

Special Products: Options for Negotiating Modalities

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FOREWORD

The world is producing more food than ever before. Yet, after decades of declining under-nourishment rates, the numbers of hungry people are on the increase again in several countries. In addition, environmental degradation associated with intensive agriculture production, such as soil erosion, water pollution and biodiversity loss remains at unacceptable levels. The major challenge today is therefore not so much to increase food production, but rather to ensure that agriculture production generates sufficient income for the poor, promotes equity, and contributes to the sustainable use of natural resources.

The reform of the global agriculture trading system currently being negotiated in the context of the Doha Round - with the objective of establishing a "fair and market-oriented trading system" - will play a major role in this process. Over the last 15 years, world agriculture trade has grown almost twice as fast as production. However, highly subsidised agricultural production and exports from OECD countries as well as the anti-competitive behaviour of trading firms are depressing world prices, thereby affecting development prospects in the South. Tariff peaks, tariff escalation and technical barriers to trade (such as sanitary and phyto-sanitary requirements) also limit market access and thus the potential gains from trade developing countries are expecting.

While it is widely recognised that developing countries as a whole would benefit from freer agricultural trade, some fear that most of the new opportunities the Doha Round is set to bring would be captured by a few middle-income countries and large food exporters. Lower income countries would gain only little and might even lose from further liberalisation. Many still have large rural populations composed of small and resource-poor farmers with limited access to infrastructure and few employment alternatives. Thus, these countries are concerned that domestic rural populations employed in import-competing sectors might be negatively affected by further trade liberalisation, becoming increasingly vulnerable to market instability and import surges as tariff barriers are removed.

A large number of countries still depend on the export of a few commodities, the prices of which show high volatility and long-term decline. Commodity dependence, the expected erosion of preferences that some countries depend on for their export earnings, as well as increased food import prices due to the elimination of export subsidies, will make it difficult for these countries to guarantee their growing populations the food they need. In this context, safeguarding domestic food production capacity has become an essential component of food security strategies in an increasing number of countries.

These concerns were first raised at the WTO in the context of the "Development Box" debate, in which developing countries tabled a set of proposals aimed at providing flexibility for countries to enhance domestic food production and adopt measures to protect the livelihoods of resource poor farmers. These proposals included concrete measures to address dumping and import surges. Some were eventually reflected in the so-called 2004 July package. The S&DT provisions under paragraphs 41 and 42 of this framework agreement are probably the most innovative from a sustainable development perspective. They specify that "developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment". The Framework Agreement further states that a "Special Safeguard Mechanism (SSM) will be established for use by developing country Members."

However, key aspects of these instruments - such as the selection and treatment of SPs, or the specific modalities for a new SSM, including product coverage, possible trigger mechanisms and remedies - were left for future negotiations. As a contribution to this highly controversial debate, the ICTSD Project on Special Products and a Special Safeguard Mechanism aims to generate knowledge and options to better articulate and advance the concepts of SP and SSM from a sustainable development perspective.

The present Issue Paper (No. 3) on “Special Products: Options for Negotiating Modalities,” by Anwarul Hoda, is intended as a contributions to the discussion on the selection of SPs and their treatment in the WTO. After a short description of the rationale for Special Products, the paper lists possible options for the designation of SPs, ranging from a multilaterally agreed definition to self-designation based on food security, livelihood security and rural development needs, within an agreed numerical limit. The paper also reviews the pros and cons of various treatment options ranging from total tariff reduction exemption to differentiated treatments following the bands structure provided under the tiered formula for tariff reduction. The paper is not intended as an academic exercise, but rather as a practical tool for developing country negotiators, national policy makers and other relevant stakeholders, with immediate applicability to the current WTO negotiations on agriculture.



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EXECUTIVE SUMMARY

After years of debate dating back to pre-Doha days, the Framework Agreement (WT/L/579), adopted by the WTO General Council on 31 July 2004, finally recognised that one of the ways in which the developing countries would benefit from special and differential treatment in agricultural market access would be to entitle them to designate an 'appropriate number' of products as Special Products based on food security, livelihood security and rural development needs. The Framework stated that the criteria and treatment of Special Products would be specified further during the negotiations.

The Special Products Rationale

Many countries have traditionally equated food security with self-sufficiency in the production of basic foodstuffs. The concept has, however, been evolving and it is now stressed that food security can be attained effectively by an optimum combination of domestic production, importation and public stockholding. In respect of developing countries it is widely recognised that economic access to food is as important as its physical availability for assuring food security. Countries with large populations point out the limits on reliance on international trade arising from the fact that their annual consumption of some foodstuffs exceeds the quantities that are internationally traded. Availability of foreign exchange is also a constraint on the import capacity of some developing countries.

For some countries livelihood security is equally important. Agriculture accounts for 70 percent of the employment in low-income countries and 30 percent in middle-income countries. While market economies are generally expected to redeploy in another sector productive resources that have become redundant in one area of the economy, in developing countries alternative avenues of employment are lacking. Even if the share of employment in agriculture in a country is not very high, there could be a situation in which it is high in a particular region, for a particular crop.

In many developing countries agriculture constitutes a big slice of the Gross Domestic Product (GDP), even if the share has decreased rapidly in those that are industrialising. Since in rural areas agriculture is the dominant economic activity, rural development can be sustained only by a vibrant and growing agricultural sector.

Definition and Selection of Special Products

In designating multiple criteria as the basis for selection of Special Products, WTO Members clearly did not intend to work on a narrow definition for these products. The intention appears to have been to do further work for drawing up guidelines for the application of these criteria in order to assist individual Members in the selection of these products.

Several guidelines could be identified for applying the three criteria, including:

- the importance of the product in the traditional diet of the population;
- the level of self-sufficiency;
- import capacity as measured by the food imports as a percentage of total exports of goods and services minus debt service;
- agricultural labour as a percentage of total work force; and
- the percentage of agricultural workers employed to produce particular products; and
- the contribution of agriculture to the country's GDP.

In some cases additional guidelines may be necessary to take into account the situation in certain geographical locations, where the livelihood of the population depends heavily on certain products even when that is not the case at the national level.

While agreement may be possible on broad criteria for identifying Special Products, it would be difficult to agree on precise benchmarks to make the guidelines operational. What, for instance, should be the level of self-sufficiency: 90, 75, 65 percent or a lower figure? Benchmarks may have to be different for different countries to take into account their respective agricultural situations. Allowing a large measure of discretion to individual developing countries in the application of the guidelines is therefore inevitable. Each developing country would have to be left free to fix its own benchmarks and critical levels and apply them.

The self-selection option can be viable in the context of reciprocal and mutually advantageous negotiations only if developing countries are also willing to consider the imposition of an overall limit by way of the proportion of agricultural tariff lines or percentage of trade or both. The exact level of the overall limit would have to depend on the outcome of the agricultural negotiations as a whole: if the negotiations achieve a high level of ambition, developing countries should be willing to consider accepting a relatively low limit, and they should demand a high limit if the opposite turns out to be the case.

Treatment of Special Products

Exemption from tariff cuts could be included in the range of possibilities. However, the chances of agreement on exemption would be better for a restricted list of Special Products. Agreement may also be possible for exempting a large list of Special Products, but it would carry a considerable cost by way of a corresponding lowering of the overall level of ambition in the agricultural negotiations.

One of the major achievements of the Uruguay Round was that the general principle of GATT 1994 prohibiting quantitative restrictions was extended to agriculture. Asking for the possibility of imposing quantitative restrictions on a permanent basis would be a retrograde step at a time when developing countries are trying to bring further reform in world agriculture.

