

Special and Differential Treatment in Agriculture:

Proposals for a Development Round

Constantine Michalopoulos

1 Introduction

The Uruguay Round (UR) agreements were intended to usher in an international trade architecture in which all countries, developed and developing alike, would abide by the same rules – the notion that “one size fits all”. This perception of the UR has considerable merit, since all countries were expected to participate in previous plurilateral agreements such as those on Subsidies and Countervailing Measures and in new agreements, such as that on Services. At the same time all the agreements, including the Agreement on Agriculture (AoA), contained many provisions on special and differential treatment (SDT) for developing countries – clearly acknowledging that one size does not fit all (WTO 2000b, 2002a).

Soon after the AoA was signed it came under considerable attack from developing country critics who felt that it maintained an imbalance in trading rules; not only did it not favour developing countries but it was actually slanted against them. They argued that the SDT provisions were neither well conceived nor being implemented, and that the AoA continued the special and more favourable treatment of *developed* countries in the international trading system. It is fair to say that the AoA was always considered an interim agreement. It contained provisions for the initiation of new negotiations, which duly started in 2000. Now, in the aftermath of the Doha Ministerial which is supposed to result in a “Development Round”, it is time to look carefully at the SDT provisions of the AoA to ensure that they further the process of development.

The purpose of this article is to review SDT provisions in the AoA and other UR agreements that have a bearing on agriculture, and to make recommendations that make sense developmentally. Critical to the alleviation of poverty, and essential to any true *Development Round*, is progress in agriculture.

I do not review here all aspects of the AoA that have a bearing on developing countries, nor discuss the conceptual basis for SDT – a useful summary of which is contained in Christopher Stevens’s first article in this *Bulletin* (see also Michalopoulos 2001 and 2003). The next section focuses on an assessment of the implementation of SDT in the aftermath of the UR. The one after that reviews and

evaluates the new proposals for SDT presented by developing countries in the agriculture negotiations. The final section contains conclusions and recommendations on approaches that may be useful in structuring SDT provisions in the new negotiations.

2 Assessment of special and differential treatment in agriculture

2.1 General considerations

Developing countries were successful in including in the UR a large number of provisions for SDT on agriculture. These are to be found in the AoA itself, in the 'Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries' ("the Decision"), and in the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS). They include greater flexibility and longer timetables for developing countries in cutting domestic support and export subsidies, substantial differences between bound and applied tariff rates, and a large number of exhortations to and non-binding promises of technical assistance from developed countries.

The question of implementation of these provisions was the subject of discussions in the run-up to and during the Doha Ministerial, and these continue in the World Trade Organisation (WTO) Committee in Agriculture. There are several problems of implementation common to all UR agreements, including the AoA. The first is that many developed country SDT commitments are either too broad and general in nature (such as those included in the preambular statements of the AoA and in the SPS) to be of any practical significance, or they are of the "best efforts" variety (such as those on the provision of technical assistance), which again means that they are not legally enforceable and developed countries cannot be held strictly accountable for failing to implement them.

The unwillingness of developed countries to make firm commitments is partly because in most cases the WTO rules on the treatment of developing countries are identical for all but the least developed countries (LDCs).¹ Singapore and Korea are supposed to be treated in the same way as

Ghana and Saint Lucia; Argentina and Brazil the same as Botswana and Kenya. But developing country capacity to export and compete in international markets for agricultural exports is vastly different; and so are their needs for support and assistance. Developing country members of the Cairns Group of agricultural exporters should not be treated the same as small one-crop economies. There is no economic reason to suggest that some of the more developed of the developing countries cannot compete in the agricultural products in which they have comparative advantage, and there is very little political support in developed countries for extending SDT treatment to them. Indeed, protectionist interests in developed countries frequently succeed in discriminating against developing countries on products in which they enjoy comparative advantage. If SDT provisions are not differentiated to exclude developing countries that do not need them, there is very little likelihood that meaningful SDT commitments will be made by developed countries, which will continue to resort to general, best efforts kinds of commitments whose implementation is hard to evaluate.

The second general problem is that the commitments aimed at addressing developing countries' institutional constraints were made without serious consideration of how they will be implemented. This was manifested in the setting of the transition periods for implementing the various agreements. These were set as part of the bargaining process at the late stages of the UR negotiations and without much involvement of developing country officials familiar with how long it takes to build institutional capacity where it is inadequate or totally lacking. In some cases, the time limits for the extensions have already passed and there is little evidence that countries have made sufficient progress in institution building to permit them to implement their obligations fully.

2.2 The provisions for special and differential treatment in agriculture

Market access

The main market access problem in agriculture is that the present most-favoured-nation (MFN) protection in developed countries, as well as their continuation of export subsidies, creates

formidable barriers to developing country exports and undermines their competitiveness in third markets. Tariffication under the UR provisions resulted in very high levels of protection in developed countries on products of interest to developing countries (UNCTAD 1997).

