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Unblocking the Doha Round Impasse: Possible Scenarios for the Agricultural Negotiations

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I. Unblocking the Doha Round Impasse

In the Doha Round--as during the preceding Uruguay Round which lasted from 1986-94--agriculture is the main stumbling block, and is largely responsible for the various crises and impasses which have characterized the negotiations since their launch at a ministerial meeting in Doha, Qatar in November 2001. The reason why agriculture is again proving to be so difficult to negotiate is clear: it is politically sensitive in virtually all countries, large and small, developed and developing. The Doha Round agricultural negotiations have been a struggle from the outset but, despite the difficulties, substantial progress has been made over the past five years in all three pillars of the negotiation: export competition, domestic support and market access. The most progress has been made in export competition, the least in market access, although there are still outstanding issues in all three pillars. The current challenge is to agree on the agricultural "modalities" or blueprint which will spell out the reduction numbers, negotiating approaches, and rule changes necessary to enable countries to prepare and table individual "offers" which, once finalized, become binding legal contracts. ("Country Schedules").

All parties claim that they recognize the importance of rapidly concluding the Doha Development Round of world trade talks which were suspended last July. All parties also claim willingness to resume negotiations quickly and to show flexibility in order to break the impasse over agriculture. The challenge is to translate this rhetoric into action. Hopefully this paper can make a contribution by indicating where the differences are and some of the ways they could be bridged.

Few agricultural trade policy practitioners would question that what is already on the table represents a significant improvement over what was achieved in the watershed Uruguay Round which finally brought agricultural trade under effective multilateral rules and disciplines. There is widespread concern that a protracted delay in concluding the Doha Round would inevitably lead to increased uncertainty and volatility in the agricultural trade environment. The concern centers on growing risks of backsliding of recent unilateral agricultural policy reforms, an increase in litigation and a further proliferation of preferential trade agreements; moreover, the longer the delay in concluding the talks, the greater the difficulties in resisting protectionist pressures. If protectionist voices carry the day, they could lead WTO members to call into question the very mandate of the Doha Round and set the negotiations back to the drawing board. This would jeopardize the significant progress made to date and delay further the opportunity to continue the agricultural trade reforms started in the Uruguay Round.

The Doha Round is of Special Importance to Developing Countries

There is little doubt that the countries which have most to gain and thus most to lose from a failure to conclude the Doha Round are the developing countries. Many believe that that the main beneficiaries in the Uruguay Round were the developed countries in terms of the extension of multilateral rules and disciplines to new areas, such as, intellectual property and services. In contrast, only limited progress was made on issues of interest to developing countries, in particular, agriculture.

Developing countries have been adversely affected by the ways the developed countries have traditionally supported their agricultural sectors. Policies aimed at maintaining domestic prices above world prices have

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required additional import protection and have stimulated production to such an extent that various forms of export assistance were necessary to dispose of the resulting surpluses onto world markets. More contemporary farm support programs have insulated developed country farmers from world price signals and have artificially encouraged production resulting in price suppression in world markets. These developed country farm support policies affect developing countries in two main ways. Firstly, developing country agricultural exports face major trade barriers in developed country markets. Secondly, they have faced subsidized competition in third markets and in their own domestic markets. This explains why developing countries (and a number of developed country exporters) attach so much importance to ensuring the Doha Round reinforces and strengthens the agricultural trade reforms which finally emerged from the Uruguay Round after nearly 50 years of regarding agriculture as too politically difficult to negotiate in any meaningful fashion.

The emerging Doha Round agricultural package has important and significant gains for the developing world. For example, the least developed would benefit from agreement by the developed countries to provide duty and quota free access for virtually all their products - industrial as well as agricultural. Developing countries will face less distorted competition in domestic and export markets as a result of substantial reductions in the trade distorting production and export support provided by developed countries. Exporting developing countries will also gain from improved access to the rapidly growing markets of other developing countries. Certainly, it is the smaller countries which benefit most from a strong multilateral trading system based on the rule of law which helps to level the playing field when dealing with the larger economic powers. In the absence of a Doha Round, many developing countries may find themselves trapped on the outside in the race to negotiate regional trade agreements.

The central importance of agriculture to the economies of virtually all developing countries has been reflected in their more active participation in the Doha negotiations, as compared to the Uruguay Round. The most influential developing country group is the so-called G-20 which includes many countries with strong export interests, such as Brazil, Argentina, China, Thailand, and South Africa as well as countries with significant import sensitivities, such as India and Indonesia.

While there is still an inherent tendency to largely view the Doha Round through a US/EU optic, it must be recognized that in this negotiation the developing countries are also major players. Not only do they stand to benefit from reforms carried out in developed countries, but also from their own domestic agricultural trade liberalization. Although many are very defensive on market access, some developing countries are pressing strongly for an ambitious market access outcome in all markets. The reason for this apparent dichotomy among developing countries is simple. Firstly, developing countries import more agricultural products from each other than they do from developed countries. Secondly, the growth agricultural import markets of the future are largely among developing countries, as opposed to the more mature and slowly growing markets of the developed world.