The flexibility for Special Products would depend upon the flexibility accorded to other products. Developing countries could ask for the same treatment across-the-board or for greater flexibility in each tier. There might be some advantage in seeking a calibration of tariff treatment in different tiers, as it would enable them to make a case for exemptions from tariff reduction for those Special Products that fall in the lowest tariff tier. A stricter option could be to seek exemption of tariff lines in those cases where the product has low tariffs and there is also little or no gap between the bound and applied levels.

The Special Safeguards Mechanism is needed to protect domestic production in times of import surges or steep declines in international prices. During the Uruguay Round, developed countries used the special agricultural safeguard even for the products in which they had undertaken minimum tariff reduction. Seeking recourse to the Special Safeguard Mechanism for Special Products would thus have both precedent and rationale.

1. INTRODUCTION

Special and differential treatment of developing countries has been a cornerstone of the GATT and WTO system for many decades. Although it has now become an all-pervading concept, encompassing non-reciprocity, preferences and technical assistance, it initially provided the basis only for flexibility for developing countries in the use of trade policy instruments. The concept is specifically recognised in Article 20 of the Agreement on Agriculture, which contained the original mandate for the post-Uruguay Round negotiations on agriculture. During the Doha Round the developing countries have been seeking concrete application of the concept in all three pillars of negotiations on agriculture (market access, domestic support and export competition).

The July Framework (WT/L/579), which was adopted on 31 July 2004, recognises that one of the ways in which developing countries would benefit from special and differential treatment in the market access pillar would be through their right to designate an appropriate number of "Special Products" based on food security, livelihood security and rural development needs. These products would be eligible for more flexible treatment. The Framework envisages that the criteria

and treatment of Special Products would be specified further during the negotiations.

A number of questions arise when the WTO Members take up the questions of criteria and treatment of Special Products. Should there be a definition of Special Products? What should be the guidelines for the application of the three criteria? Should developing countries be allowed to self-select the Special Products? At what level of the Harmonized System (4-digit or 6-digit) should the products be identified? Should Special Products be exempted from tariff reduction? If not, what kind of tariff treatment should developing countries seek for these products? Should these products be eligible for the Special Safeguard Mechanism? What would the relationship between 'sensitive products' and Special Products be?

In this paper we attempt to answer these questions. By way of background, Part II traces the evolution of the concept during the negotiations and Part III explains the rationale behind it. Part IV examines various questions relating to the selection of products for designation as Special Products and Part V deals with the possible ways in which S&D treatment can be given to these products. Finally, Part VI summarises the conclusions.

2. NEGOTIATING HISTORY OF PROPOSALS FOR SPECIAL PRODUCTS

The idea of special products had its origins in the quest of developing countries for mechanisms of flexibility in applying trade policy instruments to agriculture. It is a sub-set of the generic concept of special and differential (S&D) treatment, which is recognized at various places in the WTO Agreement and is reiterated in the Ministerial Declaration that launched the Doha Round. S&D treatment is mentioned in the specific mandate of the Ministers with respect to agriculture in the following terms:

'We agree that special and differential treatment for developing countries shall be an integral part of all the elements of 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.'

The concept of S&D has two aspects: first, the enlargement of access to the products of interest to developing countries in the markets of developed countries in particular; and second, greater flexibility to developing countries through the use of trade policy instruments. During the Uruguay Round the developing countries seemed to be attaching greater importance to the second aspect and that trend has continued in the negotiations for the continuation of the reforms process in agriculture pursuant to the mandate in Article 20 of the Agreement on Agriculture.

The negotiations under the mandate of Article 20 began in early 2000 and a considerable amount of work had already been done in the WTO even before the Ministerial Meeting was held at Doha in November 2001. During the pre-Doha debates, developing countries had formally submitted suggestions on the three pillars of the Agreement on Agriculture, viz., market access, domestic support and export competition, envisaging S&D in each of

them. These suggestions generally proposed a lower level of commitments for developing countries on agricultural policies as a whole. However, in some of these proposals there was a hint of product specificity in seeking S&D treatment. Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador proposed that key products, especially food staples, should be exempted from liberalization (G/AG/NG/W/13). Korea proposed that special consideration must be shown for key staple crops in reducing border protection measures (G/AG/NG/W/98). The notion of 'strategic products' emerged from these discussions. In respect to the other two pillars, the suggestions were for exemption from disciplines of specific measures rather than particular products.

In the discussions following the Doha Ministerial Meeting the proposals for S&D treatment in market access, as in other pillars, were refined further. The post-Doha debates on S&D treatment in respect to reduction of tariffs are best summarised in the following paragraph in the Overview paper (TN/AG/6) submitted by the Chair of the Committee on Agriculture in December 2002:

'In considering these questions, the modalities for special and differential treatment provisions have also to be addressed, drawing on the wide range of proposals on the table. One issue is the proposal to provide for a greater improvement of opportunities and terms of access for agricultural products of particular interest to developing country participants. Another issue is whether the formula to be applied for developing countries would be the same or some modified version of the formula to be applied by other participants (or another formula). Third, whatever the formula, there is already wide support for special and differential treatment in the form of longer implementation

period and lower cuts, but the details remain to be determined. Other issues include whether, as proposed by some developing country participants under the concept and as a part of a Development Box, special and differential treatment should be extended to include (i) exemption from reduction commitments for certain agricultural products which are of strategic importance in pursuing food security, product diversification, rural development and employment, and poverty alleviation, and (ii) flexibility to adjust, without compensation, low tariff bindings.'

The Annex of the Overview paper gave further details of the proposals on specific products in the context of S&D provisions for market access. One proposal envisaged that 'developing countries shall designate the primary agricultural products that constitute the predominant staple in their traditional diet', and that these products 'shall not be subjected to the [market access modalities]/[reduction commitments.] Another suggestion was for the developing countries to have flexibility to exclude from the tariff reduction modalities any primary agricultural product in respect of which one or more of the following conditions apply:

- (a) the product in question is a predominant staple in the traditional diet of the developing country [and is not exported];
- (b) the exclusion of the product in question reflects a food security, rural development, [product diversification] [poverty alleviation] concern;
- (c) substantial trade liberalization has already been undertaken for the product concerned, either as a part of a structural adjustment programme sponsored by a multilateral agency, or as a part of the WTO accession process.'

Following the submission of the Overview paper the Chair submitted his 'First Draft of Modalities for the Further Commitments' and later revised the paper (TN/AG/W/1/Rev.1). On market access the big issue at that time was whether the formula for reduction commitments should be a

harmonization formula like the Swiss formula or be based on the Uruguay Round modality of simple average reductions, but subject to a minimum percentage reduction on each tariff line. The Chair steered a middle course and came out in favour of a tiered reduction, with each tier being subject to a simple average reduction as well as a minimum cut.

The Chair's paper first introduced Special Products and proposed as follows:

'Developing countries shall have the flexibility to declare up to [?] agricultural products at the [6 digit] [4digit] HS level as being special products with respect to food security, rural development and/or livelihood security concerns and designate these products with the symbol "SP" in Section I-A of Part I of their Schedules (hereafter referred to as "SP products"). This concept will be evolved in further technical consultations.'

The Chair did not suggest that "SP products" should be granted total exemption from tariff cuts. Rather his suggestion was that "SP products" like other products in various tiers must be subjected to a simple average reduction as well as a minimum cut for each tariff line. However, the extent of the reduction of a simple average as well as the minimum cut was suggested at well below the ones for the lowest tier. In his paper the Chair had made it clear that the figures defining the tiers as well as those indicating the precise reductions for each tier were tentative by placing all figures in square brackets. Even so, it is worthwhile to mention that the suggestion for SP products was for the simple average reduction rate to be 10 percent with a minimum cut of five percent per tariff line.