There is little evidence that the general hortatory language of the AoA regarding liberalising products of particular interest to developing countries resulted in greater cuts in protection on such products in developed country markets. And it is unlikely that this central problem can be addressed by more verbiage and non-binding SDT commitments in the future.

There is relatively limited provision of SDT in agricultural products under the Generalised System of Preferences (GSP), which by and large has focused on manufactures. However, concessions on agricultural products have been substantial in past provisions of autonomous trade preferences to different groups of developing countries. For example, the European Union (EU) provides deep preferences to the developing countries in Africa, the Caribbean and the Pacific (ACP).

The long experience with the GSP suggests that, while preferences can be, and have been, helpful to some countries for some products and through some periods of time, preferential approaches suffer from a variety of economic drawbacks when they are used as a means of improving *generalised* developing country access to developed country markets.² In judging the usefulness of preferences in the context of the negotiations on agriculture one should also take into account other developments affecting agricultural trade in the short term. Most important is the provision of preferential treatment by the EU to 76 ACP countries through the Cotonou Agreement (which envisages Economic Partnership Agreements (EPAs) involving regional preferential arrangements (RPAs) coming into effect in 2008). Similarly, the USA has a preferential scheme for African countries, and is negotiating the establishment of a free trade area that would include all of the developing countries in North and South America and has proposed a free trade agreement with South Africa. In addition, the EU already has a programme (“Everything but Arms”) under which it will be providing duty- and quota-free access for all

products from the 49 least developed countries. Other developed countries may set up similar programmes favouring these countries.

A few years from now, the landscape in agricultural trade may be one in which LDCs enjoy deep and mainly unconditional preferences in most developed country markets. Several sets of regional preferential agreements may be in the process of being put in place which would provide deep preferential margins for a large group of developing countries in the two major developed country markets, the EU and the United States (USA). This would leave a number of countries in South Asia essentially without preferences, and some in the ACP and Latin America without preferences in the USA and Europe respectively. Included in this group would be a number of major developing country agricultural exporters, such as Argentina, Brazil, Uruguay, Philippines and Thailand, which arguably do not need preferences in order to export.

In this setting, a “strengthened” GSP for agriculture is really not likely to be especially “generalised”. It could, at best, provide less deep preferences, and hence smaller benefits, for a relatively restricted group of developing countries which should, in any case, exclude those that do not need the preferences to export. Thus, it is questionable how much “negotiating capital” developing countries should spend on this issue.

An alternative approach that would make more economic sense is to expand the deep preferences extended to LDCs to a larger group of low-income, vulnerable or food-insecure developing countries that exhibit problems very similar to those of the LDCs (Tangermann 2001). The problem with this approach is that it runs against the grain of the political economy of granting unconditional preferences to a list of countries; and the larger the group of countries included, the more difficult it is to cope with the domestic interests in developed countries which could be affected by the expanded commodity coverage and volume of trade. In light of these considerations, it would appear that the best way of addressing the issue of market access for agricultural products in the current Round is not through efforts at expanding or strengthening generalised SDT treatment, but rather through a general effort by developing countries to push for

substantial reduction of developed country protection on an MFN basis and total elimination of export subsidies at the earliest possible time.³

Transition periods

Evidence gathered from the needs assessments undertaken in the context of implementing the Integrated Framework for Trade-Related Technical Assistance for the Least Developed Countries suggests that very many institutional weaknesses remain in these countries, and in others where even shorter time frames for implementation have been envisaged. Many developing countries, including but not limited to LDCs, have experienced difficulties in implementing various WTO agreements, including SPS. A number of these transition periods have expired while many developing countries have suggested that they are experiencing difficulties in establishing the institutions needed for their implementation. Countries facing fiscal constraints often have few resources to direct towards the areas of public administration responsible for overseeing and coordinating the implementation of WTO agreements, which are quite costly. These difficulties were supposed to be overcome through technical assistance and longer transition periods.

The longer transition period of 10 years for implementation of reduction commitments under the AoA (Article 15.2) has not yet expired. In the case of SPS, it is notable that no country has apparently sought a time-limited exception in whole or in part from obligations under the Agreement, although longer time frames (unspecified) have been explicitly provided for in Articles 10.2 and 10.3. It is hard to believe, in light of the frequently voiced concerns of developing countries in this area, that everything is proceeding on time in terms of their implementation of the provisions of the SPS. It would appear far more likely that they have not formally requested extensions from the WTO, possibly because of the fear of adverse reactions towards their exports.

