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A New Approach to Special and Differential Treatment

The Uruguay Round of WTO negotiations marked the first time that agriculture was substantially addressed in global trade negotiations and the first time that Special and Differential Treatment (S&D) was applied to agricultural trade. Agricultural S&D in the Uruguay Round was modeled on S&D in the industrial negotiations and consisted mainly of longer and shallower tariff and subsidy cuts and a few special provisions in WTO rules. At the time, these measures were satisfactory to the developing country members of the Cairns Group and the OECD members who were active in the negotiations. During the Uruguay Round, outside of the Cairns Group, few developing countries had significant influence over the negotiations.

In contrast, in the Doha Development Round, developing countries – now the majority of WTO members – have played a central role in the negotiations. With their newfound influence, developing countries can obtain a strong agreement that goes beyond the narrow confines of S&D to promote their integration into the world economy and provide an opportunity to compete in the marketplace. First and foremost, that means developed countries must substantially reduce trade-distorting subsidies and expand market access. Indeed, for most developing countries, an ambitious outcome that increases market access, eliminates government funded export competition, and reduces trade-distorting domestic subsidies will deliver greater benefits than traditional S&D ever could.

In the Doha Development Round, developing countries should also insist that both developed and developing countries be required to adhere to the same set of rules. Separate rules or exemptions from the rules for developing countries sets a dangerous precedent. As has been evident in 2004, when developing countries won cases against the United States and the European Union in the WTO, the rules-based trading system is particularly important for developing countries precisely *because* all countries, regardless of size or power, are bound by the same rules. If developing countries insist on a different set of rules, developed countries could more easily rationalize skirting the rules for their own benefit. It took many years to address agriculture under the GATT *because* agriculture was subject to special exemptions that kept sensitive commodities off the negotiating table. It is extremely dangerous to go back down that road.

As developing countries have become more important players in WTO negotiations, and as they have become more heterogeneous, the thinking about traditional S&D has evolved. Traditional S&D makes no distinction between developing countries at different levels of development or between developing countries' different needs and abilities to undertake commitments. It is available to any WTO Member that chooses to designate itself as a developing country. In the words of some, S&D has become too broad and too shallow. Developed countries will be reluctant to offer meaningful concessions to the lower-income developed countries if those same concessions are also available to higher-income developing countries.

***Note:** This paper was discussed by the membership of the IPC at Plenary Meetings in November 2003 and May 2004. As with any concensus document, however, not all members of the IPC agree with every recommendation. Accordingly, specific statements in the text should not be attributed to any single IPC member.*

In the Uruguay Round, the focus was on reducing OECD subsidies. In the Doha Round, the focus is on market access. Developed countries want more access to developing country markets – where population and income will drive demand for food – and do not want to extend special measures to countries with highly competitive export sectors. Farmers in some developed countries have conditioned their acceptance of reduced domestic subsidies on increased access to developing country markets. Developing countries themselves also want and need greater market access to other developing countries. Higher tariffs among developing countries inhibit the development of South-South trade. South-South trade now accounts for 40% of developing country exports, and 70% of the duties paid by developing countries are paid to other developing countries. Agricultural tariffs between developing countries are often higher than agricultural tariffs between developed and developing countries. Reducing tariffs among developing countries could facilitate regional markets, which provide an excellent proving ground for developing country exporters.

As a result, how to adapt S&D to new realities has become a controversial, core issue in the Doha Round. WTO Member Countries agree that wider and more disparate interests of developing countries must be effectively addressed, and it has become apparent – even among developing countries – that countries at very different levels of economic development should not be treated equally. There is general recognition that more advanced developing countries should be subject to stronger disciplines than weaker developing countries.

The IPC believes that there are positive measures that can make S&D more precise, effective and operational as called for in the Doha Declaration. In some areas, it needs to be expanded to ensure that the Doha Agreement does not undermine the ability of developing countries to make much-needed investments in domestic agriculture. In other areas, S&D needs to be tightened to ensure that benefits accrue to those countries that are truly “developing.”

Definition and Eligibility for S&D

Under current WTO practices, there are two classifications of developing countries: Least Developed Countries (LDCs), as defined by the United Nations, and other developing countries, which are self-declared. Self-declaration has led to a situation whereby some countries with per capita incomes above $9,385 (the World Bank’s cut-off for low-income country status) are granted S&D.