A Word on Timing

If a way out of the present gridlock is to be found, there is little point in trying to assign blame as to why the decision was taken to suspend the negotiations. Suffice to say that, in order for a deal to crystallize, most observers believe the European Union (EU) and other import sensitive developed and developing countries need to do more on market access and the US needs to do more on reducing and disciplining trade distorting domestic support, both in the aggregate and on a product specific basis. This paper will therefore focus on possible market access and domestic support trade offs that could help in moving the negotiations forward.

While all parties share responsibility for the current deadlock, the US political calendar is vitally important in the Doha Round: US decisions in the coming months are key to determining whether the talks will resume sooner rather than later. A number of observers have suggested that the US Administration made the political

judgment several months ago that, unless it could easily sell a Doha Round agreement on modalities as an unambiguous success in improving market access in both developed and developing markets, it was better to delay an agreement on modalities until after the November 2006 Congressional elections.

Now that those elections have taken place, the window of opportunity for concluding the negotiations is generally thought to last until the spring 2007, since the US administration's trade promotion authority expires in July 2007, unless the new Congress decides to renew this authority. Such a renewal is considered unlikely unless an ambitious Doha Round outcome appears to be within reach. Once this window of opportunity passes, a resumption of negotiations may not occur until after the 2008 US presidential election.

Since the suspension of negotiations there has been one recurring message by all negotiators. All parties are claiming they want real gains in exchange for real concessions. The challenge is to ensure that real improvements are reciprocated so as to bridge the remaining differences, particularly in market access and total trade distorting domestic support. The main purpose of this paper is, therefore, to identify the key points of contention and to suggest possible options and trade-offs aimed at bringing the Doha Round to a successful and mutually beneficial end, sooner rather than later.

II. Main Points of Contention

This paper identifies the substantial progress made to date as well as the remaining points of contention in the WTO agricultural negotiations and explores some possible options for unblocking the impasse. These should not be seen as definitive answers but rather as suggestions and examples to illustrate that the present impasse can in fact be unblocked if key parties recommit themselves to finding solutions.

Is the deal within reach worth saving? Without question. There is already much in play. For example the negotiations on export competition envisages the phase-out of export subsidies by 2013 (an unthinkable outcome in the Uruguay Round) and equivalent disciplines on other forms of export assistance such as, export credits, food aid and export State Trading Enterprises. The reduction numbers being considered for market access and trade distorting domestic support are already well in excess of those negotiated in the Uruguay Round.

There are various views on how far positions were apart before the suspension of negotiations last July. However, from various reports it seems that the EU was prepared to come very close to the 54 percent average reduction in tariffs proposed by the G-20. The US, however, indicated it was not prepared to improve its domestic support offer because the value of the emerging market access package was being significantly diluted by the tariff formula exemptions applicable exclusively to developing countries-- namely special products (SPs), the special safeguard mechanism (SSM), and the exceptions being proposed for sensitive products which would be available to both developed and developing countries.

In July developing countries were reluctant to offer greater access in exchange for what they perceived as insufficient movement on developed country domestic support, in particular from the United States. This should come as no surprise since the developing countries, like the others, have access to a number of studies which clearly indicate the US offer of a 53 per cent reduction in overall trade distorting domestic support would have little or no effect on reducing current levels of non-green support.

Since the breakdown, developing countries have said that they want to see more from rich countries before making any fresh market access offers. Their position is primarily focused on calling for deeper cuts in trade distorting domestic support from the US, although some are also pressing for more access from the EU. Developing countries continue to stress that any improved access to their markets must take account of their development status and the limited extent to which their treasuries can support their farmers as compared with those of rich industrialized countries.

Tariff Reduction Formula

There are two main ways of negotiating tariffs. The traditional way is by “requests and offers” and this negotiating technique was used in the early multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT), the predecessor of the WTO. However, it soon became evident that this technique had severe limitations and that in order to achieve more ambitious results what was needed was a formula approach which would apply to most if not all tariff lines. In the Uruguay Round agricultural negotiations members agreed to a simple formula average tariff reduction of 36%, with a minimum reduction of 15%. An average tariff reduction allows flexibility in that smaller than average tariff reductions have to be offset by higher reductions if the average is to be achieved. However, a simple formula does not deal very well with the problem of “tariff peaks” and this is why more complex tariff formulas are designed to ensure that higher tariffs are reduced by deeper cuts. In the Doha Round agricultural negotiations, a formula was developed which allocates tariffs into so-called “tiers” or bands with the tariffs in the top tiers being reduced by a greater percentage than the tariffs in the lower tiers.

The Hong Kong Ministerial agreed on a tariff reduction formula of four tiers. Several proposals have been made over this past year on the level of ambition but it appears clear that the general tariff reduction formula negotiations are coalescing around the G-20 proposals regarding the average level of tariff reductions (not the reductions per tier) and the thresholds which will ensure that the higher the tariff the deeper the cut. The breakpoints of the tiers for developed countries under the G-20 proposal are 20, 50, 75 percent with tariff cuts of 45, 55, 65, and 75 percent, respectively. For developing countries, the breakpoints of the tiers are 30, 80, and 130 percent with cuts of 25, 30, 35, and 40 percent. The G-20 proposal is calling for a minimum average reduction of 54 percent for developed countries and a maximum of 36 percent for developing countries.