A very careful look at these transition periods is needed. The review should cover all the areas in which they have been, or may need to be, extended on the grounds of institutional weakness. These include SPS. In parallel, efforts should be made by the countries themselves, with the support of the international

community, to establish the institutions needed to discharge their responsibilities under the SPS.

Technical and other assistance

The AoA itself is generally silent on issues of assistance. The main references to assistance related to agriculture are included in “the Decision” and in the SPS.

The Decision

The main focus of developing country discussions on topics covered by “the Decision” has been on the question of whether the AoA has resulted in additional financing needs for the Net Food-Importing Developing Countries (NFIDCs) and LDCs on account of higher import prices. Perhaps because the AoA did not change things much, some of the fears that developing countries which are net food importers had about its possible adverse effect did not materialise. There is little evidence that the export subsidy reductions of the UR agreement have led to an increase in import expenditures of poor NFIDCs. Both the IMF and the World Bank have reiterated repeatedly in subsequent reviews of the issue in the WTO that there is no need to provide financing over and above what can be obtained through their regular facilities.

Even so, it is legitimate to ask what will happen if developed country export subsidies do decline in the future; and what is the proper international response to such a potential problem? The problem relates to the possible adverse short-term effects on poor NIFDCs of eliminating trade distorting measures, which are likely to be outweighed by the longer-term worldwide efficiency gains. Actually the short-term effects are also likely to spread out over time, as the distortions are bound to be phased out rather than eliminated at a stroke. It would be very difficult to isolate the impact of the resulting price increases from other factors, including the developing countries’ own policies. It is for this reason that the International Monetary Fund (IMF) did not provide automatic financing from its Compensatory Finance Facility (CFF) for cereals but included drawings from the CFF in the overall IMF programme to individual countries. But there is nothing – and there should be nothing – automatic about the assistance provided. Indeed, if a need can be shown to exist the international response should not be limited to food aid but

should extend to all kinds of general purpose financing on appropriate terms. The latter would be better than food aid, which is frequently tied to procurement from a particular donor and determined by food stock availability in the donor country rather than by the needs of the recipient.

Notwithstanding this experience, several developing countries have proposed the establishment of a revolving fund facility whose objective would be to stabilise international food prices to developing countries. This fund is intended to be self financing, apart from the initial start-up capital costs. Many such proposals have been made in the past, and all have been found wanting. In part this is the result of cost considerations. It has also to do with doubts about the effectiveness of such arrangements in achieving stabilisation objectives. In any case, it does not appear that major food exporting countries such as the USA, whose participation is essential to the success of such a scheme, would be willing to change their opposition. Therefore, it would seem rather futile to persist in making such proposals, unless simply for tactical considerations. Yet, following Doha, a new group has been set up to consider proposals in this area.

“The Decision” also called for a new Food Aid Convention, which was negotiated in 1999. The most serious problem developing countries face regarding food aid, not solved by the new Convention, is that food aid is least available when international prices are highest and, hence, financing needs are greatest.

SPS

The implementation of the SPS has raised significant problems for developing countries. Some result from their lack of capacity to develop the institutional arrangements that would permit them to meet their SPS-related WTO commitments. But the greatest potential costs may stem from the legitimacy the SPS provides to developed country actions that limit market access for developing countries. Article 10.1 of the SPS says that: ‘In the preparation and application of sanitary and phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members’. A recent study found that a

1998 European Community regulation which raised the standards for the minimum level for certain types of aflatoxin, a toxic substance found in foodstuffs and animal feed, to levels higher than those required by the Codex Alimentarius, is estimated to have cost close to \$700 million in lost revenue to African exporters of groundnuts, many of them LDCs (Otsuki *et al.* 2001).

It is difficult to argue against developed country actions to protect the health of their consumers. But when such actions result in significant costs to developing country exports, it would seem fair that the developed countries be legally committed to take steps that will help the developing country meet the problem that the developed country regulation has created. The existing provisions on these issues in the SPS are inadequate and need to be strengthened. Article 9.2 of the Agreement says that: ‘Where *substantial investments* are required for an exporting developing country to fulfil the [SPS] requirements of an importing Member, the latter *shall consider providing such technical assistance* as will permit the developing country Member to maintain and expand its market access opportunities for the product involved’ (emphasis added). Developed country members should have the *obligation* to provide the developing country with both the financial and technical assistance needed to permit improvement in quality until the product meets the standard.

Flexibility in rules and disciplines

Flexibility in the application of rules and disciplines has emerged as a key area of SDT in all aspects of implementation of the UR agreements. In agriculture, there is a serious problem on how to develop rules appropriate to promoting the interests of developing countries because the overall focus of the AoA has been on improving the policy environment in developed countries. The philosophy of the Round was driven by the legitimate concern that agriculture in the developed countries was protected and supported too much. Thus, rules were designed to provide fewer supports in a more transparent and less trade distorting way, which, if implemented, would have a beneficial impact on developing countries.

