

IDS Working Paper 163

**The future of Special and Differential Treatment (SDT) for
developing countries in the WTO**

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September 2002

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Summary

This Working Paper provides a background analysis of special and differential treatment (SDT). It argues that the underlying case for SDT remains intact even though the status quo is unsatisfactory.

Historically, the cases for and against SDT have been couched in developmental terms, with protagonists arguing over whether lower levels of development justify special treatment or, by contrast, make the adoption of “standard” rules even more desirable. Instead of pursuing these old debates, the Working Paper focuses on the more pragmatic case for SDT. This takes the core role of the WTO as agreeing rules for trade that enhance transparency and predictability – an agenda that can be advanced only on the basis of consensus.

The pragmatic case is that SDT is not only desirable but, actually, essential if the Doha Round is to move beyond a very low lowest common denominator. Consensus decision-making requires all members to acquiesce before a new rule can be agreed. Binding dispute settlement means that no member should acquiesce in any decision on which it is not fully informed. And the complexity of many issues on the Doha agenda means that few developing countries (DCs) will be able adequately to assess all the possible implications.

The key requirements for SDT are that: there is agreement that one size does not fit all yet the interests of each member are not so dissimilar that they require unique treatment; broad groups of countries can be identified on the basis of objective data; and that some active mechanism must be found that relates the shared differences of such groups to the rules that are being proposed. It may be necessary to combine different characteristics in order to identify a coherent group with special needs. This is likely to be a contentious process but, on the precedent of GATT Rounds, problems are more likely to be overcome if there are multiple, cross-cutting sub-groups.

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1 Introduction

1.1 The research issue

Whilst a broad-based multilateral trade round may benefit poor countries and can occur only if they support it, many DCs are sceptical (UK White Paper 2000: paras 232–3). One reason is concern that rules in the “new areas” of trade policy, such as trade-related investment measures (TRIMs), trade-related intellectual property rights (TRIPs), sanitary and phytosanitary standards (SPS) and services are difficult to assess and expensive to implement (IDS 2001).

The Doha Ministerial Declaration (2001) re-affirmed that ‘provisions for special and differential treatment are an integral part of the WTO Agreements’, and it agreed that ‘all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational’ (para. 44). The Ministerial Declaration also requires ‘Modalities for the further commitments, including provisions for special and differential treatment, [to] be established no later than 31 March 2003’ (para. 14).

But little progress appears to have been made to identify and negotiate reforms that respond to perceived problems (or even to articulate the problems with sufficient specificity to allow solutions to be identified). This Working Paper is a modest contribution to breaking this log-jam. It builds upon research undertaken in various research networks to provide both an initial analysis of the areas in which new forms of SDT are desirable and an indication of the further work required to operationalise them.

The underlying assumptions are that:

- there are areas of new trade policy in which it is developmentally desirable (or, at least, neutral) for new rules to apply differently to developing and to industrialised countries;
- existing provisions for SDT do not adequately deal with these cases;
- a multilateral agreement in which DCs are exempted from some obligations is superior to a plurilateral agreement (i.e. one between several WTO members) from which they are excluded altogether;
- a re-formulation of SDT to the needs of the new trade agenda would have positive effects for both development and multilateral trade policy.

Section 4 applies such assumptions to a “worked example” in the form of food security and the WTO Agreement on Agriculture (AoA). Agriculture has been selected as the illustrative example because there is some understanding of potential areas in which DCs might wish to be treated differentially; in many of the “new areas” of trade policy such understanding does not yet exist.

Section 5 of the paper suggests an analytical framework for developing appropriate SDT in such cases. It distinguishes, in particular, between new rules that some DCs find politically difficult to accept and others that may be desirable but impose heavy financial, technical or human resource costs. In both

cases, a distinction is also made between countries that are sufficiently small players for non-compliance to pose a trivial “cost” to other WTO members and those in which this is not the case.

2 The status quo on SDT

This section summarises the status quo in relation to “old SDT”, showing how the enforceable provisions of the World Trade Organization (WTO) are being eroded and how many of those relating to “new trade issues” are unenforceable. The history of SDT has been well covered (for example by Michalopoulos 2001, Whalley 1999 and Fukasaku 2000). In essence, the argument is that:

- SDT had its origins in a view of trade and development that questioned the desirability of DCs liberalising border measures at the same pace as industrialised countries (ICs);
- the popularity of this approach was (possibly temporarily) in decline in many DC governments during the negotiation period for the Uruguay Round Agreement;
- consequently, many SDT provisions on border measures and subsidies envisage DCs (other than the least developed) following a similar path to that of the ICs but at a slower pace;
- other SDT provisions (particularly those covering positive support to DCs via financial and technical assistance or technology transfer) were not agreed in a form that is enforceable within the WTO system.

2.1 Types of SDT

There are currently three areas of SDT, and they apply to three principal groups of countries. The types of treatment are modulation of commitments, trade preferences and declarations of support, while the main country groups are the ICs, the DCs and the least developed (LDCs).

2.1.1 Modulation of commitments

The most substantial SDT provisions are those which allow for a modulation of commitments by different type of member. Hence, for example, the AoA requires the ICs to reduce their tariffs by 36 per cent over six years, but DCs have to do so by only 24 per cent over ten years and LDCs do not need to cut their tariffs at all. Similarly, the Agreement on TRIPs required ICs to implement its provisions within one year (from 1 January 1995), but for DCs this transition period was five years (extendable to ten years for technology sectors where no previous intellectual property (IP) protection was accorded), whilst for LDCs the delay was 11 years (extendable on request to the WTO Council).

This aspect of SDT is normally “legally enforceable” in the following sense. A WTO member may use the dispensations granted under SDT in its defence if its trade policies are challenged by another WTO member on the grounds that they do not conform with the Uruguay Round commitments. Hence, for example, if India were challenged on the grounds that it had not reduced its agricultural tariffs by

36 per cent, it would have a watertight defence in dispute settlement by pointing to the fact that it is required to liberalise by only 24 per cent.

2.1.2 Trade preferences

The second area is the provision of trade preferences (mainly by ICs to DCs and LDCs). Under the 1979 Enabling Clause, WTO members are permitted to suspend the granting of most-favoured-nation (MFN) treatment in cases where they are offering better-than-MFN tariffs to DCs.

The legal enforceability of these provisions is questionable. A strong case can be made that the Generalised System of Preferences (GSP) of most ICs can be justified under the SDT provisions of the Enabling Clause. In other words, if the European Union (EU) were to be challenged in dispute settlement by, say, the United States (USA) on the grounds that the standard GSP tariff available to all DCs was lower than the MFN tariff being applied to imports from the USA, the EU would probably be able to cite the SDT provisions of the Enabling Clause in its defence. However, as has been seen in the case of the challenges from Latin America and the USA to the EU banana regime, other aspects of trade preferences are less securely underpinned by legally enforceable SDT. Problems arose in the case of bananas because:

- the differential tariff was challenged on the grounds that it favoured one group of DCs over another (and, hence, could not be justified under the Enabling Clause);
- the system of import licensing for companies was challenged on the grounds that it contravened the EU's commitments under the General Agreement on Trade in Services (GATS).

2.1.3 Ancillary support

The third area of SDT is wholly unenforceable. It comprises the large number of declarations of support for DCs that litter the Uruguay Round texts. For example, Article 4 of GATS deals with encouraging the increased participation of DCs in international services trade through "negotiated specific commitments" relating to the strengthening of their domestic services capacity, improvement of their access to distribution channels and liberalisation of market access in sectors and modes of supply of export interest to them. Similarly, the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries* requires members to review the level of food aid to ensure that it is sufficient to meet the legitimate needs of DCs, to adopt guidelines to ensure that an increasing proportion is provided to LDCs and net food importing developing countries (NFIDCs) and to give full consideration in their aid programmes to help improve agricultural productivity and infrastructure. There are many other such references.

As is well known, there is no action that an aggrieved DC can take either inside or outside the WTO to force another member (or an international organisation) to take actions that it believes are consistent with these undertakings. A considerable element of the discontent expressed by DCs in the WTO about the failures of SDT derives from resentment that they were "hoodwinked" into signing the Single Undertaking through promises that were, literally, not worth the paper they were written on.

2.1.4 Lessons

What lessons are to be drawn from this review of the status quo? There are at least three:

- SDT provisions are worthwhile only if they are enforceable in some fashion that is relevant to the situation to which they respond;
- this lesson has not been lost upon DCs, and so the tactic used during the final stages of the Uruguay Round to bring everyone on board (of offering unenforceable ancillary support) will probably not work at the end of the Doha Round;
- the WTO has no internal mechanism to adjudicate on membership of state groups to which legally enforceable SDT applies; the LDC group is a United Nations (UN) category that WTO members have chosen to accept as a basis for special treatment and, whilst NFIDC membership requires a state to fulfil certain criteria, these are minimal;¹ and all other categories are self-selecting: each member indicates whether it considers itself to be an IC or DC (or NFIDC).

2.2 Problems with the status quo

There are two principal problems with the status quo. One is that the existing, legally enforceable provisions are eroding assets. The other is that large areas of “new” trade policy are without any legally enforceable SDT.

Most legally enforceable SDT is an eroding asset in the sense that it provides modulation of commitments, the vitality of which will decline directly (if time limited) and indirectly (if it relates to removal of barriers that all members are reducing over time). Hence, the implementation delays under TRIPs and the AoA cease to provide differential treatment once the extended timetable has expired. Similarly, SDT provisions that require DCs to liberalise/reduce subsidies etc., but to a lesser extent than ICs, will in due course cease to have validity when the DCs’ remaining barriers reach very low levels.