It appears that for developed countries the G-20 thresholds are pretty much agreed. With respect to the level of the cuts, the focus now seems to be around the average reductions as proposed by the G-20. The EU has moved significantly from its position earlier in the year, from 38 percent to 51.5 percent, which is the average cut that the G-20 proposal would give in the EU. There is speculation that the EU could even move to 54 percent, which is the minimum cut proposed by the G-20 proposal for developed countries. The EU, however, has indicated that it cannot move beyond the 60 percent cut in the top tier. The US is calling for a G-20 plus, e.g., an average reduction of more than 60 percent, which is close to Australia’s September proposal for a G-20 average reduction plus 5 percent.

For developing countries, the discussion has also been around the G-20 proposal, which provides a maximum 36 percent cut for developing countries, or two-thirds of the minimum required average of 54 percent for developed countries. It is important to note, however, that the G-20 has proposed less than the usual two-third level required for developed countries in so far as the component cuts at the various thresholds are concerned. This is why it has been estimated that the average cut that the G-20 proposal would give for India is 36 percent, but would be less than 30 percent for many other developing countries. The US has been pressing for a “real” two-third reduction for developing countries.

At this juncture it appears that the average tariff reduction for products subject to the general tariff formula will likely end-up close to what the G-20 has proposed. However, it is important to note that there is no agreement on the G-20 maximum reduction of 36 percent for developing countries. There is likely to be pressure to make this percentage a minimum.

Even a banded formula would leave some exorbitantly high tariffs in place. Thus, the United States, European Union, the G20 and others have proposed a tariff cap on tariff lines subject to the banded tariff formula of 75 to 100 percent for developed countries and 150 percent for developing countries. This means that after the application of the tiered formula, a bound tariff should not be greater than the level of the tariff cap. This

issue of the tariff cap has been strongly resisted by the G10 (which includes such import sensitive countries as Japan, Norway, Switzerland and Korea), particularly if a cap is applied to sensitive products. In fact, the G10 has called this issue a red-line issue and threatened to walk away from the negotiating table if tariff caps were to be included in the modalities.

Sensitive Products

The practical reality is that in any trade negotiation some commodities are more politically sensitive than others. The Doha negotiations are no different. The trade-off is that, in order to achieve deeper cuts on most tariffs through an ambitious tariff reduction formula; there is sufficient flexibility to allow shallower tariff cuts on the more sensitive tariff lines. However, to minimize the dilution factor, the Uruguay Round created the precedent that smaller than formula cuts on high tariffs should be compensated by establishing access for a specified quantity at a relatively low tariff - thus creating a two-stage tariff or tariff rate quota (TRQ). This self-balancing principle that sensitive products must somehow pay for lower than formula tariff cuts is one of the key issues surrounding the Doha Round deadlock over market access. How many tariff lines should be eligible for sensitive treatment depends on how liberal the TRA expansion is. Exporters can accept a greater number of sensitive products if they are confident that the TRQ expansion represents a real increase in market access opportunities.

It is thus difficult to determine how many tariff lines should be permitted to be designated as "sensitive" until it is clear what the numbers will be regarding the reduction in bound duties and the expansion in TRQ's. There seems, however, to be an acceptance of the principle that the greater the deviation from the general tariff reduction formula, the greater the obligation to provide increased access at a relatively low within-quota tariff.

On the selection issue, formal positions are still far apart with the G-10 calling for 15 percent of tariff lines to be sensitive, the EU calling for 8 percent (although there are indications that they could move to 4 or 5 percent) and the United States and the G20 calling for 1 percent but both seem to be prepared to accept more. Thus, apart from the G-10, there seems to be an emerging convergence to limit the number of sensitive tariff lines to around 4 to 5 percent.

On the treatment of sensitive products, there is a strong consensus that all tariffs under the sensitive category will have to be reduced by a percentage of the required general tariff formula cut. The proposed deviations from the general formula range between 20 and 70 percent, with the US calling for no flexibility and a straight 50 percent reduction of the formula cut. There have been some expectations that the tariff reduction for sensitive products will end up to within a sliding scale of 40 to 60 percent of the corresponding general tariff reduction.

In terms of the TRQ expansion for sensitive products, there has been no convergence on a common approach for the expansion. There are three general approaches on the table on how to expand the quotas: (1) expansion based on domestic consumption which is supported by (but not limited to) the US, Australia, the G-20; (2) expansion based on existing TRQ's as proposed by the G-10; and (3) expansion based on current imports as proposed by the EU.

As of the last week of July, just before the negotiations collapsed, there was an indication that the EU could provide an expansion equivalent of 2 to 3 percent of domestic consumption using their approach based on current imports, while the US was calling for an expansion of 4 to 6 percent of domestic consumption. While the approaches are different, positions in terms of ambition on TRQ expansion are moving closer. Also, there seems to be a consensus on the concept that the smaller the existing TRQ, the more it will have to be expanded proportionately. A number of WTO members have been thinking of tiers of below 5 percent, 5 to 10 percent, and 10 percent and above. Under this scenario, TRQ's below 5 percent would be subject to a proportionately higher expansion than those of between 5 to 10 percent of consumption.