But agriculture in many developing countries was being penalised, not supported by government

policy. This was certainly more the case a decade ago when the UR was being negotiated, and perhaps even more so in the 1980s, which are the reference years for the measurement of supports. Where agriculture was supported, developing country capacity to provide such support through budgetary transfers was, and still is, quite limited. In a way the whole philosophy that drove the AoA was upside down. However, as the framework for the AoA was that of developed country agriculture, the agreed SDT provisions, and even subsequent developing country proposals to “improve” them, have been couched in the same upside down framework. Thus, the AoA provisions in this area call for flexibility by enabling developing countries to reduce their Aggregate Measurement of Support (AMS) and export subsidies by less and over a longer period of time as well as to exempt a larger proportion of the supports they provide from reduction commitments. Yet most developing countries do not have positive AMS and hence these SDT provisions are of limited value.

Flexibility, so far, has been provided for the relatively few countries (15 or so, mostly middle- or higher-income developing countries) that had significant positive supports to agriculture, and the even fewer (10) that had export subsidy commitments. According to the most complete recent information available, 40 developing countries notified the provision of domestic support to agriculture to the WTO in 1995–2000 (ABARE 2002).⁴ Probably more countries have used the provisions than have notified the WTO, and notifications for most countries are quite incomplete (FAO 2000).

Only eight countries, mostly high income, notified support that averaged in excess of 10 per cent of value added in the agriculture sector. And as value added is but a small fraction of gross value, none of these countries came even close to meeting the *de minimis* provisions for exemptions. Indeed the bulk (over 50 per cent) of the total amounts notified by such countries as Brazil, Korea, Mexico and Thailand were claimed to be exempt under the “Green Box” provisions. Few countries claimed support under the *de minimis* provisions, and over 85 per cent of the total support claimed to be exempt was accounted for by just two (India and Egypt). Finally, investment and input subsidies for

small and resource-poor farmers have been utilised by a larger number (27) of countries but amounted, on average, to a little over 5 per cent of total notified support.

The list of ten countries that notified export subsidies is instructive in that only one (Indonesia) is classified as low income by the World Bank.⁵ Marketing and transport subsidies for exports (Article 9.4) were used by four countries. A few countries notified outlays for public stockholding for food security purposes (Annex 2 para. 3, footnote 5) and domestic food aid to the poor (Annex 2, para. 4, footnotes 5–6); and two countries (South Korea and Philippines) notified special treatment provisions in the protection of a traditional staple, rice (Annex 5, section B) (WTO 2002a; Youssef 1999).

3 Proposals for strengthening special and differential treatment

3.1 The main proposals

Over the last several years, developing countries and others have made a number of proposals in the context of the ongoing negotiations on agriculture for rebalancing the AoA to reflect a developmental perspective. Some of these proposals pertain to changes in the AoA which would improve market access conditions. Others have dealt with issues of assistance to NFIDCs (already discussed), or involve the establishment of new special safeguard measures available only to developing countries. Still others address the issue of increasing the flexibility in the existing SDT provisions. Some countries have proposed that these provisions be included in a “Development Box”, which would parallel the “Green Box” exemptions which, developing countries believe, tend to focus on measures of primary significance to developed country agriculture. One recent submission states:

Given the fundamental differences in the agriculture production systems and the different role that agriculture plays in developing and developed countries, there is a clear case for devising a development box whose provisions would apply only to developing countries. Agriculture is no doubt multifaceted, but arguments in this regard should not detract focus from the concerns and

specific problems of the rural poor of developing countries, which the development box seeks to address (WTO 2002b).

The main developing country proposals for increasing flexibility in the existing SDT provisions and inclusion in the Development Box call for:⁶

- permanent exemptions in the calculation of the AMS for capital and input subsidies to resource-poor farmers;
- exceptions from the calculation of the AMS for measures that are targeted on all or some of the following: poverty alleviation, rural development and employment, diversification, food security;
- an increase in the *de minimis* level of exempt AMS, either in general or for expenditures related to enhancing food security;
- credit in the form of non-product-specific support in the calculation of permissible AMS for negative product-specific support (to take account of situations where countries keep food prices artificially low in order to achieve food security objectives for the poor and have to compensate farmers by providing them with input and other subsidies);
- exemption from the calculation of the AMS not only of capital costs for transport and other marketing infrastructure but also the *current* transport costs of shipping food from food surplus to food deficit regions;
- continuation of export subsidies – irrespective of previous commitments;
- lower rates of reduction of tariffs on agriculture than those agreed for developed countries and possible renegotiation of existing tariff commitments;
- establishment of a new safeguard mechanism for agriculture for which only developing countries would be eligible.