It is true that in cases where LDCs have been exempted from tariff/subsidy reduction altogether their concessions will not be eroded in this way. But many vulnerable DCs do not fall within the LDC group.

The problem in the new areas of trade policy (such as TRIPs, services, government procurement and competition policy) is that it is far from clear what form effective SDT would take. Evidently, the removal of formal market access barriers is either irrelevant or a minor aspect of rule formation. Hence, the “traditional recipe” of slower, more limited barrier removal is not relevant.

¹ To be a member of the NFIDC group a state must:

- be a developing country;
- have been a net importer of basic foodstuffs in *any* three years of the most recent five-year period for which data are available;
- notify the WTO Committee on Agriculture of its wish to be so classified.

At the same time, even in cases where the form of SDT has been identified the modalities remain an area of controversy. It has been argued, for example, that TRIPs adopted inappropriate SDT by agreeing extended, but time limited, implementation periods for DCs and LDCs. The provision that DCs implement TRIPs within 5–10 years, and LDCs within 11 years, implies that some organisation has assessed the implementation capacity of these states and concluded that this is a realistic time period. But, of course, no such assessment has ever been made. The agreed figures are purely “negotiated ones”, i.e. dates which all parties actively or passively were willing to accept. They could be too long – and by the same token they could be far too short. And, whilst the SDT provision for the LDCs allows for an extension on request, the agreement still provides no objective basis on which to assess whether or not such a request is justifiable.

3 Is there a case for new SDT?

Old SDT is in decline: should it simply be buried or is there a case for new SDT? There is both an analytical and a political answer to the question. This Working Paper is primarily concerned with the analytical answer. But it is worth mentioning the political one too.

3.1 The political case for SDT

The fundamental political argument in favour of a new form of SDT is that closure in the Doha Round may be impossible to achieve without it. Or, rather, closure in the Doha Round on the basis of reasonably precise new rules and a continuation of binding dispute settlement may be unlikely.

The two caveats are important. For there to be closure within the WTO there must be consensus. And for there to be consensus one of two conditions must be satisfied.

- Either all members must acquiesce in the rules that have been proposed.
- Or there must be let-out clauses for those that do not acquiesce.

In the past, it could be argued that SDT has applied much more widely than described above and benefited a very wide range of members. This “informal” SDT was achieved by incorporating into the GATT texts vague phrases that could be interpreted in different ways by different members. Such vagueness included such current *causes célèbres* as the Article XXIV requirements that an FTA/Customs Union should cover “substantially all trade” and be completed “within a reasonable period of time”. This allowed countries with different views of what should be done to sign up to the same set of words, secure in the knowledge that they could apply them in their chosen way once the ink was dry.

The innovation of the Uruguay Round to make dispute settlement binding has removed this escape route. This fact was not necessarily fully recognised by all (or even most) parties to the Uruguay Round. The subsequent striking down by the WTO of the US offshore tax regime and the EU banana regime, for example, has concentrated minds. In neither case was the defendant wilfully flouting WTO rules: both believed that, on their interpretation of the rules, they had a strong defence.

Consequently it is unlikely that by the end of the Doha Round countries will be willing to put their trust in vague phrases which might subsequently be defined in unexpected ways by a Dispute Settlement Panel. Hence, unless negotiators are confident that consensus can be achieved on all major issues, there is a choice between alternative methods of achieving closure.

One approach to this problem is to weaken the current provision of binding dispute settlement. The other is to create new, more robust forms of SDT. The argument in this paper is that the latter route is the more supportive of the multilateral trading system. In the absence of either there is a danger that rule-making will move outside the multilateral arena and become plurilateral or regional/bilateral.

3.2 The analytical case for SDT

From an analytical point of view, what are the criteria for SDT? The fundamental criterion is that, in the area being negotiated, there should be a recognition that a “one size fits all” approach is not necessarily appropriate. Almost all WTO members adopt this principle to a greater or lesser extent in their domestic economic policy. Many countries have differential economic policies to favour peripheral regions or disadvantaged social groups. This is in recognition of the political, if not the economic, necessity to treat some areas/groups differently from others. Such considerations apply *a fortiori* at the global level. Hence, the default assumption at the multilateral level should be that one size *does not* fit all.

If the default assumption is that this fundamental criterion is normally present, then three further criteria are required to support a case for SDT. They are:

- the interests of each member must not be so different that they require unique treatment;
- there must be some way to identify broad groups of countries that share sufficiently similar characteristics to warrant the uniformity of treatment among themselves but differential treatment compared with others;
- and there must be some actionable mechanisms that relate to these shared differences and to the rules that are being proposed.

3.2.1 Balancing similarity and difference

In a sense every country is different, and each one makes its own, independent commitments during WTO Rounds. These commitments are reflected in its national schedules, which apply any general principles that have been agreed to its national trade-related policies. For issues where every country is completely unique, the only way in which difference can be reflected is through variations in agreed commitments in the national schedules.

Achieving differentiation through national schedules, though, presents either an infeasibly large negotiating burden or substantial post-agreement risks. For every WTO member to reach agreement with every other one on the precise provisions of its national schedules could not realistically be accomplished within the timespan of a normal set of WTO negotiations. The Uruguay Round tariff schedules of the EU alone run to some 9,500 lines.

Hence, there would be an element (probably a large one) in which states took on trust that each member's national implementation schedules faithfully reflected the general rules agreed, applying them in a way that was sensitive to the domestic situation. But, without any agreed modulation in general principles, such action would be highly vulnerable to subsequent dispute settlement in which one party argued that another's implementation schedules did not fully reflect the general principles that had been agreed.

3.2.2 Identifying groups

Whilst recognising, therefore, that every country is different, it is highly desirable to identify broad groups with similar characteristics that can be reflected in modulations to the general principles incorporated in the Doha Round texts. But how are such characteristics to be measured? Work by the OECD has shown the shortcomings of most "off-the-peg" indices, and has contributed to the task of assessing new combinations of criteria (OECD 2001). From this it is clear that much work remains to be done.

In the next section an illustration is provided in relation to food security. It could be argued, for example, that there should be special provisions in the new AoA for food insecure states. But how is food insecurity to be identified, and what organisation is to judge whether or not a country is, or is not, food insecure? Unless this practical issue can be overcome, the scope for highly nuanced SDT is limited.

The more imprecisely defined the characteristics of group members, the more bland the agreed SDT is likely to be. For example, it is possible that WTO members would agree to very substantial SDT within the AoA in relation to market access and domestic subsidies if it applied only to very poor states with sickly agricultural sectors. But it is implausible to expect them to do so if it were available to all DCs, since it would then apply equally to Cairns Group members.

3.2.3 Modulations

Finally, having identified groups with common features it is also necessary to identify specific, actionable modulations in the rules that answer to these characteristics. Without this link, SDT will tend to be exhortatory rather than legally enforceable.

To continue with the AoA example, in what sense should most food insecure states be treated differently in relation to market access liberalisation or the provisions on domestic subsidies than other states? Answers to such questions spring easily to mind in relation to the AoA because the agenda is familiar (tariff cuts, subsidy reductions, etc.).

But what if the same question were asked of proposed new rules on competition policy? There are at least two sets of problems, which are taken up in Section 5. In cases where the proposed new rules require governments to do something positive which is within their power, the issues are the ones familiar from old SDT: are the proposed changes more burdensome for poorer countries (as supporters of SDT have tended to argue in the past) or more necessary (as their opponents have claimed)? Just as battle lines were drawn in the past between opponents of sharp liberalisation by DCs and those arguing that the poorer the state the more it stood to gain, so there will probably be dispute over whether or not poor countries stand

to gain more rather than less than rich ones from transparent government procurement open to all suppliers.

The second set of problems arises in cases where governments are required to do something positive that is not within their power. Some of the criticisms of TRIPs (IDS–DFID 1999) and of the Customs Valuation Code (Finger and Schuler 2000) argue that the actual and opportunity costs of compliance are too high. Here the argument may be over the relative merits (including implementation) of modulating commitments as opposed to providing support to facilitate compliance.

4 Some worked examples on agriculture

Before moving on to these really tricky questions of identifying appropriate, enforceable SDT in relation to the new areas of trade policy, it may help to clarify the task by providing a worked example in more familiar terrain. This is provided by the AoA.

Most SDT provisions on market access for goods and on subsidies are heavily eroded, because there has been considerable liberalisation and rule-making over past decades. But this does not apply in the case of temperate agriculture. Current distortions for temperate agriculture are similar to those that applied to other goods in the early years of the GATT. Whilst “old-style” SDT is near or past its sell-by date in relation to most trade in goods, it is still young and vigorous in relation to temperate agriculture. Indeed, it has been pointed out by many commentators that the multi-coloured boxes of the AoA represent SDT in favour of the ICs!

This section provides an illustrative attempt to identify appropriate sub-groups within the WTO for differential treatment under a revised AoA. It seeks to obtain objective criteria that would establish the membership of such groups.

4.1 Does one size fit all?

The “special” role of agriculture is a feature of several WTO members’ proposals to the Committee on Agriculture (not least that of the EU, with its concern for “multifunctionality”). It is evident that:

- some agricultural exporting countries are highly suspicious of multifunctionality as a (none too) covert means of perpetuating IC protectionism; but
- for many DCs agriculture does play a major role in the economy and in the livelihoods of vulnerable people that sets it apart from other sectors.

This would seem to be precisely the area where SDT could play a role: to distinguish between genuine and justifiable claims for special treatment (especially if those receiving it were unlikely to cause major distortions to world trade) and those that are not.

What is meant by the term “justifiable”? One aspect of this issue is the point raised above over whether DCs have more or less to gain from stronger rules than rich ones. Given the objective of the Working Paper, this aspect is side-stepped to avoid the paper’s being drawn into an analysis of competing

development paradigms. But there exists a justification for this side-stepping that derives from the fact that the WTO has a dual mandate, and different answers could be given under each.