The July Framework (WT/L/579), adopted by the General Council on 1 August 2004, outlines the agreed approach that will guide further work on modalities for the negotiations in agriculture. Annex A of the Framework document, which relates to the negotiations on agriculture, has more meaningful content than Annexes B and C relating to Non-Agricultural Market Access and

Services. However, ambiguities remain, cloaking unresolved differences. We examine below the Framework provisions relating to market access, which are relevant for the subject of this paper.

Members agreed that a single approach would apply to developing and developed country Members and that tariff reductions would be made through a tiered formula that takes into account their different tariff structures. Clearly a great deal of work would need to be done, and some amount of negotiations would need to be undertaken, in order to arrive at an acceptable tiered formula. There is agreement that deeper cuts would be made in higher tariffs to achieve progressivity in tariff reductions, but the number of bands, the thresholds for defining the bands and the type of tariff reduction in each band remain under negotiation.

The Framework envisages that Members would be entitled to designate an appropriate number, to be negotiated, of tariff lines to be treated as sensitive, taking account of existing commitments for those products. While Members would have flexibility in effecting tariff reductions on those products, the principle of

'substantial improvement' would apply to each product. It is also stipulated that 'substantial improvement' will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product.

The July Framework provides for S&D treatment of developing countries in the market access pillar of the Agreement on Agriculture. The provision on Special Products is only one of the elements of S&D treatment and in order to understand its full significance it has to be assessed in relation to the general modalities described earlier as well as against other elements of S&D treatment.

It would be seen that the Framework envisages that food security, livelihood security and rural development form the basis not only for the selection and treatment of Special Products but for S&D treatment in its entirety. Quite independently of Special Products, the Framework provides for S&D treatment to be accorded in respect of the tariff reduction formula, the number and treatment of sensitive products, expansion of tariff rate quota as well as the implementation period.

The provisions on S&D treatment are reproduced below in full:

39. Having regard to their rural development, food security and/ or livelihood security needs, special and differential treatment for developing countries will be an integral part of all the elements of the negotiation, including tariff reduction formula, the number and treatment of sensitive products, expansion of tariff rate quotas, and implementation period.
40. Proportionality will be achieved by requiring lesser tariff reduction commitments or tariff quota expansion commitments for developing country Members.
41. Developing country Members will have the flexibility 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. The criteria and treatment of these products will be further specified during the negotiating phase and will recognize the fundamental importance of Special Products for developing countries.
42. A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.
43. Full implementation of the long-standing commitment to achieve the fullest liberalization of trade in tropical products of particular importance to the diversification of production from the growing of illicit narcotic crops is overdue and will be addressed effectively in the market access negotiations.
44. The importance of long-standing preferences is fully recognized. The issue of preferences will be addressed. For the further consideration in this regard, paragraph 16 and other relevant provisions of TN/AG/W/1/Rev.1 will be used as reference.'

3. RATIONALE BEHIND THE CONCEPT OF SPECIAL PRODUCTS

3.1 Food Security

Food security has been traditionally equated in many countries with self-sufficiency in the production of basic foodstuffs. After the wartime and early post war experience of food shortages, food security became the paramount concern of countries in Western Europe. Most governments established a policy framework for agriculture that was designed to result in maximum self-sufficiency over a wide range of essential foodstuffs. Before World War II, Japan followed a policy of imperial self-sufficiency in respect to the principal crop, rice, and imports were allowed only from the colonies, Korea and Taiwan. Many developing countries of Asia and Africa also aimed at self-sufficiency, not only to consolidate political independence but also to cope with balance-of-payments problem that they experienced during the early years of economic development. In India the concern for achieving self-sufficiency was considerably strengthened in the mid-Sixties by the decision of the US to sharply reduce food aid to that country on account of political differences.

With the manifold expansion of world trade in the last five decades, resulting from falling trade barriers and cheaper transport, the concept of food security has evolved. The Plan of Action adopted at the World Food Summit hosted by the FAO in 1996 gives the following definition of food security:

'Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.'

It follows from the above definition that in order to achieve food security the population must be assured not only of physical availability of food but also of economic access to it. The access aspect is particularly relevant for developing countries, which have low-income populations. Two other essential elements of food security

are stability and reasonable prices and safety and quality of food supplies.

The food security concerns of developing (and developed) countries have been most elaborately explained in the presentation made by Japan and Korea, which was included in the Note on Non-Trade Concerns (G/AG/NG/W/36/Rev.1) submitted by a group of developing and developed countries. This paper draws attention to a number of aspects of the international food economy that serve to heighten food security concerns. The important aspects are: the lack of foreign exchange resources in LDCs and NFDCs hampering access to food; low share of production that is internationally traded; domination of international markets by a limited number of exporting countries; possible diminution of stockholding in future by major exporting countries; deceleration of world wide productivity growth for grains; constraints to increases in production due to environmental concerns; possibility of wars and conflicts reducing the availability of food; and weak disciplines on export restrictions.

In light of the above concerns the paper argues that domestic production is an essential requirement for assuring food security. The following paragraph in that paper summarises the argument regarding the means for ensuring food security:

'The means for a government to secure food security are domestic production, importation and public stockholding. Imports from a variety of countries would contribute to reducing the risk of poor harvests in a certain exporting country, while there is always a risk of import interruption concerning transportation. Domestic production serves as an insurance against these risks associated with imports, but also has its own risk of unstable production. Stockholding is an effective measure for sudden food shortages, but it is effective only in the short run. The optimum combination of the above three means is essential in

order to attain food security effectively at the lowest cost.'

Developing countries with large populations cite an additional reason for aiming at self-reliance in foodstuffs. Thus, Indonesia has argued that the country cannot afford to be solely dependent on imports of basic food needs (G/AG/NG/W/71). Being a country with a population of 210 million people, its annual consumption of its main staple food, rice, is far in excess of the volume of that commodity that is internationally traded. In 1998, world trade in rice was approximately 20 million metric tons, against Indonesia's consumption of 30 million metric tons in that year.

In one of its submissions (G/AG/NG/W/102) India has also echoed Indonesia's concern by arguing that the entry of large consuming countries in the world food grain market could lead to an upswing in the prices, which would in turn compound the problems of these countries. The Indian paper also argues that world commodity markets for basic food grains are significantly more volatile than the domestic food grain market in most developing countries, and dependence on imported food could transmit international price fluctuation to the domestic market. This could seriously impact the vulnerable sections of the society, for whom food accounts for a large share of the total household budget.

A number of developing countries have also stressed that the limitation of foreign exchange resources is a significant constraint on their ability to import their requirement of basic foodstuffs.

3.2 Livelihood Security

While food security concerns have been given primacy among the reasons cited by developing countries for moderating the requirement for them to reduce tariffs, some developing countries have attached equal importance to livelihood security. Quoting from an UNCTAD document (TD/B/Com.1/EM.8/2), India has drawn attention to the fact that agriculture

continues to be the main employer in low-income countries, providing for 70 percent of employment in low-income countries and 30 percent in middle-income countries. In market economies, as and when productive resources become redundant in one area of the economy, the expectation is that they would be redeployed in another area. However, developing countries contend that alternative avenues of employment for the rural poor are just not available in these countries. Therefore, 'it is critically important that agriculture remains a viable source of livelihood to the large percentage of population dependent on it' (G/AG/NG/W/102, India).

The overall share of employment in agriculture in a country cannot be the sole determinant of the extent to which the population of that country is dependent on agriculture as a livelihood. The share of employment in the country as a whole may not be very high for a particular crop, but it may be so in a particular region. The issue of livelihood security gets quite complex in the case of a subsistence farmer in a low-income country and it becomes difficult to say where livelihood security ends and food security begins.