In addressing future changes in the SDT provisions of the AoA, consideration also needs to be given to some distinctive characteristics of developing as opposed to

developed country agriculture: weaknesses in institutions and in the operations of markets. In shaping future public sector involvement in agriculture, countries also need to take into account what has worked and what has not, i.e. experience with “best practice” in government interventions. A recent World Bank paper says in this connection:

Markets and provision of technology are often imperfect because of market failure. ... The poor are in many cases more affected by market failure than the rich, rural areas more than urban areas, and women more than men. Governments have major roles in enabling the transformation of subsistence oriented rural areas with low incomes and little diversification into areas that are well integrated into markets and with access to modern technology. This requires considerable public investments in infrastructure, agricultural research and human capital. It also requires continuous efforts to create the appropriate environment for the development of markets and private sector investment (World Bank 2002).

The recent World Bank assessment of country experience noted above suggests that for developing countries to exploit the advantages of better access to developed country markets and freer trade in general, they need investments in capacity building which are directed towards:

- the development of necessary infrastructure such as irrigation and improved seeds, as well as better distribution and communication systems;
- institution building, in the form of research centres that would improve farmers’ access to modern production technologies as well as strengthening processing capacity technologies;
- the establishment of effective regulatory, standards, and food safety assurance bodies;
- education and training, particularly in technical areas such as sustainable agriculture, quality control and packaging;
- support for the development of local farm organisations especially for marketing and distribution;

- programmes in support of product diversification;
- support for land reform.

Some of the supports that might be provided in these areas would qualify under the Green Box provisions; others would not. In light of these considerations, what should be the thrust of the revisions to the AoA to make it more development friendly? What should be in any Development Box?

3.2 Flexibility in commitments

Removing flaws in the current text

First, changes are needed in the legal framework under which the very important SDT treatment which exempts investment and input subsidies to poor farmers under Article 6.2 is provided. These provisions are currently found not in the Green Box of subsidies which are permanently permitted because they are non-distorting, but among the distorting measures of support which are temporarily permitted and which would have to be reviewed before they are continued – as if the problems afflicting poor farmers which justify government intervention could be solved in a few years' time. The subsidies currently referred to in Article 6.2 would be actionable under Article 13b if they exceed the budgetary limit of subsidies provided in 1992. This means that if a developing country provides its poor farmers subsidised credit in excess of that provided in 1992 and is successful in stimulating increases in their production so that some imports are displaced, previous suppliers to its markets could claim “serious prejudice” under the Subsidies Agreement or “non-violation nullification” under Article XXIII of the General Agreement on Tariffs and Trade (see Michalopoulos 2001 and Diaz-Bonilla *et al.* 2002).

It may be unlikely that a developed country member which saw its exports decline under these circumstances would complain in the WTO, but this is not the point. The point is that the philosophy and current legal basis of the AoA are not development oriented. These provisions have to be changed, whether a Development Box is agreed to or not, in order to provide the legal basis for *permanent* exemption of these subsidies from the AMS calculation.

Another “technical” improvement relates to the way the AMS is calculated, i.e. based on the gap between the current administered price and the fixed external reference price from the 1986–1988 base period. This provision was inserted in the AoA to help developed countries which feared that declining world prices would force them to reduce their domestic supports. It did not address the concerns of developing countries, where inflation has typically been high and where domestic supports which are expressed in nominal prices may prove meaningless in real terms (Tangermann and Josling 1999). Again the AoA speaks in vague terms about ‘due consideration’ being given to ‘the influence of excessive rates of inflation’ on the ability of countries to honour their AMS commitments. It is clear that the commitments in the AMS, whatever they are, need to be made in real terms.

Establishing pro-development principles

One of the fundamental changes that developing countries should seek to establish in the new negotiations is that there are certain policies that may make sense in a development context which should always be available to developing countries – or at least to some groups of them. If there is a Development Box, these are among the policies that it should include (WTO 2000a, 2002b; Green and Priyadarshi 2002).

What precisely these policies should be is something to be discussed and negotiated. To begin with, one needs to look at the existing provisions regarding subsidies to low-income and resource-poor farmers and food security provisions on government stocks and prices.

First, the concept of “low-income or resource-poor producers” to which the measures should apply is difficult to define in practice. Perhaps an operationally more practical approach would be to exempt from the AMS programmes targeted at all households below a certain *poverty line* (thereby including households which may not “produce” anything, but work in agriculture and are equally or more needy than “resource-poor producers”). This would include, for example, programmes that impact on rural labour or on other poor consumers.