One WTO goal is to foster the liberalisation of world trade on the grounds that this is a common good. A foundation stone of the “old SDT” was that this assumption was questioned for countries on the periphery of the world economy. More recently, though, opinion has tended to swing towards the notion that liberalisation is generally good for development (and, therefore, that the burden of proof lies with those who wish to delay it).

But the WTO has another mandate which is, perhaps, a less controversial basis for SDT. This is to agree new rules for international trade. Whilst many new rules foster liberalisation and the expansion of trade, others clearly do not do so directly (e.g. the Multifibre Arrangement). The best that can be said for them is that they promote predictability and transparency, and that these will contribute to the growth of trade. Hence, in a sense, any rules are considered better than no rules.

Since the WTO acts by consensus, rules can be adopted only if they are supported by all. And if some DCs are reluctant to accept new rules, this will block change. The justification for SDT is that it will provide an objective basis on which to modulate new rules and, hence, help consensus building.

4.2 Which states are food insecure?

If there is an acceptance that one size may not fit all, the next step is to identify sub-groups of members. The “food insecure” is an obvious category.

The answer to the question “which states are food insecure” is not obvious, since it is *people* not countries that are normally considered to be food secure or insecure. How can concepts and measures that have been developed in relation to individuals be applied to states? Is the prevalence of food insecurity best indicated by poverty indicators (like gross domestic product (GDP) per head), or are there countries that are especially food insecure even though they are not necessarily the poorest? And, having identified states that are food insecure, what practical modulation of current, or likely future, WTO commitments does this status justify?

4.2.1 What is “national” food insecurity?

If food insecure states are to be given special support in the AoA negotiations (such as less onerous subsidy restrictions and priority food and financial assistance outside the WTO), it is important that they be identified correctly. By analogy to the analysis of individuals following Sen (Drèze and Sen 1990), the food security of a state can be said to depend upon:

- its production entitlements, which reflect the food that can be produced domestically;
- its trade entitlements, which reflect its ability to earn sufficient foreign exchange with exports to purchase imported food; and
- its transfer entitlements, which cover food that can be obtained either directly through food aid or indirectly by (semi-)commercial imports financed through financial aid.

This suggests that the most food insecure states are those that combine insufficient domestic production to ensure the entitlements of all the population with an export structure (not necessarily just for agriculture) that is unsatisfactory in terms of one or more of the following characteristics:

- low per capita value and poor growth prospects;
- heavy dependence upon a small number of commodities facing fluctuating supply or demand;
- heavy reliance of exports on a single market with fluctuating demand.

It follows that neither low GDP nor dependence upon imported food are, by themselves, necessarily indicators of national food insecurity. Some modest importers could be more insecure than larger importers – their low imports indicate not an adequacy of domestic production but an inadequacy of foreign exchange with which to finance greater imports! It is the combination of characteristics that is important.

Does existing WTO terminology adequately capture this combination? The answer is ‘No’. Within the WTO the term “food security” is used in a much narrower sense and relates primarily to the adequate supply of imported food to member states. Some 22 states are recognised as NFIDCs,² and the 49 LDCs also receive special attention. This usage reflects concern that the liberalisation of world agricultural trade could lead to a rise in world prices for commercial imports and a reduction in the volume of food aid. Yet only one NFIDC (Kenya) falls among the 30 countries with the lowest calorie availability (a fairly robust proxy for food insecurity), and three of those 30 are neither LDC nor NFIDC (UNDP 2000: Table 23).

But if the existing definitions appear inadequate, how could they be developed? The entitlements analysis demonstrates that, in one sense, almost all aspects of the WTO may have food security effects. For example, the Multifibre Arrangement, by restricting the clothing industries of many DCs, has certainly impacted adversely on trade entitlements. But it is hard to imagine a consensus emerging among WTO members for substantial and enforceable SDT treatment to all states satisfying such broad criteria unless it was restricted to the very poorest and smallest states.

The LDC group comes close to satisfying these broad criteria. All have a low level of production and economic diversification. But limiting differentiated treatment just to LDCs would represent a substantial retreat of SDT. A reasonable working assumption is that there exist some non-LDCs that are food insecure – but how are they to be defined in a way that commands respect? Some focusing will be necessary. An operationally effective definition is needed to allow modulation of those WTO rules with greatest food security implications.

One possible way around the problem is to limit SDT to particular vulnerable groups *within* DCs. This is partly the approach adopted in the existing AoA and built upon in proposals for a Development Box. This approach would allow SDT for all DCs, but only in relation to measures that specifically

² WTO (2002) lists 23 NFIDCs, but one – Senegal – is also an LDC, and has been included in that group rather than in the NFIDC group in this Working Paper.

identify small, resource-poor farmers. Similar modulation in relation to identifiable groups or regions within countries may well be appropriate, too, in other areas of the Doha Round for which SDT is justifiable.

This approach is not competitive with the one described in this Working Paper that seeks to identify entire states for differential treatment. The two approaches may proceed in parallel. But the group-/region-specific approach necessarily assumes special knowledge of the economic activity subject to rule-making, e.g. the needs of resource-poor farmers. It does not lend itself, therefore, to the broad-brush analysis that is the focus of the Working Paper which attempts to contribute to the process of identifying general rules and methodologies. None the less, the following section suggests a way in which the two approaches may be integrated.

A first step establishing the criteria for membership of a food insecure group of states is to identify the areas of WTO rule-making that might be problematic, and why. This is done in the next sub-section. Then, an initial illustrative analysis is made of criteria that are relevant to such concerns and of the range of countries captured by various thresholds.

4.3 Modulating commitments

A precise identification of appropriate new SDT measures cannot be provided until there exists some greater understanding of the new rules likely to be adopted in the AoA negotiations. But there is an expectation that the new Round will cover all three of the main elements of the AoA “architecture”: market access, export subsidies and domestic subsidies. Any tightening of rules in these three areas will tend to cause concern in different groups of states. These are set out analytically in Table 4.1 and discussed below.

Table 4.1 Potential areas of concern over new agricultural trade rules

Rules on	Potential legitimate concerns in
Lowering import controls	Countries aiming to increase domestic agricultural production Food importing states
Reducing export subsidies	Food importing states
Reducing domestic subsidies	Countries aiming to increase domestic production

4.3.1 Market access

The interests of food insecure DCs concerning market access will be largely focused on any obligations they accept in relation to their own barriers against imports. Many insecure countries either export primary commodities that face low barriers in OECD markets or, if they do not, they have preferential access to protected markets. For those exporting non-sensitive products, OECD liberalisation is unlikely to result in any significant change (and, arguably, DC liberalisation is likely to be less important in stimulating world demand for their exports than is DC growth). For countries with preferential access for sensitive products,

preference erosion is likely to affect trade entitlements, but the main arena in which the pace of erosion is set is that of the importing countries rather than the WTO. Although multilateral liberalisation will erode (and eventually remove) preferences, it is unlikely that the current WTO Round will take more than one, modest step in this direction.

There are strong views about the desirability or otherwise of DCs liberalising their import regimes. But this brings us back to the central question posed earlier, which is whether the WTO's rule-making or liberalising mission should take precedence when the two cannot easily be advanced simultaneously. Even among those who favour a broadly liberal trade policy for DCs, there is a recognition that the agricultural sector of some DCs has been artificially depressed by previous policies (including, above all, neglect) and that increasing agricultural production is a high priority. There could be a case, therefore, for allowing poor countries with large agricultural sectors some relief on liberalisation in order to allow for greater incentives to domestic production.

Countries in which food imports represent a significant element in total supply but with fragile trade entitlements will also have an indirect interest in liberalisation of market access. To the extent that it contributes to a decline in production in the most heavily protected markets (mainly the OECD), it will tend to increase world prices.

4.3.2 Export subsidies

An increase in world prices following cut-backs in OECD production will tend to result in an adverse movement in the terms of trade of food importing DCs which may have an impact on food security for those with limited opportunities to boost exports or to increase domestic production. Such countries will be affected more directly by curbs on the export subsidies currently provided by a small number of OECD states. Such curbs are likely to have an immediate impact on world prices, at least until the exports of non-subsidisers bounce back from their current, artificially depressed, levels to take advantage of the new opportunities.

Moreover, there may be longer-term effects. To the extent that exports from subsidisers are replaced by exports from non-subsidisers, there could be a reduction in the availability of imports to very poor countries even if world prices do not rise. This could occur if poor countries currently receive food aid or so-called "grey" imports (that do not qualify as food aid, but are sold at below market prices) from a subsidising state. There is no reason to suppose that the increase in exports from non-subsidisers will be made available to the same poor countries and on the same terms as the concessional exports that they replace.

4.3.3 Domestic subsidies

Countries in which there is an objective need to boost domestic agricultural production will also be concerned by any new WTO rules that limit the scope for domestic subsidies. It has been well remarked that few DCs are able (or willing) to provide subsidies for agriculture that come anywhere close to the current limits. But a further tightening of such limits might cause difficulties for some states.

4.4 Identifying groups

There are thus two (possibly overlapping) categories of countries that might be affected in different ways by change to the three principal elements of the current AoA architecture. These are:

- countries aiming to boost domestic agricultural production that may wish to increase incentives to farmers by keeping import prices high and increasing domestic subsidies;
- food importing states with weak trade entitlements that may be concerned about their capacity to import sufficient food in future.

4.4.1 Relevant indicators

What indicators exist to identify the countries that would be most vulnerable to such changes?³ Several attempts are being made to answer this question (see, for example, Diaz-Bonilla *et al.* 2000). At present there exist the LDC group, which *may* equate to the first category of states, and the NFIDC group, which is focused on the concerns of the second category. But are these sufficient?