There are also the issues around whether there should be a core expansion for all sensitive products (for example, a minimum TRQ increase of [x] per cent of consumption) and how to handle the question of the deviation from the general tariff formula, so that the greater the deviation from the general tariff formula the greater the TRQ expansion. The more ambitious exporters are pressing for these to be big factors.

Special Products

This is arguably the most difficult issue Doha Round negotiators face. As indicated earlier, it seems that positions on the tariff reduction formula and even on sensitive products are within a negotiable range. On the other hand, it appears that on the special product issue, positions are so far apart that it is difficult to know where to start the negotiations.

Paragraph 41 of the July 2005 agriculture framework text provides developing countries with the flexibility to self-designate an appropriate, but unspecified number of products as “Special Products”, based on the criteria of food security, livelihood security and rural development. Whereas sensitive products may be designated by both developed and developing countries, the category of special products, is applicable only to developing countries and is tied to these development objectives. Although there have been discussions of the use of positive and/or negative indicators to develop these criteria for limiting the selection of special products, many participants are of the view that selection will be limited by number rather than criteria. However, there are recent reports that indicators to help determine a limited number of special products may again be in play.

The formal G-33 position is that at least 20 percent of the tariff lines should be eligible but some Members of the group have indicated informally that they could move lower.¹ The US has remained firm on a maximum of five tariff lines. There is some indication that this debate could move from the number of eligible tariff lines to a product-specific issue (rice, for example).

In terms of trade liberalization, the major difference between “sensitive “ and “special” is that sensitive products will be required to provide expanded TRQ access in exchange for a lower tariff cut. There is no such agreement to provide improved market access through TRQ expansion for special products. The US has been the only country calling for the expansion of TRQ’s for special products. No one else has called for the creation or expansion of TRQ’s for special products.

On the tariff reduction for special products, many WTO members want the cuts to come in the form of a percentage of the formula reduction. Out of the minimum twenty percent of tariff lines which the G-33 proposed for eligibility, it argued for half of these to be subject to no tariff cuts, one quarter subject to 5 percent cuts and the remaining quarter subject to 10 percent cuts. It appears likely that an agreement could be reached on tariff reductions on all special product tariffs but many developing countries would press to keep those reductions small.

Clearly, the greater the number of special products and the smaller the tariff cuts, the greater the dilution of the general tariff formula. Exporters (developing as well as developed) question whether special products should be eligible for special import safeguards if tariffs are only going to be reduced by a minimal amount.

Special Agricultural Safeguards

There is a long established principle in trade negotiations that in order to persuade governments to make substantial tariff cuts, provision should be made to permit a temporary tariff increase if imports increase to such an extent as to cause injury to the domestic producers. The general safeguard provisions of the WTO require a formal determination of injury or threat of injury. In the Uruguay Round agricultural negotiations, a number of countries contended that if they were going to convert variable import levies and import quotas to tariffs they needed to be able to tell producers that additional tariffs could be quickly triggered in the event of abnormally large increases in import volumes or abnormal decreases in import prices. In the Doha Round the main issues are whether this provision should be terminated and, if so, when?

On one side, the Cairns Group, G-20 and the US want the heavily circumscribed special safeguards eliminated at the outset of Doha's implementation period while the EU has suggested reducing the number of tariff lines eligible. The G-10 wants to preserve the special safeguards which were negotiated in the Uruguay Round and are easier and quicker to trigger than the general safeguard provisions of the WTO (Article XIX). However, while no formal injury determination is required, the special agricultural safeguard remedies are limited to no more than one-third of the normal tariff when a volume trigger is involved and only a partial snap-back to a base import price when price triggers are involved. Moreover, only tariff lines which were tariffed in the Uruguay Round are eligible for special safeguards. This means that few developing countries can access special safeguards since their main contribution in the Uruguay Round was to bind (at relatively high levels) previously unbound tariffs, rather than converting non-tariff measures into tariffs.

Special Safeguard Mechanism

It is this lack of access by many developing countries to the Special Agricultural Safeguards, which led to the agreement in the Doha Round to establish a so-called "special safeguard mechanism." The SSM is considered to be a difficult chapter in the negotiations, but easier to resolve than the special products category. This mechanism will only be available to developing countries and is mainly justified on the grounds that reductions in tariffs will increase their vulnerability to import surges and abnormally depressed import prices. An additional concern is their vulnerability to any subsidized competition from developed countries.

There are three issues to confront on this subject: how many products should be covered by special safeguard mechanisms; how easy or difficult should it be to trigger their activation; and what are the boundaries of the remedial action (for example, should it be a tariff snap-back to pre-Doha levels or higher than pre-Doha levels)?

Trade Distorting Domestic Support

In the Uruguay Round it was decided to classify domestic support as trade distorting or as support which has no or, at the most, minimal effects on agricultural production and trade. The aim was to reduce the former and to encourage governments to provide support in more trade friendly ways. This reflected the recognition that certain types of support policies were trade distorting to the extent they required additional import protection and/or simulated production to such an extent that export subsidies were required to dispose of the ensuing surpluses. Support policies aimed at holding domestic prices above world prices were regarded as the most trade distorting and were classified in an "amber box". Price support policies which were accompanied by production controls were regarded as somewhat less trade distorting and were placed in a "blue box". Non-trade distorting measures were placed in a "green box". In the Doha Round most countries have signaled that their main interests are in reducing the total of the non-green support and minimizing its commodity concentration.