By separating countries into only two categories, as is the current practice, countries that are at very different levels of development with very different needs are essentially offered the same treatment. The inability to differentiate among developing countries has made S&D less effective. This is in large part because developed countries are reluctant to provide real concessions to developing countries if those concessions are available to developing countries that may be competitive exporters. It has also led developed countries to offer general and vague “best efforts” S&D commitments that are neither concrete nor useful.

Since the WTO is a rules-based system, it is vital that any changes to S&D not re-introduce country specific exemptions or exceptions to those rules. Proposed alternatives, such as exempting various sub-categories like small island nations, land-locked countries, or vulnerable economies, risks re-introducing country specific exemptions that would undermine the progress in developing effective rules that apply to all countries.

Recommendation: There needs to be a distinction between LDCs, which have low per capita incomes and severely underdeveloped agricultural sectors; Lower Middle Income Developing Countries, which face significant challenges in agricultural trade; and Upper Middle Income Developing Countries, which are competitive international traders in some commodities, but nevertheless have significant numbers of low-income, resource-poor farmers.

The World Bank and the International Monetary Fund already distinguish between developing countries based on their per capita income in determining eligibility for loans, soft loans and other forms of financial assistance. This principle of differentiation in international finance should be accepted for international trade rules as well. Only countries defined as low-income by the World Bank (i.e. countries with a per capita income of less than $9,385) should be eligible for S&D under the WTO. Furthermore, there should be three groups of countries, each eligible for different aspects of S&D:

> ***Least Developed Countries (LDCs)***: Countries with per capita incomes below $900, weak human resources and vulnerable economies (Note: This UN definition considers institutional constraints as well as per capita GDP. The IPC proposes that all countries with per capita incomes below $900 be included in this category, even if they do not now qualify for LDC status under the UN definition.);
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> ***Lower Middle Income Developing Countries (LMIDCs)***: Countries with gross national income per capita between $901 and $3,035 (Note: The World Bank defines Lower Middle Income Developing Countries as those with gross national income per capita between $765 and $3,035.); and
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> ***Upper Middle Income Developing Countries (UMIDCs):*** Countries with gross nationa incom per capita between $3,035 and $9,385 (Note: This is a World Bank definition.).

As is current practice, LDCs should not be required to implement WTO tariff and subsidy reduction commitments, although they should be encouraged and supported to reform their trade policies as part of their overall economic development strategy. S&D for those countries that currently declare themselves “developing,” but no longer meet the new criteria, could be phased out over several years. To avoid having countries move on and off the list from year to year because of fluctuations in GDP, eligibility could be based on a country’s average level of per capita GDP over a moving three-year period.

Countries should be able to petition for classification into the next lower income category, if their per capita income does not reflect unique vulnerabilities. For example, there are several LMIDCs, with 26% - 50% of their populations undernourished, according to the FAO, which might better fit in the group of LDC’s. Other LMIDCs are single commodity exporters vulnerable to food insecurity. Table One lists countries and their classifications under the IPC’s proposal, and indicates whether they have other vulnerabilities that might require special consideration. These countries should be able to petition the WTO for a re-classification based on their unique vulnerabilities.

Market Access

Market access is the most difficult of the three pillars in the URAA because it affects all countries and products. Developing countries have argued that previous trade negotiations as well as IMF structural adjustment policies have required them to reduce tariffs, leaving few policy alternatives to protect their farmers and consumers from the international marketplace. Meanwhile, developed countries have not reduced domestic subsidies substantially. To address their concerns, developing countries made several proposals, including special safeguard measures and a Special Products designation. Developed country farmers, on the other hand, recognize that most of the future market growth lies in developing countries. In exchange for reducing domestic subsidies, these farmers want more access into developing country markets.

Tariffs

Under the Uruguay Round Agreement on Agriculture (URAA), developing countries that converted quotas and other non-tariff barriers into tariffs were required to then reduce tariffs by two-thirds of the amount required of developed countries (28% average reduction, with a 10% minimum reduction per tariff line). Developing countries were permitted to implement these reductions over a ten-year timeframe as opposed to the six years given to developed countries.