An analysis of the types of indicator that might be relevant is provided in Table 4.2. This takes the two categories of countries identified in Table 4.1 and lists for each some illustrative indicators. One group consists of those countries in which agriculture is an important source of livelihoods but production is low (where a legitimate emphasis of policy is to boost agricultural production – a task that might be made more difficult by curbs on import controls or domestic subsidies). The other consists of those countries that are dependent on imports for a significant part of domestic consumption but have weak trade entitlements (and which would be vulnerable, therefore, to sudden increases in world prices).

Table 4.2 Relevant indicators for SDT

Characteristics of country	Indicator
Agriculture is important source of livelihoods but production is low	<ul style="list-style-type: none"> • High share of agriculture in GDP • Low per capita calorie supply
Import dependence with weak trade entitlements	<ul style="list-style-type: none"> • High food imports as share of GDP • High vulnerability • Low per capita calorie supply

In both cases, it is a combination of characteristics that indicates particular vulnerability. For the first group of countries a necessary condition is that agriculture should represent a relatively high proportion of GDP. But this would include wealthy countries or those with sufficient non-agricultural production that they can easily assure the food security of their populations. An additional criterion suggested in the table, therefore, is that average per capita calorie supply should be low. Alternative indicators can easily be

³ The following analysis overlooks the problems of *countries* with strong entitlements but *population groups* with weak entitlements (because of inequitable domestic distribution). This is because problems of this type are dealt with more appropriately by the targeted SDT approach described above.

identified and, even if the one suggested finds favour, it would be prudent to take a multi-year average. But the present exercise is intended as an illustration of a methodology, not a definitive exercise.

Similarly a high share of food imports in GDP is a necessary criterion for establishing import dependency but not a sufficient one. Low per capita calorie supply will indicate which among such countries have substantial vulnerable populations. On top of these, some indicator is required of a country's weak trade entitlements. The indicator suggested in Table 4.2 is the composite vulnerability index compiled under the auspices of the Commonwealth Secretariat.⁴

4.4.2 Calorie supply: the basic indicator

To what extent do these criteria overlap, either with each other or with the existing LDC and NFIDC groups? Tables 4.3 and 4.4 show what happens when an attempt is made to identify a coherent group of countries which have the optimum combination of characteristics. Table 4.3 starts with per capita calorie supply. The FAO/WHO-recommended minimum level is 2,300 calories per day. Since there will be substantial variations between consumption levels within a country it is unrealistic to characterise as low calorie availability only those countries with an average per capita supply of less than this level. On the other hand, it would be inappropriate for WTO rules to give special consideration to countries just because they have highly unequal consumption patterns. A threshold of an average per capita calorie supply of 2,500 has been taken as an initial indicator to illustrate the range of countries that would be brought in by such a threshold. It allows for a limited degree of unequal calorie availability within a country.

Table 4.3 presents the 72 countries for which data are available that have an average per capita daily calorie supply of less than 2,500 in ascending order of calories. It also indicates whether or not the countries are classified as LDC or NFIDC.

It is evident that there is a weak correlation between LDC and NFIDC states and per capita calorie supply. The two categories cover some but not all states. Twenty-five of the countries are neither LDC nor NFIDC. Moreover, a further four states are classified as LDC but have a per capita calorie supply in excess of 2,500 (and range from Mauritania with 2,622 to Cape Verde with 3,015). Twelve NFIDC states have a calorie supply in excess of 2,500, ranging up to 3,287 (Egypt). Hence the LDC and NFIDC categories combined cannot be used as an adequate indicator of food insecurity.

⁴ The composite vulnerability index (designed initially to respond to the problems that small countries perceive that they face) aims to integrate three aspects of vulnerability: economic exposure, remoteness and insularity, and susceptibility to environmental events and hazards. It uses the following variables to measure these aspects: export dependence (exports as a share of GDP), the UNCTAD diversification index, and, for small states, the proportion of the population affected by natural disasters over a long period of time (Commonwealth Secretariat/World Bank 1999).

Table 4.3 Average per capita calorie supply

Country	Daily per capita calorie supply ^a 1997	LDC	NFIDC ^b	Country	Daily per capita calorie supply ^a 1997	LDC	NFIDC ^b
Eritrea	1,622	Yes		Nicaragua	2,186		
Burundi	1,685	Yes		Papua New Guinea	2,224		
Congo Dem. Rep.	1,755	Yes		Guinea	2,231	Yes	
Mozambique	1,832	Yes		Azerbaijan	2,236		
Comoros	1,858	Yes		Lesotho	2,243	Yes	
Ethiopia	1,858	Yes		Dominican Rep.	2,288		Yes
Haiti	1,869	Yes		Peru	2,302		Yes
Angola	1,903	Yes		Sri Lanka	2,302		Yes
Mongolia	1,917			Turkmenistan	2,306		
Zambia	1,970	Yes		Venezuela	2,321		Yes
Kenya	1,976		Yes	Guatemala	2,339		
Tanzania	1,995	Yes		Gambia	2,350	Yes	
Tajikistan	2,001			Thailand	2,360		
Central African Rep.	2,016	Yes		Antigua/Barbuda	2,365		
Madagascar	2,021	Yes		Philippines	2,366		
Mali	2,029	Yes		Nepal	2,366	Yes	
Chad	2,032	Yes		Armenia	2,371		
Sierra Leone	2,035	Yes		Sudan	2,395	Yes	
Malawi	2,043	Yes		Honduras	2,403		Yes
Cambodia	2,048	Yes		Senegal	2,418	Yes	
Yemen	2,051	Yes		Guinea-Bissau	2,430	Yes	
Rwanda	2,056	Yes		Panama	2,430		
Djibouti	2,084	Yes		Uzbekistan	2,433		
Bangladesh	2,085	Yes		Bahamas	2,443		
Uganda	2,085	Yes		Croatia	2,445		
Niger	2,097	Yes		Kyrgyzstan	2,447		
Lao PDR	2,108	Yes		Togo	2,469	Yes	
Cameroon	2,111			St Vincent	2,472		Yes
Burkina Faso	2,121	Yes		Pakistan	2,476		Yes
Solomon Islands	2,122	Yes		Cuba	2,480		Yes
S.Tome/Principe	2,138	Yes		Swaziland	2,483		
Congo Rep.	2,143			Vietnam	2,484		
Zimbabwe	2,145			Maldives	2,485	Yes	
Bolivia	2,174			Benin	2,487	Yes	
Namibia	2,183			Seychelles	2,487		
Botswana	2,183		Yes	India	2,496		

Notes:

(a) Amount available for human consumption. Per capita supply represents the average supply available for the population as a whole and does not necessarily indicate what is actually consumed by individuals.
Source: UNDP, *Human Development Report 2000*: Table 23.

(b) Source: WTO (2002).

4.4.3 Indicators of agricultural dependence

To identify those states in which the food insecurity may be *agriculture related*, Table 4.4 brings in information on agricultural value added as a share of GDP. It shows the share of agriculture in GDP for all of the states with a per capita calorie supply of under 2,500 (excluding six for which data are unavailable) and also any other DC where agriculture accounts for more than 20 per cent of GDP. Those countries in the table in which average calorie supply exceeds 2,500 are indicated by shaded lines. Once again, an indication is also given of the status of each country as LDC or NFIDC.

Table 4.4 Agricultural dependence and low-calorie status

Country	Daily per capita calorie supply ^a 1997	Agric. value added share of GDP ^c 1998	LDC	NFI-DC ^b	Country	Daily per capita calorie supply ^a 1997	Agric. value added share of GDP ^c 1998	LDC	NFI-DC ^b
Guinea-Bissau	2,430	62.4%	Yes		Georgia	2,614	26.0%		
Albania	2,961	54.4%			Côte d'Ivoire	2,610	26.0%		Yes
Burundi	1,685	54.2%	Yes		Vietnam	2,484	25.8%		
Myanmar	2,862	53.2%	Yes		Paraguay	2,566	24.9%		
Lao PDR	2,108	52.6%	Yes		Mauritania	2,622	24.8%	Yes	
Central African Rep.	2,016	52.6%	Yes		Turkmenistan	2,306	24.6%		
Cambodia	2,048	50.6%	Yes		Papua New Guinea	2,224	24.4%		
Ethiopia	1,858	49.8%	Yes		Guatemala	2,339	23.3%		
Rwanda	2,056	47.4%	Yes		Guinea	2,231	22.4%	Yes	
Mali	2,029	47.0%	Yes		Bangladesh	2,085	22.2%	Yes	
Kyrgyzstan	2,447	46.0%			S.Tome/Principe	2,138	21.3%	Yes	
Tanzania	1,995	45.7%	Yes		Sri Lanka	2,302	21.1%		Yes
Uganda	2,085	44.6%	Yes		Azerbaijan	2,236	20.3%		
Sierra Leone	2,035	44.2%	Yes		Honduras	2,403	20.3%		Yes
Cameroon	2,111	42.4%			Dominica	3,059	20.3%		Yes
Togo	2,469	42.1%	Yes		Zimbabwe	2,145	19.5%		
Niger	2,097	41.4%	Yes		Yemen	2,051	17.6%	Yes	
Nepal	2,366	40.5%	Yes		Senegal	2,418	17.4%	Yes	
Chad	2,032	39.8%	Yes		Zambia	1,970	17.3%	Yes	
Sudan	2,395	39.3%	Yes		Philippines	2,366	16.9%		
Comoros	1,858	38.7%	Yes		Maldives	2,485	16.4%	Yes	
Benin	2,487	38.6%	Yes		Swaziland	2,483	16.0%		
Malawi	2,043	35.9%	Yes		Bolivia	2,174	15.4%		
Guyana	2,530	34.7%			Angola	1,903	12.3%	Yes	
Mozambique	1,832	34.3%	Yes		Dominican Rep.	2,288	11.7%		Yes
Nicaragua	2,186	34.1%			Congo Rep.	2,143	11.5%		