3.3 Rural Development

In developed countries agriculture contributes a tiny share of the GDP, and rural development does not make a big difference to the total picture of economic development. The position is quite different for developing countries in which agriculture constitutes a big slice of the GDP. Since agriculture is the dominant economic activity in the rural areas, rural development can be sustained only by a vibrant and growing agricultural activity. It is true that in the relatively more advanced developing countries the percentage share of agriculture in the GDP is rapidly coming down, but it remains fairly substantial not only in the least developed and low-income countries but even in some of the industrialising countries. Since a large proportion of the population below the poverty line lives in villages, rural development is of paramount importance for carrying out the task of alleviating poverty.

In their arguments in the WTO Committee on Agriculture, developing countries have not drawn a line between livelihood security and rural development requirements. In fact, in the view of developing countries, the issues of food and livelihood security and rural development are all inextricably linked. Thus, Indonesia (G/AG/NG/W/71) has argued as follows:

'Another non-trade concern of importance is rural development and employment. As in many countries, the agricultural sector lies at the centre of Indonesia's economy and has made a number of major and interrelated contributions to the process of socio-economic development in our country. First, the sector contributes to the GDP and provides productive employment opportunities and income for the bulk of the population, especially the rural population. When the development process started in the late 1960s, two-thirds of the labour force in Indonesia worked in agriculture and the agricultural sector contributed more than 40 percent of the GDP. Between 1985 and 1992, the labour force, absorbed by the agricultural sector, increased from 34 million workers in 1985 to 42 million workers in 1992. In 1998, employment in

the agricultural sector was more than 36 million people or 46 percent of the labour force. During the economic crisis, a massive increase in unemployment was prevented, largely by the ability of the agricultural sector to absorb workers laid off from non-agricultural sectors. Second, since employment in agriculture has fallen much more slowly than in the non-agricultural sector, this sector merits even more intense attention to increase labour productivity and income for further poverty alleviation and food security. The sector plays a crucial role in eradicating poverty through a structure and pattern of production that allows small farmers and landless agricultural workers to share in benefits of agricultural growth. The sector also contributes to the achievement of food security for the rural population because generation of rural income will increase the capacity of the rural population to access sufficient and appropriate food. Third, the sector plays an important role in improving balance of payment through increased foreign exchange earnings and savings, as well as reduced dependence on the economy of foreign sources.'

4. DEFINITION AND SELECTION OF SPECIAL PRODUCTS

4.1 Should there Be a Definition of Special Products?

One approach to the negotiations for the selection of Special Products would be to define the term in very tight terms so that very little discussion is necessary to reach an agreement on their selection. Alternatively, a set of objective parameters could be spelt out, on the application of which there is scope for very little disagreement. Such an approach was followed in the Uruguay Round in Annex 5 for products for which participants were given a time-limited exemption from tariffication. The idea then was to limit the application of the exemption to one or a small number of products. In fact, in the case of Japan, for whose benefit Section A of Annexure 5 was mainly introduced, it was already known that there would be only one product, rice, and a definition was devised, working back from that product. Annex 5 accorded flexibility for 'any primary agricultural and/or prepared products' that complied with a number of stipulated conditions. The Annex had two sections: Section A was of general application and Section B applied only to developing country Members. In Section A the three stipulated substantive conditions were: (a) imports comprised less than 3 percent of domestic consumption; (b) no export subsidies had been provided for the products; and (c) effective production-restricting measures were applied to the primary agricultural product. In Section B the only condition for the selection of the product was that it should be '*a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member*'.

In designating multiple criteria as the basis for selection of Special Products, the Members clearly did not intend to work on a narrow definition for these products. The statement that the criteria would be further specified during the negotiations seems rather to indicate an intention to do further work for drawing up guidelines for the application of these criteria in order to assist Members in the selection of

Special Products. In the paragraphs that follow we argue that while progress can be made in developing detailed guidelines, in the end some measure of discretion would have to be left to the developing country Members for applying them.

4.2 Possible Guidelines for the Application of Multilateral Criteria for Selection of Special Products

As indicated above, the idea appears to be that negotiations would be held in order to develop the guidelines for the application of these criteria for the selection of Special Products. We explore the possibilities in this regard by taking up each of the three criteria in turn.

Food Security

In giving consideration to food security concerns, we are faced with a dilemma at the outset. The main idea behind expressing these concerns is that importing countries should have the ability to maintain and even raise domestic production of agricultural foodstuffs behind higher trade barriers. It is, however, apparent that higher tariffs may result in raising domestic food prices and undermining the interest of urban and rural poor. It is, therefore, argued that from the food security perspective ensuring economic access to food is more important than increasing domestic production and this can be improved through cheaper imports. The World Bank holds the view that '*structural food security is generally reduced, not enhanced, by trade barriers to food imports.*' (G/AG/GEN/68) In this line of argument food security should be a consideration for liberalising imports of foodstuffs more, rather than less.

The above argument notwithstanding, the fact remains that the July Framework has already conceded the point that food security concerns should be one of the criteria on the basis of which developing countries would designate Special Products that would have flexibility in

tariff treatment during the Doha Round. Once agreement has been reached in the negotiations on a certain course of action it is futile to argue that it does not represent economic good sense. If we were to reopen settled questions on the basis of economic good sense, the resurrection of the Blue Box would also deserve a review and the agreement reached so far would be unravelled.

We, therefore, proceed to consider how we can take into account food security concerns in the selection of Special Products.

The starting point for the selection of Special Products from the angle of food security has to be the dietary preferences of the populations. Since such preferences vary from country to country, a criterion would have to be evolved

Table 1 Self-sufficiency ratios of some major food commodities

Country	Meat			Vegetable oils			Cereals		
	1985 - 1989	1990 - 1994	1995 - 2000	1985 - 1989	1990 - 1994	1995 - 2000	1985 - 1989	1990 - 1994	1995 - 2000
Bangladesh	1.01	1.00	1.00	0.29	0.38	0.30	0.89	0.87	0.91
Botswana	2.31	1.49	1.70	0.05	0.06	0.07	0.22	0.22	0.17
Brazil	1.07	1.08	1.09	1.42	1.29	1.37	0.93	0.82	0.82
Costa Rica	1.25	1.15	1.13	0.98	1.28	2.18	0.52	0.31	0.23
Cote d' Ivoire	0.82	0.81	0.94	2.23	2.44	1.64	0.60	0.62	0.63
Egypt	0.78	0.86	0.88	0.20	0.14	0.13	0.51	0.63	0.65
Fiji	0.7	0.61	0.64	1.07	0.77	0.59	0.19	0.14	0.09
Guyana	0.98	0.61	0.69	0.60	0.81	0.68	1.06	1.30	2.38
Honduras	1.17	1.19	0.97	1.30	1.16	1.07	0.76	0.75	0.66
India	1.02	1.02	1.04	0.79	0.92	0.75	1.00	1.02	1.03
Indonesia	1.00	1.00	0.99	1.51	1.83	2.21	0.96	0.93	0.88
Jamaica	0.62	0.69	0.67	0.48	0.63	0.15	0.01	0.01	0.01
Kenya	1.00	1.00	1.00	0.21	0.17	0.16	1.03	0.93	0.73
Malawi	1.00	0.99	0.99	0.81	0.34	0.51	0.92	0.79	0.97
Morocco	0.98	0.99	1.00	0.32	0.38	0.35	0.84	0.76	0.53
Pakistan	1.00	1.00	1.00	0.33	0.31	0.28	1.07	1.00	1.03
Peru	0.93	0.98	0.98	0.48	0.36	0.37	0.54	0.42	0.47
Philippines	0.99	0.98	0.94	3.74	3.02	2.93	0.88	0.86	0.78
Senegal	0.96	0.99	0.99	1.78	0.98	0.78	0.65	0.59	0.53
Sri Lanka	1.00	0.99	0.98	1.29	0.62	0.41	0.64	0.64	0.60
Thailand	1.08	1.12	1.16	1.05	0.93	1.17	1.61	1.40	1.41
Uganda	1.00	1.00	1.00	0.71	0.46	0.19	0.98	0.99	0.87
Zimbabwe	1.15	1.14	1.13	0.98	0.78	0.61	1.35	0.97	0.90

Source: FAO, WTO Agreement on Agriculture: The Implementation Experience, FAO, Rome, 2003.

on the basis of the weight of products in a representative food basket for the country concerned. For the flexibility to be meaningful, all the principal constituents of the food basket of the population would have to be identified. Most developing countries may consider cereals, vegetable oils, meats and milk products as the main constituents of the diet of their population. Some may also include pulses and tubers such as manioc in the list of essential foodstuffs. Once the selection of the principal products in the diet of each country has been made, the next step would be to consider the level of self-sufficiency of the product in question that the country considers adequate from the food security perspective.