On the question of targeting, there have been some suggestions of targeting “food security crops” (Ruffer

2002). There are several problems with this. First, the crops that enhance food security vary from country to country, which would lead to a complex system of notifications of different crops by different countries. Second, it may well be that there are many poor farmers who do not produce these crops. Should they be excluded from support? It would seem both simpler and more equitable to try to exempt from restraints all agriculture programmes that affect the rural poor, irrespective of the crops they produce.

On the question of investment subsidies, there is little to add. Given the problems affecting agriculture and the poor in most low-income developing countries, government intervention would be necessary to strengthen institutional capacity, improve market operations and provide support to the urban and rural poor in various ways, including support to expanding production of individual products. A good basis is the list of capacity-building programmes summarised earlier in this article. These include land reform, helping build small-farmer organisations, strengthening marketing and improving financing mechanisms, as well as the more traditional services provided by governments which are listed in the Green Box. The programmes would need to be different, according to whether they focus on subsistence agriculture, smallholders or commercial farms. None of the subsidies involved in them should be included in the AMS.

Regarding the provision of subsidies to inputs (such as credit, fertilisers, seeds, etc.), past developing country experience has not been very good. Many such programmes have failed. Recent efforts at developing market-based microfinance mechanisms, for example, appear to provide a more viable long-term approach to sustainable rural credit institutions. Similarly, in many traditional fertiliser and seed subsidy programmes the benefits have to a great extent been appropriated by large farmers. New approaches, involving for example the provision of vouchers to poor farmers, may have a better chance of addressing the problem. In general, market-based approaches involving the provision of direct transfers to farmers tend to be superior to traditional input subsidy interventions.

Developing countries are often in a quandary, however. They have serious budget constraints which do not permit them to provide a safety net

through direct income transfers for the urban poor. At the same time, innovative approaches involving microfinance and direct approaches to input delivery to subsistence farmers have not been broadly implemented. Thus they sometimes opt for a low food-price policy as a second best, which can be made viable only through input subsidies to farmers. Clearly the best option in the long run is a combination of direct transfers and market-based pricing. In the interim, however, it may be unwise to limit the existing flexibility provided by the exclusion of input subsidies to poor farmers from the calculation of AMS.⁷

Similarly, subsidies to internal transport costs to move food to deficit areas may be the most effective way, in the short term, to promote food security in such regions. But these subsidies should also apply to moving imported food to these areas.

It is clear that operations of emergency food stocks should be included in some fashion in the Development Box. It may well be that some clarification of the existing provisions on this score should be considered (for details see Diaz-Bonilla *et al.* 2002). But they may need to be limited in total value and also not involve discrimination against foreign suppliers.

Finally, programmes in support of product diversification for small economies dependent on one or two export crops should be specifically exempted from reductions in AMS. At present, the exemption in Article 6.2 is limited to diversification from 'growing illicit narcotic crops' – again, primarily a developed country priority. On the other hand, small, low-income developing countries, including a number of small island economies, which clearly need to diversify their production and export structure in order to reduce their vulnerability to external shocks do not enjoy an exemption from the AMS for such programmes.

It should be considered the right of developing countries to pursue all these programmes. They should be included in a Development Box to establish that they are not considered aberrations or exemptions.

The question of raising the *de minimis* exclusion may be moot if a well-defined Development Box is agreed

upon. There is no evidence that the 10 per cent threshold has limited developing countries in providing the necessary support to agriculture, and hence it is unclear whether it is necessary to increase the *de minimis* provision to, say, 15 per cent. Similarly, it is unclear whether the proposal to permit developing countries, which have negative support for certain items as a consequence of consumer food subsidies, to offset these against positive support in the calculation of the AMS would be necessary if a truly adequate Development Box were agreed upon. In general, raising the *de minimis* exclusion should be viewed as a second-best alternative to the establishment of a Development Box that provides cover for measures developing countries need to take to promote agricultural development.

Problem areas

Finally, the Development Box should *exclude* border measures. Tariffs and similar measures raise prices to consumers and have a large adverse impact on poor consumers (who spend a greater percentage of their incomes on food) while benefiting mainly the bigger agricultural (and food) producers (who have larger quantities of products to sell). A case could be made in the negotiations for a slower pace of tariff reduction by developing countries (see Diaz-Bonilla *et al.* 2002). This is not an issue for the Development Box, however, but rather one of the overall principles to be used in the market access negotiations.