Country	Daily per capita calorie supply ^a 1997	Agric. value added share of GDP ^c 1998	LDC	NFI-DC ^b	Country	Daily per capita calorie supply ^a 1997	Agric. value added share of GDP ^c 1998	LDC	NFI-DC ^b
Burkina Faso	2,121	33.3%	Yes		Lesotho	2,243	11.5%	Yes	
Armenia	2,371	32.9%			Thailand	2,360	11.2%		
Mongolia	1,917	32.8%			St Vincent	2,472	10.9%		Yes
Nigeria	2,735	31.7%			Namibia	2,183	10.0%		
Uzbekistan	2,433	31.2%			Croatia	2,445	8.9%		
Madagascar	2,021	30.6%	Yes		Panama	2,430	7.9%		
Haiti	1,869	30.4%	Yes		Peru	2,302	7.1%		Yes
India	2,496	29.3%			Tajikistan	2,001	5.7%		
Moldova	2,567	28.9%			Venezuela	2,321	5.0%		Yes
Gambia	2,350	27.4%	Yes		Seychelles	2,487	4.1%		
Pakistan	2,476	26.4%		Yes	Antigua/Barbuda	2,365	4.0%		
Kenya	1,976	26.1%		Yes	Botswana	2,183	3.6%		Yes

Notes:

(a) Amount available for human consumption. Per capita supply represents the average supply available for the population as a whole and does not necessarily indicate what is actually consumed by individuals. Source: UNDP, *Human Development Report 2000*: Table 23.

(b) Source: WTO (2002).

(c) Source: World Bank, *World Development Indicators* database website.

The LDC and NFIDC categories appear to overlap only partially with these other criteria of vulnerability. No fewer than 30 of the 76 countries in the table are neither LDC nor NFIDC, and 18 of these have an agricultural sector that accounts for over 20 per cent of GDP. Among states in which agriculture accounts for over 20 per cent of GDP but which fulfil neither the calorie supply nor the LDC membership criteria are Albania, Côte d'Ivoire, Guyana, Nigeria, Moldova, Georgia, Paraguay and Dominica.

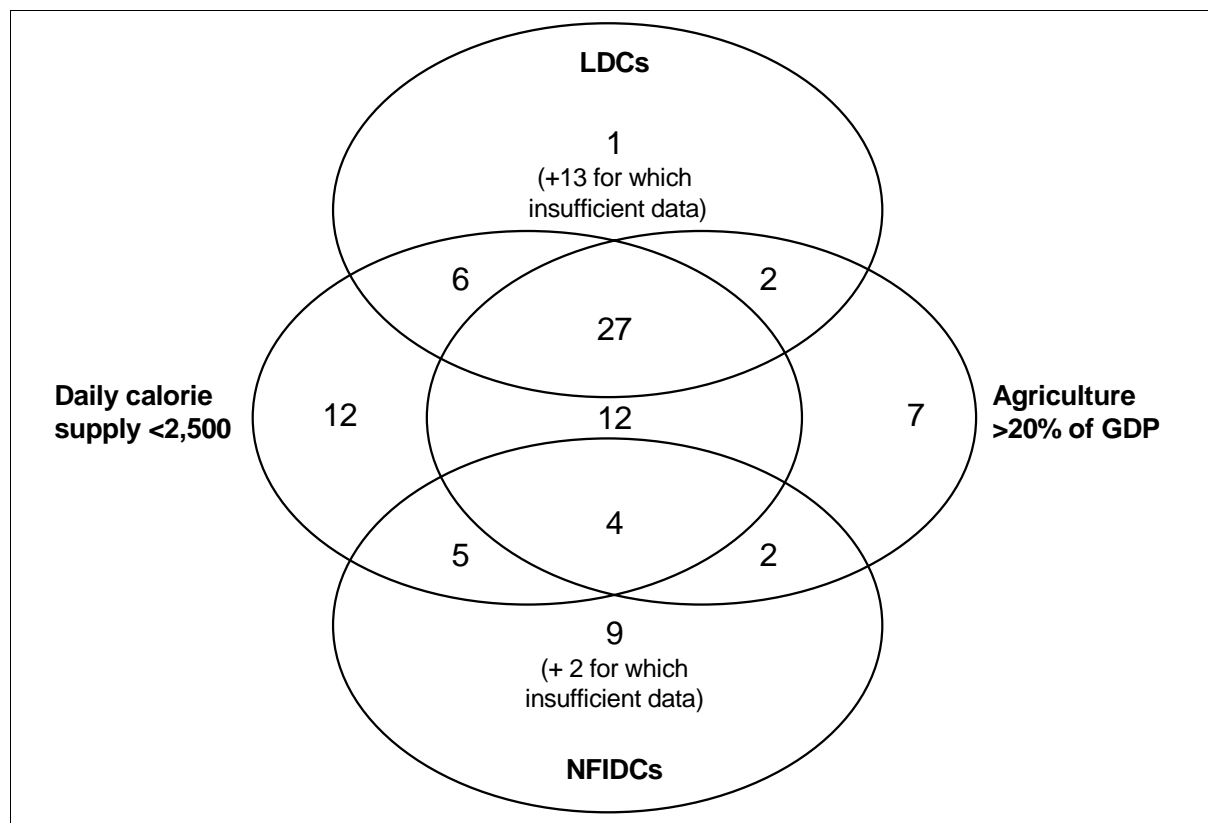
Calorie availability and size of agricultural sector have been taken as indicators of countries that might have objective concerns about lowering their agricultural import barriers and accepting lower ceilings for domestic subsidies. What legitimate concerns might other WTO members hold over requests from these states for SDT on market access and domestic subsidies? One set would include questioning of the developmental appropriateness of import controls and/or domestic subsidies by these states. But, as indicated above, this paper takes as paramount the WTO's rule-making rather than its liberalising mandate. With this self-imposed limitation, the principal legitimate concern of other WTO members is whether agreeing to SDT for this group of countries would destabilise world markets.

The overlap between these criteria (and the LDC and NFIDC groups) is illustrated in Figure 4.1. This shows that:

- 43 states (of which 27 are LDCs and four NFIDCs) share the criteria of a daily calorie supply of less than 2,500 and agriculture accounting for more than 20 per cent of GDP.

- There are a further 23 countries (six of which are LDCs) in which daily calorie supply is less than 2,500 but agriculture is less than 20 per cent of GDP.
- Apart from the countries for which data are unavailable, only one LDC (but nine NFIDCs) falls outside the central focus of the analysis.
- If special preferences were to be given to all LDCs plus non-LDCs with agriculture exceeding 20 per cent of GDP and a daily calorie supply of less than 2,500, then 26 countries that have one criterion but not the other would be excluded (17 states with daily calorie supply of less than 2,500 but a small agricultural sector, and nine countries with a large agricultural sector but a daily calorie supply exceeding 2,500).

Figure 4.1 Overlap of indicators of agricultural dependence



4.4.4 Potential to disrupt trade

How “dangerous” would it be to the international trade system if such countries were relieved of obligations in respect of import controls and domestic subsidies for agriculture? How likely is it that such relief would result in disruption to world trade? Two indicators are provided in Table 4.5. This takes the countries listed in Table 4.4⁵ and shows for each the share of agricultural exports in GDP and the

⁵ Plus the six countries excluded from Table 4.4 because of lack of the relevant data.

country's share of world agricultural trade. These indicators are used on the assumption that the principal "danger" for other WTO members is that, sheltering behind high import barriers and benefiting from substantial subsidies, some of these states might boost substantially their agricultural exports, in competition with those of other WTO members. (Arguably, another concern is that SDT will result in lower imports by these states and, hence, lower exports by other WTO members. But, given that all the countries covered by Table 4.4 are ones with low calorie availability, it can be inferred reasonably that any effect on global demand will be minimal.)

Table 4.5 Trade share of vulnerable states

Country	Agric. Exports as share of GDP	Agric. Exports as share of world agric. Exports	Cum. Share of world agric. Exports	Country	Agric. Exports as share of GDP	Agric. Exports as share of world agric. Exports	Cum. Share of world agric. Exports
	1999	2000	2000		1999	2000	2000
Thailand	5.80%	1.76%	1.76%	Tajikistan	n/a	0.03%	8.39%
India	1.00%	1.20%	2.96%	Togo	8.30%	0.03%	8.42%
Vietnam	8.50%	0.53%	3.49%	Turkmenistan	n/a	0.03%	8.45%
Côte d'Ivoire	21.20%	0.46%	3.95%	Albania	n/a	0.02%	8.47%
Guatemala	8.20%	0.38%	4.33%	Azerbaijan	2.00%	0.02%	8.49%
Philippines	1.80%	0.37%	4.70%	Botswana	1.70%	0.02%	8.51%
Pakistan	2.00%	0.26%	4.96%	Chad	5.70%	0.02%	8.53%
Kenya	9.70%	0.25%	5.21%	Georgia	1.30%	0.02%	8.55%
Uzbekistan	n/a	0.24%	5.45%	Guinea-Bissau	23.30%	0.02%	8.57%
Sri Lanka	n/a	0.23%	5.68%	Madagascar	2.20%	0.02%	8.59%
Zimbabwe	14.50%	0.20%	5.88%	Mongolia	10.10%	0.02%	8.61%
Peru	1.30%	0.17%	6.05%	Nepal	1.60%	0.02%	8.63%
Cuba	n/a	0.16%	6.21%	Yemen	0.90%	0.02%	8.65%
Paraguay	7.50%	0.15%	6.36%	Zambia	1.90%	0.02%	8.67%
Honduras	8.30%	0.14%	6.50%	Bahamas	n/a	0.01%	8.68%
Cameroon	5.20%	0.12%	6.62%	Burundi	7.70%	0.01%	8.69%
Nigeria	1.30%	0.12%	6.74%	Cambodia	1.50%	0.01%	8.70%
Uganda	6.90%	0.11%	6.85%	Central African Rep.	2.70%	0.01%	8.71%
Bolivia	4.40%	0.10%	6.95%	Congo Dem. Rep.	n/a	0.01%	8.72%
Ethiopia	6.30%	0.10%	7.05%	Djibouti	n/a	0.01%	8.73%
Papua New Guinea	12.00%	0.10%	7.15%	Dominica	n/a	0.01%	8.74%
Croatia	n/a	0.09%	7.24%	Gambia	9.30%	0.01%	8.75%
Malawi	20.00%	0.09%	7.33%	Guinea	1.00%	0.01%	8.76%
Sudan	n/a	0.09%	7.42%	Haiti	n/a	0.01%	8.77%
Dominican Rep.	1.90%	0.08%	7.50%	Lao PDR	2.20%	0.01%	8.78%
Nicaragua	13.60%	0.08%	7.58%	Mauritania	3.60%	0.01%	8.79%
Panama	3.20%	0.08%	7.66%	Mozambique	0.80%	0.01%	8.80%