Table I reproduces FAO calculations of trends in self-sufficiency ratios for three product groups in 23 countries in respect to some important foodstuffs. A number of observations can be made on this Table:

- (i) Among the countries that have been vocal on food security concerns, India and Pakistan have a self-sufficiency ratio in cereals that is above unity, while that of Indonesia and Philippines is in the range of 0.78-0.96. The ratio in respect to Egypt and Honduras is lower, in the range of 0.51- 0.76. There are a few countries such as Jamaica and Fiji that are fully or substantially dependent on imports of cereal, with the level of self-sufficiency at 0.01 and 0.09-0.19 respectively;
- (ii) For vegetable oils the level of self-sufficiency is in the range of 0.13- 0.20 for Egypt, 0.75-0.92 for India, 0.28-0.33 for Pakistan and above unity for both the Philippines and Indonesia;
- (iii) The ratio for meat is above 0.9 in most countries except Fiji, Guyana and Jamaica, in which cases it is generally in the range of 0.61-0.70; and
- (iv) There are considerable variations in the levels of self-sufficiency over time.

A reasonable way of factoring in the food security concerns would be to develop a benchmark of self-sufficiency in critical

foodstuffs below which developing countries should be able to designate particular tariff lines as Special Products. However, the question that arises is whether a common benchmark of self-sufficiency, which would be applicable to all developing countries, could be agreed upon. One should expect Members to have great difficulty in reaching agreement on such a common benchmark. For some Members, a ratio of 0.90 may be too little and their aim could be to achieve full self-sufficiency, or a level as close to that as possible. On the other hand, exporting countries may wish to pitch the critical level of self-sufficiency much lower.

Table I shows that there are great variations in the levels of self-sufficiency during different periods. This will raise the question of the base period for determining self-sufficiency ratios. Generally, the base period is adopted as near the commencement of the negotiations as possible. Since basic foodstuffs have been subject to large fluctuations in international prices in recent years, the choice of the base period could also be problematic.

Some developing countries have raised the question of limited foreign exchange resources. We must, therefore, also consider a measure of import capacity, such as food imports as a percentage of total exports of goods and services. For countries with large debts, a more accurate guide would be food imports as a percentage of total exports of goods and services minus debt service payments.

Table II gives these figures as calculated by the FAO for 23 selected developing country Members. Some countries, such as Egypt and Bangladesh, have a particularly high level of food imports and their position looks even more vulnerable if we take into account their debt service payments. It cannot be denied that the import capacity of the developing country Member concerned has to be taken into consideration when determining the extent of flexibility that the Member would have in deviating from the tiered formula. However, how can this aspect be factored into the selection of Special Products? The hypothesis could perhaps be that for countries in which the

Table II Agriculture employment as a percentage of total employment

Country	Agricultural employment as percentage of total employment (1998-2000) (%)
Bangladesh	56.6
Botswana	44.7
Brazil	17.1
Costa Rica	21.5
Cote d' Ivoire	50.3
Egypt	37.4
Fiji	40.4
Guyana	18.0
Honduras	35.6
India	54.1
Indonesia	44.8
Jamaica	21.0
Kenya	75.9
Malawi	78.0
Morocco	37.3
Pakistan	51.4
Peru	30.5
Philippines	40.0
Senegal	74.0
Sri Lanka	46.6
Thailand	49.8
Uganda	79.5
Zimbabwe	63.1

Source: FAO, *WTO Agreement on Agriculture: The Implementation Experience*, FAO, Rome, 2003.

import capacity is already impaired by a high food imports bill (calculated as a percentage of the total exports of goods and services minus debt service payments) the benchmark of self-sufficiency could be higher in the selection of Special Products.

In the analysis made above we have brought out the difficulty in arriving at a common benchmark of self-sufficiency that could be valid for all developing country Members in respect to all basic foodstuffs. Variation in the import capacity of developing countries compounds the problem further.

Livelihood Security

We saw earlier that the relevance of food security as a factor justifying greater flexibility in applying the tiered formula is liable to be challenged, as higher protection of agriculture is not in the interest of the consumer, particularly in developing countries that have large segments of the population in the poor and low-income categories. However, no such doubts are raised in respect to livelihood security. To understand the overall magnitude of the problem we have to look at the figures of agricultural employment as a percentage of total employment. Table III reproduces the figures of agricultural employment as a percentage of total employment as calculated by the FAO in respect to 23 selected countries. The table shows that agriculture provides employment to 35-55 percent of the population in several large countries, such as Bangladesh, Egypt, India, Indonesia, Pakistan, the Philippines and Thailand. In the case of some less industrialised countries, the figure is even higher. For Kenya, Malawi and Senegal, agricultural employment as a percentage of total employment is 75.9, 78 and 74 percent respectively.

The question that needs to be considered is how we take into consideration the livelihood security aspect in selecting Special Products. It would have been relatively easy to identify products that are important from the perspective of livelihood security if product-wise figures of employment were available. But since there are problems with the availability of such data, the share of the value of the product in question in the total value of agricultural output could be used to derive the employment in a particular product and the percentage of the total work force engaged in the production of that product. In the case of crops, a variant could be the share of the product in the gross cropped area.

The question will then arise concerning the critical employment level provided by a particular product, which would enable that product to be considered for selection as a Special Product. It would be difficult to fix a particular level valid for all countries. Countries with high

Table III Indicators of food import capacity

Country	Food imports as percentage of total exports of goods and services			Food imports as percentage of total exports of goods and services minus debt service payments		
	1985-89	1990-94	1995-1999	1985-89	1990-94	1995-99
Bangladesh	48.9	21.9	21.2	64.9	27.0	24.0
Botswana	7.7	10.3	13.8	8.1	10.7	14.4
Brazil	4.5	5.4	7.0	7.7	7.1	20.3
Costa Rica	5.1	5.5	6.1	7.1	6.8	6.7
Cote d' Ivoire	10.7	10.9	8.5	16.4	16.7	11.9
Egypt	42	18.6	20.2	54.7	22.5	22.7
Fiji	10.0	9.6	8.6	11.3	10.7	9.6
Guyana	7.6	8.0	6.8	10.6	9.7	8.3
Honduras	7.9	10.1	13.1	10.9	14.6	15.5
India	7.6	3.4	4.9	10.7	4.7	6.4
Indonesia	3.6	3.4	5.6	5.7	5.1	8.5
Jamaica	12.5	9.8	11.7	20.7	12.9	13.8
Kenya	6.2	10.9	12.9	10.1	16.0	16.6
Malawi	10.6	29.7	13.2	17.2	39.3	17.5
Morocco	10.8	9.9	12.3	15.9	14.7	16.6
Pakistan	18.0	12.9	15.2	24.0	17.3	22.0
Peru	16.5	17.0	13.7	19.7	23.0	20.2
Philippines	5.5	6.0	5.9	8.0	7.9	6.8
Senegal	21.2	24.1	26.3	29.4	28.7	33.5
Sri Lanka	20.3	13.8	12.3	25.4	15.6	13.3
Thailand	1.7	1.5	1.7	2.2	1.8	2.0
Uganda	5.5	15.2	20.3	10.8	37.5	27.0
Zimbabwe	1.1	6.8	4.8	1.6	9.3	6.8

Source: FAO, *WTO Agreement on Agriculture: The Implementation Experience*, FAO, Rome, 2003.

levels of unemployment may find it difficult to accept the displacement of even a small work force. Moreover, even if the dependence on a particular product for agricultural employment is low at the country level it may be high in a

particular geographical area. As in the case of food security, we find it difficult to lay down the guidelines in sufficient detail to make the application of livelihood security criterion easy for the selection of Special Products.