Other developing countries that relied on high, unbound tariffs to protect their agricultural sectors prior to the Uruguay Round, agreed to bind these tariffs at high ceiling binding levels, but not to reduce them. Most of these countries maintain high ceiling tariff bindings but apply rates far below their bound levels. (According to the FAO, applied rates averaged 20% while bound rates averaged 84%.)

Tariffs tend to be higher for basic food products than other imports. In part, this is a strategy to protect producers of staple crops. Many developing countries argue that tariffs are the only feasible trade instrument to stabilize domestic markets in the face of external shocks. These countries often apply lower rates on imported food to maintain low prices for the urban population. With proper notification, these countries can raise applied tariffs up to the high ceiling bindings if imports increase and threaten local production.

Recommendation: The tariff band approach called for in the July Framework could easily be adapted for a more graduated approach to S&D with each of the three groups having graduated commitments. Assuming there are meaningful commitments in reducing trade distorting domestic support, increasing market access, and phasing out export subsidies, all UMIDCs should accept the general WTO commitments on agricultural market access, including tariff reductions, minimum access and ceiling bindings. UMIDCs could be accorded a longer implementation period than developed countries, but the same reduction commitments. LMIDCs could have both reduced commitments *and* longer implementation periods. LDCs would not be required to make reduction commitments. Recognizing that many developing countries rely on tariffs as a source of government revenue, it might be prudent to accommodate very low, uniform tariffs for that purpose until alternative sources of government revenue are developed.

Minimum Access Commitments

In the Uruguay Round, countries that converted non-tariff barriers into tariffs were required to offer minimum access commitments. Only fourteen (mostly LMIDCs and UMIDCs) countries did so.

Recommendation: Current market access commitments do not seem to have caused significant problems for the management of domestic markets in developing countries. LMIDCs and UMIDCs should not be exempt from expanding minimum market access commitments in line with any expansions of these commitments by developed countries. UMIDCs could have the same commitment to expand market access, but over a longer implementation period. Again, the reduction commitments for LMIDCs could be lower than those required for UMIDCs, and the implementation period longer.

Special Safeguards

In the event of import surges, safeguards can be applied to agricultural products under the Special Safeguard Provision (SSG) of the URAA or under the GATT Safeguards Agreement. Countries that agreed to bind, but not reduce their tariffs in the Uruguay Round did not gain access to the SSG. The SSG allows countries to impose an additional duty in response to import surges. The few developing countries that did bind and reduce tariffs have not made use of the existing SSG in part because it restricts tariff increases to one-third of the MFN rate in the event of a quantitative trigger, an increase that is, in many cases, not significant enough to justify its use.

All countries can also access the GATT Safeguards Agreement, which applies to all goods, but recourse to this safeguard is time-consuming. In many cases the damage to domestic producers has been done before a developing country can impose the safeguard.

Developing countries also have access to the Agreement on Subsidies and Countervailing Measures (SCM Agreement) in cases where injury is caused by subsidized products. But, injury is difficult to prove, and the SCM Agreement is difficult to invoke. Furthermore, the ability to use the SCM Agreement against some subsidies was prohibited under the recently expired Peace Clause.

There have been two major proposals to address these issues. A small group of developing countries proposed a Special and Differential Countervailing Measure (SDCM). The SDCM would allow developing countries to apply countervailing duties on imports from countries that provide their producers with trade-distorting domestic support without having to "prove injury or existence of a causal link between the subsidized imports and the alleged injury" (WTO 2002). There has also been a proposal to establish a simplified SSG for developing countries. The simplified SSG, would have triggers on both price and volume, specified time limits and no requirement for proof of injury or compensation.

Recommendation: In exchange for a commitment to reduce bound tariffs and increase market access, all categories of developing countries should have recourse to a Simplified SSG to guard against import surges or low prices. A Simplified SSG should obviate the need for an SDCM. A Simplified SSG would be more effective than an SDCM because import surges can occur whether or not products are subsidized. The right to use the Simplified SSG should be permanent, as long as the country in question continues to be classified as any category of developing country under the criteria set forth above.