Country	Agric. Exports as share of GDP	Agric. Exports as share of world agric. Exports	Cum. Share of world agric. Exports	Country	Agric. Exports as share of GDP	Agric. Exports as share of world agric. Exports	Cum. Share of world agric. Exports
	1999	2000	2000		1999	2000	2000
Swaziland	28.50%	0.08%	7.74%	Rwanda	2.40%	0.01%	8.81%
Tanzania	3.50%	0.08%	7.82%	Solomon Islands	n/a	0.01%	8.82%
Moldova	27.70%	0.07%	7.89%	St Vincent	n/a	0.01%	8.83%
Venezuela	0.40%	0.07%	7.96%	Congo Rep.	0.80%	0.01%	8.84%
Mali	9.00%	0.06%	8.02%	Armenia	1.00%	0.00%	8.84%
Myanmar	n/a	0.06%	8.08%	Comoros	3.40%	0.00%	8.85%
Guyana	32.00%	0.05%	8.13%	Lesotho	0.80%	0.00%	8.85%
Kyrgyzstan	n/a	0.04%	8.17%	Sierra Leone	1.20%	0.00%	8.85%
Senegal	2.30%	0.04%	8.21%	Angola	0.10%	0.00%	8.85%
Bangladesh	0.30%	0.03%	8.24%	Eritrea	0.50%	0.00%	8.85%
Benin	5.70%	0.03%	8.27%	S.Tome/Principe	10.60%	0.00%	8.85%
Burkina Faso	5.10%	0.03%	8.30%	Seychelles	0.30%	0.00%	8.85%
Namibia	4.00%	0.03%	8.33%	Antigua/Barbuda	n/a	0.00%	8.85%
Niger	5.50%	0.03%	8.36%	Maldives	n/a	0.00%	8.85%

Sources: World Bank, *World Development Indicators* database website (GDP); FAO Statistical Databases website (agricultural export values).

The countries in Table 4.5 are listed in declining order of their agricultural exports as a share of world exports. Only two countries – Thailand and India – account for over 1 per cent of world agricultural exports, and only seven account for over 0.25 per cent. Of these, only one (Côte d’Ivoire) has a per capita calorie supply exceeding the 2,500 threshold (although a further three – India, Vietnam and Pakistan – come close). The cumulative share of the rest is 3.89 per cent.

It goes beyond the scope of this initial essay to assess whether or not WTO members would consider countries supplying such low shares of world exports to be a “threat” and, if so, whether one could identify additional parameters for SDT (such as limiting it in such cases to staple foods) that would overcome the problem.

But it would appear to be worth serious consideration. A combination of the following criteria would include a larger number of low-calorie-supply countries (66) than does the LDC criterion alone (37):

- daily per capita calorie supply of under 2,500; and/or
- agriculture accounting for over 20 per cent of GDP; and
- 0.25 per cent or less of world agricultural exports.

Clearly, this does not rule out situations in which a state has a small share of the total but nevertheless a large share in particular product groups where ICs also have production. But in such cases it might be appropriate for the general:particular relationship of SDT noted in the preceding section to be reversed. In

the particular cases where a WTO member has grounds to oppose the application of SDT to a particular product in an otherwise eligible state, the appropriate negotiating forum is over the state's implementation schedule.

4.4.5 Import dependency

It was suggested in Table 4.1 that poor countries, dependent upon agricultural imports and with weak trade entitlements, might legitimately be concerned about IC actions that would tend to increase the price, or otherwise reduce the availability, of food imports. The appropriate SDT in such cases would not be relief from tougher rules governing their own trade and production policies, but compensatory action (either within the WTO or by prior agreement via other institutions) to help them to adjust to such change.

One key issue for the Doha Round is how such compensating action is to be enforced; how, for example, can assistance provided by independent agencies be related to the negotiations? This falls outside the scope of the present study. Another issue, which does fall within the paper's scope, is whether a better categorisation of such countries can be obtained. The aim of the LDC and NFIDC categories combined is to identify such countries, but one may question how well this is achieved.

Table 4.6 provides an illustration of the inadequacy of the existing categories. The table, in which states are presented in declining order of agricultural imports as a share of GDP, shows calorie availability, the vulnerability index, agricultural imports as a share of GDP, and LDC/NFIDC status for:

- all the states with per capita calorie supply of under 2,500⁶ and
- any state with greater vulnerability (higher index number) than the mean for states registering under 2,500 calories (shaded in the table).

The table suggests that the LDC and NFIDC categories miss some states that ought to be included. For example, if one takes agricultural imports of over 5 per cent of GDP as a threshold, there are three states that do not fall into either group and for which agricultural imports exceed this level *and* calorie supply is below 2,500 per capita *and* trade vulnerability is high. This number increases to five if the states at the foot of the table (for which import and/or GDP data are not available) are assessed on the other two criteria.

At the same time, seven of the 22 NFIDCs⁷ and five LDCs⁸ do not appear in the table at all, indicating that they have over 2,500 calories per capita plus either a lower trade vulnerability and/or agricultural import dependence. Since the source of most compensatory assistance will probably be the main aid donors (regardless of the institutional route through which it is provided), and given that they recognise the LDC group as one for special aid attention, the absence of some LDCs from Table 4.6 is

⁶ Except 14 for which vulnerability data are not available.

⁷ Plus one (Cuba) for which neither vulnerability index nor GDP data are available.

⁸ Plus nine for which calorie supply data are not available.

probably not serious. If one identified as the countries requiring special concern all LDCs plus non-LDCs that have low calorie availability, high trade vulnerability, and significant proportionate food imports, then coverage would be reasonably good.

Table 4.6 Trade vulnerability and low-calorie status

Country	Agric. imports as share of GDP ^a 1999	Daily per capita calorie supply ^b 1997	Composite vulnerability index ^c	LDC	NFIDC
Gambia	27.87%	2,350	9.331	Yes	
S.Tome/Principe	19.98%	2,138	7.69	Yes	
Sierra Leone	19.51%	2,035	5.06	Yes	
Mauritania	19.40%	2,622	6.068	Yes	
Lesotho	18.68%	2,243	5.985	Yes	
Swaziland	17.76%	2,483	9.633		
Comoros	14.26%	1,858	5.425	Yes	
Nicaragua	13.50%	2,186	4.92		
Yemen	11.46%	2,051	5.259	Yes	
St Lucia	10.68%	2,734	7.449		Yes
Senegal	10.40%	2,418	5.026	Yes	
Seychelles	9.01%	2,487	6.375		
Guyana	8.31%	2,530	7.953		
Honduras	8.07%	2,403	5.373		Yes
Mauritius	7.37%	2,917	6.51		Yes
St Kitts/Nevis	7.01%	2,771	6.362		Yes
Angola	6.80%	1,903	6.282	Yes	
Niger	6.70%	2,097	4.957	Yes	
Fiji	6.55%	2,865	8.888		
Jamaica	6.46%	2,553	7.484		Yes
Belize	6.39%	2,907	6.652		
Botswana	6.15%	2,183	10.158		Yes
Benin	6.00%	2,487	5.06	Yes	
Papua New Guinea	5.93%	2,224	6.308		
Togo	5.47%	2,469	5.248	Yes	
Nepal	5.20%	2,366	5.173	Yes	
Malaysia	5.00%	2,977	5.903		
Burkina Faso	4.65%	2,121	4.923	Yes	
Mozambique	4.55%	1,832	4.907	Yes	
Bangladesh	4.51%	2,085	4.744	Yes	
Congo Rep.	4.49%	2,143	5.961		
Panama	4.16%	2,430	4.995		
Pakistan	3.95%	2,476	4.795		Yes
Uganda	3.77%	2,085	4.876	Yes	
Guinea	3.71%	2,231	5.282	Yes	
Rwanda	3.63%	2,056	4.797	Yes	
Philippines	3.51%	2,366	4.595		
Mali	3.48%	2,029	5.083	Yes	