The main issue is clearly the reduction in overall trade distorting support for the US. The US offer of a 53 per cent reduction is generally regarded as grossly inadequate since it would allow non-green support in the order of \$23 billion, which is substantially more than current US non-green support levels of around \$19 billion for 2005. Australia has suggested a reduction to \$17 billion but many others are looking for a reduction in the order of 70 percent which would bring US non-green domestic support down to around \$14-15 billion.

Another key issue is the reference point on product-specific caps, which are necessary to avoid the accumulation of domestic support in some key commodities. The US wants to use 1999-2001 as the base period whereas virtually everyone else wants to use 1995-2000 as the base period. This makes a significant difference to the US; given US product-specific support in 1999-2001 is substantially greater than in 1995-2000.

As for Blue Box disciplines, many participants are concerned that the changes in definition contained in the framework agreement have diluted the difference between amber and blue to such an extent that additional disciplines are required. For example a “double trigger,” or limits on blue support for each product calculated both on the percentage of the value of production and on its share of total blue box support. Such disciplines have been strongly resisted by the US.

Other WTO members have also expressed concern about increasing green box support and called for a review and tightening of green box criteria to ensure that it truly encompasses only non- or minimally trade distorting support.

III. Trade-Offs and Options for Bridging Differences

Tariff Reduction Formula/Trade Distorting Domestic Support

The G-20 proposal to apply a tariff cap of 100 percent on developed countries and 150 percent for developing countries could be linked to whether developed countries are entitled to continue using special agricultural safeguards. These safeguards were introduced in the Uruguay Round as a “carrot” to entice countries to replace non-tariff barriers with tariffs (“tariffication”). Until now, the G-10, in particular, has resisted the notion of any cap on tariffs. If it could be agreed that a tariff cap would not apply to “sensitive products” and that the special safeguard could continue to be available for a number of tariff lines or be phased-out under an extended implementation period, then this might be a sufficient inducement to encourage a consensus on tariff caps for tariff formula products.

Moreover, countries that do not want tariff caps on sensitive products could be allowed to “buy” a deviation through an additional expansion of the within-quota volume, for instance an amount equal to 1 or 2 percent of consumption. This technique could be particularly useful if the normal TRQ increase for sensitive products was limited.

On the tariff reduction formula, developed countries (with the US being the most vocal) and some export oriented developing countries are worried about the insufficient market access that would result from an average reduction of around 36 percent in the bound tariffs of a number of major developing countries. Since these cuts are taken from bound rather than applied tariffs, in most instances they would in many cases simply be decreasing the amount of “water” or overhang in developing countries’ tariffs.

Some participants have responded with the suggestion that cuts beyond the application of the general tariff formula could be achieved through a supplementary “request and offer” procedure. The experience of the pre-Uruguay Round agricultural tariff negotiations, however, suggests that requests/offers are unlikely to be very productive. It has also been suggested that some countries could negotiate certain bilateral understandings regarding greater than formula access for specific products prior to an agreement on modalities. This would only appear to be a practical option for exporting countries with considerable negotiating leverage.

Many importing countries, meanwhile, would have a hard time making the case at home for why they went beyond the formula for certain products.

One alternative to overcoming developing countries' reluctance to accept tariff cuts exceeding those required by the formula would be if they were offered additional concessions (for example deeper cuts on developed country trade distorting domestic support) for agreeing to create bound tariff rate quotas (using the procedures of GATT Article XXVIII to determine the amount bound at the current applied rate).² The over-quota tariff would be subject to the general tariff formula. This would represent a major concession by developing countries since it has long been agreed that the tariff negotiations are to be based on bound rather than applied rates.

A considerable inducement would therefore be required to persuade developing countries to agree to create TRQ's with within-quota tariffs bound at applied levels. Such an inducement might involve accepting something very close to the G-20 proposals on reducing overall trade distorting domestic support (80 percent for the EU; 75 percent for the United States and Japan; and 70 percent for all other developed countries). Some observers have even suggested that, in order to kick-start a resumption of negotiations, the level of ambition should be ratcheted-up to include the elimination of trade distorting support in the Doha Round or at least a commitment to work towards elimination in the next Round. It remains to be seen whether those who seek greater than formula cuts from bound rates would be willing, at least at this juncture, to entertain such an ambitious outcome on domestic support.

It bears re-emphasizing that what is important is reducing the overall level of trade distorting domestic support when elimination is not negotiable. While it is true that blue box support can (depending on the criteria) be less trade distorting than support classified as "amber" and that low levels of trade distorting support ("de minimis") may have limited adverse effects, the bottom line is that it is the aggregate level of non-green support which needs to be significantly reduced.

The reality, as developing countries are aware, is that developed countries have the financial resources to continue to support their rural sectors by shifting support away from policies which are trade distorting to those which have little or no adverse trade effects ("green box" support). While economists can argue about whether some policies are more "green" than others, the fact remains that green policies allow export subsidies to be phased-out and import barriers to be significantly reduced. Put simply, the various shades of green support are "more trade friendly" than non-green support, and for that reason, green support should be encouraged as the preferred way of helping the rural sector. How much green support should be provided will be determined by each country through its respective domestic political process. The question of limiting certain forms of green support is something future negotiations may well address but it appears clear that, as far as the Doha Round is concerned, reducing non-green support is all that can plausibly be expected at this time.