The issue of export subsidies should be considered separately. They are obviously trade distorting (perhaps even more so than many forms of domestic support), and are not affordable by most developing countries. The problem here is more political than economic. It may not make much sense economically for any country to subsidise exports. But since in the past developed countries have done so and most developing countries have not, even reduced export subsidies leave developed countries with a commercial advantage over developing countries. An attempt was made in the past to correct this asymmetry by allowing developing countries slower reductions in export subsidies. Even greater differentiation is probably needed in future commitments in this area – not because export subsidies are a good thing which developing countries should use, but in order to create a more level playing field.⁸

As targeted programmes to help the poor may be of importance to developing countries irrespective of their size or level of income, they should, in principle, be available for all developing countries to pursue – with the sole exception of major food exporting countries. A more narrow definition could focus SDT provisions to address food security on food-insecure countries, which would result in a somewhat narrower list of countries (see Stevens 2002). But note that the existing NFIDCs listing suffers from shortcomings, as it contains countries which are not likely to be considered food insecure (Diaz-Bonilla *et al.* 2000). The “diversification” exception, however, could be limited to small, low-income developing economies which are dependent on one or two crops for the bulk of their export earnings.

There are several problems with determining any list of countries that should benefit. One is that the longer the list the more likely it is that the bulk of the benefits would accrue to the more developed of the countries included. At the same time, for such a list to be both credible and politically acceptable among developing countries, it would have to include the large Asian economies such as China, India and Pakistan, where the bulk of the world’s rural poor are to be found. And if these major agricultural producers are included, protectionist opposition in developed countries is likely to increase. Moreover, the list of countries eligible for benefits under the Development Box would need to be consistent with the list of those which need access to generalised preferences to improve market access.

In the end, of course, any list would be the result of political compromise and would tend to contain some degree of arbitrariness. In fact, probably any listing that effectively takes into account the development considerations raised above is likely to be an improvement over the situation that prevails today.

3.3 Safeguards

Another important concern of developing countries is the capacity of their poor farmers to adjust to a sudden upsurge in agricultural or food imports. This potential danger exists in general and is exacerbated by the continued legitimacy of export subsidies in agricultural trade.

The problem of import surges is neither new nor limited to agriculture. Most developing countries have some degree of leeway because their bound tariff levels are much higher than the rates actually applied. Simple (unweighted) applied agricultural tariffs for 31 developing countries (excluding Cairns group members) averaged 25 per cent, compared with 66 per cent for bound rates, which suggests that there is considerable scope for increases in agricultural protection if desired (Michalopoulos 2001). Also, there are general provisions to deal with import surges under the safeguards provisions of the WTO.

The problem with the existing situation is two-fold, however. First, the margins between applied and bound tariffs are likely to shrink as part of the overall liberalisation that will occur in the new Round. Second, the existing safeguards provisions may be difficult and time-consuming to implement. And at the same time, poor farmers in developing countries do not have access to the kinds of safety net that are available to producers of farm or other products in developed countries. This means that an upsurge of imports could have catastrophic effects on poor producers (see FAO 2002a). Of course, the long-term solution to this problem is the establishment of adequate safety nets in these countries, but this will take time. In the meantime something needs to be put in place to deal with this issue. This could take the form of a special safeguard provision for agriculture available only to developing countries – and perhaps excluding the main food exporters. It could be that these safeguard provisions are included in the Development Box, or they could be free standing.

Different variants for a safeguard mechanism have been proposed. One is a mechanism which acts like a countervailing action against developed countries which subsidise their exports. But there is little reason to differentiate the plight of poor farmers affected by such actions from that of others equally hurt by import surges caused by other factors. Another proposal is that the special safeguard be limited to raising tariffs or to raising them by a certain proportion (Ruffer 2002). It would appear that these proposals may not be desirable as they would tend to complicate the use of the mechanism.

The key characteristics of a special safeguard mechanism for agriculture, which could be invoked only by developing countries, should be that:

- it is transparent and easy to use (e.g. through the determination of price or quantity thresholds);
- it is time limited, and
- developed countries do not seek compensation as under the regular WTO safeguard provisions.⁹

4 Conclusions and priorities for the future

This analysis and assessment of the SDT provisions in the WTO agreements suggests the need for a fundamental reorientation of priorities by both developed and developing country members of the WTO.

The overall objective of the international community should be a more meaningful and real provision of SDT treatment through appropriate instruments to countries that truly need it. A true Development Round of negotiations on agricultural trade has to address the legitimate concerns of developing countries, especially those that are low income and least developed and face the greatest food insecurity, on how to develop their food and agriculture sectors. The conceptual underpinnings of the reorientation should be provided by the evolving understanding of the links between agricultural trade and development and the constraints faced by different developing countries in their effective integration in the international trading system. Some of this reorientation involves the general provision of SDT treatment, some is specific to agriculture. The main priorities are as follows:

1. *Greater emphasis should be placed on strengthening developing country institutional capacity.* Transition periods in the WTO Agreements linked to developing country institutional capacity weaknesses need to be re-examined. A number of these transition periods have already expired and need to be addressed urgently. The review should include panels of experts from governments and appropriate international institutions with knowledge of capacity-building efforts and requirements in the respective areas.