Country	Agric. imports as share of GDP ^a 1999	Daily per capita calorie supply ^b 1997	Composite vulnerability index ^c	LDC	NFIDC
Central African Rep.	3.37%	2,016	4.802	Yes	
Guatemala	3.33%	2,339	4.431		
Namibia	3.31%	2,183	6.527		
Dominican Rep.	3.21%	2,288	4.858		Yes
Kenya	3.12%	1,976	4.935		Yes
Zimbabwe	2.97%	2,145	4.969		
Tanzania	2.96%	1,995	5.035	Yes	
Zambia	2.80%	1,970	5.549	Yes	
Ethiopia	2.55%	1,858	4.786	Yes	
Malawi	2.44%	2,043	5.2	Yes	
Bolivia	2.37%	2,174	4.691		
Chad	2.24%	2,032	5.12	Yes	
Burundi	2.11%	1,685	4.929	Yes	
Madagascar	1.90%	2,021	4.785	Yes	
Peru	1.88%	2,302	4.461		Yes
Thailand	1.87%	2,360	4.264		
Cameroon	1.60%	2,111	4.952		
Venezuela	1.37%	2,321	4.887		Yes
India	0.86%	2,496	3.782		
Antigua/Barbuda	n/a	2,365	11.246		
Bahamas	n/a	2,443	10.433		
Congo Dem. Rep.	n/a	1,755	5.186	Yes	
Djibouti	n/a	2,084	7.932	Yes	
Dominica	n/a	3,059	8.122		Yes
Gabon	n/a	2,556	6.229		
Grenada	n/a	2,768	7.848		
Haiti	n/a	1,869	4.474	Yes	
Maldives	n/a	2,485	8.654	Yes	
Solomon Islands	n/a	2,122	8.398	Yes	
Sri Lanka	n/a	2,302	5.076		Yes
St Vincent/Grenadines	n/a	2,472	6.563		Yes
Sudan	n/a	2,395	4.655	Yes	
Vanuatu	n/a	2,700	13.295	Yes	

Notes:

(a) World Bank, *World Development Indicators* database website (GDP); FAO Statistical Databases website (agricultural import values).

(b) Amount available for human consumption. Per capita supply represents the average supply available for the population as a whole and does not necessarily indicate what is actually consumed by individuals.

Source: UNDP, *Human Development Report 2000*: Table 23.

(c) Commonwealth Secretariat/World Bank 1999.

5 Dealing with the new areas

5.1 Lessons from "old SDT"

Section 4 illustrates that identifying groups is a complex matter even when the types of special treatment are well understood. What lessons can be drawn for the design of SDT in new areas where it may be less easy to identify the types of special provision that are justifiable and the characteristics of the countries that should receive it. Four lessons are suggested.

- It should be an objective to consider differential, potentially problematic impacts from the outset, as proposals for new rules emerge. This would be a departure from the old approach, which tended to assume that new rules would be of universal application and left it to negotiation to throw up demands for differentiation. The key to successful SDT is to relate any special measures that are agreed closely to the problems that implementation may involve. In the AoA example, a basis for modulation has been identified in each of the three principal areas of negotiation and the results have been integrated to suggest two (overlapping but distinct) groups of states with different requirements for SDT.
- It may be necessary to combine different characteristics in order to identify a coherent group with special needs. These criteria must be relevant to the "problem" identified and measurable using existing data. In its nature this is likely to be a contentious process both when groups are established and then when some members are subsequently graduated.
- Whilst such "tailored" groups will exclude states that may wish to be members, the resulting friction may be dissipated if there are multiple new groups with states excluded from some being members of others. Since none of the pre-existing WTO-recognised groups is likely to overlap very closely with the sub-groups requiring differential treatment, and since no process exists within the WTO to forge new, restricted-membership groupings, the whole process is likely to be fraught with political difficulty. But the same reasoning can be applied to SDT group formation as to GATT/WTO negotiations.
- The principal reason for favouring broad rounds of negotiations, despite their horrendous complexity, is that they maximise the likelihood of cross-cutting gains for all parties. By the same token, new-style SDT in several different areas is more likely to result in many DCs being "winners" in one area or another and, to this extent, to reduce the political difficulty of introducing the innovation of restricted-group formation.
- In addition to the "positive criteria" of vulnerability, it may also be necessary to include "negative criteria" designed to indicate to other WTO members whether or not the granting of SDT is likely to result in any serious disruption to world trade.

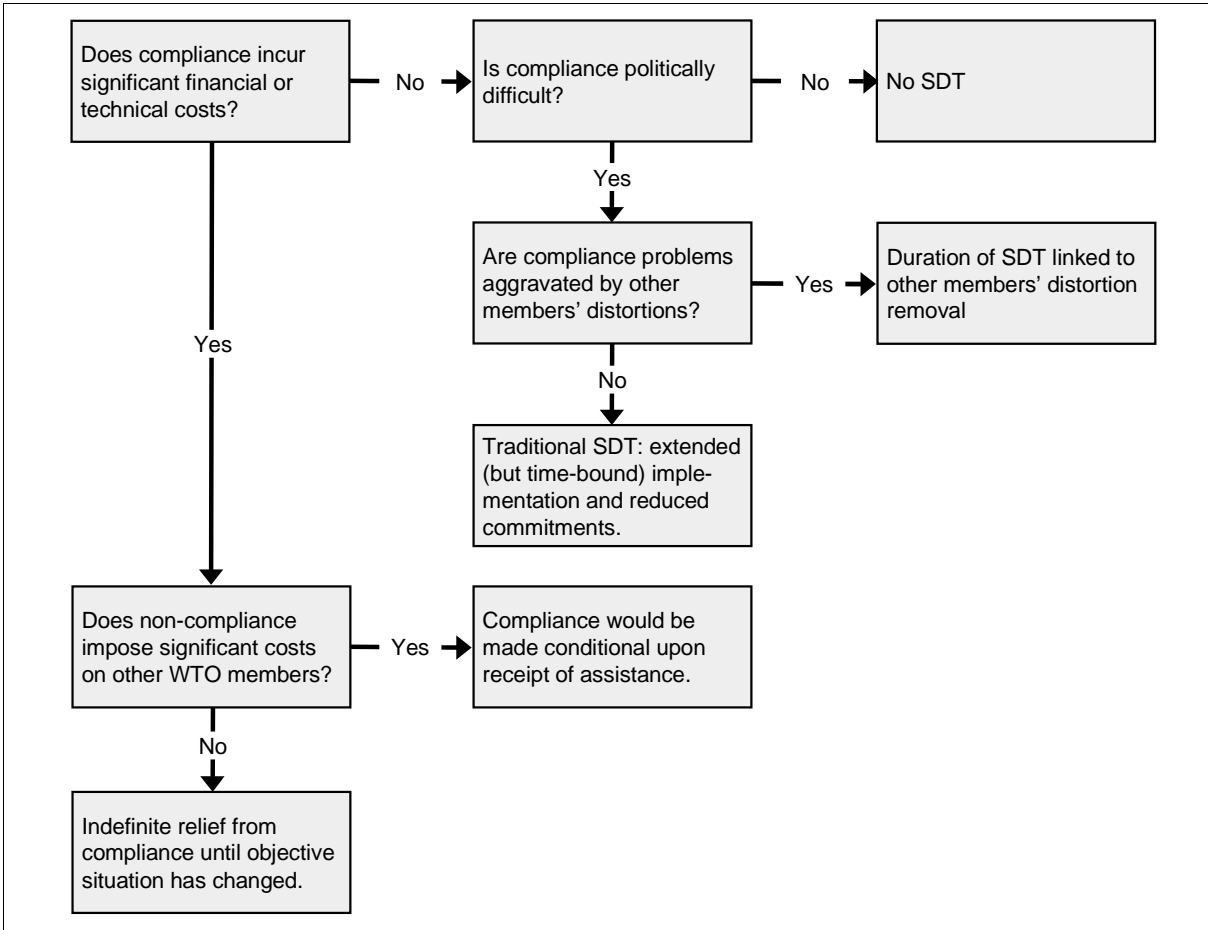
5.2 Analytical criteria for new SDT

Much work remains to be done to identify the full implications of proposed rule-making in the new areas, let alone the needs for SDT. Hence, it is premature to start applying these lessons to the new areas. Instead, Figure 5.1 presents a decision-making tree to assess the ways in which different types of problem might lead to various solutions. Following that, Table 5.1 suggests some potential criteria around which group selection could occur.

The first step suggested in Figure 5.1, and discussed below, is to distinguish between two different types of “cost of compliance”:

- the more traditional “cost” that the proposed new rule is politically unacceptable to a country;
- and the newer problem that implementation may incur financial, technical or human resource costs that are either beyond the scope of government or have a high opportunity cost.

Figure 5.1 SDT check-list for new issues



5.2.1 Costly compliance

Reading Figure 5.1 from the top left, the first box asks whether compliance imposes significant financial or technical costs. This should be the least contentious basis for SDT. In cases where implementation is costly, it is unreasonable to expect it to occur unless these costs are met in some way or another.

The degree to which the WTO could tolerate non-compliance will be affected by the disruption to world trade that is likely to result. In the case of poor countries accounting for a small share of trade, non-compliance is unlikely to impose any significant costs on third parties. For example, whilst it may be the case that Malawi would benefit from having in place customs valuation procedures compatible with the WTO code, if the opportunity cost of compliance is considered to be too high will the world trading system be adversely affected in any substantial way by non-compliance?

In cases where non-compliance would not impose significant costs it could be permitted indefinitely. Depending upon the specificities of the case, compliance could either be left to subsequent negotiations or some objective criterion could be identified which would have to be achieved before compliance were required. The latter would obviously be preferable, but it might be difficult to implement. What, for example, would be the appropriate criterion for requiring implementation of a customs valuation code? Would it be income per head, volume of trade, level of government expenditure?