Rural Development

The share of agriculture in the GDP is the best measure of the importance of agriculture to a developing economy. Table IV gives the FAO estimates of the average share of agriculture in the GDP of 23 selected developing countries. The table shows that in some cases, particularly for some of the least developed countries, the dependence on agriculture is as high as 40 percent. Even in some of the larger developing economies, such as Egypt, India, Indonesia, Pakistan and Philippines, agriculture accounts for more than 15 percent of the GDP, which is very substantial. Since agricultural activity is carried out mainly in the rural areas, any diminution of such activity would have a greater impact on rural development than on the economy as a whole.

How can the criterion of rural development be applied in the selection of Special Products? It can be argued that the developing countries, in which agriculture constitutes a higher share of the GDP, should be given greater latitude in listing tariff lines that can be designated as Special Products. If the critical levels of self-sufficiency ratio (under the food security criterion) or employment levels (under the livelihood security criterion) have been determined for identifying Special Products, developing countries in which agriculture constitutes a higher share of GDP could ask for raising the self-sufficiency ratio or lowering the employment levels for individual products. However, the difficulties in agreeing on a common benchmark of self-sufficiency or common level of the share of employment for individual products valid for all developing countries would only be increased by the introduction of the parameter of the share of agriculture in the GDP.

The Self-Selection Option

We have seen that a number of broad guidelines could be developed to help in applying the three agreed multilateral criteria for the identification of Special Products. These are: importance of the product in the traditional diet of the population; level of self-sufficiency

Table IV Average share of agriculture in GDP

Country	Average share of agriculture in GDP (1998-2000) (%)
Bangladesh	24.8
Botswana	3.6
Brazil	7.7
Costa Rica	10.9
Cote d' Ivoire	27.5
Egypt	17.2
Fiji	18.4
Guyana	34.9
Honduras	17.6
India	26.3
Indonesia	18.2
Jamaica	7.0
Kenya	23.3
Malawi	38.5
Morocco	15.3
Pakistan	26.9
Peru	7.9
Philippines	16.7
Senegal	17.9
Sri Lanka	20.4
Thailand	11.4
Uganda	43.8
Zimbabwe	19.9

Source: FAO, WTO Agreement on Agriculture: The

in these products; import capacity of individual countries as measured by the food imports as a percentage of total exports of goods and services minus debt service; agricultural labour as a percentage of the total work force; percentage of the agricultural workers employed in the production of particular products; and contribution of agriculture to the GDP. We have also recognised that in some cases additional guidelines would have to be developed to take into account the situation in certain geographical locations

where the dependence for livelihood on particular products is high even though it may not be so at the national level. We have also seen how difficult it would be to fix the precise benchmarks for making the guidelines operational. Given the complexities of the issues involved, it would be difficult to achieve anything like automaticity in the selection of Special Products.

Allowing a large measure of discretion to individual developing countries in applying the guidelines for the application of the three criteria is inevitable. In other words, self-selection by individual developing countries is the only viable option. Each developing country would have to be free to fix its own benchmarks and critical levels and apply them.

However, since tariff reduction negotiations in the WTO take place on a reciprocal and mutually advantageous basis, it is difficult to envisage a situation in which agricultural exporting countries would agree to let developing countries make the selection of Special Products completely unilaterally, even if allowance is given to the well recognised concept of non-reciprocity in trade negotiations between developed and developing countries. It has to be borne in mind that even if the modalities were to be tightly framed, past experience tells us that there are bound to be cases in which Members take considerable liberty with the modalities in the process of implementation. Another important aspect is that deviations in the application of agreed modalities during negotiations cannot be subject to the dispute settlement mechanism. In this situation, as a quid pro quo for being allowed to self-select Special Products, developing countries should be willing to consider the imposition of an overall limit by way of the proportion of agricultural tariff lines or percentage of agricultural trade or both.

The exact level of the overall limit that could be agreed upon would be a function of the agricultural negotiations in totality. If the negotiations end up at a high level of ambition, the developing countries could accept a relatively low limit for the number of

tariff lines to be included in the list of Special Products. If, for instance, the developed country partners were to agree to reduce their trade-distorting domestic support to the level of five percent of the total value of agricultural production, accept reasonable criteria that would restrict the use of decoupled income support, accept a reasonable maximum level for tariffs, in addition to the speedy implementation of the commitment for elimination of export subsidies, a case could be built for developing countries to avail of the Special Products flexibility in respect to a small proportion of agricultural tariff lines. But if the negotiations end at a low level of ambition, it would be difficult to hold developing countries to a restricted recourse within the Special Products window.

Here it is necessary to mention that developing countries have been given access to flexibility in tariff treatment in respect to 'sensitive products' as well. Unlike the case of Special Products, 'sensitive products' are not subject to any multilaterally agreed criteria and no guidelines have to be developed for their identification. Paragraph 39 of the July Framework states that rural development, food security and/or livelihood security needs of developing countries would be an integral part of all elements of the negotiations, including on the number of 'sensitive products' they can designate. Use of the 'sensitive product' flexibility will obviously impact on recourse to the Special Product flexibility. The extent of such impact would evidently be determined during the negotiations and would also depend upon the level of ambition at which the Doha Round is eventually concluded.

The Problem of Substitutes

Once Special Products have been identified and flexibility granted in applying tariff reduction to them, the developing country concerned would have the assurance of a certain level of protection until the next round of negotiations. Imports of substitutes, which have not benefited from the flexibility in tariff reduction, could however pose a problem in the future. The only sure way of addressing this difficulty would be

to identify and list all substitutes also as Special Products. The task would not be easy, as in the long run many products could substitute for each other and price considerations even may induce dietary changes in populations. If the list of Special Products is to be manageable, only the products that are direct substitutes could be considered for addition.

Harmonized System Level

The Harmonized System classifies products into Sections, Chapters, Headings (4-digit) and Sub-Headings (6-digit). Countries have the discretion to go into further sub-classification at 8-digit or 10-digit levels. In tariff negotiations during the Uruguay Round, 6-digit or 8-digit classifications were generally used.

If Special Products were to be identified solely on the basis of the three criteria and the guidelines that would be developed during the negotiations in the coming months, it would be immaterial if these products were Headings or Sub-Headings. However, we have argued that the only practicable option is to allow developing countries to identify Special Products through a process of self-selection, and that self-selection can be a viable negotiating option only if a limit is imposed on the number or proportion of tariff lines that can be so identified. In such an eventuality, Headings or Sub-Headings would make a difference, although not a big one. If

the limitation is imposed in terms of Sub-Headings rather than Headings, it would enable the developing countries to spread the selection of Special Products somewhat more widely. They may then not identify all Sub-Headings under each Heading, but instead choose only certain Sub-Headings under a larger number of Headings.