Special Products

Some developing countries have requested that some commodities be designated as Special Products. The definition of Special Products varies widely. Some have indicated that Special Products should be subject to minimum access commitments and some have called for them to be entirely exempt from tariff reduction commitments as part of S&D. Some countries propose restricting Special Products to crops important for food security or for subsistence farmers, others widen the definition to include any product important to a country's overall farm income, export income or food security.

Using tariffs to provide food security in developing countries is inefficient and has potentially high costs in terms of the burden it imposes on poor households (both rural and urban) who often spend 50% of household income on food. Raising the price of food may also hurt the landless rural workers and poor small farmers who are net buyers of food. Using tariffs to improve the situation of low-income, resource-poor farmers is also inefficient because higher prices tend to benefit larger farmers.

The IPC has written elsewhere of its great misgivings about the designation of any category of "Special Products" which would be entirely exempt from tariff reduction commitments (IPC 2003). The risks of creating exemptions from rules have been mentioned previously. Moreover, a designation of Special Products may be less useful than the flexibility to protect vulnerable farmers against import surges that might be offered by a Simplified SSG.

Recommendation: If a category of Special Products is created, the IPC believes that only the LDCs and LMIDCs should be allowed to designate them. These products should be subject to a minimum tariff cut and reduced minimum market access commitments. The list of products should be limited and based on objective criteria, such as the commodities' share of production, consumption, or export earnings; or the share of the commodity grown by low income, resource-poor farmers. This exemption should not be made permanent. Once the product or the country no longer meets the criteria, the Special Product designation should be removed.

Preferential Access

Many developed countries give non-reciprocal special trade preferences to certain countries for certain crops. If developed countries reduce tariffs and expand market access, the value of special preferences will, as a matter of course, erode. The IPC has written elsewhere of its concerns that special preferences tend to lock in patterns of trade, which inhibits adjustment to potential new markets; they are subject to the uncertainty of political decisions of the preference granting country, which inhibits long term investment; and they confer benefits to marketers, with no guarantee that higher prices reach developing country farmers (IPC 2003a). Special preferences also divert trade away from countries that do not have access to them.

Recommendation: As the value of special preferences declines, a more general preference scheme should be provided. Even though the July Framework asks developed countries, and developing countries in a position to do so, to provide duty and quota free access to LDCs, the IPC has long recommended that developed countries provide duty- and quota-free access to *all* LDCs for *all* products. LMIDCs and UMIDCs should be granted duty-free access, but should still be subject to any applicable tariff rate quotas. To ease the transition from specific to general preferences, more general preferences could be accompanied by financial commitments from bilateral or multilateral donors to help countries improve their competitiveness in products afforded preferential treatment, and/or to diversify their economy to take advantage of other market opportunities.

Export Competition

Export subsidies

In the Uruguay Round, developing countries accepted disciplines on export subsidies that restricted budget outlays to 76% of 1986-90 base levels and quantities subsidized to 86% of that level. However, only ten developing countries use export subsidies because few have the financial wherewithal to provide them.

Recommendation: Assuming there is a commitment by OECD countries to eliminate all forms of subsidized export competition, all groups of developing countries should be required to reduce and eliminate their direct export subsidies, over a longer implementation period, with LDC's having the longest implementation period.

Transportation and marketing subsidies (Article 9.4)

In the Uruguay Round, developing countries were given flexibility to use certain kinds of export subsidies to help them be competitive in the international market. There were no reduction commitments imposed on these subsidies. They included subsidies to reduce the costs of marketing exports – including handling, upgrading and other processing costs – and the costs of international transportation and freight. Developing countries were also allowed to subsidize internal transport and freight costs on terms more favorable than domestic shipments.

Recommendation: UMIDCs should be subject to the same export subsidy reduction commitments as developed countries. Access to Article 9.4 should be reduced and eliminated as OECD export subsidies are eliminated. LMIDCs should phase out the use of these subsidies over a longer implementation period. LDCs should continue to have access to these exemptions.

Domestic Support

Due to a lack of financial resources and institutional capacity, most developing countries make limited use of domestic support and subsidies. In fact, rather than subsidize farmers, developing countries often "tax" farmers by keeping food prices low for urban populations. (Those countries that do subsidize farmers generally find that such subsidies often flow to the largest farmers, absorbing resources that could be more effectively targeted toward poor consumers.) In general, developing countries need to increase their use of Green Box measures and make better use of the exemptions listed in Article 6.2 of the URAA to further their economic development. Until developing countries can increase their own internal resources, much of the support for Green Box measures will have to come from international or bilateral donors.

