Agriculture and in the Special Session Negotiations under Article 20 of the Agreement on Agriculture on the basis, <i>inter alia</i>, of the proposals that have been tabled and other inputs, including with respect to special and differential treatment in favour of developing countries. At the Doha Ministerial Conference, Ministers reaffirmed the commitment in paragraph 32 above and adopted a general understanding regarding procedures for the development of disciplines pursuant to Article 10.2 and the related provisions of the NFIDC Decision. (See G/AG/11, Part A paragraph 4, G/AG/6 and G/AG/8)</p>
<p><i>Paragraph 5</i> <i>As a result of the Uruguay Round certain developing countries may experience short-term difficulties in financing normal levels of commercial imports and that these countries may be eligible to draw on the resources of international financial institutions under existing facilities, or such facilities as may be established, in the context of adjustment programmes, in order to address such financing difficulties. In this regard, Ministers take note of paragraph 37 of the report of the Director-General to the CONTRACTING PARTIES to GATT 1947 on his consultations with the Managing Director of the International Monetary Fund and the President of the World Bank</i></p>	<p>At the annual monitoring exercise regarding implementation of the Decision held by the Committee on Agriculture in November of each year, the IMF has consistently stated that it had sufficient resources and saw no need to establish special Uruguay Round related facilities to address the financing needs of the net food-importers in times of high world market prices for food. The World Bank stated that the impact of the Uruguay Round on food prices was small and that it did not consider it necessary to establish a special UR adjustment facility. (See document G/AG/W/42/Rev.4, p. 14-15)</p>

Appendix 1 (7/7).

Provision	Utilisation
<i>(MTN.GNG/NG14/W/35).</i>	
Technical assistance	
<i>Paragraph 3(iii)</i> <i>To give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.</i>	No such requests have been made to the WTO Secretariat. The Secretariat has no information whether least-developed and net food-importing developing countries have made such requests to development partners bilaterally. Attachment 6 of document G/AG/W/42/Rev.4 summarizes the financial and technical assistance provided to least-developed and net food importing developing countries since 1995, as notified by donor Members.

Source: WTO 2002

Appendix 2 (1/2).

Provisions for Special and Differential Treatment (SDT) in the World Trade Organization under the Doha Development Agenda

I Doha Ministerial Declaration

Provisions for special and differential treatment are an integral part of the WTO Agreements. The negotiations under the Doha Development Agenda and other aspects of the work programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries as provided for in paragraph 50 of the Doha Ministerial Declaration:

“The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.”

The review of all special and differential treatment provisions with a view to strengthening them and making them more precise, effective and operational shall be carried out by the Committee on Trade and Development in Special Sessions as provided for in paragraph 44 of the Doha Ministerial Declaration:

“We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.”

II Decision Adopted by the General Council on 1 August 2004 **(Text of the ‘July package’ / Doha work programme)**

Provisions under the Doha work programme for special and differential treatment and development issues are provided under paragraph 1 (d):

Special and Differential Treatment: the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far. *The Council instructs the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by July 2005.* The Council further instructs the Committee, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism

Appendix 2 (2/2).

and the incorporation of S&D treatment into the architecture of WTO rules, as referred to in TN/CTD/7 and report, as appropriate, to the General Council.

Other Development Issues: in the ongoing market access negotiations, recognising the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. These particular concerns of developing countries, including relating to **food security, rural development, livelihood**, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations. The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.

III Framework for Establishing Modalities in Agriculture **Annex A of the Doha work programme**

The general provisions for special and differential treatment and development issues under Annex A of the Framework for Establishing Modalities in Agriculture as provided by paragraph 1 and 2:

1. The starting point for the current phase of the agriculture negotiations has been the mandate set out in Paragraph 13¹ of the Doha Ministerial Declaration. This in turn built on the long-term objective of the Agreement on Agriculture to establish a fair and market-oriented trading system through a programme of fundamental reform. The elements below offer the additional precision required at this stage of the negotiations and thus the basis for the negotiations of full modalities in the next phase. The level of ambition set by the Doha mandate will continue to be the basis for the negotiations on agriculture.

*2. The final balance will be found only at the conclusion of these subsequent negotiations and within the Single Undertaking. To achieve this balance, the modalities to be developed will need to incorporate operationally effective and meaningful provisions for special and differential treatment for developing country Members. Agriculture is of critical importance to the economic development of developing country Members and they must be able to pursue agricultural policies that are supportive of their **development goals, poverty reduction strategies, food security and livelihood concerns**. Non-trade concerns, as referred to in Paragraph 13 of the Doha Declaration, will be taken into account.*

¹ Paragraph 13 of the Doha Ministerial Declaration:

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**. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

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