Sensitive Products

As noted above, it is generally agreed that WTO Members need to develop more convergence on treatment before determining how many tariff lines should be permitted to be designated as "sensitive." On the treatment side, there seems to be a consensus on the principle that the higher the deviation from the general tariff reduction formula, the greater the expansion of the TRQ.

Given that there appears to be a natural trade-off between the level of the tariff formula cut and the flexibility accorded sensitive products, one option for those seeking the largest negotiable outcome on market access would be agree to a formula cut along the lines of the G-20 proposal - provided the treatment on sensitive products resulted in significantly improved trade opportunities. This would require for TRQ products a signifi-

cant increase in the volume entering at low tariffs in exchange for agreement that over quota tariffs will only be reduced by a fraction of the general formula cut.

If “sensitive” products are to be excluded from any tariff cap and are subject to a substantially reduced tariff cut (for example, 40 to 60 percent of the corresponding formula tariff reduction), then it is appropriate that the requirement to increase the size of the TRQ be meaningful. So far, there is no convergence on methodology but the EU and the G-10 have been trying to agree on a common approach.

In the Uruguay Round it was proposed in the modalities on TRQs that at the end of the implementation period access at low tariffs should be equal to at least 5 percent of consumption in a base period. In reality, for some products (usually the most sensitive like dairy), what was offered (and accepted) was significantly less than 5 percent of consumption. In the Doha Round it has been suggested that the minimum size of a TRQ should be 3 to 6 percent of consumption and that existing TRQs of less than 5 percent should provide proportionately more TRQ access than products, which currently give access of more than 10 percent of consumption. This appears to be a promising approach which could go a long way in overcoming the remaining gaps on ambition.

One option to encourage countries which face the greatest political difficulty in expanding TRQ's to accept a more significant increase would be to allow the existing special agricultural safeguard for developed countries to continue for those tariff lines which fully meet the modality specifications for “sensitive” products.

A suggested compromise is that the existing provisions of Article 5 of the Agreement on Agriculture would only continue to apply to those tariff lines which were so designated in the Uruguay Round, and which are in full conformity with the market access modalities of the Doha Round. The triggers and remedies would continue unchanged, and this provision could terminate after [x] years. Another way of permitting some continuation of special safeguards, especially for the most sensitive products, would be to agree that the number of tariff lines currently eligible for such treatment would be cut by say [50] percent.

To the extent that developing countries choose to designate certain products as “sensitive” rather than “special”, it would appear appropriate to continue the conventional practice of requiring an effort approximately equal to two-thirds of the size determined for developed countries for both TRQ expansion and tariff reduction.

It should be recalled that not all sensitive products are currently subject to TRQs. In this regard, it has been suggested that a number of developing countries would prefer the option of taking a longer than normal implementation period for their sensitive products, rather than creating new TRQs.

Whether the sensitive products designated by developing countries are currently subject or not to TRQs, many developing countries are likely to prefer the alternative option of taking formula reductions over a longer implementation period than creating or expanding TRQs. This is certainly preferable to establishing new TRQs which, other things being equal, should be regarded as a technique of last resort in order to expand market access opportunities.

Special Products/Special Safeguard Mechanism

Given the fact that few developing countries established TRQs as a result of the Uruguay Round, most rely on relatively high bound tariffs to protect sensitive sectors, particularly those characterized by very large numbers of small and often mainly subsistence farmers. The situation is further complicated by the fact that,

in a number of developing countries, subsistence agriculture co-exists with a commercial agricultural sector. Developing countries are aware that, while a successful Doha Round result will substantially reduce the trade distorting domestic support of developed countries, it will not prevent these countries from expanding “green box” payments. Seen from a developing country producer perspective, their vulnerable small farmers are still being asked to “compete against the treasuries of the developed world”. In these circumstances it is not surprising that a number of developing countries attach major importance to the right to self-designate a number of tariff lines as “special”. As far as tariff reduction for special products is concerned, many countries want cuts to be a percentage of the formula reduction while the G-33 does not want any reductions on some products or tariff lines and only minor cuts for the rest. It is difficult to determine what should be a maximum number for designation as “special” until it is clear how their treatment will differ from the products subject to the general tariff formula or those designated as “sensitive.”

One guiding principle for all of the market access negotiations must be that in no circumstances should market access be more restrictive after the Doha Round as compared with the bound market access prevailing today. Another guiding principle should be that no tariff line should be excluded from tariff reduction. This principle, however, has not been accepted by the G-33, although arguably substantive negotiations on Special Products never actually occurred; the G-33 submitted an opening position which asked for a minimum of 20 per cent of tariff lines to be designated as special and for half of those lines not to be subjected to any kind of cut. Furthermore, the G-33 proposed that any developing country be able to designate as special any product which was receiving product specific amber support in the exporting country. This, in turn, was promptly branded as potentially shielding more than 90% of developing country tariff lines from cuts, but there was no real engagement on this issue prior to the suspension of the talks in July.