Developed countries must increase the coherence between agricultural trade policy and aid to food and agriculture in developing countries. This means, first, avoiding dumping surplus agriculture or food products at subsidised prices on to developing country markets, while simultaneously providing assistance to increase production; second, providing food aid when food prices are high and import needs greatest; and third, strengthening developing country capacity to meet SPS standards.

2. *There is a need for sharper differentiation between developing countries in the provision of SDT.* Many problems of institutional capacity common to LDCs and other low-income developing countries with limited participation in international trade are not faced by more advanced developing countries. Food security and *per capita* income and/or share of world trade indicators need to be introduced to expand the focus of assistance to capacity building. Such assistance is needed, together with the more traditional SDT provisions of 'more favourable treatment' and better access to developed country markets.

Differentiation and graduation will be difficult for developing countries to accept. Substantial differentiation already exists, however, in respect of financial flows from all international finance institutions and even from the United Nations Development Programme. Why should a principle which has been accepted without serious difficulty on issues of finance not be acceptable regarding trade? It may be difficult to do, but an effort needs to be made.

3. *Developing countries should seek improved access in developed country markets for agricultural products primarily on an MFN basis.* This can be achieved through:
 - reductions in tariff peaks;
 - elimination of remaining quantitative restrictions;
 - elimination of developed country export subsidies as soon as practicable, but in any case at a faster rate than that applied to developing countries.

4. *Efforts at improving the agricultural GSP should focus on providing deep preferences,* such as those currently available or to be made available to LDCs, to other low-income, food "insecure" or vulnerable countries. One way to help developing countries that truly need assistance in breaking into foreign markets is to exclude, through graduation, those developing countries which do not need it.

5. *There should be a Development Box of measures to enhance the food security and stimulate the agricultural production of the rural poor in developing countries on a permanent basis.* These measures should not be articulated as exceptions to reductions in AMS, but rather as developing country rights. Included in this box should be elements of SDT now included in Article 6.2 of the AoA, expanded as appropriate to provide:
 - direct and indirect investment and input subsidies or other supports to households below a poverty line in order to encourage agricultural and rural development; such supports could be general, or product specific, provided they are effectively targeted to the rural poor;
 - programmes that support diversification in the agriculture of small, low-income developing countries dependent on a very small number of commodities for their exports;
 - foodstuffs at subsidised prices in targeted programmes aimed at meeting food requirements of the poor, whether urban or rural, as part of an overall effort to enhance food security.

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6. *There should be a new special safeguard provision available only to developing countries* introduced into the AoA. Its purpose should be to provide quick but time-limited protection against import surges that could hurt poor producers.

7. *A new provision should be introduced mandating a regular review of SDT implementation.* This could be done through a systematic annual review of donor assistance commitments and other

measures taken in favour of developing countries. Alternatively, a similar systematic review could be undertaken on a country-by-

country basis in the context of the *Trade Policy Reviews* for developed country WTO members.

Notes

1. There is another exception: in the Agreement on Subsidies and Countervailing measures a special *per capita* income cut-off has been established.
2. There is a long literature on this topic. Some examples include Karsteny and Laird (1987); Onguglo (1999); UNCTAD (1999); Topp (2001).
3. See FAO (2002b) for approaches to cutting tariffs by formulas that are beneficial to developing countries.
4. ABARE (2002) in fact lists 41 countries, but Mongolia had not been classified as a developing country when it acceded to the WTO.
5. The ten countries are: Brazil, Colombia, Cyprus, Indonesia, Israel, Mexico, Romania, Turkey, Uruguay and Venezuela (WTO 2002a).
6. See WTO (2000a–d); WTO (2001a, b); Green and Priyadarshi (2002). A number of these proposals (by India, the Small Island Economies, the Dominican Republic, Pakistan and Sri Lanka) were reiterated during the Special Session of the WTO Committee on Agriculture, 4–8 February 2002 (see Ruffer 2002).
7. It should be noted in this regard that “low food price” policies tend to have a net negative effect on poor farmers (Ruffer 2002).
8. There are, of course, a number of other important issues in the negotiations pertaining, for example, to the future rate of AMS reductions by developed countries, limitations on their use of Green Box subsidies and export credits, etc. These are not discussed here as they are not SDT measures in favour of developing countries, but rather involve developing country proposals to level the playing field by having developed countries accelerate the reductions in their trade-distorting policies.
9. The limitation in time raises the question as to what should happen if the cause of the problem (e.g. a developed country subsidy) persists. There are two answers to this. First, developed country export subsidies are supposed to be phased out over time. If they are not, then the developed country would be in violation of its commitment and could be countervailed under the Agreement on Subsidies and Countervailing Measures. Alternatively, the special safeguard could provide for a review after a certain period of time. The point is that the special safeguard should not provide a cover for long-term protection.

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