Amber Box Policies

Developing countries were required to reduce their amber box support by 13% instead of the 20% required of developed countries. Only thirteen developing countries have reduction commitments for amber box support. A few developing countries are close to their commitment levels (e.g., Thailand) but most are far below their ceilings.

Recommendation: Provide a longer implementation period and shallower reduction commitments from UMIDCs and LMIDCs on Amber Box subsidies. Again, the longer implementation period and shallower cuts could be differentiated between the groups, with the UMIDCs having less time than the LMIDCs, but more time than developed countries to implement reduction commitments.

De minimis

Under the URAA *de minimis* provisions, developing countries were allowed to provide trade distorting domestic support up to 10% of the value of the production for specific products, or 10% of the total value of agricultural production. (For developed countries the level was 5%.) In all but a few cases, these commitments have not been binding, as few developing countries have the financial resources to provide direct subsidies to their farmers.

However, as UMIDCs grow, it is likely they will have greater financial resources to provide support to their farmers and the political clout of their farmers will increase, enabling them to increase the level of support to the sector. Raising *de* *minimis* levels, as proposed by some countries would not benefit LDCs or LMIDCs, but it could allow some UMIDCs to begin or expand policies that have substantial trade distorting effects and do not address the needs of poor farmers.

Recommendation: Continue to provide all LDCs and LMIDCs access to the 10% product specific and 10% non-product specific support provisions, assuming these are targeted to low income, resource poor farmers. If there are agreed reductions in *de minimis* for developed countries, then UMIDCs should be subject to graduated reduction commitments on their *de minimis* support.

Article 6.2 Exemptions

Article 6.2 of the URAA exempts government assistance for agricultural and rural development, investment subsidies that are generally available to agriculture, and agricultural input subsidies available to low-income and resource poor farmers from reduction commitments. Domestic supports to diversify production away from narcotics are also exempt. Without the Article 6.2 exemption, many of these subsidies would be classified as Amber Box support. A total of 23 countries have used the Article 6.2 provisions as of September 2002. In general, countries spend less than 3% of the value of production on these measures. Because these subsidies are in principle "trade-distorting" and, because the Peace Clause has now expired, developing countries fear these subsidies might be subject to a challenge.

Recommendation: The July Framework provides for "continued access" to Article 6.2. The IPC believes that Article 6.2 should be expanded and made permanent for all three groups of developing countries. It should include subsidies to diversify production for any developing country dependent on one or two commodities, either in terms of export or production. It should include government support for the development of local farm organizations (cooperatives, for example) that can assist farmers with purchasing inputs, and marketing and distribution of production. Article 6.2 subsidies should be made non-actionable – assuming they are truly targeted to low-income, resource-poor farmers – for all categories of developing countries.

Low-Income, Resource-Poor Farmers

The July Framework proposes to exempt *de minimis* subsidies from reduction if they are targeted to *low income, resource poor farmers*, but there is no definition of *low-income, resource-poor farmers* contained in the URAA. This makes it difficult to ascertain whether subsidies are being targeted to farmers who most need them.

Recommendation: The Doha agreement should clarify the definition and establish objective criteria for "low-income, resource-poor" farmers. For example, assistance targeted at any agricultural household below a nationally established poverty threshold, or toward producers with small land holdings in any developing country from any category would qualify for Article 6.2, be exempt from any AMS calculations, and therefore not be subject to challenge. Similarly, *de minimis* subsidies targeted to these groups would also be exempt from reduction commitments.

Green Box

Developing countries, like developed countries, are allowed to provide unlimited Green Box support to their agricultural sectors. Most developing countries under-invest in these measures, particularly measures that could ease supply constraints.