Assuming the G-33 is prepared to show more flexibility – in particular if there are further concessions on the reduction of trade distorting support, the question of how “special product” tariff reductions should differ from “sensitive” products arises.³ One option would be that the required tariff reduction for “special products” should be less than that required for a “sensitive” product and in the case of TRQs should not exceed the expansion size required when establishing a new TRQ under GATT Article XXVIII.

If the tariff reduction on special products was in the 5-10% range as proposed by the G-33, then it is clear that there would only be a very limited improvement in access opportunities. Moreover, since there is no obligation to provide offsetting access improvements as is the case for sensitive products, the special product category represents a major potential market access leakage. Thus, it is not surprising that permitting special products to be also eligible for special safeguard mechanism (SSM) treatment is a highly contentious issue. Exporters generally regard the two measures as mutually exclusive and in order to change positions would need to be convinced that real improvements in access for special products were involved. Clearly, the less access provided, the greater the likelihood that exporting countries will not agree to the SSM applying to special products. However, in the context of a more ambitious market access result, including special products, it may be possible to agree that the SSM could apply to all tariff lines of developing countries which were in full conformity with the agreed modalities.

One option to minimize the leakage problem would be to agree that special products would be subject to the same tariff reduction as sensitive products and products which were exported in significant quantities could not be designated as special. To encourage such a relatively high tariff cut, special products could have implementation deferred for [5] years and/or access to the special SSM. Thus, the SSM could be available to all tariff lines of developing countries, provided they were in full conformity with (ambitious) market access improvements mandated by the Doha Round modalities. The benchmark for what constitutes an ambitious market access package could be: a minimum [54%] and [36%] general tariff formula reduction for developed and developing countries respectively; sensitive and special tariff reductions of no less than [50%] of the cor-

responding formula tariff reduction; core TRQ expansion of at least [3-4%] of consumption; and very limited numbers of sensitive and special products.

Another option would be to exclude special products from SSM eligibility if the tariff reduction for the special product was below the corresponding sensitive tariff reduction and there was no TRQ creation or expansion. There should be an evident trade-off between real access improvements and eligibility to apply the SSM. Remedies under the SSM should be proportional to the deviation from volume and price triggers and the sum of the applicable normal tariff and the safeguard duty should in no circumstances exceed the pre-Doha tariff binding. Those developing countries which do not believe that a snap-back to pre-Doha Round tariff levels would provide sufficient emergency import protection would still have the option of invoking the normal safeguard procedures of Article XIX of GATT (1994). The SSM provision could also be left open ended, but subject to review in the next WTO Round.

As mentioned earlier, the positions on the number of products to be designated as special are quite far apart, ranging from a minimum 20 per cent of tariff lines proposed by the G-33 to 5 lines suggested by the US. The reason why it is so difficult to come to grips with the special products issue is that it provides an exemption, which unlike the case of sensitive products, is not offset by other improvements in market access. Since least developed developing countries are not asked to make any market access concessions, and the remaining developing countries are asked to take a cut two thirds the size of that of developed countries – which when taken from generally high bound tariffs in some cases provide very little to no additional market access, and also have recourse to sensitive products, the concerns expressed by some exporters about Special Products are not unreasonable. Consequently, from an exporter's perspective, the main preoccupation has been to minimize the number and the magnitude of the deviations from the tariff formula.

Seen from the perspective of a number of developing countries, however, the special product treatment is an essential tool to ensure that large numbers of particularly vulnerable rural dwellers do not face a disproportionate trade adjustment burden. The challenge is to reach a compromise position which does at the end of the day provide more market access than exists today. If this can be realized, recourse to the SSM would remain an option for protecting sectors against import surges and/or price depression.

It may be that in order to minimize the trade dilution effects of the special products provisions, solutions to this particular impasse will have to extend beyond the usual trade negotiation techniques to include complementary donor commitments regarding agricultural development assistance.

IV. Concluding Comments

The forgoing analysis suggests that there are a variety of options which could be utilized to bridge the main points of contention and that, from a technical perspective, the magnitudes of the differences do not seem to be insurmountable - provided there is sufficient political will.

One major difficulty in the Uruguay Round was ensuring that offers corresponded to the modalities. Since they were only regarded as “a basis” and not “the basis” for preparing offers, there were sometimes significant differences between the market access modality and what was offered. This was particularly the case for the most politically sensitive products. In order to minimize the differences between the Doha Round offers and modalities, it is strongly recommended that consideration be given to requiring that the eligibility for access to the deviations from the general tariff formula be made conditional on full implementation of the modalities regarding market access.

It is apparent that the number of tariff lines eligible for “Special” or “Sensitive” treatment can best be determined when the proposed scope of the respective deviations from the general tariff reduction formula is clear.

However, to assist in narrowing the magnitude of the deviations from the general tariff formula, it is suggested that consideration should be given to creating a benchmark to measure in a rough and ready fashion the extent to which the exemptions to the general tariff formula have eroded the formula. For example, the benchmark for developed countries might be a [50] percent reduction in the average tariff, including the sensitive tariff lines. Similarly, using the two-thirds convention, developing country tariff offers might be assessed by using a [33] percent reduction in the average tariff as the benchmark which would include sensitive and special tariff lines. It should be recalled that an average tariff cut is not the same as reducing the average tariff. The former permits using large cuts in low tariffs to offset small cuts in high tariffs, while the latter gives the assurance of a higher quality reduction.