To illustrate the above, let us suppose that HS Chapter 09 constitutes the entire universe of agriculture and the developing country Members are given the flexibility to designate 10 per cent of the tariff lines as Special Products. This Chapter has 10 Headings (4 digit) and 31 Sub-Headings (6-digit). If a Member were to base the selection of Special Products on 4 digits it could select any one of the 10 Headings. If its selection is for instance for 0908 then Nutmeg, Mace and Cardamoms would all be included in the list, even if it has a problem only with regard to Cardamom. There would be no possibility of the Member adding one or two other products to the list. If, however, it bases its selection on 6 digits, then it can select HS 090830 (cardamom), and still have the possibility of selecting two more Sub Headings. It could thus add HS 090411 (Pepper) and HS 091010 (Ginger) for instance. Thus we see the designation of Special Products on a 6-digit basis would give greater flexibility to Members.

5. TREATMENT OF SPECIAL PRODUCTS

As far as treatment of Special Products or the extent of flexibility in the reduction of tariffs is concerned, clearly a great deal would depend on the manner in which the general tiered formula for tariff reduction is worked out. Three distinct elements of S&D treatment for developing countries have been clearly envisaged in the July Framework. First, there would be S&D treatment in tariff reduction formula. Second, there would be such treatment in the number and treatment of 'sensitive products'. Third, there would be the possibility to designate products as Special Products, which would benefit from additional flexibility. The flexibility available to Special Products would be influenced to some extent by how much flexibility has been already provided pursuant to the overall S&D treatment and in respect to 'sensitive products'. The flexibility in the treatment of Special Products would also depend on how wide its product coverage is. In the analysis that follows we consider some key questions that would arise as the negotiations are carried out for specifying the treatment of Special Products.

5.1 Should Special Products Be Exempted from Tariff Reduction?

The July Framework does not rule out exemption of Special Products from tariff reduction, and certainly this should be in the range of possibilities that should be considered. However, a number of points need to be taken into consideration. Agreement on exemption would probably be achievable if the list of Special Products is small. Such agreement would still be possible if exemption is sought for a sub-set of Special Products for which there is particular justification, such as relatively low bound tariffs. Agreement on exemption from tariff reduction for Special Products even with high tariffs is also conceivable if a TRQ is offered at an in-quota tariff level at which trade can take place. TRQ is a technique of liberalisation, the application of which results in real market access for exporting countries

without creating fears in the importing countries of uncontrolled increase in import volumes. In the July Framework TRQs have been mentioned in the context of 'sensitive products' but the technique could be used for Special Products as well, especially with regard to exemption from tariff reduction.

Developing countries could be more ambitious and seek complete exemption from tariff reduction for all tariff lines in a big list of Special Products. However, such exemption would come at a high cost and could result in a steep lowering of the overall level of ambition in the agricultural negotiations as a whole. It is no secret that the EC and the US are asking for improvement in market access in developing countries as the price for them to agree to the elimination of all forms of export subsidies and substantial reduction in domestic support. If developing countries are given a level of flexibility that denies improved market access to the developed countries, the negotiations could well end with minimal overall liberalisation. It is undeniable that the demand of developing countries for the industrialised countries to undertake radical agricultural reforms rests on solid economic and intellectual foundations. However, in the WTO negotiations the tradition is for concessions to be made on the basis of reciprocity. An element of reciprocity will remain even if we take into account the concept of less than full reciprocity in trade negotiations between developed and developing countries. These aspects have to be borne in mind while considering a suggestion to request full exemption from tariff reduction for Special Products.

5.2 Should Developing Countries Have Access to Quantitative Reductions with Respect to Special Products?

Prohibition of quantitative restrictions in respect of agricultural products was a major reform accomplished during the Uruguay Round. Only the Agreement of Agriculture

extended to this sector the general prohibition on quantitative restrictions that has been in existence since GATT 1947 came into force. Economists agree that among trade policy instruments, quantitative restrictions are the most distorting. Asking for the possibility of imposing quantitative restrictions as a temporary measure under the Special Safeguard Mechanism would nevertheless make sense, as it would be consistent with GATT 1994 practice in emergency safeguard action or in course of applying balance-of-payment safeguards.

But proposing that developing countries should have the possibility of imposing quantitative restrictions on Special Products on a permanent or semi-permanent basis would be construed as seeking a reversal of the trend of liberalisation in agriculture.

5.3 What Kind of Flexibility Should Developing Countries Seek for Special Products?

It is difficult to devise the precise flexibility in tariff reduction that developing countries should propose at this stage when we do not know the tariff reduction formula that would be agreed upon for general application. Since there is agreement on a tiered formula, there is some possibility that the eventual formula would bear some resemblance to the one proposed by the former Chair of the Special Session of the Committee on Agriculture in the First Draft of Modalities For the Further Commitments (TN/AG/W/Rev.1). The Chair had proposed three tiers in the formula of general application (above 90 percent, between 90 and 15 percent and below 15 percent), with simple average reductions of 60, 50 and 40 percent for the three tiers. The minimum reduction in these tiers was to be 45, 35 and 25 respectively. For developing countries there were four tiers (above 120 percent, between 120 and 60 percent, between 60 and 20 percent and 20 percent or lower), with simple average reductions of 40, 35, 30 and 25 percent respectively. The minimum tariff reduction in each band was to be 30, 25, 20 and 15 percent respectively. As mentioned earlier, for Special Products there were no tiers

and tariff reduction was to be at the uniform level of 10 percent on a simple average basis with a minimum reduction of 5 percent for each tariff line.

The flexibility that could be sought for undertaking tariff reduction with respect to Special Products would evidently depend on the flexibility that the developing countries secure for products other than Special Products. Developing countries could ask for either the same treatment of all Special Products or greater flexibility for these products within each tier. There may be some advantage in seeking the calibration of tariff treatment of Special Products in different tiers. In this scheme of things, developing countries may even be able to press for exemption from tariff reduction for Special Products that fall in the tier with the lowest tariffs.

One other factor is relevant when considering the type of modality that developing countries should be proposing for the tariff treatment of Special Products. One of the observed features of the tariff profiles of many developing countries is a large gap between the bound and applied tariffs. Table V gives the figures of average bound and applied rates for selected developing countries. There can be no question that only the bound rates can be taken as the base rates in market access negotiations. Reduction of bound tariffs may have the effect of reducing the gap between bound and applied rates where such gaps exist. In this context there might be special sensitivity for Special Products in which there is no gap between bound and applied rates. One technique that could be tried is to exempt from tariff reduction those Special Products that have relatively low tariffs and no, or a very small, gap between bound and applied levels.

5.4 Should Developing Countries Have Access to The Special Safeguard Mechanism for Special Products?

One of the principal demands of the G-33 was that developing countries should have