Recommendation: Continue to provide all developing countries unlimited access to all Green Box measures. Because developing countries will require additional resources to invest in their agricultural sectors and enhance their competitiveness, but also to ease transition costs, it would be desirable to use the World Bank's Poverty Reduction Strategy Paper (PRSP) process to establish agricultural assistance priorities based on trade opportunities and challenges offered by the Doha Agreement. The PRSPs could target issues that developing countries have identified as constraints to their ability to participate in global markets, for example, assistance meeting sanitary and phytosanitary standards and investment in transportation and communication infrastructure. The PRSPs could also help countries address the needs of producers who can take advantage of enhanced trade, but need additional help to do so, as well as to ease the transition costs for those who may not be well-positioned to take advantage of new market opportunities. The PRSPs could also serve as guidance for aid provided by individual governments, private voluntary organizations and other development assistance agencies. The International Monetary Fund could also work with the developing countries and the World Bank to ensure that countries can implement appropriate domestic agricultural policies to accommodate structural adjustment programs.

Conclusion

It is time to begin a serious conversation on how to meet the needs of the developing countries – in all of their differences – and to begin a process of integrating the most highly developed countries into the world market and encouraging South-South trade, while enabling developing countries to meet the needs of their farmers. The IPC hopes its proposals, which differentiate between countries at different levels of development, offer a useful and thoughtful contribution to that discussion.

Table 1: Development Status for Selected WTO Member Countries and Countries Undergoing Accession Negotiations

IPC Classification	Least Developed Countries		Lower Middle Income Developing Countries (LMIDCs)	Upper Middle Income Developing Countries (UMIDCs)	Unique Vulnerabilities					
Current Category	Least Developed Countries (LDCs)	Low Income Countries	Lower Middle Income Developing Countries	Upper Middle Income Developing Countries	Prevalence of Undernourishment (As a percentage of population)					Single Commodity Exporting Countries
Organization	United Nations (WTO LDCs)	World Bank	World Bank	World Bank	FAO					FAO
Qualifications	GDP<$900 - (weak human resources, vulnerable economy)	(GNI Per Capita <$765)	(GNI Per Capita $766-$3,035)	(GNI Per Capita $3,036-$9,385)	<5%	5-10%	11-25%	26-50%	>50%	
Albania			X		X					
Algeria			X			X				
Angola	X	X						X		
Antigua and Barbuda				X						
Argentina				X			X			
Armenia			X						X	
Azerbaijan			X				X			
Bahamas										
Bahrain										
Bangladesh	X	X						X		
Barbados				X						
Belarus			X		X					
Belize				X						
Benin	X	X					X			X
Bhutan	X	X								
Bolivia			X			X				
Bosnia and Herzegovina			X			X				
Botswana				X			X			
Brazil			X							
Bulgaria			X				X			
Burkina Faso	X	X					X			
Burundi	X	X							X	X
Cambodia	X	X						X		
Cameroon		X						X		
Cape Verde	X		X							
Central African Republic	X	X						X		X
Chad	X	X						X		
Chile				X	X					
China			X				X			
Colombia			X				X			X
Congo		X						X		
Congo, Dem Rep	X	X							X	
Costa Rica				X		X				
Cote d'Ivoire		X					X			X
Croatia				X			X			
Cuba			X				X			
Cyprus										
Czech Republic				X						
Djibouti			X							
Dominica				X						X
Dominican Republic			X				X			

A New Approach to Special and Differential Treatment

The original purpose of Special and Differential Treatment (S&D) was to level the playing field and give developing countries more time to adpt to international competition. Currently, S&D provides few benefits to developing countries, and serves as a rationale for limited concessions on the part of developed countries. The IPC believes that there are positive measures that can make S&D more precise, effective, and operational as called for in the Doha Declaration.

A New Approach to Special and Differential Treatment advocates differentiating developing countries into three categories: Least Developed, Lower Middle Income Developing and Upper Middle Income Developing Countries for international trade. Each group of countries should undertake commitments in market access, domestic support and export competitition according to their capability.

About the IPC

The International Food & Agricultural Trade Policy Council (IPC) convenes high-ranking government officials, farm leaders, agribusiness executives and agricultural trade experts from around the world and throughout the food chain to build consensus on practical solutions to food and agricultural trade problems.

An independent group of leaders in food and agriculture from industrialized, developing and least developed countries, the IPC's thirty-six members are chosen to ensure the Council's credible and impartial approach. Members are influential leaders with extensive experience in farming, agribusiness, government and academia.