While it can be argued that an overall average tariff reduction target would not give credit to those countries which have “paid” for reduced tariff reductions by providing additional TRQ access, there is nevertheless something to be said for having a readily transparent measure of what the Doha Round will actually accomplish in reducing the average agricultural tariff. Clearly, if there are too many sensitive and special tariff lines, the greater will be the difficulty in achieving a high overall reduction in average tariffs.

There are a number of market access issues where import sensitive countries are seeking greater flexibility from general approaches whereas exporters are fighting to minimize such deviations. In these situations greater flexibility should be possible to negotiate, provided there is acceptance of the principle that additional flexibility (for example, in terms of tariff reductions or the number of tariff lines to be treated as sensitive or special) must be paid for by offsetting improvements in market access opportunities (for example through additional TRQ expansion).

In the July negotiations the EU appeared to move very close to the G-20 position on the general tariff reduction formula and gave some signals that, as regards TRQs for sensitive products, it might be prepared to consider increasing its current within quota access by 2.5 to 3 percent of consumption. If this is correct, the EU market access offer is approaching a level where most participants would say a deal is very close at hand. The two big question marks are the willingness of the US, in particular, to significantly improve its overall domestic support offer and for the developed and developing countries, especially the more advanced developing countries, to improve the overall quality of their market access offers. In both cases, the options outlined in this paper illustrate that there are a number of ways to unblock the impasse.

However, progress is clearly conditional on the US agreeing to further reductions and disciplines in trade distorting domestic support. Yes, substantial changes to existing US farm policies will be required if meaningful reductions in overall trade distorting support are to be realized and yes, such changes will not be easy political steps (particularly, if there are binding commodity specific caps on non-green domestic support), but it should not be beyond the art of the possible to manage the politics, given that amber, de minimis and blue support policies can be replaced by green support measures. The EU has demonstrated that it can be done.

There appears little doubt that if the US was prepared in the 2007 Farm Bill to move away from its traditional support policies to those which meet the criteria for green, it could easily accommodate a much more substantial reduction in non-green domestic support. A signal by the US that it was willing to move significantly on domestic support would then put the onus squarely on the EU and the more advanced developing countries to improve their market access offers. However, it is apparent that the days are over when countries are prepared to publicly announce a new conditional offer and hope for a good response. What is now required is a simultaneous signal from all the major players. Hopefully, these countries have used the time since the suspension to privately explore various “what if?” scenarios.

Some developing countries, in turn, need to be more open to a compromise which recognizes that special and differential treatment and a significant improvement in access to their markets are not mutually exclusive. The greater the demands for flexibility which significantly dilutes the market access results, the greater the likelihood that the overall agriculture package will become smaller. A willingness to minimize rather than maximize flexibility will bring about more movement by developed countries on domestic support and market access, create greater opportunities for trade among developing countries and improve the competitiveness of their own economies. Clearly, any compromise will have to address in a meaningful way the particular concerns regarding the impact of trade liberalization on large numbers of poor, subsistence farmers. It may well be that in order to help address this issue developed country donors will have to consider providing complementary commitments regarding agricultural development assistance.

Developing country acceptance of tariff reductions two-thirds of that the impact of trade liberalization of developed countries and limiting exceptions by developed and developing countries to the general tariff formula appear to be within reach, provided both groups are prepared to accept reasonable special safeguards and are willing to scale back the number of sensitive and special exceptions to the bare political minimum. While some observers have suggested that the Doha agricultural negotiations have become too complicated in comparison with the Uruguay Round, one could also argue that this complexity is not all negative in that it provides all parties with a number of opportunities for trade-offs. Unfortunately, complexity appears to be inevitable when trying to marry ambitious results with disciplined flexibility.

An overall reduction in trade distorting support of the orders proposed by the G-20 and commensurate increased market access offers by developed and the more advanced developing countries should be sufficient to bridge the remaining differences and enable the Doha Round to be brought to a speedy and successful conclusion - one which both developed and developing countries can legitimately claim would represent a very substantial and equitable reform of the global agricultural trading system.

To allow the politics of agriculture to dictate a continued impasse of the Doha Round would be a gross abdication of governmental responsibility, given how much is already on the table and how relatively little additional effort is required to make the difference between success and failure.

ENDNOTES

¹The G-33 consists largely of developing countries which are concerned that an ambitious market access result could adversely affect their vulnerable small farmer populations. Consequently they are pressing strongly for special and differential treatment which will result in them providing much more modest market access.

²Article XXVIII provides that when establishing a TRQ, no compensation is required if the TRQ is based on the greater of:

- (a) the average annual trade in the most recent representative three-year period, increased by the average annual growth rate of imports in that same period, or by 10 per cent, whichever is the greater; or
- (b) trade in the most recent year increased by 10 per cent.

³Some developing countries have argued that the remedy should not exclude tariff protection in excess of the pre-Doha Round binding or even quantitative restrictions. However, such draconian measures should not be easily triggered and if needed are more appropriately dealt with under the general WTO safeguard provisions.

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