Table V *Bound and applied tariffs*

Country	Bond rates	Applied rates
Bangladesh*	200% average (except 50% for 13 lines) plus 30%. Other duties or charges (ODC) on all products	25% average
Botswana*	Average n.a. (mostly in the range of 0-100%)	Average 6% (typically 0-35 %: formula duties for 6 lines)
Brazil	35% average (0-55% range)	11% average (maximum of 20% linked to maximum MERCOSUR CET rate)
Costa Rica	n.a.	14.8%
Cote d' Ivoire	15% (except between 5 and 75% for 25 items)	16.4% (2001)
Egypt	62% in the base period, to fall to 28% average in 2004	18.5 average (21.8% including ODCs)
Fiji	40% (except for rice and milk powder bound at 60%, to be reduced to 46% by 2005)	Most agricultural imports 15%, and maximum rate 27%
Guyana*	100% average plus 40% ODCs	Average n.a. (maximum rate is 40% - the CARICOM CET rate)
Honduras	35% with some exceptions	11% with some higher rates
India	116% average (about half of tariff lines at 100%, and one-third at 150%)	26% average (89% of tariff lines at 50% or lower, 74% between 25% and 50%)
Indonesia	Quite variable, averaging more than 70%	5% with 0% tariffs on food items except for rice and sugar
Jamaica	100% plus 15% ODCs (higher ODCs on 55 lines and 3 Harmonized System [HS] chapters)	Average 20.2% (maximum applied rate is 40% - the CARICOM CET rate), additional stamp duties
Kenya*	100% average	17% average
Malawi	125% generally except for a few products with ceiling rates of 50%, 55% and 65%	15% average
Morocco*	65% average (34% for 71% of the tariff lines) plus 15% ODCs	n.a.
Pakistan*	101% average	Maximum rate 35%
Peru	30% average (68% for 20 food products)	12% generally with maximum of 20% for some sensitive products
Philippines	Average 13.26% in 2000: upto 100% initially on sensitive commodities reducing to 30-50%	Average n.a., but 10%, 20% or 30%
Senegal	30% average + 150% ODCs	Now range from 10% to 20% in line with WAEMU CET
Sri Lanka*	50% average	Maximum 35%, with some exceptions
Thailand	36% average	32% average
Uganda	80% generally, with some between 40-70%	11.2% average, plus ODCs of 6%
Zimbabwe	150% (with a few exceptions at 25% and 40%)	Applied rates average 4-6% upto 75% by HS chapter

Source: FAO, *WTO Agreement on Agriculture: The Implementation Experience*, FAO, Rome, 2003.

access to the Special Safeguard Mechanism for Special Products. It has to be recalled that in the Uruguay Round the industrialised countries obtained access to the special agricultural safeguard in many sensitive products for which the ad valorem tariff levels were in multiples of 100 percent. If past practice is to be the guide, there would appear to be a case for Special Products to benefit from the Special Safeguard Mechanism. Furthermore, sharp price fluctuations are a feature of international commodity markets. Developed countries cope with downturns by increasing domestic support. Since developing countries do not have the means to extend domestic support on the scale at which developed countries can, tariffs remain the only means of assistance to the farmer. Sometimes in the past price fluctuations have been so large that developing country farmers have been under threat during periods of low prices, no matter how internationally competitive they are. If developing countries are to be encouraged to reduce tariffs for Special Products they must be given access to the Special Safeguard Mechanism for these products. The future Special Safeguard Mechanism would be useful if its invocation is made automatic on certain price or volume triggers being crossed. Its usefulness to developing countries would be further enhanced if use of quantitative restrictions is permitted as a last resort in situations in which temporary tariff increases do not stem the increase in imports or check the decline in price.

5.5 What Will the Relationship Between 'Sensitive Products' and Special Products Be?

The July Framework does not say anything about the relationship between 'sensitive products' and Special Products. These two concepts have evolved independently of each other, apparently without any thought on an

inter-linkage. As pointed out earlier, there are no criteria for 'sensitive products', and Members have been given the right to designate an appropriate number (to be negotiated) of tariff lines as 'sensitive'. From the description of the proposed treatment in respect of 'sensitive products' it is clear that the idea is that a modest reduction of tariff reductions for 'sensitive products' would be compensated by tariff quota commitments in these products. Tariff quota commitments are adopted as a technique for liberalisation in cases where the countries are concerned that substantial tariff reduction would lead to a large increase in imports. This would generally happen in cases where a country is not internationally competitive and domestic prices are higher than international prices most of the time.

Developing countries have been given access to 'sensitive products' in addition to Special Products. What is more, they will benefit from S&D treatment in the selection and treatment of 'sensitive products' as well. Thus if developed country Members are given the right to designate 'x' percent of the tariff lines as 'sensitive products,' developing countries could claim such treatment for 'x plus' percent of tariff lines. With regards to the experience in the Uruguay Round, the expectation would be that the developing countries would undertake tariff quota commitments in respect to these products in addition to tariff reductions.

It would appear to be a good strategy for developing countries to keep 'sensitive products' and Special Products quite apart during the negotiations. This would enable them to get flexibility for tariff lines that they designate as 'sensitive products' quite independently from what they seek with respect to Special Products. For whatever flexibility developed countries get for 'sensitive products' in terms of numbers of tariff lines and their treatment, the developing countries would get more.

6. CONCLUSIONS

Should there be a definition of Special Products?

The designation of multiple criteria as the basis for identifying Special Products would seem to limit the possibility of Members seeking agreement on a narrow definition of such products. What is feasible is to do further work during the negotiations to draw up guidelines for Members to apply these criteria for selecting such products.

Possible guidelines for the application of multilateral criteria for selection of Special Products

Several guidelines could be identified for applying the three criteria. These include: importance of the product in the traditional diet of the population; level of self-sufficiency; import capacity as measured by food imports as a percentage of total exports of goods and services minus debt service; agricultural labour as a percentage of the total work force; percentage of agricultural workers employed in the production of particular products; and the contribution of agriculture to the GDP. In some cases additional guidelines may be necessary to take into account the situation in certain geographical locations where the dependence for livelihood of the population on particular products is high even though it may not be so at the national level.

The self-selection option

Even though certain guidelines can be agreed for the identification of Special Products it would be difficult to agree on the precise benchmarks to make the guidelines operational. Benchmarks may have to be different for different countries to take into account their respective agricultural situations. Allowing a large measure of discretion to individual developing countries in the application of the guidelines is inevitable. Under these circumstances self-selection would be the only option.

As a quid pro quo for being allowed to self-select Special Products, developing countries would need to consider the imposition of an overall limit by way of the proportion of agricultural tariff lines or percentage of agricultural trade or both.

The exact level of overall limit that could be agreed would be a function of the overall agricultural negotiations.

Harmonised System level

In the event that there is a limitation on the number of tariff lines that can be designated as Special Products, the use of 6-digit tariff lines would be better than 4-digit from the perspective of developing countries, as it gives them greater flexibility in spreading the Special Products wider over agricultural products.

Should Special Products be exempted from tariff reduction?

Exemption should definitely be included in the range of possibilities. However, the chances of agreement on exemption would be better if the list of Special Products is small. Agreement for exemption for a long list of Special Products may also be possible, but would carry a high cost by way of a corresponding lowering of the overall level of ambition in the agricultural negotiations as a whole.

Should developing countries have access to quantitative restrictions in respect of Special Products?

One of the major achievements of the Uruguay Round was that the general principle of GATT 1994 for prohibition of quantitative restrictions was extended to agriculture. At a time when developing countries are attempting to bring further reform in world agriculture, asking for the possibility of imposing quantitative restrictions on a permanent basis would be a retrograde step.

What kind of flexibility should developing countries be seeking in the treatment of Special Products?

The flexibility for Special Products would depend upon the flexibility accorded to products other than Special Products. Developing countries could ask for the same treatment for all Special Products or for greater flexibility in each tier. There might be some advantage in seeking a calibration of tariff treatment of Special Products in different tiers. In this scheme of things developing countries may be able to press for exemption from tariff reduction for Special Products that fall in the tier of lowest tariffs. A stricter option could be to seek exemption of tariff lines when two conditions apply: the product has low tariffs and there is also little or no gap between the bound and applied levels.

Should developing countries have access to the Special Safeguard Mechanism for Special Products?

The Special Safeguard Mechanism is needed to protect domestic production in times of steep decline in international prices, which affect even the most competitive suppliers. During the Uruguay Round developed countries used the special agricultural safeguard even for sensitive products for which they had undertaken minimum tariff reduction. There is, therefore, full justification for seeking recourse to the Special Safeguard Mechanism for Special Products.

What should the relationship between 'sensitive products' and Special Products be?

The concepts of 'sensitive products' and Special Products have evolved independently without any inter-linkage. It would appear to be a good strategy for developing countries to keep these two categories quite apart in the negotiations.