In other cases, where the circumstances of the country are such that other WTO members are not willing to acquiesce in indefinite SDT, there could be a case for linking compliance to the provision of appropriate financial and technical support. All that is being proposed here is that:

- in cases where WTO members believe that, say, Kenya is too important a trader to be excluded from an agreement, but also accept that
- Kenya cannot currently afford to comply, it makes sense to argue that
- the international community has an interest in facilitating compliance by the provision of appropriate support.

Formulations such as these would overcome the structural problem that the WTO cannot commit those bodies that would be involved in providing support. Formally, the decision by trade ministers of EU, USA and Japan in the WTO that Kenya needs technical and financial assistance would not bind the finance ministers of EU, USA and Japan to agree to this when meeting in the World Bank. But it would establish a link, and would guarantee to Kenya that it would not be forced to comply if the resources did not materialise. The result might still be sub-optimal from a broad development perspective (in which the best outcome might be considered the provision of sufficient resources that Kenya can comply). But, at least within the narrow parameters of the WTO, Kenya's situation would not have been worsened by making it choose between inappropriate "implementation" or vulnerability to a trade dispute.

As suggested in Section 2, a key requirement for SDT is that it should be enforceable *within the WTO*. Since the WTO is not a development agency, enforceability does not mean that the country afforded SDT can force other members to do anything more than they have specifically agreed to in their schedules of

commitments. It cannot, for example, require members' aid ministers to adapt their preferred allocation criteria; still less can private firms be required to transfer technology. But SDT should be enforceable in the sense that it allows the recipient to defend its practices within dispute settlement. Hence, to continue with the Kenya example, for as long as OECD aid ministers fail to adapt their allocation criteria and private firms fail to provide technology transfer (or whatever), the OECD's trade ministers would be unable successfully to use dispute settlement to force Kenya to change its policies.

5.2.2 Politically difficult compliance

What if implementation does not impose costs? We are now in the more traditional realm of SDT debate. But hitherto the issue has largely been couched in terms of the developmental (un)desirability of WTO rules. In Figure 5.1 the issue is couched in a more general question: is compliance politically difficult? The reason for this is to extract this *pragmatic* case for SDT in relation to WTO rules from a debate of development paradigms. Of course, one very good reason why a proposed rule might be politically unacceptable to, say, India, is that the government of that country and the wider development community consider it likely to have developmentally undesirable effects. But what of cases in which the government of India takes one line and large sections of "the wider development community" take another? Or of cases where the proposed rule is not considered to be developmentally undesirable, but for other reasons it is simply unacceptable to the government of India?

Hence the pragmatic case for SDT encompasses, but is not limited to, straightforward (sic) issues of rules that are developmentally undesirable. Its underpinning is that consensus decision-making will limit the introduction of new multilateral rules if some members refuse to acquiesce. The purpose of Figure 5.1 is to identify what type of SDT might be most appropriate in such cases.

A distinction is made over whether or not a country is simply not yet ready to move in the direction suggested or whether it has objective reasons, linked to the current state of world rules, for not moving. The appropriate SDT measures will differ.

A specific case in point is provided by the treatment in the AoA negotiations of food security concerns during the period when OECD agricultural distortions remain in force. A strong case can be made that it would be foolhardy for food insecure countries to open up their markets to imports that are made artificially cheap by the distortions of OECD countries. These distortions are unlikely fully to be removed by the current Round. It is also politically very controversial to attempt to require DCs to open their markets to dumped imports.

In such circumstances it would be appropriate to suggest that relief from market access and subsidy reduction commitments to food insecure countries should continue for as long as world market prices fail to reflect real costs of production. This requirement will not be met as long as the OECD countries retain significant barriers to access to their markets and substantial subsidies to farmers that relate, in any plausible way, to the volume of production. It goes well beyond the current discussions on the content of the multi-coloured boxes of exemptions. According to estimates by the OECD Secretariat, the OECD's total agricultural producer support (PSE) in 2001 was equivalent to 31 per cent of total farm receipts

(OECD 2002: Annex Table 2). This compares with a figure of 38 per cent in 1986–8 (the base period for the Uruguay Round subsidy cuts). The reduction from 38 per cent to 31 per cent is smaller than the 20 per cent cut in aggregate producer subsidies to which the IC WTO members committed themselves in the Uruguay Round.

Such subsidies have depressed the world price of various temperate agricultural goods, of which cereals are probably the most important. In 2001 the OECD PSE stood at 36 per cent for wheat and as much as 81 per cent for rice (OECD 2002: Annex Table 3).

One possible approach would be to link the phase-out of SDT with a fall in the PSEs calculated by the OECD. For example, implementation might be required once the OECD's average PSE had been reduced to the current levels of Australia (4 per cent) or New Zealand (1 per cent).

Traditional measures should be sufficient in other cases, where:

- a country is not willing to move as far or as fast as others;
- it can draw on objective criteria to justify this; and
- other WTO members are willing to agree SDT in order to achieve a consensus.

These “traditional measures” include extended transition periods and commitments that are proportional to those adopted by other countries. As in the case of the rules on non-agricultural merchandise trade, the expectation is that this modulation would be eroded over time.

5.2.3 Indicators of eligibility

Table 5.1 takes the situations described in Figure 5.1 and suggests some indicators of the criteria to establish the eligibility of a state for SDT, and those that would determine when the dispensations granted would come to an end. The rows distinguish between situations in which the problem is primarily political and those where it is primarily cost. In cases where there is no objective problem with compliance, but governments are unwilling to sign up to “the full deal”, much will depend upon whether or not non-compliance would impose significant costs on the rest of the WTO members. If it would not, then the suggestion is that policy should be fairly permissive. Provided that the granting of SDT has in-built conditions for ultimate compliance of a fairly simple kind (such as an extended timetable), the assumption should be that it can be granted. In cases where there is a case made for longer-term exemptions (for example because of vulnerability to distortions caused by permitted interventions by other members), then the justification for SDT would include a listing of the problem policies and their anticipated consequences. The identification of an appropriate benchmark for withdrawal of SDT would, hence, be an inherent part of the granting process.

Table 5.1 Group selection criteria for “new trade” policies

Nature of “problem”	Possible indicators of:	
	<i>Eligibility</i>	<i>Readiness to comply</i>
1. Implementation involves high political costs	Low relative share in world trade in relevant area	Expiry of extended timetable
2. Ditto – with distortions	Criteria of vulnerability as a result of the distortions	Removal of pre-identified distortions
3. Implementation involves high costs (financial, administrative or technical), e.g. TRIPs, Customs Valuation	Low absolute level of government expenditure in relevant area Low absolute domestic revenues Low relative share in world trade in relevant area	Receipt of specified volumes of financial/technical assistance
4. Ditto	As above, but high share in world trade in relevant area	Reaching pre-set threshold for absolute expenditure/revenue achieved

In the case of problems involving the high cost of implementation, the criteria of eligibility would relate to indicators relevant to such costs. In the example of the customs valuation code or the administration of justice under TRIPs, for instance, the criteria would relate to the absolute level of government expenditure on customs or legal administration.

At what stage would SDT end? The answer suggested in Table 5.1 is that this would depend partly on the “cost” of non-compliance to the rest of the international community. In cases where non-compliance imposes trivial costs on the rest of the world, it should be as soon as the country concerned wishes it to do so or has reached the threshold criteria that established eligibility in the first place. Arguably, the WTO should not be the primary forum within which the ending of exemptions is discussed. On one view the locus for deciding whether or not to comply in future is the domestic one of the country concerned. To the extent that foreign actors are involved in the process, the Poverty Reduction Strategy Paper is a more appropriate focus for such influence than is the WTO.

Where non-compliance creates more problems, such that the international community is willing to provide support to remove the need for SDT, then compliance should occur once this support has been forthcoming. This would require some objective indicators to be established when SDT is granted, and some institutional arrangement for measurement.

Agreeing, measuring and monitoring such indicators would present formidable problems. But, as the example of food security in Section 4 has suggested, it is not sensible to grapple with these in isolation from the specifics of the case. There is likely to be a trade-off between precision and ease of use. Broad indicators, loosely monitored will be easier to apply than very narrowly defined ones. But the former may extend SDT to countries and in ways that are not accepted by sufficient WTO members for a consensus. Only when the analysis moves on to specifics can the necessary choices be made.

6 Next steps

The object of the Working Paper has been to put forward ideas on the types of issue that might arise in the areas of trade policy under review in the Doha Round that might give rise to requests for SDT. Many questions remain unanswered. The next steps are to form:

- an understanding of the principal perspectives on the feasibility, desirability and country eligibility for SDT in the “old areas” of trade policy;
- an understanding of the broad issues involved in some of the new areas of trade policy;
- a preliminary understanding of the appropriate methodologies for assessing SDT eligibility and format;
- and the broad lines of critical further research needed to elaborate all of the above in more detail in time to feed in to the Doha Round.

The implication of the analysis presented above is that there are many competing indicators around which SDT groups could coalesce, and it is evident that most DCs will be keenly interested in ensuring that the “right” combination (which includes them as members!) is the one selected. The debates that have already occurred in relation to the Development Box proposal for the AoA illustrate the practical realities of attempting to achieve agreed, meaningful differentiation within the WTO. No sooner has a coherent formulation been proposed than states that might be excluded lobby to have the criteria altered in such a way as to cover their specific circumstances.

It may be possible to defuse somewhat this contentious process before the detailed lines of proposed new commitments in each of the areas under negotiation are established. What is required from the research community is, over the next 2–3 years, to begin by reviewing the areas in which new rules may be proposed, identifying potential problem areas for different types of country, and then assessing the incidence of those problems.

Only when the proposed changes are known in some detail will it be possible to identify enforceable SDT. But if the underlying analytical work is done in advance it may be possible to inform the detailed negotiations of SDT from rigorous analysis.

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